

RECEIVED

FEB 12 2024

S.C. SUPREME COURT

State of South Carolina v. Charles W. McCormick - 2006GS0700168 1

1 STATE OF SOUTH CAROLINA IN THE GENERAL SESSIONS COURT
2 COUNTY OF BEAUFORT 14th JUDICIAL CIRCUIT

3

4

STATE OF SOUTH CAROLINA,

5

vs.

6

CASE NO.: 2006-GS-07-00168,
- 00170

7

CHARLES W. MCCORMICK,

TRANSCRIPT OF WEBEX HEARING

8

Defendant.

9

10

BEFORE:

THE HONORABLE CARMEN T. MULLEN

11

DATE:

DECEMBER 16, 2020

12

REPORTED BY:

KYMBERLEE M. WILLIAMS, CSR/RPR

13

14

15

APPEARANCES:

16

17

Attorney for the State

18

Sean Thornton, Esq.
Assistant Solicitor

19

State of South Carolina Solicitor's Office
14th Judicial Circuit

20

102 Ribault Road

21

Beaufort, South Carolina 29902

22

Attorney for the Defendant

23

Charles W. McCormick appearing Pro Se via WebEx
Lieber Correctional Institute
32647 SA-14

24

P.O. Box 205

25

Ridgeville, South Carolina 29472

I N D E X

1		
2		
3		
4	PROCEEDINGS	3
5		
6	PROCEEDINGS CONCLUDED	15
7		
8	CERTIFICATE OF REPORTER	16
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

WEDNESDAY, JUNE 16, 2021

BEAUFORT, SOUTH CAROLINA

VIRTUAL COURTROOM

* * *

THE COURT: Good morning.

MR. THORNTON: Good morning, Your Honor.

THE COURT: Good to see everybody.

All right. We are going to go ahead and
get Mr. McCormick on.

(Charles McCormick enters proceedings via WebEx
from the Lieber Correctional Institute.)

THE COURT: Are you Mr. McCormick, sir?

THE DEFENDANT: Yes, Your Honor. Good
morning.

THE COURT: Good morning. I am Carmen
Mullen. I am the presiding judge in this matter,
and I am the chief administrative judge for the 14th
circuit.

You obviously have filed a motion for
post-conviction DNA testing. At this point, sir, I have
your request, and I also have the State's response to
that.

I am happy to hear from you first, Mr.
McCormick, as to why you want additional DNA testing.

1 THE DEFENDANT: Your Honor, I never had the
2 opportunity to have that test prior to trial.

3 THE COURT: Okay.
4 Who was your lawyer at trial, sir?

5 THE DEFENDANT: Samuel Bauer.

6 THE COURT: Okay.

7 THE DEFENDANT: After that -- I have requested
8 a response back from the Court since October 20 -- I
9 filed the paperwork in 17, the year 2017. Then I put a
10 response in on April 28, '18 -- the second in '18. Then
11 on March 23, 2019, I put it through, put forth the
12 request with no response back.

13 I even -- then I went to the administrative law
14 clerk. They responded to the clerk, and I never got a
15 response. Then I put a motion for cause in. I put that
16 in in February. Then I followed with a motion for
17 summary judgment.

18 THE COURT: Okay.

19 THE DEFENDANT: I also responded on this
20 paperwork that the solicitor filed.

21 THE COURT: Right.

22 THE DEFENDANT: When they filed it last week,
23 too.

24 Also, in this paperwork it says there was
25 blood under my wife's fingernails. That is not a

1 true statement. Ms. Caan (phonetic) never testified
2 to that. She actually said she didn't know what it
3 was.

4 THE COURT: All right.

5 Anything else you need to tell me? I am
6 looking at, again --

7 THE DEFENDANT: Your Honor --

8 THE COURT: Yes, sir.

9 THE DEFENDANT: Also, they put there that I
10 have five kidnapping sentences. I don't have
11 that.

12 THE COURT: I'm sorry. You have five what?

13 THE DEFENDANT: He put down that I have
14 five kidnapping sentences. I believe it's on Page 2
15 of the motion. I have no kidnapping charges.

16 THE COURT: Hold on a second.

17 THE DEFENDANT: We are the 4th circuit,
18 correct?

19 THE COURT: We are the 14th circuit, sir.

20 THE DEFENDANT: Okay.

21 THE COURT: Fourteenth, okay.

22 I'm sorry. Let me just read this really
23 quickly, if you would.

24 Okay. I remember this case well because I was
25 the trial judge.

1 Mr. Thornton, did you try this case?

2 THE DEFENDANT: I thought you were --

3 THE COURT: Yes. I am just older, just
4 like we all are.

5 Mr. Thornton, were you the trial judge in this
6 case?

7 MR. THORNTON: Your Honor, I did not try
8 this case. The solicitor tried this case. I was
9 the deputy over the other four counties at the time.
10 The solicitor tried this case.

11 Your Honor, did you want me to go ahead with
12 our brief response?

13 THE COURT: Yes, please. I would
14 appreciate that, sir.

15 MR. THORNTON: Your Honor, Mr. McCormick is
16 correct. There is a Scrivener's error on here. That
17 should have been five years for possession of a weapon
18 during the commission of a violent crime, not
19 kidnapping. So, I apologize. That is incorrect.

20 As to the blood under the victim's
21 fingernails, sometimes I do put blood. It was DNA that
22 was found under the victim's fingernails.

23 THE COURT: Yes.

24 MR. THORNTON: Briefly, Your Honor, we believe
25 that Mr. McCormick's motion files -- excuse me. We

1 believe that what he filed fails on its face.

2 As you know, Your Honor, the first thing the
3 statute requires is that the physical or biological
4 material to be tested is available and in a condition
5 that would permit testing.

6 In his application he states that this was
7 destroyed during testing. The second thing is that it
8 has a proper chain of custody and all of that. Well, on
9 its face his application would fail because he says that
10 it was destroyed during testing. So it fails because of
11 the first two.

12 Also, Your Honor, under six, specifically the
13 physical evidence or biological material sought to be
14 tested was not tested or that there is some new
15 information that could be gleaned from it.

16 The testing that was done on the material under
17 the victim's fingernails, Judge, on the right hand it
18 was her DNA and her DNA alone is my reading of the facts
19 that indicate.

20 On the left hand, it was her DNA and
21 Mr. McCormick's DNA. It was to the result of 1 in 110
22 million. It's not like a low result we got. That seems
23 pretty definitive in and of itself.

24 So for those reasons, we think that it fails.
25 Frankly, it fails on its face because if the material is

1 not there to be retested, this motion is not the proper
2 venue for that.

3 Thank you, Your Honor.

4 THE COURT: Thank you.

5 Mr. McCormick, do you want to respond, sir?

6 THE DEFENDANT: Well, the only other thing
7 I would like to put on the record is, prior to --
8 there was a five-day gap between the time they took
9 my wife and the fingernail clippings were submitted.
10 There is no record of what went on then.

11 Same with my clothes that they took. It was a
12 17-day gap with no record -- sixteen days. From the
13 time they took it, they didn't submit it. It was 16.
14 And it wasn't my clothes. They only took clippings.

15 THE COURT: When you say it wasn't submitted, I
16 am assuming it went straight from you to an evidence
17 locker at that point.

18 THE DEFENDANT: There is no record of that.

19 THE COURT: I am sure there was a chain of
20 custody established before it came in, or I wouldn't
21 have let it in.

22 So -- okay. Well, I will go back and look at
23 that. I'll go back and look at the transcript. Okay.

24 THE DEFENDANT: As I said, there was no firearm
25 ever recovered.

1 THE COURT: There was no what recovered?

2 THE DEFENDANT: No firearm ever recovered.

3 THE COURT: Okay. Okay. Okay.

4 All right, sir. I will go back and look at
5 the transcript, and I will consider this and I will
6 let you know something.

7 Mr. McCormick, I want to make sure I have good
8 addresses for you, so I can correspond. I know you
9 correspond through with the Court, but I want to make
10 sure that the Court has good addresses --

11 Do you know specifically, sir -- do you know
12 what your inmate number is?

13 You are at Lieber, am I correct about that?

14 THE DEFENDANT: That's correct.

15 The COURT: Okay. I want to make sure I have
16 your number. Do you know your number, sir?

17 THE DEFENDANT: Yes. 326467.

18 THE COURT: 326467. All right, sir. Well, I
19 appreciate it.

20 THE COURT: Your Honor?

21 THE COURT: Yes.

22 THE DEFENDANT: Did you want my room?

23 THE COURT: Sure.

24 THE DEFENDANT: Stono A-14.

25 THE COURT: Stono 14 A-14. Okay. Okay. All

1 right. I appreciate that.

2 All right, sir. Well, let me go back and let
3 me look at the transcript. I just want to make sure
4 what I have. Then I will issue some kind of order and
5 we will let the State and you know.

6 Okay?

7 THE DEFENDANT: Can I ask you one more
8 question, Your Honor?

9 THE COURT: Sure.

10 THE DEFENDANT: If you look at a calendar from
11 the Court -- you answered the question back prior to my
12 PCR. I asked for a calendar on -- when the grand jury
13 sat.

14 THE COURT: Yeah.

15 THE DEFENDANT: When they were in session. You
16 told me -- my lawyer told me there was no such thing.

17 THE COURT: We don't have a calendar. We don't
18 have a calendar -- probably what I told you in your PCR
19 is, you can't challenge -- really, the meeting of the
20 grand jury -- your case was indicted. So there is no
21 question about that. So that is not an appealable
22 issue, and it's certainly not anything on a PCR that
23 Mr. Bauer should have done or made happen. So it isn't
24 something that I would typically have.

25 THE DEFENDANT: The only reason I requested

1 it is -- from the clerk -- because I have seen them.

2 THE COURT: Okay.

3 THE DEFENDANT: That is why I made the request.

4 THE COURT: So what do you think it's going
5 to show?

6 THE DEFENDANT: Well, I just want to compare my
7 dates with when -- because my attorney told me -- I
8 asked him when -- I asked him when they indicted me. I
9 said, how can they do that with no evidence?

10 He told me all they need is a sample. They
11 don't need no evidence.

12 THE COURT: No. What he is saying is this:
13 Let me just explain to you, sir. When a grand jury
14 meets, there is an indictment that is presented to
15 the grand jury, and all they do is consider the
16 evidence on behalf of the State. There is no
17 defense attorney there. There is no one to defend
18 it. It's basically -- they start presenting
19 witnesses. Even just one witness could be enough
20 for the grand jury to bind it over and indict.

21 So I think that is what they are trying to say
22 or what he is trying to explain to you. It's not that
23 there is no evidence. It could be any evidence. It's
24 just on behalf of the State as presented by either a
25 solicitor or by law enforcement.

1 So there is no opportunity for defense counsel
2 to go in and defend against it. That is not the point
3 of a grand jury. It's just to consider what evidence
4 they do have as to whether or not a jury could find you
5 guilty.

6 So maybe you're misunderstanding exactly what
7 Mr. Bauer said, but there certainly is evidence to be
8 bound over. I can tell you as chief administrative
9 judge that when a grand jury meets -- let's say they
10 consider 50 indictments. I sign off on them afterwards.

11 So they agree. They consider them all, and
12 then I sign off on them. That is when they are bound
13 over. So I don't know if that answers your question,
14 but that is how it occurs.

15 So I am not worried. There had to have been
16 evidence. There is no question that there had to have
17 been evidence for it to be true-billed.

18 Mr. McCormick, does that help you at all
19 understand?

20 THE DEFENDANT: I understand you are
21 saying.

22 THE COURT: Okay. I mean, I just don't know --
23 I mean, the comment you said Mr. Bauer made -- I think
24 maybe what he --

25 THE DEFENDANT: I'm only repeating what he

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

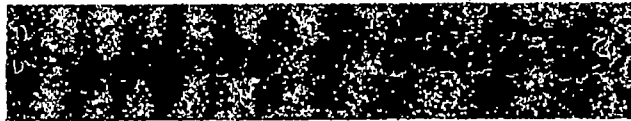
CERTIFICATE OF REPORTER

* * *

I, KYMBERLEE M. WILLIAMS, Registered Professional Reporter, do hereby certify that the foregoing transcript is a true, accurate, and complete record of the matter held in the Court of General Sessions for the Fourteenth Judicial Circuit in the State of South Carolina.

I further certify that I am neither related to, nor counsel for, any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 7th day of October, 2022 at Beaufort County, South Carolina.



Kymerlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
State of South Carolina
Fourteenth Judicial Circuit
kwilliams@sccourts.org

October 26, 2022

To whom it may concern:

This letter is to verify receiving a copy of the transcript of Charles St. McCormick from the Court Reporter, Kimberlee Smithson.

Kimberlee stated to me in our phone conversation that there were "inaudible" portions on the tape.

Sincerely,

Lorraine Burges,

Sister to Charles St. McCormick



State of South Carolina
The Circuit Court of the Fourteenth Judicial Circuit

Carmen Mullen
Judge

100 Ribaut Road
Beaufort, SC 29901
Phone: (843) 255-5070
Fax: (843) 522-8362
cmullenj@sccourts.org

August 15, 2011

Charles W. McCormick
326467, WB-133
Lieber Correctional Institution
P.O. Box 205
Ridgeville, South Carolina 29472

RE: Beaufort County Grand Jury Inquiry

Dear Mr. McCormick:

This letter is in response to your inquiry to the Beaufort County Clerk of Court regarding a calendar of Grand Jury meetings for the year 2006. With all due respect to your request, the Court does not maintain such records and cannot provide you with these dates.

Please let us know if we may be of further assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "C. Robin Graham".

C. Robin Graham
Law Clerk to The Hon. Carmen T. Mullen

Cc: The Hon. Jerri Ann Roseneau, Beaufort County Clerk of Court