

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of General Sessions

Roger Young Sr., Circuit Court Judge

Case No.(s): 2023-GS-08-03661

2024 APR 17 PM 2:44
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

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The State,

Respondent,

v.

James Elton Riles

Appellant.

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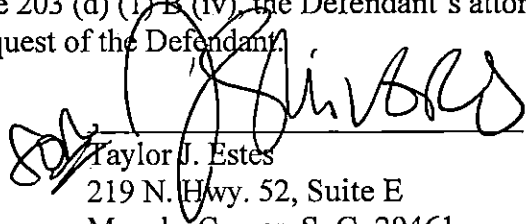
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SC Court of Appeals

NOTICE OF APPEAL

A Motion to Dismiss for James Elton Riles was heard before the Honorable Roger M. Young, Sr. on March 13, 2024. The basis of this appeal is that Mr. Riles wishes to appeal Judge Young's Order Denying Defendant's Motion to Dismiss. Following Judge Young's ruling denying the Motion to Dismiss, the case was tried and Mr. Riles was subsequently convicted. He then asked his attorney to submit an appeal. This attorney is of the opinion that if a client requests an appeal, that the attorney is bound to file the appeal. In compliance with Appellate Practice Rule 263 and Appellate Practice Rule 203 (d) (1)-B (iv), the Defendant's attorney asserts that this appeal is being filed at the request of the Defendant.

April 17, 20224


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Other Counsel of Record:
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Appellant.

PROOF OF SERVICE

I certify that I served a Notice of Appeal on Kawoхи Morris, Assistant Solicitor of the Ninth Judicial Circuit, by personally delivering a filed copy of it to her office and leaving the same with Sandi Biekenberg, Administrative Support Specialist, for the Solicitor's Office located at 300 B California Ave., Moncks Corner, South Carolina 29461, on June 30, 2022.

Date: April 17, 2024


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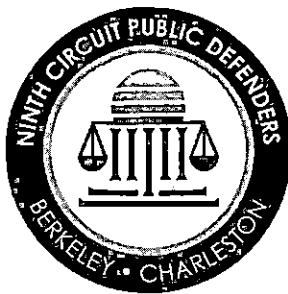
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April 17, 2024

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Clerk of Court
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SC Court of Appeals

RE: State of South Carolina vs. James Elton Riles
Indictment No.(s): 2023-GS-08-03661

Dear Ms. Kitchings:

Enclosed you will find the original Notice of Intent to Appeal and the Proof of Service of the Appeal. A Motion to Dismiss in the above-referenced matter was heard before the Honorable Roger M. Young, Sr., in the County of Berkeley on March 13, 2024. The Defendant wishes to appeal Judge Young's Order Denying Defendant's Motion to Dismiss and asked that an appeal be filed. In compliance with Appellate Practice Rule 203 (d) (1) B (iv), the Defendant's attorney asserts that this Appeal was filed at the request of the Defendant.

This appeal is based on the grounds that the Court erred in its finding that (1) the Interstate Agreement on Detainers Act was not triggered until November 14, 2023, when the Defendant's written notice for disposition of charges was accompanied by the certificate described in S.C. Code § 17-11-10, Article III, subsection (b); and (2) in finding that the State has one hundred and eighty (180) days from November 14, 2023, in which to bring the Defendant to trial according to § 17-11-10, Article III, subsection (a).

The Defendant submits that the Interstate Agreement on Detainers Act was triggered on May 10, 2023 when Assistant Solicitor Kawohi Morris of the Ninth Circuit Solicitor's Office acknowledged receipt of the Defendant's request for final disposition. Pursuant to *State v. Hill*, 409 S.C. 50, 52, 760 S.E.2d 802, 803 (2014), "under the Interstate Agreement on Detainers Act, S.C. Code Ann. § 17-11-10 et. Seq. (2003), once the receiving jurisdiction acknowledges receipt of the prisoner's request for disposition, the receiving jurisdiction has 180 days to bring the prisoner to trial, unless a proper continuance is granted by a court of competent jurisdiction... Otherwise, the court will dismiss the charges." Assistant Solicitor Morris acknowledged receipt of the Defendant's request for final disposition in her letter to Warden Angela Reaves Pham of the Riverbend Correctional Facility, where Defendant is serving a term of incarceration, dated May 10, 2023. Assistant Solicitor Morris stated in her letter, "according to the AIDA, I have 180 days to resolve the Defendant's Berkeley County charge and thus time is of the essence." Therefore, the State had one hundred and eighty days (180) from May 10, 2023 in which to bring the

Defendant to trial. The Defendant was brought to trial three hundred and thirty eight (338) days later on April 12, 2024 and no continuance was granted, therefore the remedy as prescribed by § 17-11-10 is dismissal of the pending charge.

The Defendant acknowledges that Warden Angela Reaves Pham failed to forward the certificate to the appropriate prosecuting official and court until November 14, 2023. The Defendant has no control or agency over the correctional institution or the warden and thus his rights under § 17-11-10 should not be impeded on the basis that the Warden did not forward the certificate in a timely manner. The certificate contains the following portions to be filled out by the correction institution: (1) the term of commitment under which the inmate above named is being held; (2) the time already served; (3) time remaining to be served on the sentence; (4) the amount of good time earned; (5) the date of parole eligibility of the inmate; (6) the decisions of the Board of Pardons and Paroles relating to the inmate; (7) maximum expiration date under present sentence; (8) detainers currently on file against this inmate. All such items were left blank on the certificate that was signed and sent by the warden to Assistant Solicitor Morris. The Defendant contends that since the body of the form was left completely blank, the certificate was rendered moot and unnecessary to continue the process under the IADA.

Furthermore, Defendant argues in the alternative that Assistant Solicitor Kawohi Morris triggered the one hundred and twenty (120) day time clock pursuant to § 17-11-10, Article IV, subsection (a) when she sent the Form V Request for Temporary Custody to Warden Angela Reaves Pham on May 10, 2023. Under Article IV, subsection (a), “the appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available... upon presentation of a written request for temporary custody... to the appropriate authorities of the state in which the prisoner is incarcerated... provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request.”

Assistant Solicitor Morris placed a detainer on the Defendant on April 24, 2023. She then sent the Form V Request for Temporary Custody to Warden Angela Reaves Pham of Riverbend Correctional Facility on May 10, 2023. This Form was signed by Assistant Solicitor Morris and Judge Paula McElvogue, Berkeley County Magistrate. The Form V Request for Temporary Custody states, “I hereby certify that the person whose signature appears above is an appropriate officer within the meaning of Article IV(a) and the facts recited in this request for temporary custody are correct and that having duly recorded said request I hereby transmit it for action in accordance with its terms and the provisions of the IAD.”

Pursuant to § 17-11-10, Article IV subsection (c), trial shall be commenced within one hundred twenty days (120) of when the prisoner arrives in the receiving state, unless a continuance is granted in open court with good cause shown. Defendant arrived at the Hill Finklea Detention Center in Berkeley County on November 29, 2023. No continuance was granted. The Defendant was brought to trial on April 12, 2024, which is one hundred and thirty five (135) days after arriving in the receiving state. Because trial was not commenced within one hundred and twenty (120) days of Defendant arriving in South Carolina, and no continuance was granted, his pending charge should have been dismissed.

Also, enclosed is a copy of the Defendant's Motion to Dismiss and the Order Denying Defendant's Motion to Dismiss, Sentence Sheet and Indictment. I hope the information will be sufficient to move forward with the appeal.

If you have any questions or need more information, please do not hesitate to contact my office.

Sincerely,

Taylor J. Estes

Taylor J. Estes
Assistant Public Defender

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