

③ The State v. George Holmes, Appellant Case No. 2022-000728

ORDER MOTION  
TO BE RELEASED

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AUG 14 2023

SC Court of Appeals

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MAY 09 2024

Warrant No. (s) 2018AD710200399, 2018AD710200400  
Indictment No. (s) 2019GS0700039, 2019GS0700040

ORDER

S.C. SUPREME COURT

The Circuit Court applied the wrong Standard of review, and under the correct Standard of review. Please See:

Arrest Warrant No. 2018AD710200399, States "Non-violent burglary 2nd degree, Conflict ORDER; on February 26, 2020. Stated Defendant, George Holmes, is charged with Burglary (non-violent) 2nd degree, "Non-violent" offense. Motion by Charles W. Patrick, III, On March 25, 2020, Order Granting Defendant Motion for Bond is hereby ordered as follows: George Holmes, shall be released on his own recognizance. Shall be on house arrest.

Order for Competency to stand trial Evaluation Pursuant to STATE v. BLAIR. "States" George Holmes, charged with one (1) count of Burglary 2nd degree (non-violent) Please See: Summons No: 607774 Defendant's Copy incident Report #18S324616. May 18, 2022. The Trial Convicted of Burglary 2nd degree (violent) Sentence Sheet and Notice of Appeal Shows (violent).

The Circuit Court applied the wrong Standard of review and under the correct Standard of review.

CREDITABILITY: OF B.C.S.O. Jonathan M Hewitt, 2-1-2019.

ACQUITTAL: That the evidence is insufficient to support a conviction.

Thanks,

with kindest regards I'm ~~George~~ Holmes

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SC Court of Appeals

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The State v. George Holmes, Appellate Case No. 2020-000728

37 No. 12 West's Criminal Law New Volume 37, Issue 12

June 5, 2020 Criminal Law News - Post Conviction Relief S.C. SUPREME COURT

Forms: Prisoner was entitled to emergency Compassionate release from incarceration, under First ~~Act~~ Step Act, base on COVID-19 outbreak at Prison.  
"Brief"

Federal Prisoner Convicted of theft of government funds and tax evasion was entitled to emergency Compassionate release from incarceration, under First Step Act, base on COVID-19 outbreak at prison, prisoner was first-time offender, offenses of conviction were non-violent prisoner was retired police officer who volunteered in rescue and cleanup efforts at the World Trade Center following the terrorist attacks of September 11 2001 Continued incarceration posed serious health risks to presented extraordinary and unprecedented threat incarcerated person, and to prison in particular.

United States v. Scparta, 125 A.F.T.R. 2d 2020-1774, 2020 WL 1910481 (S.D.N.Y. 2020)

§ 19.8 Releasing prisoners? detainees in response to COVID-19 state court administrative responses.

Applying "WILD FACTS" To Federal Detention in the Pandemic

Federal Detention - N- "WILD FACT" During the COVID-19 pandemic.

The U.S. Attorney General told BOP in a March 2020 memorandum that there are some at risk inmate who are non-violent.

STATE OF SOUTH CAROLINA  
 COUNTY OF BEAUFORT  
 VERSUS

LAST NAME: <u>Holmes</u>	FIRST: <u>George</u>	MIDDLE:
--------------------------	----------------------	---------

<b>DEFENDANT</b>	<b>SUMMONS</b>	<b>VICTIM</b>	<b>WITNESS</b>
(CIRCLE ONE)			

LAST NAME: <u>Holmes</u>	FIRST: <u>George</u>	MIDDLE: <u>A</u>
--------------------------	----------------------	------------------

ADDRESS: _____	SSN: _____	SEX: <u>M</u>	RACE: <u>Black</u>
----------------	------------	---------------	--------------------

YOU ARE SUMMONED TO APPEAR BEFORE THE BEAUFORT COUNTY COURT AT THE LOCATION INDICATED BELOW:  
 (INDICATE ONE)

- |   |   |
|---|---|
| <input type="checkbox"/> CENTRAL COURT NORTH<br>100 RIBAUT RD<br>BEAUFORT SC<br>29902<br>(843) 470-5202     | <input checked="" type="checkbox"/> GENERAL SESSIONS<br>100 RIBAUT RD<br>BEAUFORT SC<br>29902<br>(843) 470-5218 |
| <input type="checkbox"/> CENTRAL COURT SOUTH<br>#3 TOWN CENTER<br>HILTON HEAD SC<br>29025<br>(843) 842-4260 | <input type="checkbox"/> MUNICIPAL COURT<br>#3 TOWN CENTER<br>HILTON HEAD SC<br>29025<br>(843) 341-4670         |

DATE OF TRIAL ON: <u>03-31-19</u>	TIME OF TRIAL AT: <u>09:45 AM</u>
CHARGE: <u>Driving Srd</u>	SECTION: <u>16-11-3/3</u>
DATE & TIME OF VIOLATION: <u>12-16-18 10:00 AM</u>	LOCATION: <u>107 Sea Island Pkwy</u>
DATE & TIME OF ARREST: <u>12-28-18 8:30 AM</u>	ARRESTING / ISSUING OFFICER: <u>Hewitt</u>
INCIDENT REPORT #: <u>185324616</u>	

**NOTICE**  
 FAILURE TO APPEAR WITHOUT FIRST POSTING BOND OR OBTAINING A CONTINUANCE IS A MISDEMEANOR PUNISHABLE BY A FINE OF UP TO \$500 OR IMPRISONMENT FOR UP TO 30 DAYS.

Arnold  
 (SIGNATURE OF DEFENDANT, VICTIM OR WITNESS)

12/28/18  
 (DATE)

NO: 67774  
 DEFENDANT'S COPY

394

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JUN 15 2022

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

STATE OF SOUTH CAROLINA

-vs-

GEORGE HOLMES

Defendant.

IN THE COURT OF GENERAL SESSIONS  
FOURTEENTH JUDICIAL CIRCUIT

WARRANT #s:

2018A0710200399 and 2018A0710200400

ORDER GRANTING DEFENDANT'S  
MOTION FOR BOND

*The State v. George Holmes  
Appellate Case No. 2022-000728*

*non-violent Released*

This matter is before me pursuant to a motion by Charles W. Patrick, III, appointed counsel for the Defendant, George Holmes, for an own recognizance bond on the above referenced cases. Following a phone conference hearing held on March 25, 2020, I ordered that should Mr. Holmes provide a stable living address, he would be allowed release on his own recognizance pending trial in the above reference matter. Mr. Holmes's permanent address is:

George Holmes  
39 Samuel Lane  
St. Helena Island, SC 29920

Bond is hereby ordered as follows: *non-violent Released*

1. Mr. Holmes shall be released on his own recognizance.
2. Mr. Holmes shall reside at 39 Samuel Lane, St. Helena Island, SC 29920 until the resolution of his case and shall be on house arrest.
3. Mr. Holmes may only leave this residence for court appearances, meetings with his attorney, and for his employment.

AND IT IS SO ORDERED.

Judge Carmen T. Mullen

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AUG 08 2022

SC Court of Appeals

**RECEIVE**

SEP 09 2022

S.C. SUPREME CC

March 26, 2020

Certified - A True Copy

Jeff Ann Roseneau - Clerk of Court  
Beaufort County, SC - Jennifer Petroff

FILED  
MAR 25 PM 2:19  
CLERK OF COURT  
BEAUFORT COUNTY, S.C.

2018A0710200399

STATE OF SOUTH CAROLINA

County/  Municipality of

Beaufort

THE STATE  
against

18S334616

Holmes

Saint Helena Island, SC 29920-5411

SSN

Race: B Height: 5 7 Weight: 240

SC DL #:

Agency ORI #: SC0070000

Agency: Beaufort County Sheriffs Office

Officer: Jonathan M Hewitt - S00393

Burglary / Burglary (Non-Violent) - Second degree

Code: 0080

Finance Sec: 16-11-0312

Warrant is CERTIFIED FOR SERVICE in the

County/  Municipality of

The accused

be arrested and brought before me to be  
with according to the law.

(L.S.)

Signature of Judge

RETURN

of this arrest warrant was delivered to

at George Holmes

12/28/18

*[Signature]*  
Signature of Constable/Law Enforcement Officer

WARRANT TO:

Beaufort County General Sessions

PO Box 1128

102 Ribaut Road, Rm. 208

Beaufort, SC 299011128

DEFENDANT COPY

DEFENDANT COPY

DEFENDANT COPY

DEFENDANT COPY

DEFENDANT COPY

DEFENDANT COPY

STATE OF SOUTH CAROLINA

County/  Municipality of

Beaufort

Personally appeared before me the affiant Jonathan M Hewitt

being duly sworn deposes and says that defendant George Holmes

did within this county and state on or about 12/28/2018

State of South Carolina (or ordinance of  County/  Municipality of Beaufort

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on December 28th, 2018, at approximately 0128 hours, the defendant, one George Holmes did knowingly, willingly and unlawfully violate the laws of the State of South Carolina in that he did commit the offense of Burglary in the 2nd Degree. The defendant unlawfully forced into the Navy Federal Credit Union ATM. He did so by using a crow bar to break through the outside door. Upon gaining entry, attempted to force entry into the ATM box in an attempt to steal the currency located within. The incident was captured on surveillance footage, Holmes was positively identified and a BCSO Tracking Team was recalled and tracked to the location he was found. This incident did occur at 102 Sea Island Parkway, Beaufort, Beaufort County, South Carolina and within the jurisdiction of the Beaufort County Sheriff's Office. The Affiant and others are witness to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/  Municipality of

Beaufort

Affiant's Address 2001 Duke St  
Beaufort, SC 29902-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/28/2018

defendant George Holmes

did violate the criminal laws of the State of South Carolina (or ordinance of

County/  Municipality of Beaufort

) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 12/28/2018

(L.S.)

Signature of Issuing Judge  
Mark Francis Fitzgibbons

Judge Code: 7060

Judge's Address 104 Ribaut Rd  
Beaufort, SC 29901-2207

Judge's Telephone (843)255-5700

Issuing Court:  Magistrate  Municipal  Circuit

DEFENDANT  
COPY

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA 518

AFFIDAVIT

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

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ORDER

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In Re: COVID-19 Pandemic

On March 13, 2020, the Governor of South Carolina declared a State of Emergency in South Carolina pursuant to Executive Order 2020-08. This action was taken in response to the COVID-19 Pandemic. The Administrative Law Court (Court), in recognition of this crisis and the potential effect on the citizens of South Carolina especially those with pending matters before the Court, finds it necessary to issue this order regarding deadlines before the Court.

In accordance and consistent with prior practice of this Court and of the South Carolina Supreme Court, due dates for filings with the Court on or after the date of this Order are hereby extended for thirty (30) days. All Rules of Procedure regarding the method for the filing and service of documents are still in effect. **This Order does not apply to the statutory timeframes for filing the initial request for a hearing or notice of appeal.** Further, no filing fee will be required for a motion for continuance for hearings scheduled in the next 30 days, but such motion must be filed with the presiding judge's office.

All litigants are directed to frequently monitor the Court's website for further updates during this emergency. This Order shall remain in effect until and unless further modified or rescinded by the Court.



---

Ralph King Anderson, III  
Chief Administrative Law Judge

Columbia, South Carolina  
March 24, 2020

*Court News ...*

2020-03-19-01

# The Supreme Court of South Carolina

## RE: Mediation Settlement Conferences

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ORDER

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In recognition of the difficulties the COVID-19 pandemic may have on lawyers, parties, and other persons whose physical presence is ordinarily required in mediation settlement conferences governed by the South Carolina Court-Annexed Alternative Dispute Resolution Rules, I find it necessary to temporarily adjust the usual manner of attendance at mediation settlement conferences required by Rule 6(b) of the Alternative Dispute Resolution Rules.

Pursuant to Article V, Section 4 of the South Carolina Constitution, it is ordered that, upon the request of a required attendee, the Chief Judge for Administrative Purposes of the circuit shall issue an order permitting attendance by video conferencing.

This Order is effectively immediately and remains in effect until modified or rescinded by order of the Chief Justice.

s/Donald W.

Beatty

Donald W. Beatty

Chief Justice of South Carolina

Columbia, South Carolina  
March 19, 2020

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SC Court of Appeals

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

IN THE COURT OF GENERAL SESSIONS

Indictment No.(s): 2019GS0700039-40,  
2019GS0700547

A/Warrant No.(s): 2018A0710200399-400,  
2019A0710400105

The State of South Carolina, )

Plaintiff, )

v. )

ORDER FOR COMPETENCY TO STAND  
TRIAL EVALUATION PURSUANT TO

STATE V. BLAIR

EVALUATION BY

(Select Only One)

Department of Mental Health (Mental  
Illness)

OR

Department of Disabilities and Special  
Needs

(Intellectual Disability or Related Disability)

GEORGE HOLMES,  
Defendant.

RE: The State v. George Holmes  
Appellate Case No. 2022-000728

How can the trial  
charge me a Greater  
offense of Burglary 2nd

Violent 7777777

This matter is before me for an order requiring defendant, George Holmes, charged with one (1) count of Burglary, 2nd Degree (Non-Violent), one (1) count of Safecracking, and one (1) count of Indecent Exposure, to submit to an evaluation for competency to stand trial pursuant to State v. Blair, 275 S.C. 529; 273 S.E.2d 536 (1981) and S.C. Code Ann. § 44-23-410 (1976).

**BASIS FOR ORDER.** I have considered the showing made in support of the motion requesting this evaluation and have reason to believe defendant may lack the competency to understand the criminal proceedings or to assist with the defense as a result of a lack of mental competence.

This order is issued for the following reasons: Due to Defendant's extensive mental health history and as a result there is the concern that client appears to not be able to understand or assist attorney in his own defense.

**THEREFORE, IT IS ORDERED:** Defendant shall be examined and observed at an appropriate facility by two examiners of the Department of Mental Health if suspected of having a mental illness or by two examiners designated by the Department of Disabilities and Special Needs if suspected of having an intellectual disability or a related disability, to render an opinion whether defendant is competent to stand trial.

Certified - A True Copy

Jerr Ann Roseneau - Clerk of Court  
Beaufort County, SC - Jennifer Petroff

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )  
 )  
STATE OF SOUTH CAROLINA )  
 )  
vs. )  
 )  
GEORGE HOLMES, )  
Defendant )

IN THE COURT OF GENERAL SESSIONS  
Indictment No(s): 2019GS070039-40  
Warrant No(s): 2018A0710200399-40

101831

**CONFLICT ORDER**

*GH George Holmes 6-13-2022*

The 14<sup>th</sup> Circuit Public Defender's Office has been appointed to represent the Defendant in the above-captioned matters. *Please dismiss it's no way*

The Defendant is charged with Burglary (non-violent) 2<sup>nd</sup> Degree and Safecracking. The Defendant filed a Motion to Relieve Counsel on February 11, 2020. This hearing was heard on February 26, 2020. *WOW*

IT IS THEREFORE ORDERED that the 14<sup>th</sup> Circuit Public Defender's Office is relieved of the Representation of the Defendant, and Contract Attorney, Charles Patrick, is appointed to represent the Defendant.

IT IS SO ORDERED,

*[Handwritten signature]*  
2020 FEB 26 AM 10:10  
BEAUFORT COUNTY, S.C.  
COURT

The Honorable Carmen T. Mullen  
Presiding Judge  
Fourteenth Judicial Circuit

Beaufort, South Carolina

February 26, 2020

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SEP 14 2022

S.C. SUPREME COURT

Certified - A True Copy

*[Handwritten signature]*  
Jerri Ann Rosewell - Clerk of Court  
Beaufort County, SC - Jennifer Petroff

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )  
State of South Carolina )  
Plaintiff, )  
-vs- )

IN THE COURT OF GENERAL SESSIONS  
14th JUDICIAL CIRCUIT  
CASE NO.: 2018A0710200399  
APPOINTMENT OF COUNSEL  
(Select one.)

George Holmes

2022 MAY 25 PM 2:35

Defendant  Juvenile  AMENDED ORDER

Offense(s): Burglary / Burglary (Violent) (Order 125/65) - Second degree

JERRI ANN ROSENEAD  
BEAUFORT COUNTY, SC  
CLERK OF COURT

It appears that the above named person is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

- the public defender now represents another person involved herein and that a conflict would arise if that office represents the above-named individual.
- the public defender has indicated a possible conflict of interest or other good cause warranting the appointment of counsel based on:
- the public defender or court-appointed counsel has indicated that the named individual has now retained private counsel and is no longer entitled to appointed counsel.
- court-appointed counsel has claimed an exemption or has demonstrated good cause pursuant to Rule 608 warranting the appointment of new counsel based on:
- court-appointed counsel has obtained substitute counsel named below pursuant to Rule 608(h)(2); only the member who originally received the appointment and who sought substitute counsel shall receive credit for the appointment.

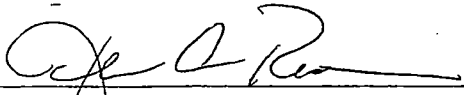
Therefore, it is ordered that Colin J, Hamilton Esquire hereby is appointed as (Select only one.)

counsel  lead counsel (if capital PCR case)  
for the above-named person. Counsel previously appointed is/are hereby relieved as counsel.

(If Death Penalty PCR Case) It is further ordered that , Esquire, is hereby appointed as second counsel in this capital case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED  
May 25, 2022

  
 Circuit Judge  Clerk of Court

Plaintiff Attorney:

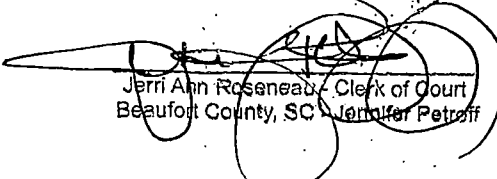
Samantha Molina 1306 Fording Island Road Suite 108 Bluffton, SC 29910	
--	--

Defendant Attorney:

Colin J, Hamilton	
1905 Duke St	
Beaufort, SC 29902	

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at [www.sccid.sc.gov](http://www.sccid.sc.gov), and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

Certified - A True Copy

  
Jerri Ann Rosenead - Clerk of Court  
Beaufort County, SC Jennifer Petroff

0-15 YEARS

STATE

GEORGE HOLMES

INDICTMENT/CASE#: 2019GS0700039

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BEAUFORT

STATE

*The State v. George Holmes*  
*VS. Appellate Case No 2022-000728*

INDICTMENT/CASE#: 2019GS0700039

*States non violent*

GEORGE HOLMES

A/W#: 2018A0710200399

AKA: \_\_\_\_\_  
Race: Black Sex: Male Age: 34

Date of Offense: 12/28/2018

DOB: \_\_\_\_\_ SS#: \_\_\_\_\_

S.C. Code §: 16-11-312(B)(3)

Address: \_\_\_\_\_

CDR Code #: 0086

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SENTENCE SHEET  
AUG 08 2022

SC Court of Appeals

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Burglary 2<sup>nd</sup> Degree Violent *non violent Please See A/W#: 2018A0710200399*

In violation of § 16-11-312(B)(3) of the S.C. Code of Laws, bearing CDR Code # 0086

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  § 17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (def.'s initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence, Recommendation by the State.  
ATTEST:

Solicitor \_\_\_\_\_ SC Bar # \_\_\_\_\_ Defendant \_\_\_\_\_ Attorney for Defendant \_\_\_\_\_ SC Bar # \_\_\_\_\_

WHEREFORE, the Defendant is committed to the  State Department of Correction  County Detention Center,

for a determinate term of 15 days/months/years Time Served  Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years/Time Served and or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standards and conditions of probation, which are incorporated by reference.

The sentence shall run  CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

SCCA/217 (07/2021)

*Certified - A True Copy*  
*Jerri Ann Roseneau - Clerk of Court*  
*Beaufort County, SC - Jennifer Petroff*

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SEP 09 2022

SC SUPREME COURT

WITNESSES

witt - BCSO

DOCKET NO. 2019GS0700039

The State of South Carolina  
County of Beaufort

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

April Term 2019

I \_\_\_\_\_  
hereby appear in my own proper person and plead guilty to the within indictment or to

THE STATE

vs.

GEORGE HOLMES

ARREST WARRANT NUMBER

18A0710200399

SECTION OF GRAND JURY

True Bill

Indictment For  
Burglary 2<sup>nd</sup> Degree (violent)

SC Code: 16-11-312(B)(3)

CDR Code: 0086

Defendant

*Michelle*

foreperson of Grand Jury

date: APR 18 2019

Witness:

INDICT

GUILTY

C.C.C. PLS. and G.S.

*J. Kadh*

foreperson of Petit Jury

date: 5.18.22

INDICT

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JUN 15 2022

S.C. SUPREME COURT

Certified - A True Copy

*Jerr Ann Rosebeau*  
Jerr Ann Rosebeau - Clerk of Court  
Beaufort County, SC - Jennifer Petroff

STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

INDICTMENT

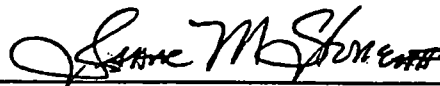
2019GS0700039

At a Court of General Sessions, convened on April 18, 2019, the Grand Jurors of Beaufort County present upon their oath:

**Burglary 2<sup>nd</sup> Degree (violent)**

That in Beaufort County, South Carolina, on or about December 28, 2018, the Defendant, GEORGE HOLMES, did enter a building without consent and with intent to commit a crime therein and the entering or remaining occurred in the nighttime, all in violation of Section 16-11-312(B)(3), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided:



Solicitor

True Bill

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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SEP 09 2022

APPEAL FROM BEAUFORT COUNTY  
Court of General Sessions

SC Court of Appeals

The Honorable Carmen T. Mullen, Circuit Court Judge

Warrant No (s): 2018A0710200399, 2018A0710200400 States  
Indictment No (s): 2019GS0700039, 2019GS0700040 Non-violent

STATE OF SOUTH CAROLINA,

States Non violent

Respondent.

GEORGE HOLMES,

RE: The State v. George Holmes

Appellate Case No. 2022-000728

Appellant.

Please see! ↓

Warrants: States Non-violent

Indictment # 2019GS0700039, states

Burglary 2<sup>nd</sup> non-violent

George Holmes appeals his trial, conviction and sentence on the charges of Burglary -

(Second Degree (Violent)) and Safecracking before the Honorable Carmen T. Mullen, Presiding

Judge, Fourteenth Judicial Circuit. George Holmes also appeals the Denial of his Motion for

Direct Verdict on May 18, 2022 before the Honorable Carmen T. Mullen, Presiding Judge,

Fourteenth Judicial Circuit.

How can the trial give me  
a greater offense of  
Burglary 2<sup>nd</sup> violent??

ON GOD!!

George Holmes  
George Holmes

**RECEIVED**

SEP 09 2022

S.C. SUPREME COURT

**RECEIVED**

AUG 08 2022

S.C. SUPREME COURT

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ARGUMENT

1.

~~The trial judge erred~~ by denying Appellant’s motion for a directed verdict for the offense of second degree burglary where Appellant allegedly entered a standalone structure housing an automated teller machine (ATM), which is not a “building” as intended by the legislature for purposes of S.C. Code Ann. § 16-11-312(B)(3).....5

2.

~~The trial judge erred~~ by denying Appellant’s motion for a directed verdict for the offense of safecracking where the state alleged Appellant attempted to pry open an automated teller machine (ATM) since an ATM does not constitute “a safe used for keeping money or other valuables” as intended by the legislature for purposes of S.C. Code Ann. § 16-11-390.....9

3.

~~The trial judge erred~~ by denying Appellant’s motion to relieve counsel and proceed *pro se* without conducting the proper inquiry pursuant to ~~Faretta v. California, 422 U.S. 806 (1975)~~ in violation of Appellant’s federal and state constitutional rights..... 12

CONCLUSION.....17

25. However, Appellant was ~~not satisfied~~. He asserted, "It's not looking right at all." Tr. 126, ll. 5-7.

The judge then inquired whether Appellant was under the influence of any drugs or alcohol. Appellant responded, "No, ma'am" and again stated that he was ~~"not satisfied with his [counsel's] service."~~ The following colloquy then took place:

THE COURT: Sir, if you want him to be relieved, I can entertain that. But we're still going forward with the trial and you would have to represent yourself.

~~MR. HOLMES: I'll represent myself. Mental health and all — let's represent myself. And tell the Lord Jesus, I'll represent myself. I don't want his service. I'll represent myself.~~

MR. HAMILTON [Defense Counsel]: It would be against the advice of —

THE COURT: Counsel, obviously. Mr. Holmes, we need to go forward. We're in the middle of your trial, sir. You have not been to law school. You don't know the rules of evidence and you will do better having the assistance of counsel.

~~MR. HOLMES: God is all — I don't want his service.~~ This is not going right.

MR. HAMILTON: I'd like to reserve the right that Mr. Holmes can re-raise this motion at a time in the future if he so chooses.

THE COURT: That's fine. That's fine. Okay. Let's bring the jury in.

Tr. 126, l. 12 – 127, l. 8 (emphasis added).

The jury then entered the courtroom and testimony resumed. Tr. 127, ll. 9-12. ~~The judge never entertained Appellant's motion to relieve counsel and represent himself nor did she conduct a Faretta colloquy.~~

### Standard of Review

"Whether a defendant has knowingly, intelligently, and voluntarily waived his right to counsel is a mixed question of law and fact which appellate courts review de novo." State v. Samuel, 422 S.C. 596, 602, 813 S.E.2d 487, 490 (2018) (citing United States v. Lopez-Osuna,

CONCLUSION

Based on the foregoing argument, ~~this Court should direct a verdict of acquittal~~ for the offenses of second degree burglary and safecracking. ~~In the alternative, Appellant respectfully requests this Court reverse his convictions and remand for a new trial.~~

Respectfully submitted,

~~/s/ Lara M. Candy~~  
~~Lara M. Candy~~  
~~Appellate Defender~~

ATTORNEY FOR APPELLANT

~~This 19th day of April, 2023.~~

United States District Court, D. South Carolina, Columbia Division.

Arthur Miller and John N. Johnson, Petitioners,

v.  
State of South Carolina et al. Respondents.

Civ. A. No. 70-2

Fed. 17, 1970

Attorneys and Law firms

\*1238 Daniel R. McLeod, Atty. Gen., Emmett H. Clair, Asst. Atty. Gen., Columbia, S.C.

OPINION and ORDER

⑤ Such reason apparently was never conveyed to appointed counsel, who would undoubtedly have been relieved to have been released from representation; nor did the petitioner explain how he expected to pay such counsel. There is perhaps an implication in the record that in not raising the plea that, since the petitioners had not actually succeeded in opening the safe involved in their prosecution, they could not be guilty of 'safecracking' only of, to use the words of one of the petitioners, 'safetampering'. However, it has been authoritatively held, in the construction of the South Carolina 'Safecracking' Statute, 'It is not essential to constitute a safe crackinger that he shall be successful in his attempt to break open the safe.'

State v. O'Day (1906) 74 S.C. 448, 450, 54 S.E. 607, 608

See, also, Shelnut v. State (1965) 247 S.C. 41, 45, 145 S.E. 2d 420; cf.,

United States ex rel. Sadler v. Pennsylvania (D.C. Pa. 1969) 306 F.Supp. 102106

With kindest regards I'm  
 Thanks  
 George Holmes  
 George Holmes

5

# APPEAL

3-24-2019

RE: Motion to dismiss indictment: 2018A0710200400; because of Denial of Speedy trial; Lack of Prosecution; Failure to bring indictment in next term; Tape recording of February 1 2019 of my Preliminary hearing at Beaufort Magistrate

APPEAL 6-13-2022 G.H.

Jeffery Stephens  
TO: ~~Courtney Gibbs~~ - Public defender - Lauren Heath Carroway; Judges of General Sessions, Mullen, Buckner, Goldsmith, John Cooper Clerk of Court & SC Commission of indigent defense... The SC Commission of Lawyers Conduct & Chief Justice Issac M. Stone III, Solicitor, 14<sup>th</sup> Judicial Circuit

Complaint: On February 1 2019, At my Preliminary hearing Beaufort Magistrate

The Presiding Judge was Mark Francis Fitzgibbons on February 1 2019. Ofc Jonathan M Hewitt - B.C.S.O Proof of witness alleged lies by stating that the safe was crack open. I'd like to introduced the tape into evidence of specific facts, why ofc Jonathan M Hewitt testimony is not sufficient or isn't triable or appropriate to support any convictions of indictment: 2018A0710200400 The evidence of the tape recording of the witness statement I Demand for Speedy trial or dismissal

of Indictments: 2018A0710200400...

6-13-2022 <sup>-N-</sup> 2018A0710200399...

Thanks

With kind regards for your time I'm

George Holmes  
George Holmes

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JUN 16 2022

S.C. SUPREME COURT

RECEIVED

JUN 16 2022

SC Court of Appeals

The State v. George Holmes, Appellate Case No. 2022-000728

ARREST WARRANT

2018A0710200400

STATE OF SOUTH CAROLINA

County/ Municipality of

Beaufort

THE STATE

18S324618

against

George Holmes

Address: 39 Samuel Ln

Saint Helena Island, SC 29920-5411

Phone: SSN: Sex: M Race: B Height: 5 7 Weight: 240

DL State: SC DL #: 090492835

DOB: 2/2/1984 Agency ORI #: SC0070000

Prosecuting Agency: Beaufort County Sheriff's Office

Prosecuting Officer: Jonathan M Hewitt - S00393

Offense: Burglary / Safecracking

Offense Code: 0141

Code/Ordinance Sec: 16-11-0390

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant on

on 12/28/18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Beaufort County General Sessions

PO Box 1128

102 Ribaut Road, Rm. 208

Beaufort, SC 29901 1128

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Beaufort

Personally appeared before me the affiant

Jonathan M Hewitt

being duly sworn deposes and says that defendant

George Holmes

did within this county and state on or about

12/28/2018

violate the criminal laws of the

State of South Carolina (or ordinance of

County/ Municipality of

Beaufort

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Safecracking

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

That on December 28th, 2018, at approximately 0128 hours, the defendant, one George Holmes did knowingly, willingly and

unlawfully violate the laws of the State of South Carolina in that he did commit the offense of Safecracking. The defendant

unlawfully broke into the Navy Federal Credit Union ATM. Upon gaining entry attempted to force entry into the ATM box to steal

the currency located within. The incident was captured on surveillance footage, Holmes was positively identified and a BCSO

Tracking Team was recalled and tracked to the location he was found. This incident did occur at 102 Sea Island Parkway, Beaufort,

Beaufort County, South Carolina and within the jurisdiction of the Beaufort County Sheriff's Office. The Affiant and others are

witness to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Beaufort

Affiant's Address

2001 Duke St

Beaufort, SC 29902-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/28/2018 defendant George Holmes

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Beaufort

) as set forth below.

DESCRIPTION OF OFFENSE: Burglary / Safecracking

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 12/28/2018

Signature of Issuing Judge

Mark Francis Fitzgibbons

Judge Code: 7060

Judge's Address

104 Ribaut Rd

Beaufort, SC 29901-2207

Judge's Telephone

(843)255-5700

Issuing Court: Magistrate

Municipal

Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

of Statutes: Intent  
0 Statutes: Plain language; Plain ordinary  
Common, or literal meaning  
In Statutes: In general; factors considered

Certified - A True Copy  
Jeri Ann Rosebeau - Clerk of Court  
Beaufort County, SC - Jennifer Rosebeau

The State v. George Holmes, Appellate case No. 2018-000728

Code of Laws of South Carolina 1976 Annotated  
Title 16: Crimes and Offenses  
Chapter 11: Offenses Against Property  
Article 5: Burglary, Housebreaking, Robbery and the like

Code 1976 § 16-11-390

§ 16-11-390. Safecracking

Currentness

PLEASE SEE

Arrest Warrant: 2018A0710200400

16-11-0390

I'm Not guilty

It is unlawful for a person to use explosives, tools, or any other implement in or about a safe used for keeping money or other valuables with intent to commit larceny or any other crime.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

Credits

HISTORY: 1962 Code § 16-337; 1952 Code § 16-337; 1942 Code § 1150; 1932 Code § 1150; Cr. C. '22 § 44; Cr. C. '12 § 191; 1904 (14) 396; 1907 (25) 380; 1955 (49) 65; 1993 Act No. 184, § 172.

Notes of Decisions (10)

Code 1976 § 16-11-390, SC ST § 16-11-390  
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Current through 2019 Act No. 90, subject to technical revisions by the Code Commissioner as authorized by law before official publication.  
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I Mr. George Holmes did not commit the offense of Safecracking

Dismiss the offense of Safecracking  
Notes Of Decisions (10) Dismiss  
in general indictment: 2018A0710200400 16-11-0390

GH It is not essential to constitute a safecracker that he shall be successful in his attempt to break open the safe. Miller v. State of S. C. (D.C.S.C. 1970) 309 F.Supp. 1287.

GH "Safetampering" falls within the crime defined as "safecracking" in this section [Code 1962 § 16-337]. Miller v. State of S. C. (D.C.S.C. 1970) 309 F.Supp. 1287. Burglary 2  
George Holmes

GH Defendant's possession, following larceny of safe, of property of the nature stolen, with his admission to others that he had obtained them from the safe in subject, were sufficient to sustain his conviction of the offense of safecracking. State v. Blue (S.C. 1975) 264 S.C. 468, 215 S.E.2d 905. Burglary 45  
George Holmes

GH Use of a hammer to remove a safe in one county, although it was not opened until carried into a second county, constituted a violation of this section [Code 1962 § 16-337], such as to give a court of the first county jurisdiction over the case. Shelnut v. State (S.C. 1965) 247 S.C. 41, 145 S.E.2d 420.

GH The subject of the act from which this section [Code 1962 § 16-337] is taken was expressed in the title thereof. State v. O'Day (S.C. 1906) 74 S.C. 448, 54 S.E. 607.

Constitutional Issues

GH Ten year minimum sentence for safecracking with tools does not constitute cruel and unusual punishment. Stockton v. Leeke (S.C. 1977) 269 S.C. 459, 237 S.E.2d 896.

GH This section [Code 1962 § 16-337] is not unconstitutional by reason of the fact that life imprisonment is directed upon conviction if the jury does not recommend mercy, and not less than ten years' imprisonment is directed when the jury does recommend mercy. State v. Haulcomb (S.C. 1973) 260 S.C. 260, 195 S.E.2d 601, appeal dismissed 94 S.Ct. 229, 414 U.S. 886, 38 L.Ed.2d 134.

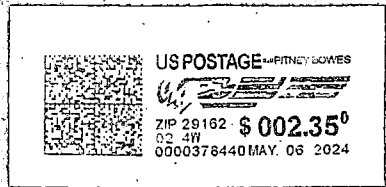
GH The contention that this section [Code 1962 § 16-337] is not sufficiently definite to place a person of common intelligence on notice as to what is prohibited is clearly without merit. The offense is designated in bold-faced letters - "SAFECRACKING." State v. Haulcomb (S.C. 1973) 260 S.C. 260, 195 S.E.2d 601, appeal dismissed 94 S.Ct. 229, 414 U.S. 886, 38 L.Ed.2d 134. Larceny 2  
George Holmes George Holmes

GH Indictment 2018A0710200400 I'm Not guilty GH  
Where an indictment on its face specifically sets forth the charge of safecracking as the fourth count, its plain language is not to be ignored merely because on the outside of the indictment the several counts are tabulated in a different order. Crady v. State (S.C. 1966) 248 S.C. 522, 151 S.E.2d 670.

Questions for Jury

GH In a prosecution for armed robbery and safecracking, the court improperly denied defendant's motion for directed verdict.  
George Holmes  
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George Holmes #289114  
TCI/SNC-161  
1578 Clarence Coker Hwy  
Turberville, SC 29162

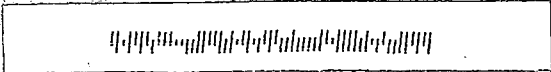


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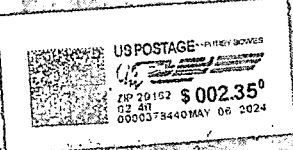
MAY 09 2024

S.C. SUPREME COURT

The Supreme Court of SC  
1231 Gervais Street  
Columbia, SC 29201



George Holmes #289114  
CI/SNC-161  
578 Clarence Coker Hwy  
Wiberille, SC 29162



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S.C. SUPREME COURT

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MAY 09 2024  
SC Court of Appeals

The Supreme Court of SC  
1731 Gervais Street  
Columbia, SC 29201