

Dear Court of Appeals,

The following challenges are made on behalf of Appellant Billy Roy Boyd.

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SEP 16 2013

SC Court of Appeals

Issues

1. Whether the appellant was denied the right to Due Process when the State delayed to indict.

The appellant was arrested on March 08, 2010 and was not brought to trial until December 12, 2011. Prior to the appellant's conviction on December 14, 2011, the appellant had been detained without bail for twenty-one months. Allegedly, the appellant was indicted on February 15, 2011. The appellant asserts that he was not informed of the indictment. Moreover, asserts that his family after speaking with paid counsel on July 18, 2011, informed him of the indictment. As evidenced by the criminal record there is no mention of the indictment. Moreover, the trial record asserts that the defendant was indicted in 2010.

2. Whether the defendant waived his right to counsel.

The appellant asserts that he had a right to counsel and that his self-representation was not of his own volition. The appellant asserts that he was brought before the Judge on December 09, 2011, Friday and told unequivocally that he would be going to trial on Monday December 12, 2011. Moreover, he was told that he would be representing himself. Also appellant asserts that the meeting was held in the Judge's chamber where paid counsel and prosecutor were present. As evidenced in the transport record the appellant was transported to General Sessions on December 09, 2011. Moreover, the appellant states that the meeting was very informal and the sole purpose for the meeting was to intimidate him.

On November 07, 2011, the appellant received by way of mail his second plea offer and told that if he did not plea by November 18, 2011, the matter would be set for trial. As evidenced in the Greenville County Solicitors docket, the appellant was scheduled on November 18, to appear in court on December 05, 2011. Also, the record shows that the appellant was the only defendant rolling on the docket (5th-15th). Prior to the scheduling the appellant's paid counsel made no visits to prepare him for trial. As a matter of fact, the appellant states that paid counsel told him on May 22,

2011, there would not be a trial; however, he needed to meet with prosecutors on May 31, 2011. After appellant's family discovered that he would be meeting with prosecutors, paid counsel cancelled the meeting. Please note in the criminal transcript that the Judge asserts that the appellant requested to represent himself and that he had been advised of the dangers of doing so. However, in the December 09, 2011 transcript, there is no such assertion. If the appellant had made such assertion that was the only opportunity the appellant could have done so. Moreover, the transcript appears to be contrived, it does not state the within matter, reporter does not sign and it is not received by the appellant defender until May 23, 2013. Moreover, there is absolutely no assertion by the appellant to represent himself.

Billy Roy Boyd Appellant Case Number 2012-205986



STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE GENERAL COURT OF JUSTICE
COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

vs.)

BILLY ROY BOYD)

CASE NO. 2010-GS-23-03487-03488
-03489, -03490.

MOTION FOR DISMISSAL OF

INDICTMENT PURSUANT TO

SPEEDY TRIAL ACT OF 1974
AND SIXTH AMENDMENT

FILED
PAUL E. WICKENS
CLERK OF COURT
GREENVILLE, SC
2011 SEP -7 AM 10:51

RECEIVED

SEP 16 2013

COMES NOW the Defendant in proprio persona seeking dismissal

of the indictment in the above-referenced case, pursuant to the
Speedy Trial Act of 1974 (18 U.S.C. §3161, et seq) and
Amendment Six of the United States Constitution.

SC Court of Appeals

In support of this motion, Defendant submits the following:

1. A True Bill of Indictment was handed down by a Greenville County grand jury on February 15, 2011, charging Billy Roy Boyd, the defendant, under S.C. Code Ann. §16-11-30.
2. The Sixth Amendment of the United States Constitution guarantees that, "[1] in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial."
3. In 1974, the United States Congress codified this constitutional protection and defined it in The Speedy Trial Act, 18 U.S.C. §3161, et seq.
4. S-3161(c) (1) of The Speedy Trial Act (hereinafter referred to as the Act), gives definition to the constitutional term, "speedy trial." It states that:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending whichever date last occurs 18 U.S.C. §3161(c) (1)

5. The protections of the citizen of any state of the union under the United States Constitution, supersede any law or provision at the state level unless it offers that citizen greater protection from government than the United States Constitution.

6. The Sixth Amendment required that the State of South Carolina begin the trial of Billy Roy Boyd by April 15, 2011, or the state itself was in violation of the United States Constitution and the Act, excepting any excludable delays which would stop the speedy trial clock.

7. No motion or continuance has been filed which cites an excludable delay in this case under S-3161(h) (1-7).

8. No order granting such motion or continuance which fulfills the clear requirements of S-3161 (h) (8) (A) to stop the speedy trial clock has ever been entered into the record of the case.

9. The speedy trial clock continues to run, and the government of the State of South Carolina is in violation of the United States Constitution.

10. The Act further states that:

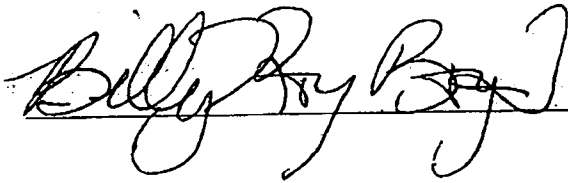
~~If a defendant is not brought to trial within the time limit required by section 3161(c) as extended by section 3161(h). The information or indictment shall be dismissed on motion of the defendant. 18 U.S.C. §3162(a) (2).~~

11. ~~Defendant's paid counsel has refused his Principal's instructions to prepare for trial or file for dismissal, rendering this Sixth Amendment waived in service to government, as the Act states:~~

Failure of the defendant to move for dismissal prior to trial or entry of a plea of guilty or nolo contendere shall constitute a waiver of the right to dismissal under this section. 18 U.S.C. §3162(a) (2)

WHEREFORE, Defendant moves for dismissal of indictment
and prays this honorable court to grant that dismissal with
prejudice:

Respectfully submitted this 7th day of September, 2011.



PJ0004R

10/19/2012 9:16:36AM

Job Number 306368

Greenville County Detention Center

Page 1 of 1

Inmate Visits

Inmate 0099 BOYD, BILLY ROY

Sex M Race B DOB 02/17/1967 Booked 03/08/2010 Cell

From Date	To Date	Time	Type	Time	Visitor	Status
11/23/2011	11/23/2011	09:43	Professional	09:44	ROBINSON, SCOTT	Cancelled App (Phone)
08/15/2011	08/15/2011	09:25	Professional	10:30	ROBINSON, SCOTT	Visited
05/23/2011	05/23/2011	12:39	Professional	13:00	ROBINSON, SCOTT	Visited
05/22/2011	05/22/2011	09:00	Professional	10:30	ROBINSON, SCOTT	Visited
03/07/2011	03/07/2011	12:50	Professional	13:20	SILVAGGIO, PAUL	Visited
02/16/2011	02/16/2011	14:18	Professional	14:50	ROBINSON, SCOTT	Visited
02/10/2011	02/10/2011	12:52	Professional	13:40	SILVAGGIO, PAUL	Visited
02/01/2011	02/01/2011	13:09	Professional	14:16	SILVAGGIO, PAUL	Visited
01/13/2011	01/13/2011	18:45	Professional	19:30	SILVAGGIO, PAUL	Visited
01/13/2011	01/13/2011	18:45	Professional	19:30	ROBINSON, SCOTT	Visited
12/06/2010	12/06/2010	12:47	Professional	13:52	TONEY, IVAN	Visited
11/12/2010	11/12/2010	12:57	Professional	13:33	TONEY, IVAN	Cancelled App (Phone)
10/12/2010	10/12/2010	13:20	Professional	14:32	TONEY, IVAN	Visited
08/19/2010	08/19/2010	09:34	Professional	10:05	PORTER, SCOTT	Visited
05/14/2010	05/14/2010	12:45	Professional	15:00	WYUGUL, ELIZABETH	Cancelled App (Phone)
04/26/2010	04/26/2010	19:26	Professional	20:15	FARLEY, FELIPE	Visited
03/16/2010	03/16/2010	16:26	Professional	16:54	STOWERS, MARSHALL	Visited
03/15/2010	03/15/2010	10:00	Professional	10:36	SMITH, FLETCHER	Visited

*****End of Report*****

COPY

P. 025R

9/25/2012 3:57:34PM

Job Number: 285732

Pack# 0155406 Jail# 0099 BOYD, BILLY ROY

Greenville County Detention Center

Inmate Cell Movement History

Page 1 of 2

JMORAN

Sex M Race B DOB 02/17/1967 Booked 03/08/2010 Cell

Date	Time	Reason	Cell	Auth Officer	Explanation
12/19/2011	06:14:00	RELEASED	SHUB	ROBERTS, KEVIN J	RELEASED
12/14/2011	18:38:45	MOVED IN	SHUB	WALLACE, JOHNATHAN	PER MH/SENTENCED
12/14/2011	16:33:43	MOVED IN	MHC06	WMCEL RATH	SENTENCED
12/14/2011	16:33:28	MOVED IN	BLU	WMCEL RATH	RETURN FROM COURT
12/14/2011	08:14:45	SIGNED OUT	SO	BENNETT, SHAYLE A	S/O TO COURT W/PRUITT 000
12/13/2011	18:02:37	MOVED IN	BLU	PRINO, BRANDON T	S/I FROM COURT
12/13/2011	07:35:45	SIGNED OUT	SO	BILYEU, CASSANDRA L	S/O W/PRUITT TO COURT
12/12/2011	17:28:14	MOVED IN	BLU	WRIGHT, COURTNEY M	RET FRM COURT W/PRUITT
12/12/2011	07:37:08	SIGNED OUT	SO	GILMORE, CHRISTOPHER C	S/O TO COURT W/PRUITT-000
12/09/2011	12:17:23	MOVED IN	BLU	JALLEN	RET BY PRUITT-000
12/09/2011	07:45:38	SIGNED OUT	SO	COMPAGNA, DEHLEM E	SO TO COURT W/ PRUITT
11/09/2011	06:20:55	MOVED IN	BLU	HIPP, DIANE E	CORRECT LOCATION
11/08/2011	21:29:20	MOVED IN	2B	MARSHALL, WILLIAM B	DUE TO FLOOD IN BLUE POD
09/09/2011	12:58:43	MOVED IN	BLU	MCKINNEY, LAVERNE C	SIGN IN W/DURHAM
09/09/2011	08:27:05	SIGNED OUT	SO	MCKINNEY, LAVERNE C	SIGNED OUT W/PRUITT
08/09/2011	17:07:18	MOVED IN	BLU	NORRIS, SHAY M	RET FROM COURT GEN SESS
08/09/2011	08:26:16	SIGNED OUT	SO	MCKINNEY, LAVERNE C	SIGNED OUT W/PRUITT-000
06/10/2011	20:18:22	MOVED IN	BLU	AUTREY, BRAD J	TO AVOID PROBLEMS
02/17/2011	16:32:54	MOVED IN	GRN01	BOWMAN, ANTOINE D	S/I WITH BRUCE 200
02/17/2011	13:42:53	SIGNED OUT	SO	HUDSON, LILLIAN D	S/O W/BRUCE & LOLLIS
02/09/2011	15:51:51	MOVED IN	GRN01	HUDSON, LILLIAN D	RET W/COURT OFF.LOLLIS
02/09/2011	13:45:59	SIGNED OUT	SO	BRIDWELL, ROSA I	S/O W/COURT OFF.LOLLIS
01/13/2011	13:11:22	MOVED IN	GRN01	HOLMES, TANIKAE	S/I WITH OFC LOLLIS
01/13/2011	09:44:03	SIGNED OUT	SO	HOLMES, TANIKAE	S/O WITH OFC LOLLIS/GEN.SESSIO
11/08/2010	08:24:35	MOVED IN	GRN01	BRIDWELL, ROSA I	ERROR
11/08/2010	08:24:18	SIGNED OUT	SO	BRIDWELL, ROSA I	DEPUTY PRUITT TRAVELERS REST
11/01/2010	21:41:54	MOVED IN	GRN01	RAINES, HANK W	P/ MEDICAL MORGAN
10/29/2010	21:32:45	MOVED IN	REDA	RYAN, JENNIFER W	PER MEDICAL CCT HUGHES
10/29/2010	17:34:12	MOVED IN	UV	WILLIAMS, ASHLEY E	PER REHOUSE
10/28/2010	17:06:30	MOVED IN	ISO03	BASNAK, JUDITH A	REH PER MEDICAL
10/26/2010	15:43:03	MOVED IN	RSTAG	GLENN, DEBBIE J	RET'D FROM GMH
10/26/2010	09:08:11	IN HOSPITAL	GMHA	COLE, MARTHA C	ADMITTED
10/25/2010	09:08:01	MOVED IN	ISO04	COLE, MARTHA C	ADMITTED
10/24/2010	12:31:35	IN HOSPITAL	GMHER	CADDELL, MELANIE F	OUT WITH BRIDWELL
10/15/2010	12:44:10	MOVED IN	ISO04	PATTERSON, SONJA Y	REHOUSED PER MED
10/07/2010	13:16:18	MOVED IN	GRN01	BROWN, CHRISTEL D	MASS MOVE
10/07/2010	15:50:51	MOVED IN	4B2	PICKENS, SHANNON L	R/T WITH BRUCE
10/07/2010	14:24:10	SIGNED OUT	SO	PICKENS, SHANNON L	S/O WITH BRUCE
09/27/2010	13:35:03	MOVED IN	4B2	RCOVEY	TO AVOID CONFLICT
09/16/2010	20:01:39	MOVED IN	4B8	WALLACE, JOHNATHAN	SPACE AVAILBLE
09/16/2010	11:49:54	MOVED IN	4B7	JALLEN	RET BY CALDWELL-000
09/16/2010	07:34:10	SIGNED OUT	SO	DAVIS, DONALD R	S/O TO COURT W/DEP. PRUITT

GREENVILLE COUNTY
DETENTION CENTER - RECORDS
CERTIFIED COPYSEP 26 2012
Current Date