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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES E RILES,

APPELLANT

APPELLATE CASE NO. 2024-000650

INITIAL BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF CONTENTS.....i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUES ON APPEAL1

STATEMENT OF THE CASE2

ARGUMENT

1. The trial judge erred in refusing to dismiss the indictment when the State failed to call the case for trial within 180 days of receiving written notice and request for final disposition pursuant to Article III of the Interstate Agreement on Detainers.....3

2. The judge erred in refusing to dismiss the indictment when the State failed to call the case for trial within 120 days of Appellant arriving in the State pursuant to Article IV of the Interstate Agreement on Detainers.11

CONCLUSION.....15

TABLE OF AUTHORITIES

Cases

People v. Esposito, 201 N.Y.S.2d 83 (Co.Ct.1960)..... 8

People v. Masselli, 17 A.D.2d 367, 234 N.Y.S.2d 929 (1962)..... 8

Pittman v. State, 301 A.2d 509 (Del. 1973)..... 8

Rockmore v. State, 21 Ariz. App. 388, 519 P.2d 877 (1974)..... 9, 10

State v. Allen, 269 S.C. 233, 237 S.E.2d 64 (1977) 7, 13

State v. Hill, 409 S.C. 50, 760 S.E.2d 802 (2014)..... 6

State v. Holbrook, 274 S.C. 4, 260 S.E.2d 181 (1979)..... 7, 13

State v. Johnson, 278 S.C. 668, 301 S.E.2d 138 (1983) 10

State v. Lippolis, 101 N.J.Super. 435, 244 A.2d 531 (1968)..... 8

State v. Patterson et al., 273 S.C. 361, 256 S.E.2d 417 (1979)..... 13

Arizona Statutes

A.R.S. § 31-481, Art. I..... 9

A.R.S. § 31-481, Art. III 9

A.R.S. § 31-481, Art. V(a)..... 9

A.R.S. § 31-481, Art. IX..... 9

South Carolina Statutes

S.C. Code §17-11-10, Art. I of the Interstate Agreement on Detainers Act..... 5, 7

S.C. Code §17-11-10, Art. III of the Interstate Agreement on Detainers Act *passim*

S.C. Code §17-11-10, Art. IV of the Interstate Agreement on Detainers Act..... *passim*

STATEMENT OF ISSUES ON APPEAL

1. Did the trial judge err in refusing to dismiss the indictment when the State failed to call the case for trial within 180 days of receiving written notice and request for final disposition pursuant to Article III of the Interstate Agreement on Detainers Act?
2. Did the trial judge err in refusing to dismiss the indictment when the State failed to call the case for trial within 120 days of Appellant arriving in the State pursuant to Article IV of the Interstate Agreement on Detainers?

STATEMENT OF THE CASE

On December 6, 2023, the Berkeley County Grand Jury indicted Appellant, James Riles, for burglary first degree, indictment #2023-GS-08-03661. On March 8, 2024, a hearing was held before the Honorable Deadra L. Jefferson. Taylor Jane Estes represented Appellant. Kawohikukapulani S. Morris represented the State. A subsequent hearing was held on March 13, 2024, before the Honorable Roger M. Young. Appellant was again represented by Taylor Jane Estes. The State was again represented by Kawohikukapulani S. Morris. On April 8, 2024, Appellant proceeded to jury trial before the Honorable Deadra L. Jefferson. Appellant was again represented by Taylor Jane Estes and the State was again represented by Kawohikukapulani S. Morris. The jury returned a verdict of guilty and Judge Jefferson sentenced Appellant to fifteen (15) years in prison. A timely notice of intent to appeal was filed on April 17, 2024. This appeal follows.

ARGUMENT

- 1. The trial judge erred in refusing to dismiss the indictment when the State failed to call the case for trial within 180 days of receiving written notice and request for final disposition pursuant to Article III of the Interstate Agreement on Detainers Act.**

On October 28, 2021, law enforcement in Berkeley County, South Carolina obtained an arrest warrant for Appellant charging him with the theft of two chainsaws from an open garage. Appellant was charged with burglary first degree based on two prior burglary convictions. (R. p. ** arrest warrant). On April 7, 2022, Appellant began serving a sentence in the Georgia Department of Corrections. The South Carolina arrest warrant had not been served at the time of Appellant's incarceration in Georgia. While incarcerated at the Riverbend Correctional Facility in Milledgeville, Georgia, Appellant sent a letter, dated April 12, 2023, and post marked April 14, 2023, to the Berkeley County Solicitor's Office asking to resolve the pending burglary charge. (R. p. ** Appellant's Letter). On April 24, 2023, a hold was placed on Appellant by the Berkeley County Sheriff's Office.

On May 10, 2023, Assistant Solicitor Kawohi Morris requested from Angela Reaves-Pham, Warden of the Riverbend Correctional Facility where Appellant was incarcerated, temporary custody of Appellant pursuant to Article IV of the Interstate Agreement on Detainers Act [IAD] found in S.C. Code §17-11-10. (R. p. ** Exhibit 1). In the cover letter to the form V request the Assistant Solicitor notes that she has 180 days to resolve the Berkeley County charge. (R. p. ** May 10, 2023, Letter p. 1). According to the State's response to defendant's motion to dismiss, Assistant Solicitor Morris mailed and emailed the packet, including a form V of the IAD and certified copies of the arrest warrant. (R. p. **, State's Response p. 2). That same day, May 10, 2023, Appellant signed a form II of the IAD. (R. p. ** Form II 2 pages). Form II is the "Inmate's Notice of Place of Imprisonment and Requestor for Disposition of Indictments,

Information or Complaints.” The form II, however, was not dated by the unit manager until October 31, 2023. Form III and IV of the IAD were not signed by Warden Angela Reaves-Pham until November 1, 2023. (R. p. ** Forms III and IV). Form III is the certificate of inmate status. Form IV is the offer to deliver temporary custody

On August 19, 2023, Appellant wrote to Harlow Love of the Georgia IAD Administration asking about the status of the request for disposition of the South Carolina pending charge. (March 13, 2024, Tr. p. 10, line 24 – p. 11, lines 1-3). On November 3, 2023, Assistant Solicitor Morris again contacted Warden Reaves-Pham about the request for temporary custody previously sent on May 10, 2023. (R. p. ** Exhibit 2). In the letter to the warden Assistant Solicitor Morris notes that earlier that week Appellant contacted the Public Defender Office and asked them to request dismissal of the charges pursuant to the IAD. In the letter the assistant solicitor claims that the 180 days does not start until she receives the signed paperwork. (R. p. ** November 3, 2023, letter p. 2).

On November 14, 2023, the Assistant Solicitor received signed forms II, III, and IV of the IAD. (R. p. **State’s Response p. 3). Again, Form II is the “Inmate’s Notice of Place of Imprisonment and Requestor for Disposition of Indictments, Information or Complaints.” The form was signed by Appellant on May 10, 2023, but not signed by the unit manager at the prison until October 31, 2023. Form III, the certificate of inmate status, was not signed by Warden Angela Reaves-Pham until November 1, 2023, and was blank with no status provided. (R. p. **, Form III). Form IV, the offer to deliver temporary custody, was not signed by the Warden until November 1, 2023. (R. p. **, Form IV).

On November 29, 2023, Appellant was transferred from the prison in Georgia to Berkeley County South Carolina. On December 6, 2023, the Berkeley County Grand Jury

indicted Appellant for burglary first degree, indictment #2023-GS-08-03661. (R. p. **, Indictment). On February 7, 2023, Appellant's counsel filed a motion to dismiss. (R. p. **, Motion to Dismiss). The State filed a response on February 8, 2024. (R. p. **, State's Response). On March 13, 2024, a hearing was held before the Honorable Roger M. Young on the State's motion for a continuance and the Defense motion to dismiss. In a written order signed March 13, 2024, Judge Young denied the motion to dismiss writing, "Based on the Defendant's Motion to Dismiss, the State's Response to the Defendant's Motion to Dismiss, and oral arguments, the Court finds that the Interstate Agreement on Detainers Act was not triggered until November 14, 2023 when the Defendant's written notice for disposition of charges was properly accompanied by the certificate in S.C. Code §17-11-10, Article III, subsection (b)." (R. p. ** Order Denying Defendant's Motion to Dismiss). The judge then wrote, "The State has one hundred eighty (180) days from November 14, 2023, in which to bring the Defendant to trial according to §17-11-10, Article III, subsection (a)." (R. p. ** Order Denying Defendant's Motion to Dismiss). It appears that as a result of the ruling on the motion to dismiss, the Judge did not rule on the State's motion for a continuance. The motion to dismiss was renewed when the case was called to trial in April of 2024. ((April 11, 2024, Trial Tr, p. 79).

The judge erred in finding that the IAD was not triggered until November 14, 2023. Appellant requested disposition of his charge on April 12, 2023. Based on that request, the Solicitor's Office knew that Appellant was incarcerated in the Riverbend Correctional Facility in Milledgeville, Georgia. Appellant signed the form II, request for disposition, on May 10, 2023, triggering the 180 days provided by Article III of the IAD. It was through no fault of Appellant that the form II was not signed by the unit manager of the prison until October 31, 2023. It was through no fault of Appellant that form III, the blank certificate of inmate status, and form IV,

the offer to deliver temporary custody, were not signed by the Warden until November 1, 2023. The judge erred in refusing to dismiss the indictment when the State failed to call the case for trial within 180 days of receiving written notice and request for final disposition pursuant to Article III of the Interstate Agreement on Detainers Act

Article III, subsections (a) and (b) of the IAD found in S.C. Code Ann. § 17-11-10, apply when a prisoner initiates disposition of charges pending while the prisoner is incarcerated in another jurisdiction. Article III, subsections (a) and (b) of S.C. Code Ann. § 17-11-10, provide,

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; *provided*, that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

In footnote 7 in State v. Hill, 409 S.C. 50, 53, 760 S.E.2d 802, 804 (2014), the South Carolina Supreme Court wrote:

Under the IAD, 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. S.C.Code Ann. § 17-11-10 Art. III (2003). Otherwise, the court will dismiss the charges. See State v. Holbrook, 274 S.C. 4, 260 S.E.2d 181 (1979). (holding that the time provisions of the IAD are mandatory and violation of them requires dismissal).

Appellant caused to be delivered to the prosecuting officer written notice of the place of his imprisonment and his request for a final disposition of the charge when he wrote to the Berkeley County Solicitor's Office in April of 2023. (R. p. ** Appellant's Letter). The receiving jurisdiction, Berkeley County, acknowledged receipt of Appellant's request for disposition when, on May 10, 2023, the prosecutor contacted the warden of the Georgia prison where Appellant was incarcerated. (R. p. ** Exhibit 1). As noted above, in the letter the prosecutor notes that she has 180 days to resolve the Berkeley County charge. (R. p.** May 10, 2023, Letter p. 1). The State had 180 days from May 10, 2023, to bring Appellant to trial on the Berkeley County burglary charge. The State failed to bring the case to trial within the 180 days provided by the IAD. The remedy is dismissal.

In State v. Allen, 269 S.C. 233, 238-39, 237 S.E.2d 64, 67 (1977), the South Carolina Supreme Court wrote, "The purpose of the Interstate Agreement on Detainers is, as stated in Article I of Section 17-11-10, supra, to encourage and effectuate 'the expeditious and orderly disposition' of charges outstanding against prisoners detained in other jurisdictions so as to eliminate 'uncertainties which obstruct programs of prisoner treatment and rehabilitation.' This purpose is promoted by requiring the receiving State to expeditiously proceed to a trial of the case.

Under the facts of this case, the judge's finding that the IAD was not triggered until November 14, 2023, when the Defendant's written notice for disposition of charges was properly

accompanied by the certificate in S.C. Code §17-11-10, Article III, subsection (b) places form over substance and is contrary to the stated purpose of the IAD. This is especially true given the fact that the delay between May 10, 2023, when Appellant signed the form II, and October 31 - November 1, 2023, when the warden finally signed forms III, and IV and the forms were sent to Berkeley County was no fault of Appellant. In Pittman v. State, 301 A.2d 509 (Del. 1973), the Supreme Court of Delaware held that dismissal under the IAD was required finding that errors by Maryland prison officials should not be held against Pittman. The Delaware Supreme Court wrote:

The Legislature enacted no specific requirement that a prisoner, for whose benefit the IAD was enacted, be apprised of the technical aspects of the law. Indeed, the Legislature has placed one, and only one burden on the prisoner, that is, to ask the prison official who has custody over him to prepare and send the forms to the jurisdiction from which a detainer is lodged against him. The prisoner is not required to determine whether the foreign state is under the Act; nor is he required to police the correction official to establish that the official performs his statutory duties; nor is he bound to make sure that the form of his request complies with the technical and procedural requirements of the IAD.

On the other hand, the Uniform Act has put an absolute burden of the prison official to prepare and send these forms and, impliedly, to have knowledge or to determine whether the state which has lodged the detainer is under the IAD. The prisoner has no supervisory powers and the prison official has no discretion under the Act. State v. Lippolis, 101 N.J.Super. 435, 244 A.2d 531, 536 (1968); rev'd on other grounds 55 N.J. 354, 262 A.2d 203 (1970); People v. Masselli, 17 A.D.2d 367, 234 N.Y.S.2d 929, 933 (1962); People v. Esposito, 201 N.Y.S.2d 83, 90 (Co.Ct.1960).

Pittman, 301 A.2d at 512-513. The Delaware Supreme Court in Pittman also wrote:

The State asks us to hold Pittman to strict compliance with the statute, but at the same time asks us to excuse the mistakes of the Maryland official and the neglect of the Attorney General's office. The State had sufficient notice to require it to take appropriate action upon Pittman's request. The burden of compliance with the procedural requirements of the IAD rests upon the party states and their

agents; the prisoner, who is to benefit by this statute, is not to be held accountable for official administrative errors which deprive him of that benefit.

Pittman, 301 A.2d at 514. In the present case, like in Pittman, the State had sufficient notice that Appellant was seeking disposition of the pending burglary charge. Appellant should not be accountable for the errors of the Georgia prison officials in failing to send the paperwork in a timely manner. The State writes in the response to the motion to dismiss that, “The defendant may have an argument against the State of Georgia but that should not affect the State of South Carolina and its right to prosecute defendant.” (R. p. ** State’s Response to motion to dismiss pp. 5-6). The State, however, waited from May 10, 2023, until November 3, 2023, to follow up with the Georgia prison officials. Appellant should not be held accountable for the delay caused by both the Georgia prison officials and the Berkeley County Solicitor’s Office.

In Rockmore v. State, 21 Ariz. App. 388, 519 P.2d 877 (1974), the Arizona Court of Appeals held that dismissal under the IAD was required although officials did not strictly comply with the requirements of the Act. In Rockmore the Arizona Court of Appeals wrote:

The State's next argument is that appellant did not comply with the requirements of A.R.S. s 31-481. This argument is twofold. First, the State asserts that appellant's petition was incomplete because it was not accompanied by a certificate as required by Art. III(a); second, that he did not have the sending state, California, offer to deliver temporary custody as required by Art. V(a).

We find no merit in either argument. The purpose of the Agreement on Detainers is to encourage expeditious and orderly disposition of outstanding charges against a prisoner and a determination of the proper status of all detainers based on untried indictments, informations or complaints. A.R.S. s 31-481, Art. I. To effectuate this purpose, the agreement is to be liberally construed. A.R.S. s 31-481, Art. IX. As to the certificate, Art. III(a) sets forth what it shall include and places the burden of preparing it upon the appropriate official having custody of the prisoner. That official also has the responsibility of forwarding the request for final disposition and the certificate to the appropriate prosecuting official and court. A.R.S. s 31-481, Art. III(b). All that is required of the prisoner is that he give or send written notice and a request for final disposition to the official having

custody of him, which appellant did. Relief should not be denied appellant when officials of the sending state fail to send the appropriate certificate. To hold otherwise would defeat the purpose of the agreement.

Rockmore, 21 Ariz. App. 388, 390, 519 P.2d 877, 879 (1974). Like the Appellant in Rockmore, Appellant in the present case did what was required of him under the IAD when he signed the form II on May 10, 2023. As in Rockmore, the fact that the form II was not mailed until October 31, 2023, and the certificate and offer to deliver temporary custody, forms III and IV, were not signed and mailed until November 1, 2023, should not be used to deny relief in the present case. To hold otherwise would defeat the purpose of the agreement. Additionally, when the certificate of inmate status, form III, was finally sent from the Georgia prison, the form did not list any information about Appellant's status. (R. p. **, Form III). As the certificate was blank, the status information was not necessary in order for the State to act.

The case is distinguished from State v. Johnson, 278 S.C. 668, 301 S.E.2d 138 (1983), where there was confusion over Johnson's place of imprisonment. In the present case there was no confusion about Appellant's place of imprisonment, as evidenced by the prosecutor's letter to the warden dated May 10, 2023. The judge erred in finding that the IAD was not triggered until November 14, 2023, when the Defendant's written notice for disposition of charges was properly accompanied by the certificate in S.C. Code §17-11-10, Article III, subsection (b). The judge erred in refusing to dismiss the indictment.

2. The judge erred in refusing to dismiss the indictment when the State failed to call the case for trial within 120 days of Appellant arriving in the State pursuant to Article IV of the Interstate Agreement on Detainers.

Article IV, of the IAD found in S.C. Code Ann. § 17-11-10, applies when a prosecutor initiates disposition of pending charges when a defendant is outside the jurisdiction. Without waiving the argument presented in issue one above, alternatively, if Appellant did not trigger the 180 day provision of Article III of the IAD on May 10, 2023, then the Assistant Solicitor triggered the 120 day provision of Article IV of the IAD when she requested temporary custody of Appellant pursuant to Article IV on May 10, 2023. The judge erred in refusing to dismiss the indictment because the State failed to call the case for trial within 120 days of Appellant arriving in the State pursuant to Article IV of the IAD.

On May 10, 2023, Assistant Solicitor Kawohi Morris requested from Angela Reaves-Pham, Warden of the Riverbend Correctional Facility where Appellant was incarcerated, temporary custody of Appellant pursuant to Article IV of the Interstate Agreement on Detainers Act [IAD] found in S.C. Code §17-11-10. (R. p. ** May 10, 2023 letter from Asst. Solicitor Morris to Warden Reaves with enclosures 9 pages). The form V request for temporary custody included with the letter specifically references Article IV of the IAD. (R. p. ** Form V enclosure included with letter). Appellant was transferred from Georgia to Berkeley County South Carolina on November 29, 2023. The State had 120 days from November 29, 2023, to call the case for trial. The case was not called for trial until April 8, 2024.

Article IV, subsection (a) of the IAD found in S.C. Code Ann. § 17-11-10 provides:

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be 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 in accordance with Article V (a) hereof upon presentation of a written request for temporary custody or availability 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. *Provided, further*, that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

Article IV, subsection (c) of the IAD found in S.C. Code Ann. § 17-11-10 provides:

(c) In respect of any proceedings made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

The State conceded it was proceeding pursuant to Article IV of the IAD. On March 13, 2024, the State moved for a continuance telling the judge, “The State would also note that though it is moving under South Carolina Code 17-11-10, Article IV, Subsection (c), which states that the trial shall commence within 120 days of the prisoner arriving in South Carolina, we are doing so just out of an abundance of caution.” (March 13, 2024, Tr. p. 4, lines 2-7). Rather than simply moving forward under Article IV and seeking a continuance, as provided in the statute, the State argued that Article III of the IAD actually applied to Appellant arguing, “The State believes it is actually South Carolina Code 17-11-10, Article III, Subsection (a) that applies to this Defendant, and that the State has 180 days from the Defendant properly delivering his request for disposition in which to bring the Defendant to trial. That date would be November 14, of 2023, which means 180 days goes to May 12th of 2024. And, therefore, the State would respectfully request a continuance.” (March 13, 2024, Tr. p. 4, lines 8-16). The judge failed to rule on the State’s continuance motion because, as argued in issue one above, the judge incorrectly found, as argued by the State, that the 180-day provision of Article III, of the IAD

was not triggered until November 14, 2023, when the State received the certificate from the warden of the prison in Georgia.

The State also conceded it was proceeding pursuant to Article IV of the IAD in the State's response to the defendant's motion to dismiss where the Assistant Solicitor wrote that on November 14, 2023, while she was arranging a Cuyler hearing pursuant to Article IV of the IAD, she received signed forms II, III, and IV of the IAD. (R. p. **State's Response p. 3).

During the trial in April Appellant renewed the motion to dismiss telling the trial judge, "Yes, Your Honor, just one quick matter for appellate purposes only. This case, we had filed a motion to dismiss on the IDA that Judge Young heard on, arguing that this case should be dismissed under the 180 and/or the 130 rule under the IDA. However, Judge Young denied that motion but we would like to just renew that at this time - - -" (April 11, 2024, Tr. p. 79, lines 1-7). The trial judge responded, "I don't think you get to renew it; it's dispositive. He issued an opinion. This Court has no authority to make any rulings regarding that. We have concurrent authority. I don't - - -" (April 11, 2024, Tr. p. 79, lines 11-14).


The 120-day provision of Article IV of the IAD was triggered when the State initiated disposition of the pending burglary charge on May 10, 2023, by submitting a form V requesting temporary custody from Georgia pursuant to Article IV of the IAD. The State had 120 days from November 29, 2023, when Appellant arrived in South Carolina, to call the case for trial. The case was not called for trial until April 8, 2024.

In State v. Holbrook, 274 S.C. 4, 260 S.E.2d 181 (1979), the South Carolina Supreme Court reversed the trial court's denial of the motion to dismiss for failure to call the case for trial within the 120 days provided by the IAD. The Court wrote, "We have previously considered, in State v. Patterson et al., S.C., 256 S.E.2d 417 and State v. Allen, 269 S.C. 233, 237 S.E.2d 64,

the nature of the time constraints imposed by the Act. In accord with these prior decisions, the 120 day time limitation imposed under Article IV(c) is mandatory and required dismissal of the charges against appellants with prejudice. Holbrook, 274 S.C.at, 6, 260 S.E.2d at 182. The judge in the present case erred in refusing to dismiss the indictment when the State failed to call the case with the 120 days provided by Article IV of the IAD.

CONCLUSION

Based on the above arguments, this Court should remand the case for dismissal of the indictment.



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ATTORNEY FOR APPELLANT

This 15th day of January, 2025.