

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Abbeville County

R. Lawton McIntosh, Circuit Court Judge

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DEC 19 2014

S.C. Supreme Court

MARSHALL MILLER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001076

REVISED SUPPLEMENTAL APPENDIX

ALAN WILSON
Attorney General

ASHLEY A. MCMAHAN
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....i

MOTION TO RESCIND SEALED ORDER (Filed November 3, 2006) 1

LETTER FROM APPELLATE DEFENDER, ROBERT M. DUDEK TO
MARSHALL MILLER (Dated November 2, 2006) 4

2003 PROTECTION ORDER..... 6

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

) COURT OF GENERAL SESSIONS
)

CASE NO: 2002-GS-47-32

MARSHALL R. MILLER #249557

PETITIONER

-v-

STATE OF SOUTH CAROLINA

RESPONDENT

) MOTION TO RECENT SEALED ORDER;
) MEMORANDUM OF LAW IN SUPPORT
) PURSUANT TO: S.C.R.C.P. 26(c)(6)

ORIGINAL FILED

NOV 03 2006

~~WYATT T. SAUNDERS JR.~~
CLERK, STATE GRAND JURY

TO: The Honorable Wyatt T. Saunders Jr...

COMES NOW, Marshall R. Miller, pro-se, known hereinafter as Petitioner, who respectfully asks this Honorable Court to "recent" the order issued to seal Petitioner's discovery in the above captioned case number. This action is brought pursuant to SCRC P 26(c)(6) "that a deposition after being sealed should be opened by order of the Court.

Petitioner's statement of facts will show unto this Honorable Court that there is a compelling need to have this Honorable Court remove the order sealing Petitioner's discovery in the above captioned case number.

STATEMENT OF FACTS

On or about September 11, 2002, Petitioner along with (14) fourteen other co-defendants were arrested and indicted in the above captioned case number, by The State Grand Jury. Due to the complexity of the case and the numerous co-defendants at the time the Honorable Judge Saunders "sealed" Petitioner's

discovery due to the safety and security of the information and identities of all concerned parties stated therein.

Petitioner was alleged to be the ringleader of the aforementioned indictment. Petitioner along with all other co-defendants have since then all been tried convicted and or plead and have since then all been sentenced.

Petitioner is now at the direct appeal stage of his conviction and Petitioner's Appellate Attorney (Robert Dudek) has mailed Petitioner all his discovery but due to the Honorable Judge Saunders' "sealed" order the Lieber Correctional Institution's staff will not allow Petitioner to have the discovery until such date that the Honorable Judge Saunders recends the order sealing Petitioner's discovery.

Petitioner respectfully asks this Court, Honorable Judge Saunders to issue an order recending the sealed order so that Petitioner may have his discovery to further his (petitioner's) defense. The information contained therein is critical to Petitioner's defense and there is a compelling need to have the discovery.

At this time Petitioner will forever pray that the Honorable Judge Saunders will recend the order sealing Petitioner discovery and grant Petitioner the requested relief stated herein so that Petitioner may further his defense.

For the requested relief Petitioner will forever pray.

Respectfully Submitted,

1s/ Marshall Miller

Marshall R. Miller #249557
Lieber Corr. Inst.
P.O. Box 205 EA-13
Ridgeville, SC. 29472

Submitted this 27 day of Oct, 2006

NOV 03 2006

CERTIFICATE OF SERVICE

██████████
CLERK, STATE GRAND JURY

I, Marshall R. Miller, do hereby swear under the penalty of perjury that I have mailed the original and (1) one copy of this Motion to Recend sealed order to the Abbeville Clerk of Court whose address appears below. That this was done by way of the U.S. Mail here at Lieber Correctional Institution. Furthermore, that a copy of the aforementioned document was also mailed to the Attorney General's Office for the State of South Carolina, this also was done by placing the aforementioned document in prepaid sufficient postage envelopes and placed in the U.S. Mailroom here at Lieber Correctional Institution as well. All parties thus being duly served.

ABBEVILLE CLERK OF COURT

P.O. Box 99
Abbeville, SC 29620

Respectfully Submitted,

1st Marshall Miller
Marshall R. Miller #249557
Lieber Corr. Inst.
P.O. Box 205 EA-13
Ridgeville, SC. 29472

OFFICE OF ATTORNEY GENERAL

HENRY McMASTER
P.O. BOX 11549
COLUMBIA, SC. 29211

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 27th DAY OF Oct, 2006

Charles Jackson Hodge

NOTARY PUBLIC

Sept. 06, 2011

MY COMMISSION EXPIRES



Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1343
Facsimile: (803) 734-1397

Joseph L. Savitz, III, Chief Attorney
Wanda H. Carter, Deputy Chief Attorney

November 2, 2006

Mr. Marshall Miller #249557
Lieber Correctional Institution
PO Box 205
Ridgeville, SC 29472

Re: Your Case

Dear Mr. Miller:

Jason Peavy of the statewide grand jury forwarded a copy to me of the motion that you filed in the Abbeville County Court of General Sessions. Judge Sauders also forwarded to me a copy of your letter to him. Judge Saunders told me that his understanding is that the protective order will not end until all appellate courts have ruled on your appeal. He requested that I instruct you accordingly.

I must admit I am somewhat confused about what occurred with your discovery while it was at Lieber. The information that we received from the Department of Corrections was that you never requested to see your discovery while it was at the institution. Please confirm to me if that is correct or in error. Mr. Peavy has stated that he does want to deny you access to the discovery, but he understands you had not requested to see it while it was at the institution, and he consequently is confused about the motion.

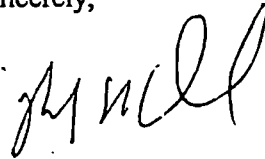
I understand you also want to take notes about the documents. My understanding was that those notes could not go back to your room with you because other inmates could gain possession to classified material which names informants. I understand that you now have requested redacting those names as a solution.

Please write to me upon receipt of this letter. Mr. Peavy will be filing a return to your motion and I would like to make your input available to him prior to him filing that return.

Mr. Marshall Miller #249557
November 2, 2006
Page two

I also need a much better understanding of what happened with the state-wide grand jury discovery after we delivered it to Lieber for you. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "R. M. Dudek", written in a cursive style.

Robert M. Dudek
Deputy Chief Attorney for Capital Appeals

RMD/mwl

Code Ann. Section 14-7-1720(a) for the purpose of allowing the Attorney General to “comply with constitutional, statutory, or other legal requirements or to further justice.”

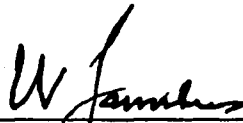
IT IS FURTHER ORDERED that any prior Protective Order issued in this case remains effective with respect to all State Grand Jury testimony, interviews of witnesses, and any other documents developed during the grand jury investigation of this matter that are not otherwise disclosed pursuant to this Order during the Defendant’s appeal from his conviction.

IT IS FURTHER ORDERED that Defendant Marshall Miller is entitled to review the State Grand Jury discovery materials in the investigation entitled “Crankdown”. Defendant Marshall Miller, however, is currently in the custody of the South Carolina Department of Corrections and is housed at Lieber Correctional Institute in Ridgeville, South Carolina. Therefore, Appellate Defender Robert M. Dudek is entitled to send the State Grand Jury discovery material in this matter to the officials at Lieber Correctional Institute along with a copy of the original protective order and a copy of this order for the purpose of allowing Defendant Marshall Miller the opportunity to review said materials. The prison officials are prohibited from reviewing the State Grand Jury materials and are ordered to maintain the discovery materials locked in a secure location. Defendant Marshall Miller shall be entitled to

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review the State Grand Jury discovery materials in a secure location other than in his cell among the general population where the State Grand Jury material could be compromised. After the initial brief of Appellant has been filed with the Clerk of the Court of Appeals, Robert M. Dudek shall, within fifteen (15) days of the filing, take possession of the State Grand Jury discovery materials and return the same to the Office of the Attorney General as soon as reasonably possible.

IT IS SO ORDERED.

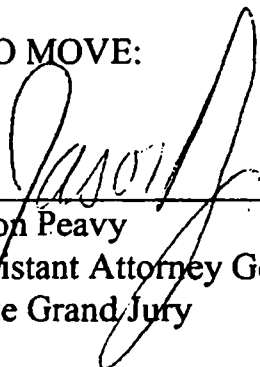


WYATT T. SAUNDERS, JR.
CIRCUIT COURT JUDGE

at Lenoir, South Carolina

January 06th, 2006

I SO MOVE:



Jason Peavy
Assistant Attorney General
State Grand Jury

323 