

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM DORCHESTER COUNTY
IN THE COURT OF GENERAL SESSIONS
EDGAR W. DICKSON, CIRCUIT COURT JUDGE

CASE NO. 2002-GS-18-0831-0832

RECEIVED

MAR 25 2015

SC Court of Appeals

The State of South Carolina,

Respondent,

vs.

Donald Earl Eaddy, II,

Appellant

NOTICE OF APPEAL

Appellant, Donald Earl Eaddy, II appeals the Order of the Honorable Edgar W. Dickson, Circuit Court Judge dated May 13, 2014 dismissing Appellant Motion to After-Newly Discovered Evidence. Appellant received no written notice of entry of the Order dated January 2, 2015. The Honorable Edgar W. Dickson denied that Motion by Order dated December 19, 2014. Appellant received written notice of entry of this Order on January 21, 2015 via a letter from Dorchester County, Clerk of Court.

January 22, 2015

Donald Earl Eaddy II

Donald Earl Eaddy II F-3-B-28
Allendale C.I.
P.O. Box 1151
Fairfax, SC 29827

January 22, 2015

Donald Earl Eaddy, II #294160
Allendale C.I.
P.O.Box 1151
Fairfax, SC 29827

RECEIVED
MAR 25 2015
SC Court of Appeals

The Honorable Daniel E. Shearouse, Clerk of Court
S.C. Supreme Court
P.O.Box 11330
Columbia, SC 29211

RE: The State of South Carolina v. Donald Earl Eaddy
Case No. 2002-GS-0831-0832

Dear Mr. Shearouse:

Enclosed for filing please find the original Notice of Appeal, Order, Affidavit of Indigent and along with a Proof of Service in connection with the above-referenced matter. Please return a clocked copy back to me.

By copy of this letter I am this date serving a copy of the Notice of Appeal upon the Attorney below.

Thank you for your assistance in this matter.

Sincerely,



Donald Earl Eaddy, II

cc: Robert M. Dudek, Chief Appellate Defender
David M. Pascoe, Jr., the First Judicial Circuit Solicitor

March 18, 2015

Donald Earl Eddy, II, #294169
Attendale C.I.
P.O. Box 1151
Fairfax, SC 29827

RECEIVED

MAR 25 2015

SC Court of Appeals

The Honorable V. Claire Allen, Deputy Clerk
1015 Sumter Street
Columbia, S.C. 29201

RE: The State v. Donald E. Eddy, II
Appellate Case No. 2015-000168

Dear Deputy Clerk Allen:

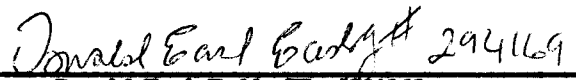
I am in receipt of your letter dated March 12, 2015, and appreciate your correspondence.

There seems to have been a misunderstanding, I've sent a copy of the Notice of Appeal and Affidavit of Indigency to South Carolina Commission on Indigent Defense Division of Appellate Defense, to Request for an appointment of Counsel. Enclosed a copy of the letter your Office sent to me and a copy of the Affidavit of Indigency Defense to the S.C. Supreme Court. The Notary copy was sent to the Supreme Court, along with the Notice of Appeal. This case is a criminal matter, that was heard in the Court of General Sessions in Dorchester County.

In addition, this case was [Transfer by the Supreme Court to Court of Appeals. As set forth, in Rule 242 of the South Carolina Appellate Court Rules. Sec.(c) No filing fee shall be required in criminal cases or petition filed by the State of South Carolina or its agencies or departments. I request to this Honorable Court for a extension, to give the S.C. Commission on Indigent Defense Division of Appellate Defense a chance to review my case.

Thank you for your assistance.

Very truly yours,


Donald Earl Eddy, II, #294169

cc: Robert M. Dudek, Chief Appellate Defender
Alan McCrory Wilson, Attorney General
David Michael Pascoe, Jr. Solicitor of First Judicial Circuit
Salley W. Elliott, Esquire

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER) PII 1: 55

Indictment Nos. 2002-GS-18-0831, 1832

RECEIVED

MAY 25 2015

SC Court of Appeals
DORCHESTER COUNTY
PII 1: 49

Cheryl
CLERK OF COURT
DORCHESTER COUNTY

THE STATE,)

VS.)

DONALD EARL EADDY, II)

DEFENDANT.)

ORDER

THIS MATTER CAME BEFORE THE COURT on May 13, 2014 on Motion of the Defendant seeking an Order to Vacate the Defendant's Conviction claiming that his constitutional protection against double jeopardy had been violated, that the True Billed Indictment was invalid, and that the sentencing judge's signature was forged on the sentencing sheet. The Defendant's motions are denied.

PROCEDURAL BACKGROUND/FACTS

On October 17, 2002, the Dorchester County Grand Jury indicted the Defendant, Donald Earle Eaddy, II, on Indictment 2002-GS-18-831 for Assault and Battery With Intent to Kill in violation of §16-3-620 of the South Carolina Code of Laws as amended, and on Indictment 2002-GS-18-832 for Child Abuse/Infliction of Great Bodily Harm Upon a Child in violation of §16-3-95(A) of the South Carolina Code of Laws, as amended.

On June 19, 2003, the Defendant was convicted on Indictment 2002-GS-18-0832 of Felony Child Abuse in violation of §16-3-95(A) of the South Carolina Code of Laws, as amended. The Defendant was also convicted on Indictment 2002-GS-18-0831 of common law Assault and Battery of a High and Aggravated Nature, as a lesser included offense of Assault and Battery with Intent to Kill.

On May 13, 2014, a hearing was held in front of The Honorable Judge Edgar Dickson. At that hearing, Judge Dickson denied the Defendant's motion with regard to the validity of the indictments and the sentencing judge's signature on the sentencing sheet. Judge Dickson withheld ruling on the issue of double jeopardy.

YK

On June 3, 2014, the Defendant filed a Motion for Reconsideration based on Judge Dickson's ruling at the May 13, 2014 hearing.

ISSUES

- I. Did the Defendant's convictions for Assault and Battery of a High and Aggravated Nature and Infliction of Great Bodily Harm Upon a Child (Felony Child Abuse) violate the double jeopardy clauses of the United States Constitution or the South Carolina Constitution?
- II. Are Indictments 2002-GS-18-831 and 2002-GS-18-832 invalid due to the Dorchester County Grand Jury allegedly having been unlawfully impaneled?
- III. Is the sentencing judge's signature on the sentencing sheet invalid?

LAW/ANALYSIS

I. Double Jeopardy

The Defendant was indicted and convicted under two separate offenses: one for Felony Child Abuse and one for common law Assault and Battery of a High and Aggravated Nature, as a lesser included offense of Assault and Battery with Intent to Kill.

The South Carolina statute for Infliction of Great Bodily Injury Upon a Child (Felony Child Abuse) provides in pertinent part as follows:

(A) It is unlawful to inflict great bodily injury upon a child...

(C) For purposes of this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious or permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

S.C. Code Ann. §16-3-9(A), (C) (West, Westlaw current through end of 2013).

"The common law offense of assault and battery of a high and aggravated nature [(ABHAN)] is an unlawful act of violent injury to the person of another, accompanied by circumstances of aggravation." *State v. Frazier*, 302 S.C. 500, 397 S.E.2d 93 (1990). Examples of circumstances of aggravation include "the use of a deadly weapon, the infliction of serious bodily injury, the intent to commit a felony, great disparity between the ages and physical conditions of the parties involved, and the difference in the sexes." *Id.* Other circumstances

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

AFFIDAVIT OF INDIGENCY

Case Name The State of South Carolina v. Donald Earl Eaddy

Criminal Case No. 2002-GS-18-0831-0832

Current Address: Allendale Correctional Institution

Are you incarcerated? Yes (If "Yes") Where? A.C.I.
 No

What were you convicted of? ABHAN AND FELONY CHILD ABUSE

What was your sentence? Felony Child Abuse (20) years ABHAN (10) years

In what county was this hearing held? Dorchester County

Presiding Judge's name? The Honorable Edgar W. Dickson, Circuit Court Judge

Date of hearing? May 13, 2014

Are you appealing from a trial, guilty plea or from a post-conviction relief hearing? Motion to After-Newly Discovered Evidence

Were you represented by a court-appointed attorney, public defender, , or retained counsel?
The Trial Judge denied me Attorney to represent me.

Name of attorney/public defender? No Attorney appointed.

If retained, how much did you pay for attorney fees? \$ N/A

If you still owe money to your attorney, how much? \$ N/A

.....
1. Are you presently employed? Yes _____ No X

a. If "yes," state the amount of your salary or wages per month, and give the name and address of your employer. N/A

b. If "no," state the name and address of last employment, date of termination of employment, and amount of your salary or wages per month. Unknown

2. List by name, age and relationship to you, any persons who are dependent upon you for support. Indicate beside each how much you contribute toward their support. _____
N/A

3. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or form of self-employment?

Yes _____ No

b. Rent payments, interest or dividends?

Yes _____ No

c. Pensions, annuities or life insurance payments?

Yes _____ No

d. Gifts or inheritance?

Yes _____ No

e. Any other sources?

Yes _____ No

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months. _____

N/A

4. Do you own cash, or do you have any money in a checking or savings account?

Yes _____ No

If the answer is "yes," state the total amount of the cash owned. \$ _____ N/A

5. Do you own any real estate, stocks, bonds, notes or other valuable property (excluding ordinary household furnishings and clothing)? Yes _____ No N/A

If the answer is "yes," describe the property and state the appropriate value of the items owned. _____ N/A

6. What kind of motor vehicle do you own? _____ N/A

Is it paid for? Yes _____ No

If not, what are the monthly payments? \$ _____

7. How much to you owe (on liens, mortgages, other encumbrances or debts)? _____

N/A

I do solemnly swear that the account by me delivered into this Court does contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever without exception, which I, or any person in trust for me, have or at the time of my possession had, or am, or was, in respect, entitled to, in possession, remainder or reversion and that I have not at any time since charges were made against me or before, directly or time since charges were made against me or before, directly or indirectly sold, leased, assigned or otherwise disposed of or made over, in trust for myself or otherwise, other than is mentioned herein.

I understand that the State shall file a claim against me in an amount equal to the cost for representation, but that such claim shall not constitute a lien against my property, unless, the claim is reduced to judgment by the Order of the Court after giving me at least thirty days' notice.

Under penalty of perjury, I certify that the information give by me on this affidavit is true and correct, and I understand that I will be subject to civil and/or criminal penalties if I knowingly furnish false information.

I am financially unable to employ counsel.

This 22th day of January ~~18~~ March 18, 2015.

Donald E. Wright
Defendant

I understand that I am entitled to at least thirty days' notice before a claim against me may be reduced to judgment, and I do hereby waive the right to such notice.

This 22th day of January ~~18~~ March 18, 2015.

Donald E. Wright
Defendant

SUBSCRIBED AND SWORN to before
me this 18 day of March, 2015.

Virginia Daulton
NOTARY PUBLIC FOR SOUTH CAROLINA

My commission Expires: 12-12-27

Donald Earl Eaddy, II, #294169 F-3-B-28
Allendale C.I.
P.O.Box 1151
Fairfax, SC 29827

OPEN BY ADDRESSEE ONLY
CONFIDENTIAL

CONFIDENTIAL LEGAL MAIL

Attn.: V.Claire Allen, deputy Clerk
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RECEIVED

MAR 2 2015

MAIL ROOM
AG

RECEIVED
MAR 2 5 2015
SC Court of Appeals

LEGAL MAIL