

IN THE COURT OF APPEALS

Appeal from Williamsburg County
The Honorable Thomas W. Cooper, Circuit Court Judge

Appellate Case No. 2015-001710

RECEIVED
OCT 30 2015
SC Court of Appeals

THE STATE,

Respondent,

vs.

ARTHUR L. NILES,

Appellant.

RESPONSE TO COURT'S REQUEST FOR INFORMATION

Respondent, by and through undersigned counsel, respectfully responding to this Court's request for information concerning receipt of notice of appeal in this case, and showing as follows.

I.

Appellant was indicted at the March 1993 term of the Williamsburg County Grand Jury for assault and battery with intent to kill and possession of a weapon during a violent crime. (See attached indictment 93-GS-45-146). On April 2, 1993, Appellant appeared before the Honorable Thomas W. Cooper, Jr., and entered a guilty plea to assault and battery with intent to kill. Appellant was represented by William LeGrand Caraway, Esquire. The indictment was sought by former Third Circuit Solicitor Wade S. Kolb, Jr., and the case was prosecuted by the Third Circuit Solicitor's Office. Judge Cooper sentenced Appellant to imprisonment for fifteen

(15) years suspended upon the service of ten (10) years and probation for five (5) years. (See attached sentence sheet).

II.

On October 23, 2015, the undersigned received this Court's letter asking if and when the Attorney General's Office received a notice of appeal from Arthur L. Niles.

III.

In order to respond to the Court's inquiry, contacts were made to the Williamsburg County Clerk of Court, the solicitor's office in Williamsburg County and the mail logs for the Attorney General's Office.

The undersigned was advised that Appellant never filed a notice of appeal with the Williamsburg County Clerk of Court as is required by Rule 203(d)(1)(B), SCACR.

The undersigned was also advised that notice on appeal by or on behalf of Appellant was never served on the solicitor's office which, pursuant to our appellate court rules was the only party for proper service as only the solicitor's office was the adverse party at the proceeding being appealed. See Rule 203(b)(2)(stating that notice of appeal must be served on all respondents within 10 days after sentence is imposed).

The undersigned cannot advise this Court whether or not its office received notice of appeal from Appellant on or before April 12, 1993, because mail log information from 1993 cannot currently be located. However, the Attorney General's Office never opened a criminal appeal or related file for this appeal in 1993 or at any time since that date. Nevertheless, Appellant was represented by counsel and the parties below were Appellant and the assistant solicitor who prosecuted the case and not the Attorney General's Office. Service on the Attorney General would not be proper as the Attorney General's office was not counsel for the State

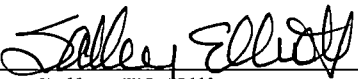
at the proceedings below. Moreover, Appellant failed to abide by any of the appellate court rules necessary to perfect an appeal and should not now be permitted to attempt to do so twenty-two (22) years after he was sentenced. The transcript will not be available and the State should not be prejudiced by Appellant untimely attempt to appeal a sentence from 1993.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

ERNEST A. FINNEY, III
Solicitor, Third Judicial Circuit

BY: 
Salley W. Elliott
Office of the Attorney General
S.C. Bar No. 1871

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

October 30, 2015

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Williamsburg County
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THE STATE,

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vs.

ARTHUR L. NILES,


Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Response to Court's Request for Information on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to appellant, Arthur L. Niles, United States Penitentiary, P.O. Box 1000, Lewisburg, PA 17837 and LaGrand Carraway, Esquire 124 South Academy Street, Kingtree, SC 29556.

I further certify that all parties required by Rule to be served have been served.

This 30th day of October, 2015.



ANGELA BENNETT
Administrative Assistant

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

RECEIVED

OCT 30 2015

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

SC Court of Appeals

INDICTMENT FOR ASSAULT AND BATTERY WITH
INTENT TO KILL (2 COUNTS), POSSESSION OF
A WEAPON DURING A VIOLENT CRIME (2 COUNTS)
AND ACCESSORY AFTER THE FACT

At a Court of General Sessions, convened on March 29, 1993, the Grand Jurors of Williamsburg County present upon their oath:

COUNT ONE - ASSAULT AND BATTERY WITH INTENT TO KILL

That one ARTHUR LARONE NILES did in Williamsburg County on or about December 18, 1992, with malice aforethought commit an assault and battery upon one Jeffery D. Staggers by shooting the victim in the buttocks, with intent to kill the said victim.

COUNT TWO - POSSESSION OF A WEAPON DURING A VIOLENT CRIME

That one ARTHUR LARONE NILES did in Williamsburg County on or about December 18, 1992, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to wit: pistol, in violation of § 16-23-490, Code of Laws of South Carolina (1976), as amended.

COUNT THREE - ASSAULT AND BATTERY WITH INTENT TO KILL

That one JOHN ARTHUR JAMES, III did in Williamsburg County on or about December 18, 1992, with malice aforethought commit an assault and battery upon one Bobby Gene ^{M. Soder} ~~Milton~~ by shooting the victim in the right foot, with intent to kill the said victim.

COUNT FOUR - POSSESSION OF A WEAPON DURING A VIOLENT CRIME

That one JOHN ARTHUR JAMES, III did in Williamsburg County on or about December 18, 1992, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to wit: pistol, in violation of § 16-23-490, Code of Laws of South Carolina (1976), as amended.

COUNT FIVE - ACCESSORY AFTER THE FACT

That one SHAWN KEITH BLACKWELL did in Williamsburg County on or about December 18, 1992, knowing of the commission and completion of the felony Assault and Battery with Intent to Kill by the principal felon John Arthur James, III, aid, harbor and assist such felon to escape detection or arrest or otherwise avoid the consequences of the crime.

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

Wade S. Kolby
SOLICITOR WADE S. KOLB, JR

93-GS-45-146

DOCKET NO.

WITNESSES

SHERIFF'S DEPT.

Dennis Parrott

James Taylor Jr

Jeffery D. Stagers

Bobby Gene Milton

Del Moore

Curtis Moyd

ARREST WARRANT NO. D724525-D724529

12/21/92

ACTION OF GRAND JURY

Irue Bell

Betty B. Watson

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date:

The State of South Carolina,

County of WILLIAMSBURG

COURT OF GENERAL SESSIONS

MARCH TERM 1993

THE STATE

vs.

ARTHUR LARONE NILES

JOHN ARTHUR JAMES, III

SHAWN KEITH BLACKWELL

Indictment for

ASSAULT AND BATTERY WITH INTENT TO KILL (2 COUNTS), POSSESSION OF A WEAPON DURING A VIOLENT CRIME (2 COUNTS) AND ACCESSORY AFTER THE FACT

STATE OF SOUTH CAROLINA)

COURT OF GENERAL SESSIONS

COUNTY OF WILLIAMSBURG)

The State -vs- Arthur Larone Niles, Defendant

Indictment Number: 93 -GS-45- 146

Court Reporter: Kathy Simmons

Attorney: Legend Cassanby

GUILTY PLEA

The defendant is put to the bar and arraigned and, upon his/her arraignment, pleads guilty as charged to Assault And Battery With Intent To Kill.

Attest:

Carolyn Williams
Carolyn Williams, Clerk of Court
4-2-93

Arthur L. Niles
Signature of Defendant

SENTENCE

The defendant is committed to the State Department of Corrections/County for a term of 15 months/years and/or to pay a fine of \$ _____; provided upon the service of 10 months/years and/or payment of \$ _____ plus pay/waive costs and assessments as applicable*, the balance suspended with probation for 5 months/years.

Restitution including ~~cost~~ Super. Fees For physical injury \$ _____
Yes/No property damage \$ _____
to be paid _____

Other conditions _____

Date 4-2-93

Thomas W. Cooper, Jr.
Thomas W. Cooper, Jr.
Presiding Judge, Third Judicial Circuit

Fine \$ _____
*Cost and Assessments \$ _____
Non-waivable \$ _____
Not Waived \$ _____
TOTAL COSTS AND ASSESSMENTS \$ _____
TOTAL AMOUNT DUE \$ _____

Carolyn Williams
Clerk of Court

**Pay to Victim's Compensation if subrogated.



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ALAN WILSON
ATTORNEY GENERAL

October 30, 2015

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

Re: The State v. Arthur L. Niles
Appellate Case No: 2015-001710

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Response to Court's Request for Information along with proof of service in the above-referenced case.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General
S.C. Bar No: 1871

SWE/ab
Enclosures

cc: Arthur L. Niles
Ms. Trisha Allen