

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Honorable Larry B. Hyman, Jr., Circuit Court Judge
Court of Appeals Appellate Case No. 2015-002073

RECEIVED
AUG 16 2016
SC Court of Appeals

THE STATE,

Appellant,

vs.

ROXANNE HUGHES,

Respondent.

**MOTION TO CERTIFY THE CASE TO
THE SOUTH CAROLINA SUPREME COURT**

Appellant (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

In February of 2014, the Colleton County Grand Jury indicted Respondent Roxanne Hughes for three counts of evasion of a tax or property assessment or payment in violation of S.C. Code Ann. § 12-54-44(B)(1). Prior to trial, Hughes filed a motion entitled “Defendant’s Motion and Memorandum in Support of Motion to Proceed Under More Specific Offense Statute.” On September 28, 2015, a hearing was conducted on Hughes’s motion in the Colleton County Court of General Sessions before the Honorable Larry B. Hyman, Jr., circuit court judge. At the conclusion of the hearing, the circuit court judge granted Hughes’s motion and dismissed

each of the felony tax evasion indictments that had been issued by the grand jury in Hughes's case.

II.

Subsequently, the State timely filed and perfected an appeal of the circuit court judge's ruling. Specifically, the Record on Appeal and the Final Brief of Appellant were filed on June 17, 2016, and the Final Brief of Respondent was filed on July 8, 2016. At present, the State's appeal in this matter is pending before the Court of Appeals and is ready for consideration.

III.

Pursuant to both statute and rule in our state, this Court has the discretion to certify any case pending before the Court of Appeals for review and to take jurisdiction over the matter. See S.C. Code Ann. § 14-8-210(b) ("In any case pending before the court of appeals, the Supreme Court may in its discretion, on motion of any party to the case, on request by the court of appeals, or on its own motion, certify the case for review by the Supreme Court before it has been determined by the court of appeals."); see also Rule 204(b), SCACR ("In any case which is pending before the Court of Appeals, the Supreme Court may, in its discretion, on motion of any party to the case, on request by the Court of Appeals, or on its own motion, certify the case for review by the Supreme Court before it has been determined by the Court of Appeals."). Significantly, it is appropriate for the Court to exercise such discretion when "the case involves an issue of significant public interest or a legal principle of major importance, or in other cases the court considers appropriate." S.C. Code Ann. § 14-8-210(b).

IV.

Respectfully, the State submits certification is appropriate in Hughes's case due to the significance of the issue raised in this appeal. Specifically, in Hughes's case, the circuit court

judge dismissed three felony tax evasions indictments that had been issued by a grand jury in response to defense counsel's motion contending Hughes should have instead been more appropriately indicted and prosecuted for more specific misdemeanor tax offenses. On appeal, the State is contending the circuit court judge's ruling exceeded the circuit court judge's authority and was legally erroneous because Hughes's actions were sufficient to prove the offense of felony tax evasion, the indictments issued in Hughes's case were facially valid and sufficient to bring the case to trial, and the prosecutor had the exclusive prosecutorial discretion to determine what charges to bring against Hughes pursuant to the separation of powers doctrine. Conversely, Hughes is contending the felony tax evasion charges were not proper and the circuit court judge correctly dismissed the indictments. Thus, the critical issue raised in this appeal centers around the grounds upon which a circuit court judge in South Carolina has the authority to dismiss indictments prior to the commencement of trial and involves significant questions related to tax-related statutory offenses in South Carolina, the grand jury system, and the discretion of prosecutors in regard to what charges to bring against a particular criminal defendant. See State v. Needs, 333 S.C. 134, 146, 508 S.E.2d 857, 863 (1998) (“[A] trial court generally has no power to dismiss a properly drawn indictment issued by a properly constituted grand jury before trial unless a statute grants that power to the court.”); State v. Thrift, 312 S.C. 282, 291, 440 S.E.2d 341, 346 (1994) (instructing the executive branch is vested with the power to decide when and how to prosecute criminal cases). Accordingly, Hughes's case involves a substantial legal question and is a matter of significant public interest, and, as a result, the State submits certification is appropriate and warranted in Hughes's case. See S.C. Code Ann. § 14-8-210 (“Certification is appropriate where the case involves an issue of significant public interest or a legal principle of major importance, or in other cases the court considers appropriate.”).

V.

Furthermore, beyond the significance of the legal question presented in Hughes's case, the State submits the need for certification in this appeal is magnified because, based on information received by undersigned counsel, it appears some circuit court judges in our state are holding felony tax evasion prosecutions in abeyance pending the resolution of this appeal.¹ In light of that fact, the State submits certification would be justified and appropriate in Hughes's case to best and most efficiently accommodate the public's interest in a speedy resolution of this matter along with other felony tax evasion cases pending before courts in South Carolina. See Barker v. Wingo, 407 U.S. 514, 519 (1972) ("[T]here is a societal interest in providing a speedy trial which exists separate from, and at times in opposition to, the interests of the accused."); see also Strunk v. United States, 412 U.S. 434, 439, n. 2 (1973) ("The public interest in a broad sense, as well as the constitutional guarantee, commands prompt disposition of criminal charges.").

VI.

Undersigned counsel for the State has spoken with Hughes's appellate counsel in this matter, and counsel for Hughes agrees with and consents to the State's request for the appeal to be certified for consideration by this Court.

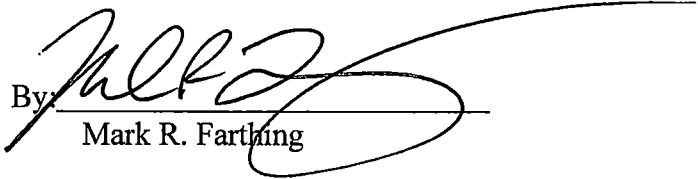
WHEREFORE, Appellant prays this Court will certify the State's appeal for consideration by the South Carolina Supreme Court for all purposes pursuant to S.C. Code Ann. § 14-8-210 and Rule 204, SCACR; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

¹ Notably, arrest warrants in a felony tax evasion case coupled with a circuit court order holding the prosecution of those charges in abeyance pending resolution of an appeal addressing the "precise dispositive legal issue underlying" the matter have been included with this motion as Attachment "A."

ALAN WILSON
Attorney General

MARK R. FARTHING
Assistant Attorney General

By 
Mark R. Farthing

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

COUNSEL FOR APPELLANT

August 16, 2016

I consent:



Joseph Preston Strom, Jr., Esquire
John R. Alphin, Esquire
Alexandra M. Benevento, Esquire
Bakari T. Sellers, Esquire

COUNSEL FOR RESPONDENT

ATTACHMENT "A"

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

The State of South Carolina,)

vs.)

Lisa P. Jenkins,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
Warrant Numbers: 2012A4010900199,
2012A4010900200, 2012A4010900201
2012A4010900202, 2012A4010900203

ORDER GRANTING CONTINUANCE
FOR TRIAL

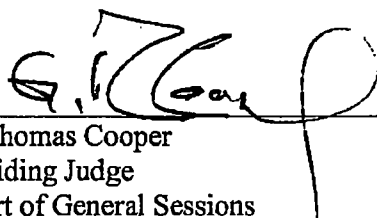
2016 APR - 8 PM 3:25
JANETTE W. MORRIS
C.C.P. & G.S.
RICHLAND COUNTY
FILED

This matter came before me on April 4, 2016 with the Defendant requesting a continuance for a scheduled jury trial for the week of April 25, 2016. W. Allen Myrick, Special Assistant Attorney General appeared for the State and Assistant Public Defenders John W. Tate and Rhodes Bailey for the Defendant.

The Defendant asserted, and the State concurred, that a precise dispositive legal issue underlying this matter has been raised in an unrelated case which is currently pending before the South Carolina Court of Appeals.

NOW THEREFORE IT IS ORDERED that a continuance for trial be, and hereby is, granted in this matter until a final decision is rendered in the appellate matter.

AND IT IS SO ORDERED.



G. Thomas Cooper
Presiding Judge
Court of General Sessions
Fifth Judicial Circuit

Columbia, South Carolina
This 7 day of April, 2016

ARREST WARRANT

2012A4010900199

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland / Pontiac

THE STATE against

Lisa P Jenkins

Address:

Sex: F Race: B Height: 5 6 Weight: 290

DL State: SC DL #: Agency ORI #: SC0400900

Prosecuting Agency: S C Department Of Revenue

Prosecuting Officer: Andy Blackwell - BLACK

Offense: Tax / Evasion of a tax or property assessment or payment

Offense Code: 2757

Code/Ordinance Sec: 12-54-0044(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Lisa Jenkins

on 01/08/13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Pontiac Magistrate 10509 Two Notch Road Elgin, SC 29045

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland / Pontiac

Personally appeared before me the affiant Andy Blackwell who

being duly sworn deposes and says that defendant Lisa P Jenkins

did within this county and state on or about 4/15/2008 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Richland / Pontiac)

in the following particulars:

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on or about 4/15/2008 while in Richland County, SC one Lisa P. Jenkins did commit the crime of Attempt to Evade Income Taxes, Statute Number 12-54-44(B)(1). It is believed the defendant committed the crime because during the tax year 2007, the defendant was employed in Richland County and earned gross income in the amount of \$39,555.00. The defendant was required to file a South Carolina Individual Income Tax Return for the year 2007 and pay an estimated tax of \$1,712.00 to the South Carolina Department of Revenue. During tax year 2007, the defendant filed W-4's with her employer claiming "Exempt" status for withholding taxes. This caused state tax withheld to be \$0. On or about April 15, 2008, the defendant willfully attempted to evade income taxes by failing to prepare and file a South Carolina Individual Income Tax Return for the tax year 2007, in violation of SC Code Section 12-54-44(B)(1).

Signature of Affiant

Signature of Andy Blackwell

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland / Pontiac

Affiant's Address Sc Department Of Revenue

Columbia 29214

Affiant's Telephone (803)898-5362

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/15/2008 defendant Lisa P Jenkins

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Richland / Pontiac) as set forth below:

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution or as soon thereafter as is practicable Sworn to and subscribed before me

on 11/7/2012

Signature of Issuing Judge (L.S.)

G A Surles

Judge Code: 5039

Judge's Address 10509 Two Notch Road

Elgin, SC 29045-

Judge's Telephone (803)576-2520

Issuing Court: [X] Magistrate [] Municipal [] Circuit

ORIGINAL

ORIGINAL

ORIGINAL

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ORIGINAL

Vertical stamps: RICHLAND COUNTY FILED, JAN 15 2013, SEANETTE W. BRIDE, C.P. & S.

ARREST WARRANT

2012A4010900200

STATE OF SOUTH CAROLINA

Richland / Pontiac

THE STATE

Lisa P Jenkins

Address:

Phone:

Sex: F Race: B Height: 5 6 Weight: 290

DL State: SC DL #: [REDACTED]

DOB: [REDACTED]

Prosecuting Agency: SC Department Of Revenue

Prosecuting Officer: Andy Blackwell - BLACK

Offense: Tax / Evasion of a tax or property assessment or

payment

Offense Code: 2757

Code/Ordinance Sec: 12-54-004(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to

defendant Lisa Jenkins

on

01-09-12

Signature of Criminal Justice Enforcement Officer

Pontiac Magistrate

10509 Two Notch Road

Elgin, SC 29045

RETURN WARRANT TO:

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

Richland / Pontiac

County/ Municipality of

Richland / Pontiac

Personally appeared before me the affiant

Andy Blackwell

being duly sworn deposes and says that defendant

Lisa P Jenkins

did within this county and state on or about

4/15/2009

State of South Carolina (or ordinance of

Richland / Pontiac

in the following particulars:

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

That on or about 4/15/2009 while in Richland County, SC one Lisa P. Jenkins did commit the crime of Attempt to Evade Income Taxes, Statute Number 12-54-44(B)(1). It is believed the defendant committed the crime because during the tax year 2008, the defendant was employed in Richland County and earned gross income in the amount of \$44,441.00. The defendant was required to file a South Carolina Individual Income Tax Return for the year 2008 and pay an estimated tax of \$2,028 to the South Carolina Department of Revenue. During tax year 2008, the defendant filed W-4's with her employer claiming "Exempt" status for withholding taxes. This caused state tax withheld to be \$0. On or about April 15, 2009, the defendant willfully attempted to evade income taxes by failing to prepare and file a South Carolina Individual Income Tax Return for the tax year 2008, in violation of SC Code Section 12-54-44(B)(1).

Signature of Affiant

Andy Blackwell

Affiant's Address

Sc Department Of Revenue

Columbia 29214

Affiant's Telephone (803)898-5362

STATE OF SOUTH CAROLINA

Richland / Pontiac

County/ Municipality of

Richland / Pontiac

on or about 4/15/2009

defendant Lisa P Jenkins

did violate the criminal laws of the State of South Carolina (or ordinance of

Richland / Pontiac

as set forth below:

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as its practicable

Sworn to and subscribed before me

on 11/17/2012

Signature of Issuing Judge

G A Surles

Judge Code: 5039

ORIGINAL

ORIGINAL

Issuing Court:

Magistrate

Municipal

ORIGINAL

Magistrate

Municipal

ORIGINAL

Circuit

Judge's Telephone (803)576-2520

Elgin, SC 29045

10509 Two Notch Road

Judge's Address

Judge's Address

Elgin, SC 29045

10509 Two Notch Road

Judge's Telephone (803)576-2520

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Judge's Telephone (803)576-2520

Judge's Telephone

Elgin, SC 29045

10509 Two Notch Road

Judge's Address

Elgin, SC 29045

10509 Two Notch Road

ORIGINAL

Richland County

FILED

JAN 15 PM 4:00

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C.C.E.

RICHLAND COUNTY

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SC

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Individual

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Tax

Return

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SC

Code

Section

12-54-44(B)(1).

It

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defendant

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to

ARREST WARRANT

2012A4010900201

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Richland / Pontiac

THE STATE

against

Lisa P Jenkins

Address:

Phone: [] SSN: []

Sex: F Race: B Height: 5 6 Weight: 290

DL State: SC DL #: []

DOB: [] Agency ORI #: SC0400900

Prosecuting Agency: S C Department Of Revenue

Prosecuting Officer: Andy Blackwell - BLACK

Offense: Tax / Evasion of a tax or property assessment or payment

Offense Code: 2757

Code/Ordinance Sec: 12-54-0044(B)(1)

This warrant is CERTIFIED FOR SERVICE in the [] County/ [] Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Lisa Jenkins on 01-09-12

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Pontiac Magistrate 10509 Two Notch Road Elgin, SC 29045

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Richland / Pontiac

Personally appeared before me the affiant Andy Blackwell who being duly sworn deposes and says that defendant Lisa P Jenkins did within this county and state on or about 4/15/2010 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [] Municipality of Richland / Pontiac) in the following particulars:

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on or about 4/15/2010 while in Richland County, SC one Lisa P. Jenkins did commit the crime of Attempt to Evade Income Taxes, Statute Number 12-54-44(B)(1). It is believed the defendant committed the crime because during the tax year 2009, the defendant was employed in Richland County and earned gross income in the amount of \$57,824.00. The defendant was required to file a South Carolina Individual Income Tax Return for the year 2009 and pay an estimated tax of \$2,926.00 to the South Carolina Department of Revenue. During tax year 2009, the defendant filed W-4's with her employer claiming "Exempt" status for withholding taxes. This caused state tax withheld to be \$0. On or about April 15, 2010, the defendant willfully attempted to evade income taxes by failing to prepare and file a South Carolina Individual Income Tax Return for the tax year 2009, in violation of SC Code Section 12-54-44(B)(1).

Signature of Affiant

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Richland / Pontiac

Affiant's Address Sc Department Of Revenue

Columbia 29214

Affiant's Telephone (803)898-5362

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY: It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/15/2010 defendant Lisa P Jenkins did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [] Municipality of Richland / Pontiac) as set forth below.

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me

on 11/7/2012

Signature of Issuing Judge G A Surles (L.S.)

Judge Code: 5039

Judge's Address 10509 Two Notch Road

Elgin, SC 29045-

Judge's Telephone (803)576-2520

Issuing Court: [X] Magistrate [] Municipal [] Circuit

ORIGINAL

ORIGINAL

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ORIGINAL

ORIGINAL

AFFIDAVIT

S.C. Attorney General April 21, 2005 SCCAS18

JEANETTE W McBRIDE S.C.P. & R.S. JAN 15 PM 4:15 RICHLAND COUNTY FILED

ARREST WARRANT

2012A4010900202

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland / Pontiac

THE STATE against

Lisa P Jenkins

Address:

Phone: SSN:

Sex: F Race: B Height: 5 6 Weight: 290

DL State: SC DL#:

DOB: Agency ORJ#: SC0400900

Prosecuting Agency: SC Department Of Revenue

Prosecuting Officer: Andy Blackwell - BLACK

Offense: Tax / Evasion of a tax or property assessment or payment

Offense Code: 2757

Code/Ordinance Sec: 12-54-0044(B)(1)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Lisa Jenkins on 01-09-13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Pontiac Magistrate 10509 Two Notch Road Elgin, SC 29045

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland / Pontiac

Personally appeared before me the affiant Andy Blackwell who

being duly sworn deposes and says that defendant Lisa P Jenkins

did within this county and state on or about 4/18/2011 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Richland / Pontiac)

in the following particulars:

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on or about 4/18/2011 while in Richland County, SC one Lisa P. Jenkins did commit the crime of Attempt to Evade Income Taxes, Statute Number 12-54-44(B)(1). It is believed the defendant committed the crime because during the tax year 2010, the defendant was employed in Richland County and earned gross income in the amount of \$49,854.00. The defendant was required to file a South Carolina Individual Income Tax Return for the year 2010 and pay an estimated tax of \$2,373.00 to the South Carolina Department of Revenue. During tax year 2010, the defendant filed W-4's with her employer claiming "Exempt" status for withholding taxes. This caused state tax withheld to be \$0. On or about April 18, 2011, the defendant willfully attempted to evade income taxes by failing to prepare and file a South Carolina Individual Income Tax Return for the tax year 2010, in violation of SC Code Section 12-54-44(B)(1).

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland / Pontiac

Affiant's Address Sc Department Of Revenue

Columbia 29214

Affiant's Telephone (803)898-5362

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

it appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/18/2011 defendant Lisa P Jenkins

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Richland / Pontiac) as set forth below:

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 11/7/2012

Signature of Issuing Judge

G A Surles

Judge Code: 5039

Judge's Address 10509 Two Notch Road

Elgin, SC 29045-

Judge's Telephone (803)576-2520

Issuing Court: County/ Municipality/ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL S.C. Attorney General Apr. 21, 2003 SCCA 518

AFFIDAVIT

FILED RICHLAND COUNTY JAN 15 PM 4:00 HANETTE W. NSGRIDE C.C.P. & G.S.

ARREST WARRANT

2012A4010900203

STATE OF SOUTH CAROLINA

Richland / Pontiac

Richland / Pontiac

THE STATE against

Lisa P Jenkins

Address:

Phone: SSN:

Sex: F Race: B Height: 5 6 Weight: 290

DL State: SC DL#:

DOB: Agency ORI#: SC0400900

Prosecuting Agency: SC Department Of Revenue

Prosecuting Officer: Andy Blackwell - BLACK

Offense: Tax / Evasion of a tax or property assessment or payment

Offense Code: 2757

Code/Ordinance Sec: 12-54-0044(B)(1)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Lisa Jenkins on 01-09-13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Pontiac Magistrate 10509 Two Notch Road Elgin, SC 29045

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA County/ Municipality of Richland / Pontiac

AFFIDAVIT

ORIGINAL

Form Approved by E.S. Attorney General April 21, 2003 SCC451E

Personally appeared before me the affiant Andy Blackwell who being duly sworn deposes and says that defendant Lisa P Jenkins did within this county and state on or about 4/17/2012 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Richland / Pontiac) in the following particulars:

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on or about 4/17/2012 while in Richland County, SC one Lisa P. Jenkins did commit the crime of Attempt to Evade Income Taxes, Statute Number 12-54-44(B)(1). It is believed the defendant committed the crime because during the tax year 2011 the defendant was employed in Richland County and earned gross income in the amount of \$50,343.00. The defendant was required to file a South Carolina Individual Income Tax Return for the year 2011 and pay an estimated tax of \$2,390.00 to the South Carolina Department of Revenue. During tax year 2011, the defendant filed W-4's with her employer claiming "Exempt" status for withholding taxes. This caused state tax withheld to be \$0. On or about April 17, 2012, the defendant willfully attempted to evade income taxes by failing to prepare and file a South Carolina Individual Income Tax Return for the tax year 2011, in violation of SC Code Section 12-54-44(B)(1).

Signature of Affiant

Signature of Andy Blackwell

STATE OF SOUTH CAROLINA County/ Municipality of Richland / Pontiac

Affiant's Address Sc Department Of Revenue Columbia 29214 Affiant's Telephone (803)898-5362

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 4/17/2012 defendant Lisa P Jenkins did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Richland / Pontiac) as set forth below:

DESCRIPTION OF OFFENSE: Tax / Evasion of a tax or property assessment or payment

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me on 11/ 7/2012

Signature of Issuing Judge G A Surles

Judge Code: 5039

Judge's Address 10509 Two Notch Road Elgin, SC 29045 Judge's Telephone (803)576-2520

Issuing Court: X Magistrate Municipality Circuit

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SEARCHED INDEXED SERIALIZED FILED JENIS PM 4:00 NOV 13 2013 RICHLAND COUNTY

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Honorable Larry B. Hyman, Jr., Circuit Court Judge
Court of Appeals Appellate Case No. 2015-002073

RECEIVED
AUG 16 2016
SC Court of Appeals

THE STATE,

Appellant,

vs.

ROXANNE HUGHES,

Respondent.

PROOF OF SERVICE

I, Mark R. Farthing, certify that I have served the within Motion to Certify the Case to the South Carolina Supreme Court on Respondent by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Joseph Preston Strom, Jr., Alexandra M. Benevento,
John R. Alphin, and Bakari T. Sellers, Esquires
Strom Law Firm, LLC
2110 N. Beltline Blvd.
Columbia, SC 29204

I further certify that all parties required by Rule to be served have been served.
This 16th day of August, 2016.



MARK R. FARTHING
Assistant Attorney General

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