

THE STATE OF SOUTH CAROLINA
In THE South Carolina Court of Appeals

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JAN 20 2017

SC Court of Appeals

Appeal From Sumter County
Court of General Sessions

D. Craig Brown

Case No. 2016-002217

Date: 1/15/17

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S.C. SUPREME COURT

The state of South Carolina
Muttagin Fatir Abdullah

V.

Respondent
Appellant

(Supplement of Title 15 to Ground Three)
(On Fast And Speedy Trial Motion)

(N) - The Motion To Dismiss The Indictment Due to Insufficiency of Evidence.

If the evidence presented to the grand jury is legally insufficient to support the charge in the indictment, the indictment should be dismissed. While grand jury minutes will remain secret from the defense attorney before trial, the defense should move to have the court inspect the grand jury minutes, in camera, for the purpose of testing their sufficiency.

(O) - The Motion to dismiss the indictment based upon Prosecutorial Delay.

Federal rule of Criminal Procedure 48(b) reads as follows: If there is unnecessary delay in presenting the charge to a grand jury or in filing an information against a defendant who has been held to answer to the district court, or if there is unnecessary delay in bringing a defendant to trial, the court may dismiss the indictment, information or complaint. In any case in which the defendant is charged long after the date of the crime he is alleged to have

committed, he should move to dismiss the accusatory instrument. Even in jurisdictions with no specific statutory authority for such a motion, the argument can be made that the inordinate delay on the prosecution's part has caused the defendant to be unable to prepare an adequate defense, in contravention of his sixth amendment right to present witnesses on his behalf.

See: *United States v. Napolitano*, 761 F.2d 135 (2d Cir. 1985) *Stoner v. Graddick*, 751 F.2d 1535 (11th Cir. 1985)

I declare under penalty of perjury that the foregoing is true and correct, executed on the date of: 1/15/17

Signature: Muttagin Abdullah

Ernest A. Finney III
Assistant Solicitor
Sumter County Court House
215 N. Harvin Street
Sumter, S.C. 29150

Muttagin F. Abdullah
Pro Se Representative
4344 Broad River Rd
Kirkland R&E Center
Columbia, S.C. 29210

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Proof of Service

Ernest A. Finney III
Assistant Solicitor
Sumter County Court House
215 W. Harvin Street
Sumter, S.C. 29150

South Carolina Supreme Court
1230 Gervais Street
Columbia, South Carolina 29201

I declare under penalty of perjury that I,
Muttakin Abdallah had place in the mailbox
on the date of 1/16/17 to be served on the
above addresses.

Signature: Muttakin Abdallah

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