

2 OF EACH

RECEIVED

NOV 22 2017

S.C. SUPREME COURT

RE: APPELLATE CASE NO! 2017-002219
LOWER COURT CASE NO 2015 CP 14-0059 SC
2014-04-15-02

DEAR CLERK

PLEASE FIND FOR FILING
WITHIN YOUR OFFICE

(1) APPLICANTS REASONS WHY

THIS ACTION SHOULD NOT BE DISMISS AND
BY THIS LETTER APPELLATE GIVE NOTICE THAT
HE HAS CAUSE THE SAME TO BE SERVED UPON
THE STATE

Respectfully Submitted
MARLUS A JOSEPH 147764

THE SUPREME COURT OF SOUTH CAROLINA NOV 22 2017

S.C. SUPREME COURT

MARCUS A JOSEPH) APPELLATE CASE NO 2017-002219
 V)
 STATE OF SOUTH CAROLINA) LOWER COURT CASE NO: 2015 CP 14-
) 0059
) 2014-04-15-02

NOW HERE COMES THE APPLICANT WHO HEREBY STATES THAT THE LOWER COURT RULING WAS IMPROPER IN THAT THE LOWER COURT DID NOT ADDRESS EACH AND EVERY ISSUE PRESENTED IN THE APPLICANTS APPLICATION FOR POST CONVICTION RELIEF

THE APPLICANT FILED THIS POST CONVICTION RELIEF APPLICATION ON THE GROUNDS OF "AFTER DISCOVERED EVIDENCE"

AND PROVIDED THE MATERIAL EVIDENCE TO THE COURT TO SUPPORT SUCH SEE EXHIBIT MARK EXHIBIT # 4 FOR IDENTIFICATION EVIDENCING THE DATE THAT APPLICANT RECEIVE SUCH

APPLICANT ALSO PRESENTED THE COURT WITH AN ATTACHMENT INVOLVING THE JURISDICTION OF THE COURT BY STATUTE AND PRESENTED EVIDENCE OF AFTER DISCOVERED MATERIAL TO SUPPORT THE CLAIMS SEE STATE STATUTE 17-19-40

ERROR WAS AND WOULD BE FURTHER COMMITTED IN DISMISSING THIS APPLICATION BECAUSE A GENUINE ISSUE OF MATERIAL FACT IS IN DISPUTE REGARDING THE WARRANT IN THAT THE WARRANT STATES THAT I GAVE SLED AND CLARENDON COUNTY A FULL WRITTEN STATEMENT.

IT IS THE APPLICANTS CONTENTION THAT HE DID NOT GIVE ANYONE A FULL WRITTEN STATEMENT AND AT MINIMUM IS ENTITLED TO A FRANKS DELAWARE HEARING TO DETERMINE THE TRUTHFULNESS CONTAIN IN THE AFFIDAVIT SECTION OF THE WARRANT WHICH EVIDENCES THAT FRAUD AND PERJURY WAS COMMITTED IF THIS WARRANT WAS USED TO SUMMON A GRAND JURY.

RETURN

A copy of this Arrest Warrant was delivered to the following defendant:

Marcus A. Joseph
on the 21 day of February, 19 88
Gary L. Martin SLED
Signature of Constable or Law Enforcement Officer

This warrant is certified for service in _____ County (Circle one) _____ Municipality (Circle one)

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

Signature of Judge _____ (L.S.)

PRELIMINARY HEARING held by _____

Judge _____

on _____, 19 _____

with _____ Attorney for Defendant

Decision: _____

BAIL

Date Sent _____, 19 _____

Judge _____

Mount _____

Surety _____

RETURN WARRANT TO:

ARREST WARRANT

No. B 883573

STATE OF SOUTH CAROLINA

Clarendon County (Circle one)
Municipality

THE STATE

against

Marcus A. Joseph

Address: Charlotte Co. Jail
Punta Gorda, FL

Phone _____ SSN _____

Sex M Race B Height 5'6" Weight 170

DOB _____ DL 67 - N/A

Offense Murder

Code (or Ordinance) § common law and 16-3-10

Date of Offense on or about 3-18-87

Officer H.M. Turbeville

Agency Clarendon County Sheriff's Dept.

Date of Disposition _____

Disposition _____

Sentence _____

Co-Defendants _____

WITNESSES:

Name H. M. Turbeville

Address Clarendon County Sheriff

Manning, S. C. Phone _____

Name Gary Martin

Address SLED

Phone _____

Name Mike [unclear]

Address Charlotte Co. Sheriff's Dept.

Punta Gorda, FL Phone 813-687-2101

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

JURORS

**CLARENDON COUNTY MAGISTRATE
P. B. HARVIN, JR., CHIEF
POST OFFICE BOX 371
102 SOUTH MILL STREET
MANNING, SOUTH CAROLINA 29102**

FEBRUARY 20, 2015

MARCUS A. JOSEPH 147764
KIRKLAND CORRECTIONAL INSTITUTION
4344 BROAD RIVER RD.
COLUMBIA, SOUTH CAROLINA 29210
UNIT F2B241

RE: WARRANT #B883573

Dear Mr. Joseph:

Your letter requesting information regarding the above warrant was received by this office today.

This office does not handle Indictments, Coroner Inquiries, Death Certificates or matters relating to the Grand Jury. You were correct in your final statement in your letter that "..Magistrates do not have jurisdiction in cases of murder."

Sincerely,


P. B. Harvin, Jr.,
Chief Magistrate

EXHIBIT 4

Copy
this
side

SECTION 17-7-20. Requirement of preliminary examination before formal inquest; issuance of burial permit, conclusion of inquiry or formal inquest.

Whenever a body is found dead and an investigation or inquest is deemed advisable the coroner or the magistrate acting as coroner, as the case may be, shall go to the body and examine the witnesses most likely to be able to explain the cause of death, take their testimony in writing and decide for himself whether there ought to be a trial or whether blame probably attaches to any living person for the death, and if so and if he shall receive the written request, if any, required by Section 17-7-50, he shall proceed to summon a jury and hold a formal inquest as required by law. But if there be, in his judgment, no apparent or probable blame against living persons as to the death he shall issue a burial permit and all further inquiry or formal inquest shall be dispensed with. Provided, however, that the coroner of Charleston County is authorized and empowered to issue a death certificate.

HISTORY: 1962 Code Section 17-91; 1952 Code Section 17-91; 1942 Code Section 1097; 1932 Code Section 1097; Cr. P. '22 Section 184; Cr. C. '12 Section 1027; Cr. C. '02 Section 729; 1894 (21) 825; 1964 (53) 2367.

EXHIBIT 3A

Copy
the
side

§ 17-19-30

Note 3

allegation as to the place of death of the deceased, nor has it attempted to cure their omission by allowing amendments to that end. *State v. Blakeney* (S.C. 1890) 33 S.C. 111, 11 S.E. 637.

It is absolutely essential in an indictment for murder that the place of the death of the party killed should be alleged therein, and in the absence of such allegation such indictment is fatally defective and should be quashed on motion made. Furthermore, such a defective indictment is beyond the reach of amendment as to such essential allegation. *State v. Blakeney* (S.C. 1890) 33 S.C. 111, 11 S.E. 637.

If an indictment for murder is defective in failing to state the place of the death of the party killed, on appeal the judgment of conviction below would demand reversal. *State v. Blakeney* (S.C. 1890) 33 S.C. 111, 11 S.E. 637.

4. Aggravating circumstances

State was not required to allege aggravating circumstances in indictment for murder, and thus, State's failure to allege such circumstances in indictment did not deprive

CRIMINAL PROCEDURES

trial court of subject matter jurisdiction to sentence defendant to death. *State v. Downs* (S.C. 2004) 361 S.C. 141, 604 S.E.2d 377, rehearing denied. Indictment And Information ⇨ 113

5. Jurisdiction

Trial court had subject matter jurisdiction to sentence defendant convicted of murder to death; although defendant argued court lacked subject matter jurisdiction to sentence him to death since indictments for murder did not allege any aggravating circumstance which exposed him to death penalty, aggravating circumstances were sentencing factors and were not elements of murder, and state, as required by statute, timely notified defendant of its intention to seek death penalty and identified aggravating circumstances and related evidence state intended to use at trial. *State v. Laney* (S.C. 2006) 367 S.C. 639, 627 S.E.2d 726, rehearing denied. Indictment And Information ⇨ 113; Sentencing And Punishment ⇨ 1742; Sentencing And Punishment ⇨ 1744

§ 17-19-40. Special count for carrying concealed weapons in case of murder and certain other crimes; jurisdiction.

In every indictment for murder, manslaughter, assault and assault and battery of a high and aggravated nature and assault and battery with intent to kill and in every case when the crime is charged to have been committed with a deadly weapon of the character specified in Section 16-23-460, there shall be a special count in the indictment for carrying concealed weapons and the jury shall be required to find a verdict on such special count. All cases embraced in this section, including the carrying of the weapons, shall be in the exclusive jurisdiction of the court of general sessions, except in cases where other courts have been given concurrent jurisdiction.

HISTORY: 1962 Code § 17-404; 1952 Code § 17-404; 1942 Code § 1008; 1932 Code § 1008; Cr. P. '22 § 94; Cr. C. '12 § 159; Cr. C. '02 § 131, 1897 (22) 427; 1972 (57) 2235.


Editor's Note

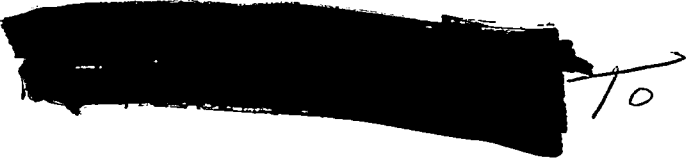
2010 Act No. 273, § 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

MARCUS A JOSE PH147764
KIRKLAND CORRECTIONAL INST
4344 BROAD RIVER ROAD
COLUMBIA SC 29210
Unit K2 B241

**LEGAL
MAIL
ONLY**

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