

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
APR 17 2019
SC Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of General Sessions
The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Lower Court Cases No. 2018-GS-08-00532, 2018-GS-08-00531, 2018-GS-08-00528,
2018-GS-08-00529 and 2018-GS-08-00530

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

AARON MCKENZIE CAPERS

APPELLANT.

**Petition to Stay Direct Appeal
And
Remand to the Court of General Sessions**

NOW COMES the Appellant in the above captioned direct appeal, acting by and through his undersigned counsel, asking that his appeal be stayed and that his matter be remanded to the Berkeley County Court of General Session for further proceedings. In support of this petition, Appellant would show unto this unto this Honorable Court the following. Appellant's judgments and sentences were entered on March 21, 2019 following a jury trial which began on March 18, 2019. Appellant's Notice of Appeal was served and filed on March 26, 2019. Thereafter, Appellant filed an Amended Notice of Appeal on April 1, 2019 after counsel became aware that the State had obtained a new set of indictments before this trial on the same charges in order to correct an error in the originals. On April 12, 2019 Counsel received copies of two post-trial motions filed by trial Counsel, Sharon Capers, on April 1, 2019. Counsel was further advised that those motions had



been scheduled for hearing on April 18, 2019, before the Honorable R. Markley Dennis, Jr., presiding trial judge. Those motions are a Motion for Reconsideration of Sentence and a Motion for a New Trial and a Judgment Notwithstanding the Verdict. *See*, Attachments.

In light of the above, Appellant asks that his direct appeal be stayed and that his case be remanded to the circuit court pending a ruling on his outstanding post-trial motions.

Respectfully submitted,



Tara Dawn Shurling
S.C. Bar No. 5099

Law Office of Tara Dawn Shurling, PA
3614 Landmark Drive, Suite A
Columbia, South Carolina 29204

(803)738-8622 Phone
(803)738-1600 FAX
tdslaw@shurlinglaw.com

ATTORNEY FOR APPELLANT

Other Counsel of Record

Bryan Alfaro
Deputy Solicitor

Anne M. Williams
Senior Assistant Solicitor

Berkeley County Courthouse
300 -B California Avenue
Moncks Corner, S.C. 29461

This 12th day of April, 2019

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA COUNTY, SC

vs.

AARON MCKENZIE CAPERS,
DEFENDANT.

Indictment #2018-GS-08-00528
Indictment #2018-GS-08-00529
Indictment #2018-GS-08-00530
Indictment #2018-GS-08-00531
Indictment #2018-GS-08-00532

Motion to Reconsider Sentence

Now comes the Defendant, Aaron Capers through his undersigned attorney, Sharon Capers requesting This Honorable Court to Reconsider the Sentences imposed on March 21, 2019. The Defendant was sentenced as follows: Burglary 1st, Indictment #2018-GS-08-00529, 50 Years Imprisonment, Criminal Sexual Conduct 1st Offense, Indictment # 2018-GS-08-00532, 30 Years imprisonment Consecutive to Indictment #2018-GS-08-00529, Armed Robbery, Indictment #2018-GS-08-00531, 30 Years, Kidnapping Indictment #2018-GS-08-00530, 30 Years and Possession of a Weapon During the Commission of A Violent Crime, Indictment #2018-GS-08-00528, 5 years Concurrent.

Defendant's Counsel would request that they be allowed to present mitigating evidence on behalf of the Defendant which was not readily available at the end of the trial. Additionally, Defendant would argue that the sentence is excessive given the Defendant's age and lack of prior record.

Defendant respectfully requests to be heard on this matter.



Sharon Capers
Attorney for Defendant
6650 Rivers Avenue
N Charleston, SC 29406
843-576-1433

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

vs.

AARON MCKENZIE CAPERS,
DEFENDANT.

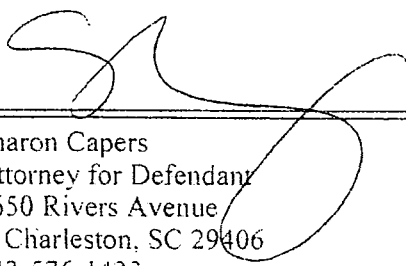
Indictment #2018-GS-08-00528
Indictment #2018-GS-08-00529
Indictment #2018-GS-08-00530
Indictment #2018-GS-08-00531
Indictment #2018-GS-08-00532

Motion For New Trial and
Motion for Judgement Not Withstanding the Verdict

Now comes the Defendant, Aaron Capers through his undersigned attorney, Sharon Capers moving This Honorable Court for a Judgment Notwithstanding the Verdict on all charges pursuant to Rule 50, SCRPC or in the alternative to grant a New Trial pursuant to Rule 59 SCRPC. The Defendant was convicted by a jury on March 21, 2019 of Burglary 1st, Indictment #2018-GS-08-00529, Criminal Sexual Conduct 1st Offense, Indictment # 2018-GS-08-00532, Armed Robbery, Indictment #2018-GS-08-00531, Kidnapping Indictment #2018-GS-08-00530, and Possession of a Weapon During the Commission of A Violent Crime, Indictment #2018-GS-08-00528. He was sentences to 80 years imprisonment.

Defendant would assert that allowing evidence on the Solicitation charge was unduly prejudicial to the defendant and prohibited him from receiving a fair trial on the underlying cases.

Defendant would respectfully request that they be heard on this issue.



Sharon Capers
Attorney for Defendant
6650 Rivers Avenue
N Charleston, SC 29406
843-576-1433

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APPEAL FROM BERKELEY COUNTY
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The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Lower Court Cases No. 2018-GS-08-00152, 2018-GS-08-00153,
2018-GS-08-00154, 2018-GS-08-00155 and 2018-GS-08-00156

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

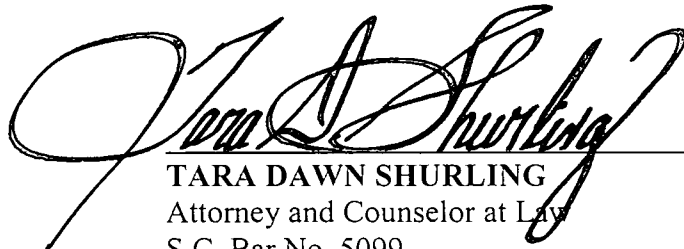
AARON MCKENZIE CAPERS

APPELLANT.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Petition to Stay Appeal and Remand to Circuit Court in the above matter has been served on the Honorable R. Markley Dennis, Jr., Circuit Court Judge, this 12th day of April, 2019, by email addressed to:

The Honorable R. Markley Dennis, Jr.
Presiding Trial Judge
mdennisj@sccourts.org



TARA DAWN SHURLING
Attorney and Counselor at Law
S.C. Bar No. 5099

3614 Landmark Drive, Suite A
Columbia, South Carolina 29204
(803)738-8622 Phone / (803)738-1600 FAX
tdslaw@shurlinglaw.com

ATTORNEY FOR PETITIONER.

SWORN TO BEFORE me this 12th day
of April, 2019.

Rose Doreen King (L.S.)
Rose Doreen King

Notary Public for South Carolina

My Commission Expires: May 27, 2025

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of General Sessions
The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Lower Court Cases No. 2018-GS-08-00152, 2018-GS-08-00153,
2018-GS-08-00154, 2018-GS-08-00155 and 2018-GS-08-00156

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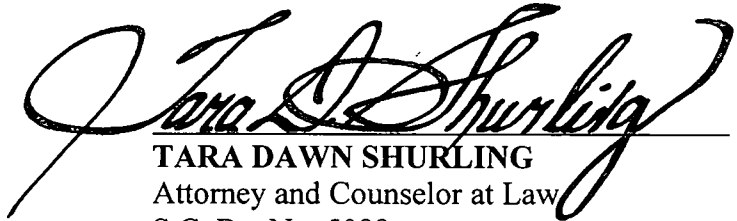
AARON MCKENZIE CAPERS

APPELLANT.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Petition to Stay Appeal and Remand to Circuit Court in the above matter has been served on the appellate opposing counsel, this 12th day of April, 2019, by U.S. Mail addressed to:

J. Benjamin Aplin
Senior Assistant Deputy Attorney General
P.O. Box 11549
Columbia, S.C. 29211



TARA DAWN SHURLING
Attorney and Counselor at Law
S.C. Bar No. 5099

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(803)738-8622 Phone / (803)738-1600 FAX
tdslaw@shurlinglaw.com

ATTORNEY FOR PETITIONER.

SWORN TO BEFORE me this 12th day
of April, 2019.

Rose Doreen King (L.S.)
Rose Doreen King

Notary Public for South Carolina

My Commission Expires: May 27, 2025

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2018-GS-08-00154, 2018-GS-08-00155 and 2018-GS-08-00156

THE STATE OF SOUTH CAROLINA,

v.

RESPONDENT,

AARON MCKENZIE CAPERS

APPELLANT.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Petition to Stay Appeal and Remand to Circuit Court in the above matter has been served on the opposing counsel, this 17th day of April, 2019, by U.S. Mail addressed to:

Anne M. Williams
Senior Assistant Solicitor
101 Meeting Street, Suite 400
Charleston, SC 29401



TARA DAWN SHURLING
Attorney and Counselor at Law
S.C. Bar No. 5099

3614 Landmark Drive, Suite A
Columbia, South Carolina 29204
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tdslaw@shurlinglaw.com

ATTORNEY FOR PETITIONER.

SWORN TO BEFORE me this 12th day
of April, 2019.

Rose Doreen King (L.S.)
Rose Doreen King

Notary Public for South Carolina

My Commission Expires: May 27, 2025

LAW OFFICE OF



TARA DAWN SHURLING, PA

Attorney and Counselor at Law

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April 12, 2019

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

RECEIVED
APR 17 2019
SC Court of Appeals

Re: Aaron McKenzie Capers v. State of South Carolina.
Lower Court Cases No. 2018-GS-08-00528, 2018-GS-08-00529,
2018-GS-08-00530, 2018-GS-08-00531 and 2018-GS-08-00532.

Dear Ms. Kitchings:

Enclosed for filing please find an unbound original and six bound copies of my Petition to Stay and Remand to the Circuit Court for Further Proceedings in the above captioned direct appeal. I have also enclosed two extra copies which I would appreciate having clocked and returned to me in the enclosed envelope. After filing the Notice of Appeal, and Amended Notice of Appeal, I discovered that trial counsel had filed two post-trial motions in this case. I received copies of those motions today and I am asking that the direct appeal be stayed in order to return jurisdiction to the lower court so that these motions may be heard.

Thank you for your assistance in this matter. With my regards as always, I remain,

Sincerely yours

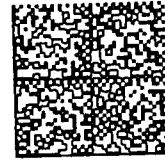
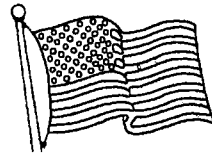
A large, stylized handwritten signature in black ink that reads "Tara Dawn Shurling".

Tara Dawn Shurling
Attorney and Counselor at Law

TDS/rk

Enclosures

cc: Anne M. Williams, Solicitor
J. Benjamin Aplin, Senior Assistant Deputy Attorney General
Aaron M. Capers
Christopher Capers



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Law Offices of
TARA DAWN SHURLING
3614 Landmark Drive, Suite D
Columbia, South Carolina 29204

TO:

The Honorable Jenny A. Kitchings
Clerk, S. C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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