IN THE COURT OF APPEALS
FOR THE STATE OF SOUTH CAROLINA

APPEAL FROM LEE COUNTY
Court of General Sessions
THE HONORABLE R. F. COTHRAN, JR.
THIRD JUDICIAL CIRCUIT JUDGE

RECEIVED
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SC Court of Appeals

Appellate Number 2019-969

The State,

Respondent,

vs.

Kevin E. Herriott,

Appellant.

BRIEF OF APPELLANT

Kevin E. Herriott, #313862
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Pro Se.

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STATEMENT OF ISSUES ON APPEAL

1) Does proper service has to be sufficient to issue presentment and/or issue a(n) indictment? And if so, was the issuance a proper binding document of validation in the defendant's case.

2) Did the court of general sessions lacked subject-matter jurisdiction to the defendant's set of facts in his case?

3) Did the trial judge ruled contrary to clearly established law when denying the defendant's motion to quash indictments?

4) Did the trial or circuit court cure procedural disembarrments that the defendant would have been entitled to once counsel E. Thompson Kinney was substituted?

5) Was the defendant deprived of a(n) substantive and/or procedural rights after he had challenged the legality and sufficiency of the process of the State and/or County Grand Jury?

6) Is the evidence sufficient to constitute a triable issue of the defense?

7) Is the evidence sufficient to had notwithstand the trial verdict in the defendant's case?

8) Did trial counsel, Mr. Timothy L. Griffith, abandoned defendant's defense of duress and self-preservance?

9) Did the trial judge err in denying defendant's motion of directed verdict on all counts?

10) Was there prosecutorial misconduct in this action against the defendant?

STATEMENT OF THE CASE

On May 10, 2018, the Appellant Kevin E. Herriott, pro se, was threatened and approached by gang-affiliated inmates in the vents of his cell accompany by intercepting a text via by cellular device of his former cellmate Gary Nunez who was corresponding with the Bloods to warn their organization that Appellant was going to turn state evidence. The Appellant caused a disturbance at Lee Correctional Institution Approximately three weeks after the 2018 Deadly Riot to put a separation between the officers, inmates, and him only to be charged formally of Assault and Battery of a High Aggravated Nature, Attempted-Arm Robbery, and an Inmate in Possession of a Weapon.

The Appellant was summoned to appear before the Magistrate Court to which personal jurisdiction was waived without his consent and probable cause was found and the case was binded over to general sessions court. The Appellant was put on notice of a(n) charging bill of indictment giving a brief description of (3) charges; however, the Appellant objected to the notice challenging the faulty, invalid, and illegal indictment. On June 04, 2019 the trial judge pronounced judgment on the face of the indictment to which was no record of and sentenced Appellant to six years confined to the Department of S.C. Corrections. The Appellant now appeals.

The Appellant Herriott submits that on or before January 11, 2019, and again on or before February 14, 2019 Appellant Herriott had submitted several Motions to Quash Indictments in the Third (3rd) Judicial Circuit during the critical stages awaiting trial by a(n) impartial jury and tribunal. Pursuant to SCRCP Rule 12(b), during the time of receiving discoveries, Accord Rule 5 SCRCrnP., the Appellant Herriott admits he was presented a(n) indictment document that consisted of three separate charging offenses of one count each that enlisted a(n) summary of South Carolina Code of laws among brief descriptions of each charging offenses absent Affidavits.

The Appellant Herriott submits that once being put on notice of the indictment single sheet document that he held upon presentment, the Appellant Herriott, then identified that the instrument were faulty on its face and bad; therefore, the Appellat Herriott, had challenged the propriety of the accusation, the manner in which it has been presented, and the source from which it proceeds. (see Trial Transcript of Record pp. 13-18) Accord State v. Gentry, 363 S.C. 93, 610 S.E. 2d 494 (2005). However, the initial indictment once presented were not the official charging document for it was an altered document sheet that were missing slots of the witness of whom appeared at the convening of the Grand Jury, the Action of the Grand Jury, and the true bill stamp of an seal along with the missing signature of the forepeson of the Grand Jury. (see attach)

The Appellat Herriott had objected to the invalid and illegal indictments and was heard upon on June 04, 2019, after he had timely submitted Motion to Quash Indictments before the jury was sworn. The Appellant Herriott then raised ground of the (14th) Fourteenth and (5th) Fifth Amendment of the United States Constitution, an substantive and procedural right he was entitled to in which the Appellant Herriott invoked to have this Court enforce the law of a(n) constitutional protected right.

Trial Judge, Honorable R. Ferrell Cothran, Jr., had presided over the proceeding who denied the Motion to Quash Indictments on the basis of secrecy of the Grand Jury ruling contrary to clearly established law. see State v. Evans, 363 S.C.

495, 611 S.E. 2d 510, "The secrecy provisions applicable to a particular case are relaxed after an indictment has been issued by the State grand jury." "Upon grant of Writ, the Supreme Court, Burnett, J., held that, grand jury impanelment documents may be released to a defendant prior to trial upon timely request or to an applicant in a PCR proceeding; ibid., 611 S.E. 2d 510.

The Appellant Herriott standing are there were no issuance of indictments by the State Grand Jury, the charging bill of indictment he was presented was not issued by the State nor County Grand Jury. Once objecting to the faulty documents that were bad on its face, and again not withstanding of the verdict, for the Appellant Herriott had demanded that a grand jury who are properly established and constituted under law consider the criminal allegations and was denied due process of law. This act caused actual injury and the Appellant Herriott was deprived of fairness as well as justice. For the interest sought to have the Appellant Herriott case adjudicated by deliberation and vote were protected within the zone of interests to which meant the process of service and the convene date of the grand jurors regulated by the statutory and/or constitutional guarantee in question. Also, the Appellant Herriott made an timely request to receive grand jury documents.

Nonetheless, in Gentry, turning to the earlier view that an indictment is a "notice document", albeit one required by the State of South Carolina Constitutions and Statutes; see SC. CONST. Art. I § 11, that specifically states, "No person shall be held to answer for any crime the jurisdiction over which is not within the Magistrate's Court, unless on a presentment or indictment of a grand jury of the county where the crime has been committed..." "This required notice is a component of the due process that is accorded every criminal defendant." Evans, supra, 363 S.C. 495; see also, S.C. CONST. Art. I §3, that specifically states, "The privileges and immunities of citizens of this State and of the United States under this constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

In Gentry, the primary purposes of an indictment are to put the defendant on notice of what he is called upon to answer, i.e., to apprise him of the elements of the offense and to allow him to decide whether to plead guilty or stand trial, and to enable the circuit to know what judgment to pronounce if the defendant is convicted.

The Appellant Herriott submits that he had attempted to cure the deficencies that were made on the record to which were so defective that it had deprived the circuit court of general sessions jurisdiction to hear and determine the case on the subject-matter, however, the Appellant Herriott was held to answer in court for the alleged offenses when he exercised his constitutional right to had stand trial. Pursuant to S.C. Code Ann. § 17-19-10, states, "No person shall be held to answer for an alleged crime or offense in any court, unless upon indictment by a grand jury..."

The Appellant Herriott asserts that how could the judge of the circuit know what judgment to pronounce when the instruments that were before the circuit was invalid and illegal. For the presiding judge, Honorable Mr. Cothran, Jr, based his determination on the law concerning the subject-matter of the class of cases, thus, this sentence is invalid.

In keeping with the approach in Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005) the Justices concluded, a defendant must challenge the legality and sufficiency of the process of the state grand jury before the jury renders a verdict in order to preserve the error for direct appellate review. (see attach) (Motion to Quash Indictments) "In a direct appeal, the focus is generally upon the propriety of rulings made by the circuit court in response to a party's motions or objections." Al-Shabazz v. The State, 527 S.E.2d 742, 747 (S.C. 2000).

In this case, The State vs. Kevin Herriott, the Appellant Herriott had challenged the veracity of the indictment(s) because the presentment were bad on its face and being that the instruments were held as sworn documents upon oath deprived the Appellant Herriott of specific notice to what he was called to answer. The Appellant Herriott submits prosecutorial misconduct because the Appellant had received a true copy of indictment

after the trial proceeding once the judge had already pronounced judgment during the Motion's hearing before the jury was sworn on the presentment of the initial notice document constituting Fraud. The variance between the two indictments were the change of the convening dates to which the grand jury convened. This was not a defect, but the guidance of an architect to contrive a conviction through the pretense of a trial which in truth were used as a means of depriving the Appellant Herbst of liberty through a deliberated deception of the tribunal and impartial jury upon the initial presentment known to be faulty on its face as bad to deny the Appellant of an fundamental right. Such contrivance by the State to obtain the conviction and imprisonment of the accused is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by wrongful acts not rectified.

In Accordance to Mckane v. Durston, 153 U.S. 684, 687, 14 S.Ct. 913, 914, 38 L.Ed 867 (1894), the Supreme Court has held that if a State has created appellate courts as "an integral part of the... system for finality adjudicating the guilt or innocence of a defendant," Griffin v. Illinois, 351 U.S. at 18 [76 S.Ct. at 590], the procedures used in deciding appeals must comport with the demands of the due process and equal protections. As a(n) result, this extends to "critical stages" in respect to Post-Indictments and the "procedures of service for process" an indictment to which "the grand jury is a central component of the criminal justice process" Campbell v. Louisiana, 523 U.S. 392, 398, 118 S.Ct. 1419, 1423, 140 L.Ed. 2d 551, 559 (1998).

Nevertheless, Dallin H. Oaks has observed, "I am criticizing, not our concern with procedures, but our preoccupation, in which we may lose sight of the fact that our procedures are not the ultimate goals of our legal system. Our goals are truth and justice, and procedures are but means to these ends..." "Truth and justice, are ultimate values, so understood by our people and the law, and the legal profession will not be worthy of public respect and loyalty if we allow the legal attention to be diverted from these goals." Ethics, Morality, and Professional Responsibility, 1975 B.Y.U.L. Rev. 591, 596 (emphasis added)

Therefore, the Appellant Herriott submits legal governing principles in respect to precedents of the Appellants federal rights, see Fed. R. Crim. P. Rule 7(a)(1), An offense (felony) must be prosecuted by an indictment, see Rule 7(a)(1)(B) Fed. R. Crim. P., by imprisonment for more than one year. (C) Information must give the official or customary citation of the statute, rule, regulation, or other provision of law that the defendants is alleged to have violated. see also, Fed. R. Crim. P. Rule 6(b)(1), Objection to the Grand Jury or to a Grand Juror challenges either the government or a defendant may challenge the grand jury on the ground that it was not lawfully drawn, summoned, or selected, and may challenge an individual juror on the ground that the juror is not legally qualified.

The Appellant contends that during the motion hearing the factual challenge were the non-summoning of the grand jury, the grand jury was not selected, there were no drawing of the grand jury; therefore, the Circuit Court lacked subject-matter jurisdiction. The Appellant further contends that he had entitlement to proceeded rights that was safe-guarded by the U.S. CONST., because the lower court act was void. see also, S.C. Code Ann. § 14-7-1140 (Supp. 2003) (in statute which has been found to apply to petit and grand juries, "no irregularity . . . in the drawing, summoning, returning, or impaneling of jurors is sufficient to set aside verdict, unless the party making the objection was injured by the irregularity or unless the objection is made before the returning of the verdict. (see Trial Transcript p. 55 Line 9-13)

When a defendant timely moves to quash an indictment on grounds of the illegally process of indictments, yet it is issued by the prosecution implicates an issue of subject-matter jurisdiction that may be raised at any time. see 5 S.C. Jur. Abatement, Revival, and Survival of Actions § 5; under the Rules of Civil Procedure, a defense of lack of jurisdiction over the subject-matter of a case is asserted in a Rule 12(b)(1) motion. "One who demands and is refused the right to be tried for a crime charge against him only upon an indictment presented by a legal grand jury, in instances where such indictment is required may

thereafter justly take the position that he has been deprived of life, liberty, or property without due process of law," violating S.C. CONST. Art. V § 22; see Evans, supra, 611 S.E. 2d 510.

Turning Now to Subject-Matter Jurisdiction, the Appellant Herriott raises the ground that his Fourteenth Amendment, due process and equal protection of laws clauses to the U.S. CONST., and Sixth Amendment, specific notice clause to the U.S. CONST., right(s) have been violated.

Assuming arguendo, the Lee County Court of General Sessions did not have the subject-matter jurisdiction to pronounce judgment to arrest warrants numbers 2018A3110100194, Prisoners / Carrying or concealing weapon by inmates; 2018 A3110100195, Robbery / Attempted armed, or allegedly armed, robbery. From the outset of this matter, the magistrate court was summoned to gain personal jurisdiction over the Appellant Herriott who was represented by former Counsel E. Thompson Kinney. Due to Mr. Kinney's 20/20 hindsight in waiving two (2) uncertified arrest warrants for service in the county or municipality of, unknown, was not served in the manner required by law; therefore, personal jurisdiction was not gained since proper service is a prerequisite to the courts exercising personal jurisdiction over the defendant. See 1 S.C. Litigation Forms And Analysis § 10:13. SC ADC 12-608.8. Arrest Warrants to say that service of process is insufficient means, that, although the summons is not defective it was not served in the manner required by law. For the arrest warrants are not valid for service, yet it was served. (see attach)

However, the Appellant Herriott contends that although Counsel Mr. Kinney, was substituted prior to trial, this initial proceeding, Counsel Kinney had represented Appellant Herriott during deprived the Appellant of due process of law, an substantive and procedural right that he was entitled to required by law because the magistrate court gained jurisdiction binding over to general sessions court without consent of the Appellant. see S.C. Code Ann. § 36-2-803 (A) (2), Joined with a defense of lack of personal jurisdiction, since proper service (unless waived) is a prerequisite to the courts exercising personal jurisdiction over the defendant. For the magistrate asked Counsel Kinney do he objects to warrants;

Counsel Kinney, then, made a(n) decision without never making an appointment before this proceeding in particular nor did Counsel Kinney consulted with the Appellant Herriott at the time of Counsel's Kinney decision-making waiving Appellant Herriott's right to challenge the arrest warrants to which constitutes question of law overreaching by surrogate. see Florida v. Nixon, 543 U.S. 175, 187 (2004), "certain decisions regarding the waiver of basic trial rights cannot be made for the defendant by surrogate."

In light of this, the defendant would have been entitled to a procedure that would not have been made available absent the default had not the decision of Counsel affected the confidence of the outcome of this particular proceeding at the magistrate's level. Absent Counsel's Kinney advice to the Appellant Herriott, the magistrate court accepted former Counsel Kinney's decision for the defense. In this stead, the Appellant Herriott asserts that Counsel Kinney, had went too far. Counsel Kinney, did not have consent of the Appellant Herriott, rendering the procedure unfair that is in place to protect the rights of the accused to ensure fairness. see S.C. CONST. Art. I §11, specifically states, "No person shall be held to answer for any crime the jurisdiction over which is not within the magistrate court..."

The Appellant Herriott submits that he was prejudice by these adverse acts by Counsel Kinney and it was a detriment to his legal rights because the service of process failed short of the threshold to have the magistrate court exercising jurisdiction gaining personal jurisdiction binding over the case in action to general sessions court to which caused the Appellant Herriott protected rights to be violated.

Since approximately, on or before August 06, 2018, the Appellant Herriott, was served notice of presentment to which the Appellant Herriott, had an hearing on that was followed by trial verdict of guilty. The said indictments specifically stated, "At a Court of General Sessions, convened on August 30, 2018, the Grand Jurors of LEE County present upon their oath..." This instrument were held officially presented to the grand jury and upon oath deliberated and voted on.

In Accordance to S.C. Code Ann. § 14-5-640(2), Lee County,

"Terms of Court in the Third Judicial Circuit" states, "The court of general sessions for Lee County shall be held at Bishopville, no jury trials at the summer term of the court of general sessions unless a majority of the Lee County Bar Association deems it advisable and notifies the Judge of the Circuit..." (see attach) (LEE COUNTY TERMS OF COURT)

The Appellant Herriott submits that there were no court of general sessions in the Month of August, 2018, and the indictments to which were held good on its face are constitutionally and statutorily illegal and invalid. Thus, the Lee County court of general sessions did not have the subject-matter jurisdiction to accept and/or uphold the verdict notwithstanding dismissing the directed verdict when the Circuit court act were void. Pursuant to S.C. Code Ann. § 14-5-640(2), Lee County.

As Justice, Honorable C.J. Jean Toal, former noted in Curtis v. State, 345 S.C. 567, 549 S.E. 2d 591 (2001), [a] law is unconstitutionally vague if its forbids or requires the doing of an act in terms so vague that a person of common intelligence must necessarily guess as to its meaning and differ as to its application... One to whose conduct that clearly applies does not have standing to challenge it for vagueness. A statute is not unconstitutionally vague if a person of ordinary intelligence seeking to obey the law will know, and is sufficiently warned of the conduct the Statute makes criminal. Johnson v. Collins Entertainment Co. Inc., 349 S.C. 613, 564 S.E. 2d 653 (2002) The Established Test for vagueness is whether the statute provides "fair notice to those to whom the law applies. Main v. Thomason, 342 S.C. 79, 92, 532 S.E. 2d 918, 925 (2000). "Consider the ordinary commonsense meaning of the words" U.S. v. Dauray, 215 F.3d 357, 260 (2d Circuit 2000). Moreover, "a statute is to be considered in all its parts when construing any one of them. If, and only if, the statutory text is ambiguous should the Court turn to the legislative history to ascertain Congress's intent." ibid., 215 F3d 357

The S.C. Supreme Court has held that "subject-matter-jurisdiction is the power of a court to hear and determine cases of the general class to which the proceedings in question belong." Gentry, supra, 610 S.E. 2d 494 (2005); see also, Thompson v. Warden Perry

Correctional Institution, 2007 WL 2579570 (S.C.D.C., September 04, 2007) (The criminal jurisdiction of the circuit court in South Carolina is established by Article V §11, §15, S.C. CONST.)("The Circuit Court shall be a general trial court with original jurisdiction in criminal and civil cases.")).

However, the Circuit Court gains subject-matter jurisdiction in a criminal case in one of three ways: (1) the grand jury true bills an indictment which sufficiently states the offense; (2) the defendant waives presentment in writing; or (3) the offense is a(n) lesser-included offense of a crime adequately charged in a true bill of indictment. see State v. Wilkes, 353 S.C. 462, 464, 465, 578 S.E.2d 717-719 (2003).

The Appellant warns this Court that he did not waive presentment in writting nor verbally. The indictment does not sufficiently state the offenses. Although assault and battery, first degree is the lesser-included offense of assault and battery of a(n) high aggravated nature, the indictment for assault and battery of a(n) high aggravated nature from which it stemed, is invalid and illegal.

The Appellant was found guilty to indictment charging violation of S.C. Code §16-11-~~0330~~ "Attempted Armed Robbery" and § 24-13-440 "Inmate carying a conceal weapon" The indictments to which the court accepted the guilty verdict for these violations are invalid and illegal because in accord with the convening and absent the true bill dates stated on the indictments On August 30, 2018, and in the "September Term of 2018" (see attach); these indictment(s) were not presented to and/or true billed by a grand jury in accordance to S.C. Code Ann. §14-5-640, (2) Lee County.

The Appellant Herriott submits that the indictment were fundamentally defective which the Circuit court used to assert jurisdiction over the matter (class of cases) and with a practical eye the variance of the defective indictments were both differential of the presentation of the evidence prefer by the state's prosecution and the true bill date signed August 30, 2018, in direct opposition with the Court of General Sessions Court Term for Lee County. (see attach)

Furthermore, the Appellant Herriott submitted substantial reasons and legal authorities the court lacked the subject-matter jurisdiction contending that due process of law encompasses all rights which are of such fundamental importance as to require compliance with due process standards of fairness and justice. see SCRE Rule 102; discussion §1.2. The presentment were not sufficient service of process to issue and deprived the Appellant Herriott specific notice when clearly established law based on a robust, a consensus of persuasive authority that uniformly supports the findings of the Appellant Herriott set of facts. The Appellant Herriott has exercised his rights by timely objecting to the bad indictment and requested in a timely fashioned for the minutes of the grand jury proceeding that would had shed light on the impanelment documents of the grand jury. The Appellant Herriott was deprived of a(n) substantive and procedural rights even after challenging the legality and sufficiency of the process of the State and/or county grand juries before the jury was sworn. (See attach)

FACTS

Now turning the pages to the directed verdict, the Appellant Herriott proffered live testimony that was sufficient to establish the affirmative defense of duress; however, was hindered to present evidence in support of the affirmative defense due to the abuse of discretion of Honorable Mr. Ferrell L Cothran, Jr., who refused to accept the details of the riot. (See Trial Transcript p. 49 Line 17-24.) Pursuant to Portillio-Vega, 478 F.3d at 1200-01 (holding that to be entitled to present a duress defense to the jury, a defendant must proffer legally sufficient evidence as to each element of the defense). see also, United States v. Arias-Quijada, 926 F.3d 1257, In reviewing whether the proffer was sufficient to establish the affirmative defense of duress, this Court "respects the trial judge's role as gatekeeper and review[s] 1260 the denial of a duress defense for abuse of discretion." This standard involves a determination based on whether its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence.

Nevertheless, "A defendant is entitled to a directed verdicted when the State fails to present evidence of the offense charged." State v. McHoney, 344 S.C. 85, 97, 544 S.E. 2d 30, 36 (2001). In deciding whether the circuit court erred in denying a motion for a directed verdict, the appellate court must view the evidence in the light most favorable to the state; see State v. Hudson, 277 S.C. 200, 201, 284 S.E. 2d 773, 774 (1981). If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the court must find the case was properly submitted to the jury. State v. Curtis, 356 S.C. 622, 591 S.E.2d 600 (2004).

The Appellant Herriott contends that the circuit court erred in denial of motion for directed verdict because the state failed to show that his physical acts constituted a crime in which the Appellant Herriott assertions remained that a crime never occurred, in his flight ~~he~~ fled Dormitory F3A. see U.S. v. Mitchell, 725 F. 2d 852, A defendant must present some evidence on all of the elements of the defense. see also U.S. v. Patrick, 542 F.2d 381, 386; Dixon v. U.S., 548 U.S. 1, 126 S.Ct. 2437, 165 L.Ed. 2d 299.

In Accordance to 21 A.M. Jur. 2d Criminal Laws § 176, a "defense" is a(n) set of identifiable conditions or circumstances that may prevent conviction for an offense. A "defense" typically negates or raises a reasonable doubt about an element of the offense, whereas a defendant relying on a "legal excuse" admits all the elements of the crime, but argues that the defendant acted under extenuating circumstances that the law recognizes as excusing the wrongful conduct or requiring that conviction and punishment be withheld.

The crux of the Appellant's contention that is while his flight demonstrates that he is not fleeing being that a crime was alleged, but he had staged the encountered incident between Prison Official Lieutenant Lucky, an former Sergeant, and him to preserve himself from further irreparable harm that was intended to be inflicted upon his persons. For the Appellant Herriott submits that he was in and still are in a(n) immediate threat of death or

serious bodily injury because of what he had witnessed to which can identify those who participated in the deadly riot that happened on April 15, 2018, at Lee Corr. Inst. The Appellant Herriott demonstrates that a well-grounded fear exist that the threat will be carried out which was why the Appellant Herriott acted in the manner the cameras in F3A observed. When the Appellant Herriott fled the cell of F3A 1110, there was no reasonable opportunity to had escape the threaten harm to which the Appellant Herriott is suffering and enduring now.

The Appellant Herriott admits that his acts were forced to attempt to not experience what he is actually going through now by retaliatory acts of correctional staff who are working along-side gang affiliated inmates inflicting the unnecessary wantonness infliction of pain, having to be housed in a restrictive housing unit without access to the limited liberties versus an inmate being in general population, locked in a cell almost 24 hours out of a day, not able to get contact visits, not being able to get the proper and adequate medical treatment, especially after being diagnosed, approached constantly by threats, feses thrown on, constantly being housed around known enemies, suffering from PTSD, having dreams getting stabbed, waking up in cold sweats, at times drenched, the list goes on. These vivid accounts are very serious. Moreso, given the cummulative evidence, that was proven and uncontested of the probative fact, the Appellant was under duress prior to the arrival of Lee Correctional Officers that were dispatch to the Appellants Herriott cell 1110A of Dormitory F3A by warning of the Appellant's Herriott Mother who called the Administration Building (ADMIN) at Lee Corrections clearly establishes corroborative evidence that's substantive to confirm the state of mind of the Appellant Herriott. "The existence of duress normally does not controvert any of the elements of the offense itself." ibid., 126 S.Ct., at 2441. Defense of duress allows the defendant to avoid criminal liability..."

The rule of duress that is the doing of a prohibited act is not a crime if reasonably believed to be necessary to save from death or great bodily injury. When a defendant

is under duress i.e., any wrongful act or threat which overcomes the freewill of a party constitutes duress. This simple statement of the law conceals a number of questions, particularly as to the meaning of "freewill" and "wrongful." Duress is define as a threat of harm made to compel a person to do something against his or her will or judgment; especially, a wrongful threat made by one transaction without real volition. see Black's Law Dictionary (11th) edition; see also, ULA PENAL CODE § 1.12.

The Appellant Herriott submits that he was not a participant in the April 15, 2018, "Deadly Riot" and approximately three weeks to the date of this matter, incident in question, the Appellant Herriott was not a(n) directed target during the course of the riot. For the Appellant Herriott had nothing to do with what transpired; however, upon intercepting a text message from his cell-mate's cellular device (phone) to which was on the night of May 10, 2018, and from the read of the text the Appellant Herriott perceived he would have received and/or sustain life threatening injuries amongst the impact of other factors once learning of a knowledge the Appellant Herriott was being sought. See Trial Transcript p. 62 Line 18-25, p. 63 Line 1-8)

According to SCRE 401; 402, in showing relevancy, the Appellant Herriott can recall the beating in the cell vents by their fist and knives because of the metal clanging while the Appellant Herriott who was now confronting his cell mate Gary Nunez, combined with the accompanying threats "you next", "doors open you next" goes to the external pressure compelling the Appellant Herriott to do something against his will and/or better judgment; he called his mother to preserve his life by terminology "checking-out". [(Excuse me: texted his mother) see Trial Transcript p. 63 Line 9-19]

These factors above list once assess, led to the Appellant Herriott's decision-making not to commit a crime, but to cause a disturbance in which not to leave a(n) perception or look like what he was being protrayed as, a(n) "jail house snitch".

The courts know and understand very well that the stereotype of a(n) informant derogatory term "rat" comes with brute consequences even the likelihood of a jailhouse snitch is faced with death, get retaliated against, and discriminated against. For the state's prosecution did not contend nor refute with the Appellant Herriott in this stead during the flight upon which to leave dormitory F3A due to the above consequences that the law protects and inmate from. (see Trial Transcript p. 69 Line 5-16); Sweets vs. SCDC, 529F.2d 854 (1975), Prison authorities have responsibility for taking all precautions and reasonable steps to protect inmates from and/or against assaults; Woodhous v. Commonwealth of Virginia, 487F.2d 889 (1973), Its well settled that prisoners has constitutional rights to be reasonably protected from constant threat of violence. For eleven (11) inmates died and over twenty (20) plus was injured during the riot. After the state-wide lock-down more was killed, assaulted, and the Appellant Herriott has a price on his life for turning State evidence in Federal Courts. (see Trial Transcript p. 62 Line 4-17)

The Appellant Herriott submits that the Respondent did not have sufficient evidence to constitute a(n) triable issue of the defense when the state's prosecution prefer video surveillance that were inadmissible violating Brady; see Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194. (see Trial Transcript p. 15 Line 7-25) also, prefer testimony in support of the observation of the video surveillance subjected the state witnesses to be impeached.

In Accordance to SCRE 106, see discussion § 2.8(A), State v. Peay, 321 S.C. 405, 468 S.E.2d 669 (Ct. App. 1996), "its not an error to not disclose the full video surveillance absent request." For the Appellant Herriott made an timely request Pursuant to Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, L.Ed. 2d 215, Full video surveillance disclosure is required upon request. The Appellant Herriott asserts that the full disclosure of the video surveillance is exculpatory and absent providing the full video footage constitute exclusion of evidence

and not only was the exclusion extremely unfair, but also a constitutional deprivation denying fundamental fairness. see Ward v. Johnson, 690 F.2d 1098, 1109 (4th Circuit 1982) (en banc) ("Errors in the admission or exclusion of evidence in a state criminal trial rise to the level of a constitutional deprivation only if the error is of such magnitude as to deny fundamental fairness.") see also, State v. Bell, 302 S.C. 18, 393 S.E. 2d 364 (1990) (to reverse a case based upon erroneous exclusion of evidence, error and prejudice must be shown).

The Appellant Herriott submits that the suppressed angles of what the presented video surveillance demonstrated was modified of its original version and absent the non-disclosure of the surveillance cameras observation had undermined the confidence of the outcome of the trials verdict. Looking at the principles to these ends to get to the truth must not be violated when the Appellant Herriott requested for exculpatory and impeaching evidence, (see Trial Transcript p. 27 Line 3-9; p. 64 Line 4-7; and p. 15 Line 9-12) and the State prosecution suppressed the evidence by not revealing those other angles that was sought for to be determined and weighed by an impartial jury. see SCRE Rule 103 (a) (2), "The appealing party has the burden of making a sufficient record for the appellate court to determine whether the exclusion of evidence was prejudicial." (see Acknowledgement of Receipt of Discovery Documents) (PLEASE NOTE)

The Appellant Herriott demonstrates that the observation of the non-disclosure of the surveillance videofootage had been disclosed would have shown that the prison officials Lieutenant Bethea, Mark, Sergeant Edward Lucky, and Saidah Coaxum and a male nurse approached Appellant Herriott cell door. However, there were four officers and one male nurse on the wing of F3A. Upon prison officials arrival, the Appellant Herriott and cell-mate Gary Nunez, were engaged in a knife fight that derived from Gary Nunez conduct.

Meanwhile, the Prison Officials above-mentioned named conducts were laughs at the ongoing encounter between the Appellant Herriott and inmate Gary Nunez

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who was now restraining the Appellant Herriott. The observation of the video surveillance shown the Appellant Herriott exited his cell without brushing pass no one, yet there's evidence that exist Appellant Herriott exited his cell because he was in a panic state, he was in fear and anxiety could be reasonably logically inferred when his thoughts were of being left in the cell without the possibility of knowing he was going to be taken out of the cell. It would have shown, that the prison officials namely Sgt. Lucky and Sgt. Coaxum drew their arsenal, chemical munitions - MK-9, to spray Appellant Herriott once exiting the cell of 1110A. It would have shown, that Appellant Herriott stopped pursuing Sgt. Lucky at the Officer's station desk. It would have shown, that Lucky, Sgt., exited F3A wing door without anybody pursuing, chasing, nor following after him. It would have shown, that the Appellant Herriott only went to see what the loud crashing sound was only then seeing Sgt. Lucky on the floor propped at an angle with his hand around the trigger clutching the mace trigger as if to squeeee pointing the MK-9 at the Appellant Herriott's face. At this time, the Appellant Herriott decided to reach for the canister Lucky, Sgt., held only to get maced. The sole purpose was to make it look like the Appellant Herriott was non-complying with the institutional rules and regulation to initiate a separation between Lee Correctional Staff and housed inmates on the F3 & F1 West Yard. It would have shown, that the Appellant Herriott did not touch Officer Sgt. Lucky. It would have shown, that the Appellant Herriott did not intended to use the pic in his possession at any time it was on his person. The evidence would demonstrate that before the Appellant Herriott reached for the MK-9 canister the Appellant Herriott made a gesture in body movement turning the sharp point of the pic inward, nose pointing at the Appellant Herriott to prevent striking Lieutenant Lucky. The Appellant Herriott was sprayed while pulling on the MK-9 canister, who then let the canister go and surrender on the side walk entrance of F3 Dormitory and was escorted to medical. Lastly, the video observerance demonstrated Lieutenant Lucky picking up money she dropped without any sign of injury.

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The Appellant Herriott asserts that the above facts were not established at trial absent the surveillance video footages of the eight cameras suppressed including (4) four cameras that was in the salley port (hallway entrance of Dormitory F3 A & B wings) located in the center top ceiling, (north, south, east, west) that had observed the whole encounter. And not one angle, profer by the state except the south videofootage that ultimately prejudice the Appellant Herriott preventing him from mounting a defense based on duress and self-preserverance.

The state's evidence was not sufficient to had notwithstand the verdict because the state's prosecution could not prove mens rea nor actus reus. For actus reus is essential to crime, but is not sufficient for the purpose without the necessary mens rea, just as mens rea is essential to crime, but is insufficient without the necessary actus reus. The two would had to present a viable theory to negate the Appellant's defense of duress and self-preserverance beyond a reasonable doubt.

Also, the trial court were unaware of the Appellant's Herriott living conditions prio to trial, see Kevin Herriott vs. Joyner, et al., 6:19-cv-626-DCW-KFM; Kevin Herriott vs. Michael Stephen, et al., 6:19-cv-750-DCW-KFM; Kevin Herriott vs. Kevin Ford, et al., 6:19-cv-751-DCW-KFM, that were outside the control of the Appellant Herriott, who attempted to inform former counsel E. Thompson Kinney, of the Public Defender's Office, before being relieved by Court Order among inter alia. For the information that was presented the Appellant's attorney Mr. Kinney refused it stating, "he's not going to be the middleman". (see Motion Substitution of Counsel)

The Appellant Herriott submits that the identification of gang affiliated inmates was contributing factors that's relevant to the Appellant's Herriott living conditions to which are directly affected and relevancy to refuting the state's contention that the prison officials were unaware of the Appellant Herriott requesting for protective custody. For prison officials were denying the Appellant Herriott protective custody until the trial

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was over is probative to the sufficiency of the evidence opposing the trial judge's unreasonably ruling denying the motion to notwithstanding the verdict. (See attach) The Appellant Herriott contends that the trial court erred in failing to charge the jury on jury instructions of duress and self-preservance when the Appellant Herriott had demonstrated the trial court decisions were based on both erroneous view of the law and on clearly erroneous assessment of the evidence by overwhelming evidence by the preponderance of evidence.

Although Trial Counsel Mr. Griffith objected to the state's case asking for a directed verdict on all counts, he abandoned the defense by not preserving the instructions of duress to be charged to the jury. Counsel Mr. Griffith did not effectively investigate the Appellants Herriott case to prefer for the defense some evidence other than the testimony of the Appellant. Prior to the Trial, Counsel Mr Griffith only met with the Appellant Herriott one time which was on the 3rd of June, 2019, a day before trial without taking the responsibility of a(n) duty to conduct an meaningful testing of the adversarial process to make it work, but failing to raise 401 Rule of the South Carolina Rules of Evidence to show and/or demonstrate the "connector up" of the Lee Corrections Deadly List and providing relevant material in support of the defense. These acts and omissions constitutes the abandonment of Counsel Mr. Griffith.

WHEREFORE, taking all the evidence prefered on this appeal the trial judge err in denying defendants motion of directed verdict on **all** counts. For the state failed to present sufficient evidence to reader a verdict guilty at trial. Although there was direct evidence, the prosf fell short of the intent to commit a crime. Absent criminal intent, for the Appellant Herriott steps was not toward the commission of a crime to which would have been identified had the Appellant Herriott enticed, lie in wait for or following the intended "victim" constituted a crime of attempted armed robbery. Sgt. Lucky, did not receive an injury, absent prosf fell short of assault and battery first degree. The video surveillance footage was modified and was prejudicial to the accused; therefore, sentence is vacated.

Arguments

I. Because Respondent lacked subject-matter jurisdiction, the lower court act were void to pronounce judgment to illegal and invalid indictments that was held faulty on its face.

II. Because Respondent did not have sufficient evidence to constitute a(n) triable issue of the defense, the court erred failing to charge the jury of a(n) affirmative defense of duress and self-preserverance.

Conclusion

For this concludes the Appellant brief to which the reason stated, this Court shall reverse the judgment of the circuit court.

RECEIVED
NOV 07 2019
SC Court of Appeals

Certificate of Counsel

The undersigned hereby certifies that the Brief for Appellant contains all material proposed to be included and not any other material complying with Rule 208, SCACR.

s/ K. Herriott
Kevin E. Herriott #313862
Pro Se Litigant.

EXHIBIT D

1 out of 29.

THE STATE OF SOUTH CAROLINA
COUNTY OF LEE

IN THE COURT OF GENERAL SESSION
FOR THE THIRD CIRCUIT

Kevin E. Herriott #313862
Defendant.

v.

The State of South Carolina

Case No.(s):
2018A3110100194; 2018A3110100195;
2018DIR31m018

Motion to Quash Indictment(s)
&
Directed Verdict SCRCP RULE 12(b)(1),(3),(4),(5)

This motion to Quash Indictment(s) & The mover Mount to An Directed Verdict Pursuant to Rule 12(b)(1)(3); which comes before this Court because the defendant has sought to challenge the legality and sufficiency of the Process of the state grand jury before the jury renders a verdict in order to Perserve the error for direct appellate review. See South Carolina Code Annotations §14-7-1140.

The defendant above-named challenge whether the trial Court has the Power to hear a case and/or whether the indictment is sufficient. The defendant questions the Propriety of the accusation, the manner in which it has been Presented, and the source from which it Proceeds. Accord Gentry v. State 363 S.C. 93, 610 S.E. 2d. 494 (2005). When a defendant timely moves to quash indictment(s) on grounds such as those furthered explain above, the Circuit court must determine whether the defendant's constitutional right to have the criminal allegations against him weighed by a Properly constituted grand jury has been violated.

The named defendant asserts that he was Presented a(n) Presentment of Summary indictment(s) that list, 2018A3110100194; 2018A3110100195; 2018DIR 3100018 absent the affidavits not explaining what the defendant is call upon to answer. In, Gentry, an indictment is a(n) " notice document " albeit

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one required by our state Constitution and statutes. See South Carolina Constitution Article 1 §11; No Person may be held to answer for any crime the jurisdiction over which is not within the Magistrate's Court, unless on a Presentment or indictment of a grand jury of the County where the crime has been committed, except in cases arising in the Land or naval forces or in the militia when in actual service in time of war or Public danger. The General Assembly may Provide for the waiver of an indictment by the accused. Nothing contained in this Constitution is deemed to limit or Prohibit the establishment by the General Assembly of a state grand jury with the authority to return indictments irrespective of the county where the crime has been committed and that other authority, including Pro Cedure, as the General Assembly may Provide.

However, On the first week of September 2018 The defendant asserts that Counsel of record E. Thomason Kinney, Esquire, of the Clarendon/Lee County Public Defender Office did, in fact, at the very Ouset of the Preliminary Hearing waived two arrest warrant(s): 2018A3110100194; 2018A3110100195 in which were not sufficient[ly] Process nor service for[1] issuing that gave the Magistrate Court [to] exercise Personal Jurisdiction over the defendant. The defendant objects; due to Proper service (unless waived) is a Prequisite to the Court's exercising Personal Jurisdiction over the defendant. Accord 1S.C. Litig. Forms & Analysis §10:13. SC ADC 12-608.8. Arrest warrants To say that service of Process is insufficient means that, although the summons is not defective, it was not served in the manner required by Law. See §36-2-803(A),(2) Joined with a defense of lack of Personal Jurisdiction, since Proper service (unless waived) is a Prerequisite to the Court's exercising Personal Jurisdiction over the defendant. Pursuant to §37-1-203(1) Jurisdiction & Service of Process. In addition, to any other method Provided by statute, Personal Jurisdiction may be acquired in a Civil action or Proceeding instituted in a court by the service of Process in the manner Provided by this Section. In accordance to Rule 12(b)(4),(5) Sc. R RCP Rule 12. For the arrest warrants were not certified to be Serviced, yet the defendant was brought to court to answer to its tribunal lacking Jurisdiction.

[1] reads as "service of process nor issuing that gave the ..." for

STATE OF SOUTH CAROLINA
COUNTY OF Bishopville\LEE

IN THE COURT OF GENERAL SESSIONS
FOR THE THIRD JUDICIAL CIRCUIT

CASE NO.(S):
2018A3110100196 2018A3110100195
2018DIR3100198

Kevin E. Herriott, #SCDC 313862
Defendant,

V.

State of South Carolina
Respondent.

Leave To Withdraw
And\or
Substitution of Counsel

This matter comes before this Court by way of an Motion by Kevin Herriott (Defendant) on January 09th 2019. The Defendant files Motion to Leave To Withdraw And\or Substitution of Counsel Pursuant to Martinez v. Ryan, 566 U.S. 1, 132 S.Ct. 1309, 182 L.Ed.2d 272. "The right to effective trial Counsel is a bedrock Principle in this Nation's justice system." Accord S.C. CONST Sixth (6) Amendment, that Provides a(n) Criminal defendant the right to effective assistance of Counsel in a criminal trial(s) in which such an effective counsel are qualified to Perform, and do Perform, according to Prevailing Professional Norms.

The named Defendant asserts(s) that On January 07th 2019 Counsel of record asserted that client Kevin E. Herriott needs to be evaluated to understand the charges filed against him alleging that Mr. Herriott's mother has concerns concerning Mr. Herriott's well-being. The defendant asserts that Counsel E. Thomson Kinney has lied to the tribunal and deliberately have evaded Knowledge of facts (defendant's testimony concerning the defense of self-defense and the Product of Duress) which tend to implicate the lawyer in a fraudulent scheme when approached to take the defendant's recorded testimony while counsel Mr. Kinney stated, "I am not going to be the middle man." This has been held to be an affirmative act of misconduct

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HERRIOTT-313862
6

Wherefore, based on the aforementioned, this motion is to be sought, reviewed, and ruled before this Court.

Respectfully Submitted,

CERTIFICATE OF SERVICE

I, Kevin E Herriott, do hereby certify that on this 11 day of January 2019 I had served a(a) motion to Quash Indictments, Directed Verdict, Leave To Withdraw And/OR Substitution of Counsel upon all Parties to this action by depositing a true copy of the same in the United States Mail:

The Lee County Courthouse,
123 South Main Street
Bishopville, SC 29010

Date:
February 14, 2019sent

Cheryl R Lee
Notary
Commission Expires
Jan 27, 2025

CC: E. Thomson Kinney, ESQuire

LEGAL
HERRIOTT-313862

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)

INDICTMENT FOR

Assault / Assault & Battery of a High & Aggravated Nature

At a Court of General Sessions, convened on August 30, 2018 the Grand Jurors of LEE County present upon their oath:

COUNT ONE

That Kevin Herriott did in Lee County on or about May 10, 2018, violate Section 16-3-600(B)(1) of the Code of Laws of South Carolina (1976), as amended, in that he did unlawfully injure another person, to wit: Edward Luckey and great bodily injury to Edward Luckey resulted or the act was accomplished by means likely to produce death or great bodily injury.

COUNT TWO
ATTEMPTED ARMED ROBBERY

CDR: 0026 16-11-0330(B)

That Kevin Herriott did, along with co-defendants in Lee County on or about May 10, 2018, while armed with a deadly weapon, attempt to take and carry away the personal property from or in the immediate presence of Edward Luckey with intent to deprive him of possession by use of force, threats, or intimidation, in violation of Section 16-11-0330(B), S. C. Code of Laws, 1976, as amended.

COUNT THREE

That in Lee County, South Carolina, on or about May 10, 2018, the Defendant, Kevin Herriott, while incarcerated at Lee Correctional Institution, unlawfully did carry a deadly weapon, to wit: large home made edged weapon, usually used to inflict personal injury; all in violation of Section 24-13-440, Code of Laws of South Carolina (1976, as amended)

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

Solicitor

Ernest A Finney III

IMPORTANT INFORMATION

No Jury Trials at the summer term of the Court of General Sessions unless a majority of the Lee County Bar Association agrees. Pedigrade and so notified by the Judge of the Circuit

LEE COUNTY TERMS OF COURT:

S.C. Code Ann. § 14-5-640 First Monday in Feb. For one week
Section (2)

June 4, 2018 through June 8, 2018 - Second Monday in June
July 9, 2018 through July 13, 2018
August 2018 - None Scheduled
First Tuesday after the First Monday for one week
September 4, 2018 through September 7, 2018 - General Sessions
October 2018 - None Scheduled
November 2018 - None Scheduled
December 3, 2018 through December 7, 2018

When you attend your Initial Appearance, as listed on your bond paperwork, you will be given a Second Appearance notice. Please be advised that this office will not call you concerning your court appearances. **It is your responsibility to keep up with your court dates.** If you are unsure of your appearance dates, it is suggested you simply attend on the above dates at 8:30 AM. If you are not in court when required the Solicitor's office may issue a bench warrant for your arrest, per our Administrative Judge these failure to appear bench warrants **will not** be lifted.

Also, keep in mind when you come to court you must be dressed appropriately; no shorts, cut-off jeans, no flip-flops or open toed shoes, no slacks or trousers with holes, no tank tops, no halter tops, no see-through blouses or tops that expose a bare midriff are permitted. T-shirts must not contain vulgar, profane or inflammatory slogans or pictures. Also, please leave all cell phones in your vehicle; they are not permitted in the court room. Do not ask this office to hold your phone either because we will not. Do not bring babies and/or young children to court with you. They are not allowed in the courtroom. Bailiffs will be required to enforce these rules; not being allowed to enter the courtroom due to one of the above items **will not** excuse you from court, the Judge will proceed in your absence.

DO NOT DISCARD THIS INFORMATION.

[redacted]

WITNESSES

Thomas E Horne Jr — S C Dept Of Corrections

ARREST WARRANT NUMBER

2018DIR310018 2018A3110100195
2018A3110100194

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT True Bill

Foreperson of Petit Jury
Date: 8/30/2018

DOCKET NO. 2018-GS-31-0120

The State of South Carolina

County of LEE

COURT OF GENERAL SESSIONS

September TERM **2018**

THE STATE

vs.

KEVIN HERRIOTT

Indictment for

Assault / Assault & Battery of a High & Aggravated Nature
Attempted Armed Robbery
Carrying a weapon by an Inmate

Ernest A Finney III

ERNEST A. FINNEY, III, SOLICITOR

ARREST WARRANT

2018A3110100194

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Lee

THE STATE — 32-2018-088

against

Kevin Herriott

Address: [redacted]

Phone: SSN:

Sex: M Race: B Height: 5 10 Weight: 175

DL State: DL #:

DOB: Agency ORI #: SC040095C

Prosecuting Agency: S C Department Of Corrections Division

Prosecuting Officer: Thomas E Horne, Jr - S00169

Offense: Prisoners / Carrying or concealing weapon by inmates

Offense Code: 0441

Code/Ordinance Sec: 24-13-0440

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 Kevin Herriott on 7-17-2018

Brenda Thomas, Captain

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
123 South Main Street
P O Box 387
Bishopville, SC 290100387

AFFIDAVIT

DEFENDANT COPY

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

13-714

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Lee)

Personally appeared before me the affiant Thomas E Horne, Jr who being duly sworn deposes and says that defendant Kevin Herriott did within this county and state on or about 5/10/2018 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Lee) in the following particulars:

DESCRIPTION OF OFFENSE: Prisoners / Carrying or concealing weapon by inmates

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 May 10, 2018, at Lee Correctional Institution located at 990 Wisacky Highway, Lee County, SC, one Kevin Herriott, an inmate, did commit the offense of Carrying or Concealing a Weapon. The defendant did have in his possession a homemade, edged weapon (shank) that may be used for the infliction of personal injury upon another person within Lee Correctional Institution. This investigation is based on video evidence and victim statements to Police Services South Carolina Department of Corrections.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Lee)

Affiant's Address P.O. Box 21787
Columbia, SC 29221-1787

Affiant's Telephone

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 5/10/2018 defendant Kevin Herriott did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Lee) as set forth below:

DESCRIPTION OF OFFENSE: Prisoners / Carrying or concealing weapon by inmates

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 6/14/2018

(L.S.)

(Signature of Issuing Judge)

Palmetta S Andrews-Brown (Magistrate)

Judge Code: 7216

Judge's Address Judicial Center, 115 Gregg Street
Bishopville, SC 29010

Judge's Telephone (803)484-5905

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

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

BAIL set by

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

_____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

_____

_____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____

Address: _____

_____

Telephone: _____

Name: _____

Address: _____

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Telephone: _____

Name: _____

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Address: _____

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Address: _____

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Telephone: _____

CODEFENDANTS

_____

_____

ARREST WARRANT

2018A3110100195

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Lee

THE STATE 32-2018-088

against

Kevin Herriott

Address:

Phone: SSN:

Sex: M Race: B Height: 5 10 Weight: 175

DL State: DL #:

DOB: Agency ORI #: SC040095C

Prosecuting Agency: S C Department Of Corrections Division

Prosecuting Officer: Thomas E Horne, Jr - S00169

Offense: Robbery / Attempted armed, or allegedly armed, robbery

Offense Code: 0026

Code/Ordinance Sec: 16-11-0330(B)

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 Kevin Herriott on 7-17-2018

Brenda Thomas, Captain

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
123 South Main Street
P O Box 387
Bishopville, SC 290100387

AFFIDAVIT

DEFENDANT COPY

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

15-ik

STATE OF SOUTH CAROLINA)

[X] County/ [ ] Municipality of)

Lee)

Personally appeared before me the affiant Thomas E Horne, Jr who being duly sworn deposes and says that defendant Kevin Herriott did within this county and state on or about 5/10/2018 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Lee) in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Attempted armed, or allegedly armed, robbery

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 May 10, 2018, at Lee Correctional Institution located at 990 Wisacky Highway, Lee County, SC, one Kevin Herriott, an inmate, did commit the offense of Attempted Robbery While Armed with a Deadly Weapon. The defendant did attempt to take the victim's chemical munitions, while armed with a homemade edged weapon (shank). This investigation is based on video evidence and victim statements to Police Services South Carolina Department of Corrections.

COPY

Signature of Affiant

STATE OF SOUTH CAROLINA)

[X] County/ [ ] Municipality of)

Lee)

Affiant's Address P.O. Box 21787
Columbia, SC 29221-1787

Affiant's Telephone

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 5/10/2018 defendant Kevin Herriott did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Lee) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Attempted armed, or allegedly armed, robbery

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 6/14/2018 (L.S.)

(Signature of Issuing Judge)

Palmella S Andrews-Brown (Magistrate)

Judge Code: 7216

Judge's Address Judicial Center, 115 Gregg Street
Bishopville, SC 29010

Judge's Telephone (803)484-5905

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

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

BAIL set by

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

_____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

_____

_____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

WITNESSES

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
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Address: _____
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Telephone: _____

CODEFENDANTS

_____

_____

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF GENERAL SESSIONS**
	)	
COUNTY OF LEE	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	**ACKNOWLEDGEMENT OF RECEIPT**
VS.	)	**OF DISCOVERY DOCUMENTS**
	)	
KEVIN HERRIOTT	)	
	)	**FILE: 31MC-002131**
DEFENDANT	)	
	)	

TO: E. THOMPSON KINNEY, ATTORNEY FOR DEFENDANT

PURSUANT TO YOUR DISCOVERY REQUEST, ENCLOSED PLEASE FIND THE FOLLOWING DOCUMENTS RELATIVE TO THE ABOVE REFERENCED MATTER:

EVIDENCE FURNISHED BY THE STATE:	PAGES
Copy of Warrant	2
Copy of Bond Paper	2
Copy of Police Services' Investigative Report with Attachments	18
Copy of Rap Sheet	6
Copy of Indictment	1

PLEASE NOTE: THE FOLLOWING EVIDENCE IS ALSO AVAILABLE UPON WRITTEN REQUEST AND BLANK DISCS/TAPES OR BY CONTACTING OUR OFFICE IF YOU WISH TO VIEW AND/OR LISTEN TO THIS MATERIAL: Video available for viewing upon request

I ALSO ENCLOSE AND SERVE UPON YOU A COPY OF A MUTUAL RECIPROCAL DISCOVERY MOTION AND NOTICE OF INTENT TO IMPEACH BY EVIDENCE OF CRIMINAL CONVICTIONS RELATIVE TO THE ABOVE MATTER.

PLEASE ACKNOWLEDGE RECEIPT OF COPIES OF THE ABOVE DOCUMENTS AT THE BOTTOM OF THE PLACE PROVIDED BELOW AND RETURN A SIGNED COPY TO THIS OFFICE.

Bishopville, SOUTH CAROLINA

_____
ATTORNEY FOR DEFENDANT

DATED: JULY 31, 2018

JOHN GENTRY,

18-05-021

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Institution/Center: Lee CI	Date of Report: 05/10/18
Reporting Official (Full Name): Edward Lucky	Time of Report: 12:56
Employee ID #: 032648	Date of Incident: 05/10/18
Location of Incident: F3 Unit	Time of Incident: 12:20am
Inmate(s)/Resident: SCDC # Age: Sex: Race:	Employee(s)/Witnesses Involved:
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

On the above date and approximate time:

I Sgt Lucky was called to the F3 unit. To bring down the MK9 to Lt Bethea. When I got there Lt Bethea was standing at cell 1110. That cell house inmate Herriott, Kevin 313862. Inmate Herriott was trying to stab his cell mate. Lt Bethea opened the cell door to get his cell mate out. When Lt Be thea opened the door inmate Herriott ran out with a home made knife about 8in long. I Sgt Lucky give inmate several directives to drop the knife. Inmate Herriott came toward me with the knife. I Sgt Lucky went to back up and get away from inmate Herriott thats when i fell to the ground. That is when my knee made a popping sound. I Sgt Lucky informed Lt Bethea of this. Inmate will be Charged with 801assault and or battery of an SCDC Employee. 811 possession of a weapon. 809 threatening inflict harm or assault on employee

Signature: [signature] Title: Sgt

Evidence:

Disposition of Evidence:

Supervisor's Comments: Refer to D/H

Printed Name: M. Bethea

Signature: M Bethea Title: Lt Date Time: 5/10/18 noon

Major/Responsible Authority

Printed Name:

Signature: Title: Date Time:

STG Related - Refer to STG Committee
☐ Yes ☐ No ☑ Unknown

This incident is DRUG related
☐ Yes ☐ No ☑ Unknown

Responsible Authority Action Taken

☐ Informal Resolution
☐ Administrative Resolution
☐ Refer to Disciplinary Hearing

SCDC Form 19-29A (Rev. January 2005)

South Carolina Department of Corrections
Police Services

Case No: 32-2018-088

VOLUNTARY STATEMENT

I, Edward Lucky, ID Number 032648, do hereby voluntarily provide this statement to Agent T. Howe, who has identified him/herself as an Agent with the South Carolina Department of Corrections Police Services.

I sat Lucky was trying to get an inmate out of his cell. When the other inmate come after me with a homemade knife about 8in long. When I fell down the inmate tried to get my gas from me.

I have read this statement consisting of 1 pages, or have had it read to me. It is true and correct to the best of my knowledge. I have provided this statement freely and voluntarily without threats, coercion, or promises. I have been advised that I will be provided a copy of this statement.

Signature: Edward Lucky Witness:

Date: 5-18-18 Time: 8:15AM Witness:

SCDC Form 23-56 (Rev. April, 2017)

In inmate has Type Staff Assis
on use of Grabber

18 05 - 029

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Institution/Center: Lee CI					Date of Report: 5/10/18
Reporting Official (Full Name): Sgt. S. Coaxum					Time of Report: approx. 600am
Employee ID #: 053405					Date of Incident: 5/10/18
Location of Incident: F3					Time of Incident: approx. 1220am
Inmate(s)/Resident:	SCDC #	Age.	Sex.	Race.	Employee(s)/Witnesses Involved:
1. Kevin Harriott	313862	30	M	B	1. Lt Bethea
2.					2. Sgt Lucky
3.					3. Ofc Coe
4.					4. Nurse Jackson
5.					5

On the above date and approximate time:

I Sgt. Coaxum was assisting Lt. Bethea and Ofc Coe in F3 I was directed by Lt. Bethea to administer chemical munition to the facial area of inmate Kevin Harriott #313862 who ran out of his cell with a homemade knife towards Sgt. Lucky

MK-9 4719
Start-652
End-521

Signature: David S. K. Coaxum Title: Sgt.

Evidence:

Disposition of Evidence:

Supervisor's Comments: Information Purpose

Printed Name: M. Bethea

Signature: M Bethea Title: Lt Date/Time: 5/10/18 830am

Major/Responsible Authority

Printed Name:

Signature: Title: Date/Time:

STG Related - Refer to STG Committee
☐ Yes ☐ No ☑ Unknown

This incident is DRUG related
☐ Yes ☐ No ☑ Unknown

Responsible Authority
Action Taken

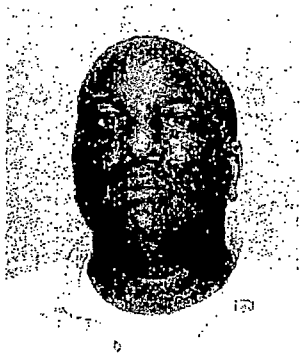
☐ Informal Resolution
☐ Administrative Resolution
☐ Refer to Disciplinary Hearing

SCDC Form 19-29A (Rev. January 2005)

Nathan Tunstall (C059526)

From:	Quintina Stuckey (C039957)
Sent:	Thursday, May 10, 2018 8:36 AM
To:	Colie Rushton (RushtCo); Robert Murray (MurrayR); Joseph Stines (C060315); Joel Anderson (C021853); Michael McCall (McCalDa); Michael Brown-II; Nathan Tunstall (C059526)
Subject:	Inmate on Staff Assault at Lee CI

According Lt. Bethea (Lee CI) reported inmate Kevin Herriott 313862 charged towards Sgt. Edward Lucky with a homemade knife in F3 Unit. The incident took place when inmate Herriott and his roommate was fighting. Inmate Herriott was trying to stab his roommate. Inmate Herriott was trying to retrieve Sgt. Lucky gas when Sgt Lucky was trying to break up the fight. Sgt. Lucky has no injuries but was sent home. Inmate Herriott was placed in RHU. No further information.



Name:	LUCKY, EDWARD L
Title:	CORRECTIONAL OFFICER II
Sex:	MALE
Race:	BLACK
Location:	LEE CORRECTIONAL INST
Work Area:	SECURITY
Budget Unit:	LEE CORRECTIONAL INSTITUTION
Program:	SECURITY PROGRAM2
Termination Date:	
Telephone Number:	(803) 896-2500
Email:	Lucky.Edward@doc.sc.gov

Quintina Rembert

SC Dept. Of Corrections

Sergeant- EAC

Emergency Action Center

803-896-2258

Stuckey.quintina@doc.sc.gov

South Carolina Department of Corrections

TO:	32-2018-088
FROM:	THOMAS HORNE JR
RE:	POSSESSION OF A WEAPON BY INMATE (OTHER THAN FIREARM) HERRIOTT, KEVIN (INMATE), 00313862, (S) LUCKY, EDWARD L (EMPLOYEE), 032648, (V)
LOCATION:	LEE
INCIDENT DATE:	05/10/2018

Introduction

On May 10, 2018, the South Carolina Department of Corrections (SCDC) Police Services (POL) received an email notification **(Attachment 1)** from Sergeant (Sgt.) Quintina Rembert (EMPL ID 039957) at the Emergency Action Center (EAC) of an inmate on staff assault at Lee Correctional Institution (LeeCI). According to Incident Reports **(Attachment 2)**, Inmate Kevin Harriott (SCDC ID 313862) was trying to stab his roommate. Lieutenant (Lt.) Mark Bethea (EMPL ID 053170) opened the cell and inmate Harriott ran out towards Sgt. Edward Lucky (EMPL ID 032648) with a homemade edged weapon (shank) in hand and was stopped by being sprayed with chemical munitions. Region II Assistant Chief Shawn Tunstall assigned Agent Thomas Horne to investigate the possession of a weapon and assault.

Summary

On May 16, 2018, Agent Horne reviewed video of the incident **(Attachment 3)** with Corporal (Cpl.) Tracey Henry (EMPL ID 044345) at LeeCI. The video showed Sgt. Lucky, Lt. Bethea, Correctional Officer (CO) Saidah Coaxum (EMPL ID 053405), and several officers at Inmate Herriott's cell door. Herriott was let out of the cell and had a shank in his hand. Herriott and the officers walk towards the officer's station and Herriott charges after Sgt. Lucky. Sgt. Lucky exits through the door and falls to the floor. Herriott stands over Sgt. Lucky, with the shank in his hand, and attempts to take Sgt. Lucky's chemical munition. CO Coaxum then administered chemical munitions to Herriott's facial area. Herriott then stops trying to take Sgt. Lucky's chemical munitions and runs out of the unit.

On May 18, 2018, Agent Horne interviewed Sgt. Lucky at LeeCI and obtained a

voluntary written statement **(Attachment 4)**. Sgt. Lucky provided the following information: He was trying to get an inmate out of his cell. The inmate came after him with a homemade knife approximately 8 inches long. He fell to the floor and the inmate attempted to take his gas.

On June 4, 2018, Agent Horne interviewed Inmate Herriott at LeeCI. Herriott was read and acknowledged his Miranda Rights and provided a voluntary written statement **(Attachment 5)**. Herriott provided the following information: On May 10, 2018, he intercepted a text message on his roommate's phone. The message was a threat that read "I'ma roll on your roommate LOL. Like I'ma tell him I'ma roll on him". He did not know how serious the threat was until the roommate tried to play it off on a guy that knew he was his roommate. He grabbed his knife and demanded the roommate give up his phone so he could text his mother to get her to call the institution. His mother called LeeCI and Headquarters letting them know that he stabbed his roommate. He did not stab his roommate, his roommate was restraining him. Three officers and a nurse came to the cell door. They opened the door, he flipped out and chased Sgt. Lucky who fell. He then reached for Sgt. Lucky's canister of gas (MK-9) twice. He was then sprayed with gas and was escorted up front.

On June 11, 2018, Agent Horne spoke with Lee County Assistant Solicitor John Gentry about the case. Mr. Gentry advised to charge Herriott with Attempted Armed Robbery for attempting to take Sgt. Lucky's chemical munitions while armed with the shank.

On June 14, 2018, Agent Horne obtained arrest warrants **(Attachment 6)** on Herriott from the Lee County Magistrate's Office for Attempted Armed Robbery and Inmate in Possession of a Weapon.

This investigative report will be submitted to the proper authority for review and any necessary action.

AGENT'S SIGNATURE:

IN THE UNITED STATES DISTRICT COURT
GREENVILLE DISTRICT OF SOUTH CAROLINA

Kevin E. Herriott #313862
Plaintiff

vs.

Brian Stirling, et al,
Defendants.

C/A No.: 6:19-cv-804-DCN-KFM
App. No.: 19-7102

AFFIDAVIT

Personally appeared before this Court, one, the affiant, Kevin E. Herriott, who, first, duly affirms, an affirmation stating:

1). I am above the age of 18 years old and competent to testify to matters thats stated herein and below;

2). I am the Plaintiff with Personal Knowledge that would be allowed to be entered into evidence in a hearing, trial, or other Proceeding;

3). I am a State Prisoner confined to the Department of Corrections in the State of South Carolina and was housed at Lieber C.I., MacDougall C.I., Ridgeland C.I., McCormick C.I., Lee C.I., Broad River C.I., Kershaw C.I., Turbeville C.I., & Stevenson Prison;

4). I have witness inmate-on-inmate, staff-on-inmate, and inmate on staff assaults resulted into life threatening wounds and stabbings that left inmates handicap even death;

5). I have been assaulted by gang violence, although, I am not associated with nor affiliated in no gang organizations;

6). I have witness increased violence due to gang violace that have brought terror into General Population in SCDC Facilities and Prisons Statewide.

LEGAL

7) I saved a(n) Correctional Officer Ms. Minero from 2018 Deedly Riot at Lee Correctional Institution in dormitory F3; Sumter Unit A, by safe-guarding her until Prison Officials were phoned at Operations Center in the Administrative Building to intercept for safety;

8). I have witness the deadly Riot events in F3A and the aftermath of F3B wing along with receiving video-surveillance during the course, before, and after the riot.

9) I, do hereby, testify that these facts are true, honest, and correct.

Further The Affiant Sayeth Not.

(S) Kevin Herriott
Kevin E. Herriott, SBOI# 313862
RHU-Cell 135B
Lieber Correctional Institution
Post Office Box 205
Ridgeville, South Carolina 29472

SWORN to and subscribed before me
on this 22nd day of OCTOBER, 2019,
_____ (L.S.)
Notary Public

My Commission Expires: 6-20-26

Inmate Request - General

Today's Date: 10/22/19 10:20

Name:	**HERRIOTT, KEVIN**
Booking #:	**313862**
Permanent #:	**313862**
Reference #:	19-01411945
Date Requested:	10/11/19 09:33
Request Type:	Security
Requested By:	Paper Form
Request Details:	I am requesting to be seen in front of a PC board concerning my status on RHU. I've been here since 9/18/19. I am in fear of my life even being on this B-wing of RHU due to having a price on my head/life. I am being sought for turning state evidence during the course of my incarceration. Police Investigative Services did not investigate into the facts thoroughly. As a result I am not placed in a secure facility.
Disposition:	Complete
Officer:	Paula Branch
Disposition Date:	10/21/19 11:18

Request Responses

Date	Author	Note
10/22/19 11:19	c060238	You will be scheduled for a PC Board soon. AW Martell

Notice of Appeal

RECEIVED
NOV 05 2018
S.C. SUPREME COURT

Kevin E. Herriott, ... Apellant,

VS.

The State of South Carolina, ... Respondent

RE: Kevin Herriott, #313842 v. State of South Carolina
2018-CP-10-600
Notice of Appeal
November 01, 2018

History

On the 23rd day of October, 2018, and notice mailed first class on Wednesday, October 24, 2018, to all counsel of record for Final Order of Dismissal, PCR Application Denied pursuant to Rule 71.1SCRCP as a result Appellant objected by letter of response dated October 30, 2018. However, prior to sending the response by letter via mail of objection to the proposed order the Appellant upon receipt received proposal of Final Order of Dismissal on the 17th day of October, 2018 whose mailroom personnel Broad River Correctional Institution received stamped clock on the 16th that was sent by the AG offices on the 15th day of October, 2018. Nevertheless, Appellant attempted to respond to the proposal of Final Order of Dismissal October 17th, 2018 by a timely objection when Appellant notice that his mail was compromise by mailroom personnel Mrs./Ms. Mitchell whom have already been grieved through the prison grievance policy system due to her actions for tampering with mail interfering with legal deadlines. The first attempt was on the 18th day of October, 2018 dated from the 17th day of October, 2018. The 2nd attempt was on a Friday, the 19th day of October sending the same letter by response.

FEDERAL MAIL

The third attempt Wednesday 24th, 2018 only to have my suspicions confirmed when I didn't receive my receipt back for sending the contents out so I wrote another response dated October 30, 2018 when the Final Order of Dismissal was signed already on the 23rd day of October. I am now in the process of turning state evidence of becoming a witness to the April 2018 Deadly Riot where I was Workkeeper and (I.R.C.) Inmate Representative Chairman for the Unit of Sumter, ATU Building at Lee Correctional Institution and my testimony was intercepted by this same mail room personnel on the 23rd day of August, 2018. This was complained about, but fell on deaf ears.

Nevertheless The Final Order was dismissed pursuant to Rule 77 when it deviated from A conditional Order of Dismissal if dismissed was to be in accordance to rule " S.C. Code Ann. §17-27-70(b). Upon Receipt of Final Order of Dismissal the state has order Appellant that he must file and serve a Notice of Appeal within thirty days of the service which was on the 1st day of November, 2018, of this order to secure appellate review. See Rule 203, SCACR and Rule 227, SCACR.

Wherefore, based upon the aforementioned, Notice of Appeal, is to be sought, reviewed, and ruled before this Court.

Respectfully Submitted,

Keith Hamlett

Keith Hamlett #315872
SALUDA 102
Broad River C.I.
4460 Broad River Rd. | Columbia, SC 29210

CERTIFICATE OF SERVICE

I, Keith Hamlett, do hereby certify that on this 08th day of November, 2018, I have served Notice of Appeal to Final Order of Dismissal to these actions and by depositing a true copy of the same in this U.S. Mail:

The Honorable Daniel E. Shearouse
Supreme Court Clerk of South Carolina
Columbia, South Carolina 29211

c.c.: Benjamin H. Limbaugh
Assistant Attorney General

FEGAL MAIL

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED
NOV 07 2019
SC Court of Appeals

Appeal from Lee County
Court of General Sessions
Honorable Ferrell R. Cothran, Jr., Judge

Case No. 18-GS-31-0120

The State of South Carolina, ... Respondent,

VS.

Kevin E. Herriott, ... Appellant.

PROOF OF SERVICE

I certify that I have served the Brief of Appellant and Designation of Matter To be Included in the Record on Appeal on Respondent by depositing a copy of it in the U.S. Mail, postage prepaid on ___ day of November, 2019, addressed to ALL Parties of record.

November 03, 2019

/s/ K. Herriott
Kevin E. Herriott, #313862
Post Office Box 205
Ridgeville, South Carolina 29472

November 05, 2019.
S.C. Court of Appeals
Jenny A. Kitchings, Clerk
Clerk's Office
P.O. Box 11629
Columbia, S.C. 29211

RECEIVED
NOV 07 2019
SC Court of Appeals

Re: Kevin E. Herriott vs. The State
Case No.: 2019-00969

Dear Clerk:

The Appellant in above-captioned reference asked that this Honorable Court make a copy and provide both parties of the Original Brief of Appellant, Exhibit D, and Designation of Matter To Be Included In The Record On Appeal due to the copying process is unavailable to Appellant Herriott when have submitted several request to make an timely filing Pursuant to Rule(s) 208 and 209 SCACR. (see attach)

Yours Truly,
Kevin E. Herriott #313862
Pro Se Litigant.

Addressed To:
Kevin E. Herriott, #313862
RHU-cell 135B
Lieber Corr. Inst.
P.O. Box 205
Ridgeville, SC 29472

William Blitch
P.O. Box 1159
Columbia, SC 29211-1549

Kevin E. Herriott, #313862
RHU-cell 1358
Lieber Correctional Institution
Post Office Box 205
Ridgeville, South Carolina 29472

CERTIFIED MAIL
7019 0160 0000 1747 4519

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MATERIAL
UNITED STATES POSTAGE
PITNEY BOWES
$ 013.65⁰
NOV 06 2019
MAILED FROM ZIP CODE 29472

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NOV 07 2019
SC Court of Appeals

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MAILROOM
LIEBER CI

Clerk Jenny A. Hitchings
Clerk's Office
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

FOR LEGAL USE ONLY