

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
JOCELYN NEWMAN, Circuit Court Judge

Appellate Case No. 2019-001175

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FEB 14 2020

SC Court of Appeals

George M. Adams, #181283. Appellant,

v.
Richland County Sheriff's Department Respondent.

Appellant's Motion to Restore /
Motion for Enlargement Time

George M. Adams, 181283
Broad River Correction Inst.
4460 Broad River Road
Columbia, S.C. 29210
Appellant pro se

Andrew F. Lindemann, Esq.
Attorney and Counsel at Law
Post Office Box 6923
Columbia, S.C. 29260
Respondent Attorney

DATE: FEBRUARY 12, 2020
South Carolina, 29210

LEGAL MAIL

HISTORY OF CASE

April 4, 2019, Appellant served a Certified Summons and Complaint with Richland County Magistrate's Office against Richland County Sheriff's Department, Solicitors and Lawyers. Alleging False Arrest, Perjury, False Imprisonment, and Malicious Prosecution.

June 17, 1992, Appellant was removed from inside 2-C Roosevelt Village Apartment, and transported to Richland County jail. Arrest Warrants D-369126, 27 for Armed Robbery and Murder was signed by a Magistrate Judge on June 18, 1992.

August 19, 1992, the record will reveal that Adams appeared before a Magistrate Judge in a preliminary hearing, attempting to challenge the probable cause information on several charges. As for arrest warrants D-369126, 27 dated June 18, 1992 the records are inconclusive.

October 15, 1992, Richland County solicitor presented to Richland County grand jury a presentment of indictments for Armed Robbery and Murder, where the grand jury returned both charges under indictments 92-GS-40-11316, 17, gathered from information in regards to both warrants.

January 1, 1994, Appellant contacted the Public Defenders Office concerning a request for a preliminary hearing or bond hearing on arrest warrants D-369126, 27 Armed Robbery and Murder dated June 18, 1992.

April 11, 1994, the Richland County Solicitors Office offered Appellant 28 years, and drop the Murder charge.

May 5, 1994, Appellant's trial Counsel requested for a preliminary hearing to be held for the second time on the June 18, 1992, arrest warrants.

June 21-23, 1994 Appellant proceeded to trial before a jury. Where upon the jury found him guilty on both counts as charged, and have singled maxed out the 25 years sentence for Armed Robbery.

JANUARY 14, 1998, APPELLANT FORWARDED TWO (2) WARRANTS D-3691276, 27 FOR MURDER AND ARMED ROBBERY, NAME AND ADDRESS APPEARS ON THE WARRANTS. THE MAGISTRATE'S OFFICE ON DECEMBER 11, 2018 INFORMED APPELLANT THAT BOTH WARRANTS WERE OUT OF THEIR COURT'S JURISDICTION.

APRIL 8, 2019, APPELLANT SERVED AND FILED HIS SUMMONS AND COMPLAINT WITH THE MAGISTRATE COURT.

APRIL 18, 2019 APPELLANT'S SUMMONS AND COMPLAINT WAS FILED IN THE RICHLAND COUNTY COURT OF COMMON PLEAS. UNDER CIVIL ACTION NUMBER 2019-CP-400-2137. JUNE 3, 2019, THE COURT OF COMMON DENIED APPELLANT'S MOTION TO PROCEED IN FORMA PAUPERIS. JUNE 18, 2019, APPELLANT'S MOTION FOR RECONSIDERATION WAS DENIED. AND APPEAL WAS PERFECTED.

AUGUST 28, 2019, SOUTH CAROLINA COURT OF APPEALS GRANTED THE RIGHT FOR APPELLANT TO PROCEED ON APPEAL IN FORMA PAUPERIS. APPELLANT'S MOTIONS REQUESTED TO RESTORE AND ENLARGEMENT OF TIME IS AS FOLLOWS:

LAW

THE FUNDAMENTAL QUESTIONS ARE: WAS APPELLANT ENTITLED TO A FULL ADVERSARIAL PRELIMINARY HEARING ON THE JUNE 18, 1992 ARREST WARRANTS. SOUTH CAROLINA CONSTITUTION ARTICLE 1, §10. SOUTH CAROLINA TORT LIABILITY OF A STATE AGENCY, POLITICAL SUBDIVISION, OR GOVERNMENT ENTITY CAN BE HELD LIABLE FOR THEIR TORTS IN THE SAME MANNER AND TO THE SAME EFFECT AS A PRIVATE INDIVIDUAL UNDER LIKE CIRCUMSTANCES, SUBJECT TO THE STATUTE OF LIMITATIONS FOR DAMAGES. APPELLANT'S GENUINE ISSUE AS TO WHETHER A MAGISTRATE JUDGE HEARD SWORN ORAL TESTIMONY ON JUNE 18, 1992, CAUSES A DEPRIVATION OF HIS LIBERTY, FROM THE EXECUTION, ENFORCEMENT, AND IMPLEMENTATION OF THE JUNE 17, 1992 ARREST OF APPELLANT FROM INSIDE HIS MOTHER'S HOME.

SOUTH CAROLINA TORT CLAIM STATUTORY TIME LIMITATIONS ON APPELLANT'S

CLAIMS FOR FALSE ARREST, FALSE IMPRISONMENT, AND MALICIOUS PROSECUTION HAVEN'T BEGIN TO RUN UNTIL AFTER THE LAST DAY OF SENTENCING ON BOTH CHARGES HAVE BEEN FULLY SERVED. SOUTH CAROLINA CODE OF LAWS (1976) TITLE 15-3-535 REQUIRE A ACTION MUST BE COMMENCED WITHIN (2) OR (3) YEARS, AFTER THE PERSON KNEW OR BY EXERCISE OF REASONABLE DILLIGENCE, SHOULD HAVE KNOWN THAT HE HAS A CAUSE OF ACTION. DECEMBER 11, 2018 AND JANUARY 2, 2019 BOTH MAGISTRATE JUDGES IN LETTERS OF RESPONSE PROVIDED A CLEAR INCONCLUSIVE ESTABLISHMENT OF ISSUING THE JUNE 18, 1992 ARREST WARRANTS. GORDON V. WEST, 59 S.E.2d 232 (1907).

THE REQUEST FOR THE COURT PURSUANT TO SOUTH CAROLINA RULES OF CIVIL PROCEDURE RULE 6 (b), IS FOR THE GRANT TO ENLARGE THE TIME PERIOD REQUIRED TO FILE THIS CIVIL ACTION ON THE CLAIMS.

A. EXHAUSTION

THE FOUNDATION OF APPELLANT'S MOTIONS REQUESTS SETS ON THIS COURT'S LONG-SETTLED RULE OF JUDICIAL ADMINISTRATION, "THAT NO ONE IS ENTITLED TO JUDICIAL RELIEF FOR A SUPPOSED OR THREATENED INJURY" UNTIL THE PRESCRIBED ADMINISTRATION REMEDY HAS BEEN EXHAUSTED. SOUTH CAROLINA CONSTITUTION ARTICLE I, SECTION 22. COURTS REFERRED TO ANALYSIS IN PORTER V. S.C. PUBLIC SERVICE COMMISSION, 507 S.E.2d 328 (1998). IN PORTER, THE COURT ESTABLISHED A REQUIREMENT FOR ADMINISTRATION AGENCIES WHEN PRESENTING FINDING:

"WE FIND IT APPLICABLE TO ALL ADMINISTRATIVE AGENCIES."

THOMAS SAND CO. V. COLONIAL PIPELINE CO., 563 S.E.2d 109 (Ct. App. 2002). APPELLANT IN 1994 WAS ENTITLED TO A FULL ADVERSARIAL PRELIMINARY HEARING ON THE PROBABLE CAUSE INFORMATION GATHERED JUNE 18, 1992. IN ORDER TO AVOID BOTH PARTIES FROM BEING PREJUDICED, WHERE A PRELIMINARY HEARING IS ESSENTIAL TO PROTECT THE INDIGENT ACCUSED AGAINST AN ERRONEOUS OR IMPROPER PROSECUTION. COLEMAN V. ALABAMA, 90 S.Ct. 2003 (1970). APPELLANT'S PUBLIC DEFENDER JEFFERY P. BLOOM ON MAY 11, 1994 REQUESTED FOR A PRELIMINARY HEARING WHICH WAS NOT HELD. STATE V. KEENAN, 296 S.E.2d 676 (1982).

South Carolina Courts along with other courts expounded upon the exhaustion of administrative remedies with regards to an agency's final decision. In SC Baptist Hospital v. SC Department of Health and Environmental Control, the court held:

"An agency decision which does not decide the merit of a contested case is not final agency decision subject to judicial review. It would be premature for a court to decide the merits of a dispute when the agency responsible for making the decision has not yet had an opportunity to decide the merits of the case". 353 S.E.2d 277, 279 (1987).

South Carolina Code Ann. § 24-27-100 does not interpose between a prisoner who exercise his state right to sue for liberty to deny equal protection of state and federal constitutional rights. Appellant's complaint is a indeed a civil action for procedural purposes of challenging the validity of his detention as a indigent prisoner may be made subject to payment of filing fee. The availability of filing a civil complaint procedure to regain liberty lost thru a criminal process should not be made contingent upon a choice of tables. Every since Magna Charta, man's greatest right - personal liberty - has been guaranteed, and the procedures of civil rights gave to every Englishmen a prompt and effective remedy for testing the legality of his imprisonment. Civil law has been written into the state and federal constitution that it's "privilege shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it". It has long been available in the federal courts to indigent prisoners of both the state and federal government to test

the validity of detention. The financial hurdles alleged here by Respondent must not be permitted to condition a prisoner's filing fees. To require the state to docket application for post conviction relief and Habeas Corpus remedies by indigent prisoners without the fee payment does not necessarily mean that all or other actions involving civil rights must be on the same footing. Only those involving indigent convicted prisoners are involved here concerning (payment plan).

The ill-behaved argument presented by Respondent circumvent this state's devotion to the equality of rights that indelibly stamped upon its history, claimed by Appellant seeking redress what he believe to be the states wrong.

South Carolina, like most jurisdictions, recognizes exceptions to determine whether Appellant's right to a preliminary hearing on challenging his arrest for armed robbery and murder June 18, 1992, would not be a vain or futile act?

Records and witnesses discovered by Appellant reveals informations that the Richland County Sheriff's Department acted of its authority on June 18, 1992, violating Appellant's South Carolina Constitutional Right Article I, Section 22, and South Carolina Code Ann. Section 22-5-110 (3), (4), (B)(1).

Appellant's (Exhibit K), record on appeal, pages 71-73 witness, Jeffery P. Bloom, Chief Public Defender request for a preliminary hearing May 11, 1994, and adopting the statute limitation for false imprisonment to begun to run when Appellant is released following arrest on June 18, 1992, establishes a good cause for this court to indulge every reasonable presumption as to whether Appellant waived the above fundamental rights. Johnson v. Zerbst, 58 S. Ct. 1019 (1938).

Lastly, where Appellant was given consecutive sentences for other charges, this sentence triggers a new limitation period for the court to embrace their law.

CONCLUSION

For the above forgoing reasons, Appellant request is for this court of appeals to grant both parties a equal opportunity to establish a record as to whether magistrate Peay had the jurisdiction on June 18, 1992, to have the arrest warrants for armed robbery and murder returned to his office. Further, reverse and remand to the magistrate court for proceedings consistent with finding of probable cause on June 18, 1992.

Respondent Attorney

Andrew F. Lindemann, Esq.
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Columbia, S.C. 29260

George M. Adams,
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Broad River Correction Institution
4460 Broad River Road
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Columbia, S.C. 29210

DATE: February 12, 2020

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GEORGE M. Adams, #181283 Appellant,

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Richland County Sheriff's Department . . . Respondent.

PROOF OF SERVICE

The Above Appellant, GEORGE M. Adams, #181283, INMATE PRO SE CERTIFIES that caused to be mailed to the Respondent's ATTORNEY OF RECORDERS ANDREW F. LINDEMAN, Esq. Post Office box 6923, Columbia, S.C. 29260, A TRUE COPY of Appellant's MOTION TO RESTORE / MOTION FOR ENLARGEMENT TIME, VIA UNITED STATES MAIL. ON OR ABOUT _____, _____ 2020. From BROAD RIVER FACILITY MAIL ROOM, 4460 BROAD RIVER ROAD, Columbia S.C. 29210. This 12th day of February 2020, Notary Public:

Kenzera Robinson, Commission Expires: 8/5/2024.

RESPONDENT ATTORNEY:
ANDREW F. LINDEMAN, Esq.
Post Office Box 6923
Columbia, S.C. 29260

George M. Adams
GEORGE M. Adams, #181283
BROAD RIVER CORRECTION INSTITUTION
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SC Court of Appeals

DATE: February 12, 2020

Andrew F. Lindemann, Esq.
Attorney and Counsel at Law
Post Office Box 6923
Columbia, S.C. 29260

RE: GEORGE M. Adams, #181283 v. RCSD
Appellate Case No.: 2019-001175

DEAR ATTORNEY:

HEREIN SERVED UPON YOU IS A COPY OF
APPELLANT'S MOTION TO RESTORE / MOTION FOR AN ENLARGEMENT
OF TIME.

Respectfully

George M. Adams

GEORGE M. ADAMS, #181283,
Broad River Correction Institution
4460 Broad River Road
Columbia S.C. 29210

CC:

Andrew F. Lindemann, Esq.

LEGAL MAIL

GEORGE M. ADAMS, #181283,
BROAD RIVER CORRECTION INSTITUTION
4460 BROAD RIVER ROAD
COLUMBIA, S.C. 29210

DATE: FEBRUARY 12, 2020

SOUTH CAROLINA COURT OF APPEALS
JENNY ABBOTT KITCHINGS, CLERK
POST OFFICE BOX 11629
COLUMBIA, S.C. 29211

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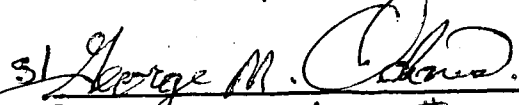
SC COURT OF APPEALS

RE: GEORGE M. ADAMS, #181283 v. RCSD
APPELLATE CASE NO. 2019-001175

DEAR MS. KITCHINGS:

ENCLOSED YOU FIND THE ORIGINAL AND ONE COPY OF
APPELLANT'S MOTION TO RESTORE / MOTION FOR AN ENLARGEMENT OF TIME.
WOULD YOU PLEASE FILE STAMP BOTH, AND RETURN THE COPY TO ME IN THE
SELF ADDRESS.

Respectfully,



GEORGE M. ADAMS, #181283

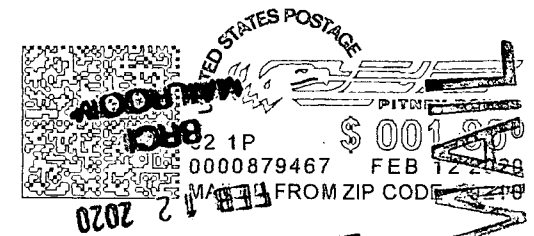
CC:

ANDREW F. LINDEMANN, ESQ.

Copy

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South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, S.C. 29211

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FEB 12 2020

**BRCI
MAILROOM**



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CENSORED THIS ITEM; THEREFORE, THE DEPARTMENT
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S.C. DEPARTMENT OF CORRECTIONS