

Sent 11/1/2020

To: ~~G.A.D.~~ "SC Court of Appeals" "Part 2"
Attorney Mr. Robert Dudek
Regards: Direct Appeal

From: Heirberone H. Foster
#353381/Mont/153/A

Dear Sir; I am exploring, literally "begging" you to hear me through this letter and every other letter and word I send. Not only because I "didn't" murder my son, but also because of the total disrespect to the rights of due process which was not granted at the very start. The start being, the court giving a ruling on the "Castle Doctrine / Stand Your Ground hearing eligibility based on (80%) eighty per cent of a totally "non-merited" charge of "C.D.V. first degree and its bond restrictions, pending case. In which just recently finding out that after this case was used by prosecution against me at "every" bond hearing or my representative having to defend it at "every" hearing. Plus this pending case (which was still pending during murder trial) was used against myself in over (40) forty different pages and about (480) four hundred eighty different times in transcript (See enclosed pages 1 and 2 for transcript verification). Then to have this "non-merited" C.D.V. 1st case dismissed two weeks after murder trial (see enclosed page 3) June 12, 2019 is a travesty to justice itself. And sirs, please ~~excuse~~ excuse if I repeat an issue. It's just that I may have added more, but I ask that all is considered...

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When this charge was alledged and its bond restrictions October 24, 2015 (see enclosed page 4, but I even have questions concerning this warrants being the original) Just knowing this C.D.V. charge and its restrictions would not be allowed to be mentioned at any hearing or trial, because of not only arresting officer who brought this charge against me was let go after the issue of this charge and could ^{not} appear at preliminary hearing to answer this again totally non-mented charge (transcript page 63, lines 19-25, and page 64, lines 1-5) held on January 8, 2016. It, not being a factor I was sure of. And I do believe legally it should never have been sent to grand jury for indictment, but seeing I had to represent myself at this preliminary my thinking was this was the reason the judge bond it over to the grand jury.

Then to not be granted the right of a speedy trial in this C.D.V. 1st charge when repeatedly requested, not only by myself, but even to not grant the ~~al~~ alledged victim the "Right of Due Process" by the solicitors office officials not addressing their written request and her/the alledged victim's in person request "literally" begging someone from their office and the public defenders office to at minimum drop the bond restrictions until the courts could address this charge, even on multiple occasions (transcript page 63, lines 21-25, page 64, lines 1-17). (Prosecutorial mis conduct at minimum)

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Not only these violations and issues clearly would have had a tremendous impact and "would" have caused a different outcome in the Immunity Eligibility hearing, but I/ citizen, call this/these type actions as The States prosecutions office and its versions of legalities administered, ~~the~~ "Prostitution of the U.S. Constitution", because the Constitution or justice cant speak for itself and ~~the~~ ^{its} blind. So for an entire administration to ~~profit~~ ^{of} profit off the disabilities of the Constitution or justice or another is prostitution and is illegal.

Although the judge did very, very reluctantly "conceded" to myself having the right to be there and the right to "Stand My Ground" (page 273, lines 2-16). Therefore by him conceding to this. This would also clearly give myself the right to be entitled to "Protection of Persons and Property Act". And on page 274, lines 7-11 in where the judge questioned another Circuit courts judges decision of granting eligibility to this law (State vs Scott) and it being applicable in this case. Though tragic as Scott's acts were. It was seen as Scott's "actions" ~~was~~ ^{were} in Self Defense. And it not being a question to this case's ~~tragic~~ tragedy, but according to evidence and multiple testimonies of my constant retreating and being chased would surely be considered acts of self-defense, and be in comparison to "Scott"...

Then on page 274, line 13-14 for the court to question the clarity of the legislature's intent and its validity should it have been in question. The question should have been whether the defendant was entitled to the act the legislature have already passed.....

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Especially, see the legislature's "Intent" is clearly written in the ⁴ Georgetown Law Journal's Annual Review (2019) Defense of Persons Property Act.

Another issue which should be seriously argued (page 274, lines 17-20 and page 275, lines 1-25) in where the courts states and "rules" that the defense failed to establish the requisite degree of proof by stating, "The difficulty, the trouble was occurring outside and the defendant went into the house and by his view of the preponderance of the evidence is the altercation had stopped, and the defendant changed his ground, but contradicting the courts ruling/statement the testimonies of the victims own mother and sister. Stating "the victim came over to 208 oak glenn in where victims dad was lying on the couch and started with him/defendant. Even states own witness Leanne Cottin testified to this twice. And according to defendant's testimony victim came over to his home in where defendant had a active no trespass notice on him with criminal intent by chasing defendant out of his home with a aluminum level the crime scene investigators had knowledge of being used by victim ~~to~~ to threaten bodily harm upon defendant and still left it at the scene. ^{It being} Just feet from deceased body. This improper gathering of evidence, crucial evidence and only providing digital image of this level prejudices the jury in the "physical, factual dangers" the defendant was facing from the victim. And it lessens the true totality of meeting force with force issue... This issue defense counsel did bring up. We do know the state did provide a physical gun and not a digital image of one.

So the courts "required degree of proof has been met" by the entire family's and others testimonies and "all the changing of ground which started inside and was forced from then on by the victim outside, two houses up and back to 208 oak glenn. . . .

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Then the "issue" of the court's viewing of the defendants concern for others being a mere speculation (page 275, lines 23-25 and page 276, lines 1-5) clearly is not a fair and impartial observation on the court's part. Due to the testimony of the defendant witnessing his wife the victims mother being slung to the ground injuring her arm by the victim (pages 106, lines 14-18 and pages 110, lines 3-5) and testimonies from other witnesses of their struggling, wrestling, and tusseling with victim in their own attempts of stopping victim. And these testimonies given are more than reasons for "speculation" of danger being actions of the victim and Plus just the "Belief" of danger is a portion and or All is needed for the eligibility for Immunity

Now to argue the issue of the court's questioning the legislatures intent regarding the entitlement to "Protection of Persons and Property Act". This being the second time (page 274, lines 13-14) during this proceeding and the first time was on page 067, lines 6-13 in where the court states, it has issues in the legislatures intent and what was meant as interpreting it. Note; The court did finally conceded that the defendant had the right to be there (page 273, lines 2-16). Then states, "The law does have a preamble and states a ~~pr~~ purpose and included it is proper for a law abiding citizen (being myself/defendant) has the right to protect themselves, their families and others from "intruders" and to elaborate on "intruder"..."

LEGAL MAIL

Interuder, especially in this case being clearly "anyone" who is threatening a citizen, even a "family member" whom that citizen has placed a no-trespass notice on and that individual violates that no-trespass notice with threats of physical harm to that citizen or another that may result in death while on said property is clearly without a shadow of a doubt an "interuder". Thus giving that citizen "All" rights to "Protection of Persons and Property Act" and eligibility to Immunity from prosecution.....

Although, thru out this entire tragedy I've battled and battled how do I defend myself when one of my greatest gifts I will ever know is gone, and gone in a manner unimaginable and that gift was my first born son. A solidification of my manhood. So my entire defense is based on the "Truth" and "The Truth of Law". Plus I must not nor can I leave out the love of my son and the pain of our loss.

Now dear Sirs I've given you the Court of Appeals the best and the truth as I know it being. In ending I must reiterate that anything that I mentioned repeatedly is only done based on the strength of weight it should be considered of the issue being argued and on the affect it would have had on the outcome of the case.....

Thank You All
 High
 Not
 10/19/2020

LEGAL MAIL

Dear Ma'am, I Heirberone H, Foster called and asked someone from you alls office if it would be o.k. for me to add to my brief Pro. SC. The enclosed ten pages is asked to be included with all due respect and I do thank you all for your patience.

Heirberone H. Foster
10/19/2020

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"Transcript Verification" Page-1

Page number ; Line Numbers ; Amount of Lines ; Total = 480

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| 31 | 261 | 1-11 | 10 |
| 32 | 262 | 10-16 | 6 |
| 33 | 263 | 16-22 | 6 |
| 34 | 264 | 15-19 | 4 |
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DISPOSITION SHEET

NAME OF DEFENDANT Heirberne H. Foster

WARRANT/TICKET NUMBER(S) 2015A3210201908 and
2016A3210200792

CHARGES(S) DV 1st and Poss of Weapon By
a Convicted Felon

ARRESTING AGENCY LCSD

| | | | | | | | |
|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| DISMISSED | PTI | JUDICIALLY DISMISSED | REMANDED | DISMISSED AT PRELIMINARY | FAIL TO APPEAR | RESTORE | OTHER |
|-----------|-----|----------------------|----------|--------------------------|----------------|---------|-------|

REASON Victim doesn't wish for the case to be
prosecuted on the DV 1st. The defendant was
convicted on the companion charges to the Poss
By convicted felon.

R. W. [Signature]
SOLICITOR

DATE: 6-12-19

2019 JUN 12 AM 11:33
519 290

?? ? This is from a travel
ARREST WARRANT
2015A3210201908 ???

ORIGINAL

Form Approved by
S.C. Attorney General
Apr 21, 2003
SCCA 918

STATE OF SOUTH CAROLINA
 County/ Municipality of
Lexington

AFFIDAVIT

Personally appeared before me the affiant P B Kirkham T. PARCHEA S who
being duly sworn deposes and says that defendant Heirberone H Foster
did within this county and state on or about 10/24/2015 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Lexington)
in the following particulars:

DESCRIPTION OF OFFENSE: Domestic / Domestic Violence, 1st degree

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:

On 24 October 2015 at 208 Oak Glenn Rd., Gaston, Lexington County South Carolina Heirberone H. Foster did cause physical
harm to his wife, Cathy Amaker Foster, by striking her with a chair. Heirberone H. Foster also offered and attempted to cause
further harm with apparent present ability under circumstances reasonably creating fear of imminent peril by attempting to strike his
wife Cathy Amaker Foster a second time.
Heirberone H. Foster was convicted of Criminal Domestic Violence-1st Offense (Case # 53653EP) on September 25, 2009 in the
Swansea Magistrate Court. Heirberone H. Foster was also convicted of Criminal Domestic Violence High and Aggravated Nature
(Case# M301081) on February 29, 2012

[Signature]
Signature of Affiant

STATE OF SOUTH CAROLINA
 County/ Municipality of
Lexington

Affiant's Address 521 Gibson Road
Lexington 29072-
Affiant's Telephone (803)785-8230

A TRUE COPY

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 10/24/2015 defendant Heirberone H Foster
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of Lexington) as set forth below.

DESCRIPTION OF OFFENSE: Domestic / Domestic Violence, 1st degree

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 10/25/2015

[Signature] (L.S.)
Signature of Issuing Judge
Gary S. Morgan
Judge Code: 5041

Judge's Address 231 West Church Street
Batesburg, SC 29006-2103
Judge's Telephone (803)359-8330

Issuing Court: Magistrate Municipal Circuit

STATE OF SOUTH CAROLINA
 County/ Municipality of
Lexington
THE STATE OF SOUTH CAROLINA 20630
against

ORIGINAL

Heirberone H Foster
Address: Gaston, SC 29160-

Phone: _____ SSN: _____
Sex: M Race: B Height: 6 Weight: 185
DL State: SC DL #: _____
DOB: _____ Agency ORI #: SC0320000

Prosecuting Agency: Lexington County Sheriff
Prosecuting Officer: P B Kirkham - 0555
Offense: Domestic / Domestic Violence, 1st degree

Offense Code: 3811
Code/Ordinance Sec: 16-25-0020(A)

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 HEIRBERONE FOSTER
on 10/25/15

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
General Sessions
Lexington County Summary Court Center
139 East Main Street
Lexington, SC 29072

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ORIGINAL

ORIGINAL

Heirberone H. Foster
#353381/Murray/211
B.R.C.I.
4460 Broad River Rd.
Columbia, S.C. 29210

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OCT 23 2020

SC Court of Appeals

South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

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OCT 20 2020



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