

In The State of South Carolina

Gafaski D. Richardson,
Petitioner.

v.

State of South Carolina,
Respondent.

State of South Carolina

In The Supreme Court **RECEIVED**

DEC 02 2020

S.C. SUPREME COURT

Sorry County
William E. Seals, Jr., Circuit Court Judge

Appellate Case No. 2020-000569

Prose response to Johnson Petition.

This matter comes before the Court by response to Johnson Petition, filed by Appellate Defender Joanna K. Delany, on November 9, 2020. There are a few serious issues I wish to raise and argue, and believe this Honorable Court should consider in this appeal.

First issue I wish to raise is The procedural history, where it states on the Order of Dismissal that I was indicted at the July 2017 term of the Sorry County Grand Jury for trafficking Methamphetamine (2017-GS-26-04406), and also it states, "The facts presented by the State during the plea proceeding established that Applicant was the subject of two controlled buys at his residence in April and May 2017, law enforcement agents purchased 33.5 grams of methamphetamine tablets and 6.8 grams of cocaine. The statements prejudiced appellant, where the facts relevant to

this case was misleading up until this point, see South Carolina Rules of Evidence, Rule 403, The judge had no correct knowledge of appellant case to erroneously make a ruling. Especially, because the indictment for the trafficking Meth (2017-GS-26-04406) has the same docket and arrest warrant Number, and appellant contests that said indictment was not presented under oath to a grand jury, and this state requires a person be indicted by the grand jury before standing for a trial, section 17-19-10. Therefore appellant requested grand jury impanelments under S.C. rules of Criminal Procedure, Rule 5, see exhibits A1 to A5.

Another issue is the arrest warrant, which is listed on indictment (2017-GS-26-04406), it lists Arrest warrant as 2017GS2604406. I've requested this said documents from Horry County Clerk of Court on numerous occasions, I also filed a writ of Mandamus for production of this arrest warrant, see exhibits # B1 to # B7, in Exhibits # B6 to B7, South Carolina Ordered Clerk of Court, Renee Elms, to produce document, but to no avail. Appellant contests, The arrest warrant does not exist nor was under oath, see Davis v. Sanders 40 S.C. 507, 19 S.E. 138 (1894), also see, State v. Rouse 86 S.C. 344, 68 S.E. 629 (1910). These above issues are reviewable under, Goto v. Lane 265 U.S. 393 (1924).

In South Carolina, the solicitor is charged with the responsibility of prosecuting criminal charges, including procurement of the proper indictment from the Grand jury, State v. Fletcher 322 S.C. 256, 471 S.E. 2d 702 (1996).

In absence of evidence, grand jurors were not sworn, Court held a presumption exists that grand jurors were sworn and thus, upheld the indictment, State v. Griffin 277 S.C. 193 (1981)

Appellant wishes this Honorable Court review these issues and grant Johnson Petition for review of Case.

Respectfully Submitted,
Gafaski D. Richardson
W. R. C. I.
P.O. Box 189
Rembert S.C. 29128

this 25th, Day of November, 2020.

In the State of South Carolina
Gafaskie D. Richardson #256102
Defendant,

v.
State of South Carolina,
Plaintiff.

State of South Carolina ^{Exhibit A1}
The Circuit Court of the fifteenth Circuit

Case/Indictment #'s: 2017-GS-26-04406
2017-GS-26-03556

Request to Compel discovery
of Grand Jury impanelment documents
Pursuant to Rule 5(d), SCCrimp.

Dear Attorney General, I, Defendant, Gafaskie D. Richardson #256102, is moving this office, Pursuant to Rule 5(d), SCCrimp, §14-7-1700, §14-7-1720, State v. Thompson 305 S.C. 496 (1991) and Evans v. State 363 S.C. 495 (2005), and all other relevant case laws and statutes pertaining to this issue.

Defendant contests he's been imprisoned under a fraudulent indictment, indictment 2017-GS-26-04406, see Exhibit #1. The docket number and arrest warrant number are the same, then on the face of indictment it says, Date of Arrest, 5/10/17, but on the body of the indictment it states on or about August, 24, 2017, said offense described in indictment occurred. Defendant contests that on that day of August 24, 2017, he was in attendance at his sons birthday party at defendant's residence.

See exhibit #2, where defendant then recieved a copy of said indictment after many requests, but then look at exhibit #3, where the record of his Return for PCR relief, says that defendant was indicted for said indictment

on July 2017 term. See Exhibit # 4, the grand jury summary ^{Exhibit A2} for the offenses, for which defendant was arrested for on May 10, 2017. Which leads to, exhibit #5, which shows all the charges dismissed on July 19, 2017, and indictment #2017 GS 603556, see, Exhibit #6, was the only offense charged on May 10, 2017, that was not dropped, which grand jury was convened on July 19, 2017, why was the trafficking Meth not presented to the grand jury that day if that offense occurred on that day allegedly, as claimed by the state?

When you read Exhibit #7, second Paragraph, it says during a search of defendant's bedroom agents found a clear plastic bag containing 59 blue tablets with the letters UPS on it, and also a smaller plastic bag with 20 shield blue and green tablets with the word Dom Perignon Champagne on them. See exhibit #8, first Paragraph, where it states both the 59 blue UPS tablets, and 20 Dom Perignon tablets also field tested positive for the presence of MDMA. Read exhibit #9 transcripts lines 13-15. Prosecutor stated, upon searching the house there was 33 and a half grams of Methamphetamine in the form of tablets, But Exhibit #8, clearly shows those tablets were field tested for MDMA, with no mention of Methamphetamine.

When you look at Exhibit #10, the arrest warrant #2017A 26 10201335, was for the 79 tablets, were dropped on July 19, 2017, see exhibit #5, and defendant was never put on

Proper notice of a trafficking Meth charge.

In Exhibit #11, The PCR Judge's dismissal of defendant's application, first Paragraph States, The fact presented by the State established, law enforcement agents purchased 33.5 grams of Methamphetamine, which is false accusations, and prosecution led the PCR Court to believe that happened, where attached exhibits prove's the tablets, whom were found by the 2 agents, in defendant's bedroom, not by a Confidential Informant's purchase.

Defendant Contest he wrote his attorney and Clerk of fifteenth judicial Circuit Court, Henry County, for the arrest warrant #2017GS2604406 as stated the face of said indictment, but to no avail.

Wherefore, defendant does not believe the arrest warrant, nor an official indictment for 2017GS2604406 exists, and the only remedy for defendant's accusations and imprisonment on said indictment is to disclose the requested grand jury impanelment documents, and defendant wishes this Honorable Office of the Attorney general, grants this request, only for testimonies at grand jury, not the deliberations which contains secrecy.

November.16, 2020

Respectfully Submitted
 Gafastine D. Richardson
 Waterl River Corrections
 P.O. Box 189
 Rembert S.C. 29128 DA 3

Exhibit #24



State of South Carolina
The Circuit Court of the Fifteenth Judicial Circuit

Benjamin H. Culbertson
Resident Circuit Judge

P. O. Box 479 (zip code 29442)
401 Cleland St. (zip code 29440)
Georgetown, South Carolina
Telephone: (843) 545-3030
Facsimile: (843) 545-3282
Email: bculbertsonj@sccourts.org

January 29, 2019

Gafaskie D. Richardson, #256102
Wateree Correctional Institute, Dorm 2 – Rm. 12
P.O. Box 189
Rembert, SC 29128

RE: *State v. Richardson* (Indictment No. 2017-GS-26-04406)

Dear Mr. Richardson:

Please find enclosed a copy of the "True Bill" indictment in the above referenced case evidencing that you were, in fact, indicted for Trafficking Methamphetamine 28-100 Grams. This contradicts your assertions in your undated letter to me regarding this matter.

With kindest regards, I remain

Very truly yours,

Benjamin H. Culbertson

BHC/bhc
Enclosure (a/s)

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

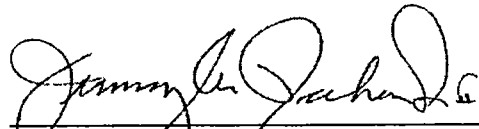
At a Court of General Sessions, convened on September 13, 2017, the Grand Jurors of Horry County present upon their oath:

TRAFFICKING METHAMPHETAMINE
MORE THAT 28 GRAMS, LESS THAN 100 GRAMS

CDR: 0392 44-53-0375(C)(2)(a)

That Gafaskie Danyel Richardson did in Horry County on or about August 24, 2017, knowingly, sell, deliver, purchase, or bring into this State; or did aid, abet, attempt or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession or attempted to become in actual or constructive possession of a quantity of Methamphetamine in an amount of more than twenty-eight grams but less than one-hundred grams, same being a controlled substance all within the meaning of Section 44-53-110, et.seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized and in violation of Section 44-53-375(c)(2), S. C. Code of Laws, 1976, as amended, for the crime of trafficking.

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



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

031217

WITNESSES

Benjamin A Wilson 15th Circuit Drug Enforcement Unit

Retenon Phillips

ARREST WARRANT NUMBER

2017GS2604406
CDR: 0392 44-53-0375(C)(2)(a)
DOA: 5/10/2017

ACTION OF GRAND JURY
TRUE BILL

Will Hayes
Foreperson of Grand Jury
Date:

SEP 18 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017-GS-26- 04406

**The State of South Carolina
County of Horry**

Gray Ervin 17H02876

COURT OF GENERAL SESSIONS

September, 2017 TERM

THE STATE

vs.

Gafaskie Danyel Richardson
B/ M
400 Hilo Ct
Myrtle Beach, SC 29588
DOB: [REDACTED]
SSN: [REDACTED]

ATTORNEY: Linward C. Edwards, II, Esqui

Indictment for

Trafficking Methamphetamine

Jimmy A. Richardson, II, Solicitor

ORIGINAL

FILED
HORRY COUNTY

2017 SEP 18 10:02

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

DATE RECEIVED FROM
GRAND JURY

Exhibit # A5

State of South Carolina
County of Horry
Respondant

v.
Gafaski D. Richardson
#256102 Plaintiff

On the Court of Common Pleas ^{Exhibit B1}
In the ~~fifteenth~~ Judicial Circuit Court.

Case #'s: 2017-GS-26-04406
2017-GS-26-03556

Writ of Mandamus.

The petitioner, Gafaski D. Richardson, moves the court pursuant to, Rule 65, of the South Carolina Rules of Civil Procedure, for a writ of Mandamus to Order Horry County Clerk of Court, Renee Elvis, to Produce the original or copy of Arrest warrant # 2017GS26-04406, as shown in Exhibit D. In support of the motion, Gafaski D. Richardson, Shows the following to the court.

The grounds for this writ is as follows:

- 1) Subsection 22-5-210.
- 2) Rule 3 of SCRCRP, Section(C).
- 3) Subsection 14-17-260
- 4) Subsection 22-3-710.

- 5) *Wiblen v. Long*. 262 S.C. 430 (1974).
- 6) *State v. Rouse*. 86 S.C. 344 (1910).
- 7) *Kerr v. United States Dist. Court*. 426 U.S. 394 (1976).
- 8) *Fruwitt v. South Carolina Dept. of Corrections*
(WL9844438).

Petitioner, Gafaskie D. Richardson Certifies that consultation with the opposing Party about this matter would serve no useful purpose, see exhibits B, and C., where Petitioner went over the Clerk of Court to, the S.C. Court Administration for, Clerk of Court have not previously responded to my requests.

Wherefore, the petitioner moves the Court for a writ of Mandamus directing, Lorry County Clerk of Court, Renee Elvis, to produce Arrest warrant #2017GS26 04406, as listed in Exhibit D, and such other and further relief in favor of the petitioner as the Court deems just and appropriate.

This 16th, day of November, 2020.

Gafaskie Richardson

Sworn to and subscribed before me this 16th day of November 2020

Parvek D. Hefield
Notary Public My Commission expires 2/15/2021

Affidavit

The following facts are sworn to by affiant Gafaskie D. Richardson:

Petitioner, Gafaskie D. Richardson, purpose for this writ is for, I've been allegedly indicted on indictment, 2017GS2604406, but on the face of the indictment, and the body of it, it states the indictment number, and arrest warrant are the same, and the indictment states that I've been arrested on 8/24/2017, which is false, I was at my residence on 8/24/2017 having a birthday party for my son, not getting arrested for trafficking Meth.

Therefore, Petitioner sent requests to the Clerk of Court of Horry County, Renee Elvin, to produce a copy of the alleged arrest warrant # 2017GS2604406, which should have been filed by clerk pursuant to South Carolina Rules of Criminal Procedures

Rule 3

Petitioner contests that an alleged Arrest warrant nor indictment for 2017GS2604406, exists nor was administered under oath. Petitioner needs requested documents for his Posttrial defense claims, and under Authority of State v. Rouse. 86 SC. 374 (1910). Petitioner wishes, Horry County Clerk of Court Produce said document.

affiant
Gafaskie Richardson

On this, 16th, day of November, 2020.

Certificate of Service

I did this date serve, Writ of Mandamus, by placing a copy of the same in a United States Postal service Mail Box, postage paid, and addressed as follows:

Attorney General Office
Dennis Bldg
P.O. Box 11549
Columbia, S.C. 29211

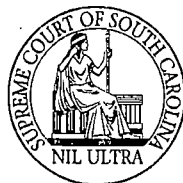
Renee Elvis
Dorcy County, Clerk of Court
P.O. Box 677
Conway, SC 29

This, 16th Day of November, 2020

Gafasie Richerson

Sworn to and subscribed before me this 16th day of November, 2020.

Renee D Hatfield
Notary Public.
My commission expires 3/1/24



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

October 18, 2018

The Honorable Renee Elvis
Horry County Clerk of Court
PO Box 677
Conway, SC 29528-0677

RE: Gafaskie Richardson #256102

Dear Clerk Elvis:

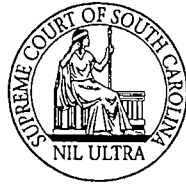
Enclosed is a copy of a letter this office received from the above-referenced person. He is attempting to have documents sent to him from your office. We would appreciate your reviewing this matter and providing any appropriate assistance.

By copy of this letter, this office is advising the above-referenced person that, when requesting documents from the Clerk of Court, the Clerk can require a deposit in advance for the copying and research fees involved with document requests, as provided by S.C. Code Ann. §30-4-30(b). Also, when requesting copies of documents, he will need to include a self-addressed, stamped envelope.

Sincerely,
Court Services Section/AR-EM

cc: Gafaskie Richardson #256102
Wateree River Correctional Institution
Dorm 2 Room 12
PO Box 189
Rembert, SC 29128

Exhibit # B7



South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

June 19, 2019

The Honorable Renee Elvis
Horry County Clerk of Court
PO Box 677
Conway, SC 29

RE: Gafaskie Richardson #256102

Dear Clerk Elvis:

Enclosed is a copy of a letter this office received from the above-referenced person. He is attempting to have documents sent to him from your office. We would appreciate your reviewing this matter and providing any appropriate assistance.

By copy of this letter, this office is advising the above-referenced person that, when requesting documents from the Clerk of Court, the Clerk can require a deposit in advance for the copying and research fees involved with document requests, as provided by S.C. Code Ann. §30-4-30(b). Also, when requesting copies of documents, he will need to include a self-addressed, stamped envelope.

Sincerely,
Court Services Section/AR - EMAIL

cc: Gafaskie Richardson #256102
Wateree River Correctional Institution
Dorm 2 Room 12
PO Box 189
Rembert, SC 29128