

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHAKEL RAKEEM DIXON,

APPELLANT

APPELLATE CASE NO. 2021-000948

MOTION TO HOLD APPEAL IN ABEYANCE

Undersigned counsel respectfully moves this Court to hold the timelines for filing the initial brief of appellant in abeyance pending receipt of an additional transcript of the August 11, 2021 hearing on motion to sever so that the Record on Appeal may be in accord with Rule 210(c) of the South Carolina Appellate Court Rules.

The Initial Brief of Appellant and Designation of Matter in this case are due for filing on April 8, 2022. This case is on its second extension.

Appellant and his co-defendant Denzell Jackson were jointly tried for murder, kidnapping and possession of a weapon during the commission of a violent crime from August 16 – 20, 2021 before the Honorable Clifton Newman and a jury. Appellant was convicted and sentenced to life without the possibility of parole.

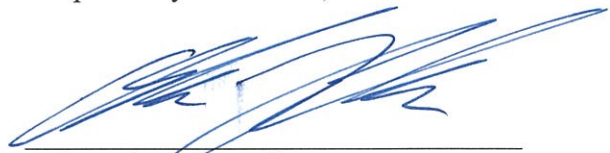
Trial counsel filed a notice of appeal and Appellate Defense was appointed to represent Appellant. Trial counsel informed Appellate Defense that there were no pre-trial hearings and that the entire trial and sentencing occurred from August 16 – 20, 2021.

When undersigned counsel began to read the trial transcript, it became apparent that a pretrial hearing had been held on trial counsel's motion to sever. Exhibit A (pages 16-20 of trial transcript). Upon this discovery, undersigned counsel contacted trial counsel and confirmed that there was a pre-trial hearing on August 11, 2021 before Judge Newman on the motion to sever. Counsel has requested but not yet received the transcript from the August 11, 2021 hearing. Exhibit B (transcript request). Counsel makes this request in good faith and not for purpose of delay.

Counsel for the office of the Attorney General, Melody J. Brown, Esq., has graciously consented to the motion to hold this appeal in abeyance.

WHEREFORE, undersigned counsel respectfully requests this Court grant his motion to hold the appeal in abeyance to obtain the August 11, 2021 hearing on trial counsel's motion to sever transcript so that the Record on Appeal may be in accord with Rule 210(c) of the South Carolina Appellate Court Rules.

Respectfully submitted,



Adam Sinclair Ruffin
Appellate Defender

ATTORNEY FOR APPELLANT

This 25th day of March 2022

cc: Melody J. Brown

EXHIBIT

A

1 trial of Denzell Jackson represented by Keith Johnson and
2 Sha'Kel Dixon represented by Barry Thompson. They are being
3 prosecuted by Jacqui Charbonneau.

4 THE COURT: All right. Mr. Thompson.

5 MR. THOMPSON: Your Honor, we, at this time, would
6 renew our motion to sever but, but other than that Mr. Dixon
7 is prepared to go forward.

8 THE COURT: All right. And Mr. Johnson.

9 MR. JOHNSON: We're ready for trial.

10 THE COURT: Pardon?

11 MR. JOHNSON: We're ready for trial, Your Honor.

12 THE COURT: All right. And, Mr. Thompson, do you have
13 anything additional to offer to what you --

14 MR. THOMPSON: No, sir.

15 THE COURT: -- offered last week?

16 MR. THOMPSON: No, sir, I would stand on my previous
17 argument.

18 THE COURT: All right. Ms. Charbonneau.

19 SOLICITOR CHARBONNEAU: State's ready, Your Honor.

20 THE COURT: And any response to his renewal of the
21 motion?

22 SOLICITOR CHARBONNEAU: No, we stand on the same case
23 law provided.

24 THE COURT: All right. The motion is denied. They're
25 no -- there's no -- there -- you didn't give any

1 constitutional basis afforded by any claim that a joint
2 trial would be prejudicial that I'm aware of.

3 MR. THOMPSON: Your Honor, we, we did argue that some
4 of the, some of the, the evidence that we believe is likely
5 to be presented at trial would be potentially exculpatory
6 under, under a separate trial and, in this trial, it's
7 essentially we're barred from, we're barred from
8 cross-examining it due to a Brewton issue.

9 we can't, we can't question Mr. Jackson about it and
10 that would be the constitutional issue that would -- that we
11 would -- that we earlier, earlier argued supports severance.

12 THE COURT: And specifically what are you talking
13 about?

14 MR. THOMPSON: Your Honor, there are, there are
15 multiple -- there's, there's at least three different pieces
16 of physical evidence that are, a flash suppressor, some
17 rubber gloves, a -- I, I believe a weapon that are found at
18 Mr. Jackson's home pursuant to what I would concede to be a,
19 a lawfully executed search warrant.

20 THE COURT: Mr. Jackson is your client?

21 MR. THOMPSON: No, sir.

22 THE COURT: Mr. Jackson is---

23 MR. THOMPSON: Jackson is---

24 THE COURT: ---not your client?

25 MR. THOMPSON: ---is, is---

1 THE COURT: So they're filing---

2 MR. THOMPSON: ---the -- a codefendant. There's---

3 THE COURT: There's incriminating evidence at Jackson's
4 home?

5 MR. THOMPSON: Correct.

6 THE COURT: All right. And --?

7 MR. THOMPSON: And if, if these gentlemen were tried
8 separately, one of the arguments that would be made would be
9 the incriminating physical evidence is found at Mr.
10 Jackson's home. It's not found in a search warrant subject
11 to anything from Mr. Dixon.

12 In this circumstance though Mr. Jackson has the right
13 to remain silent. I'm not able to cross-examine him on
14 whether or not Mr. Dixon has anything to do with some --
15 with the items that are found at Mr. Jackson's house. And,
16 and that, we would argue, would be a, a Brewton issue that
17 would, that would support severance because it's a---

18 THE COURT: And what would be---

19 MR. THOMPSON: It's a substantive trial right that,
20 that fits under the---

21 THE COURT: What precludes you from making that
22 argument?

23 MR. THOMPSON: I can make the argument to the jury.

24 THE COURT: Right.

25 MR. THOMPSON: But I, but I can't question Mr. Jackson

1 about it, and, and that would be our, our argument for
2 severance with the concern being---

3 THE COURT: When would you ever be able to question
4 Mr. Johnson (sic)?

5 MR. THOMPSON: Well, if Mr. Jackson were tried
6 separately, our understanding is that he probably would be
7 tried prior to Mr. Dixon's trial, and, once he is tried, he
8 will not have any jeopardy concerning testimony related to
9 the stuff. He'd already been tried for it and we could
10 be -- and we would be able to question him about the
11 material but it -- that, that was our argument at the
12 motions---

13 THE COURT: Whoever's presenting that evidence, I
14 assume they'll be witnesses, you can, you can still give the
15 same cross-examination that you find that Jackson's not at
16 Dixon's residence and et cetera.

17 MR. THOMPSON: Yes, sir.

18 THE COURT: You'd still be able to present that same,
19 same --

20 MR. THOMPSON: Yes, sir.

21 THE COURT: -- approach to -- and argue to the jury
22 that it does not indicate that your client is involved or
23 whatever the argument might --

24 MR. THOMPSON: Yes, sir.

25 THE COURT: -- the argument might be.

1 MR. THOMPSON: Yes, sir, that's correct.

2 THE COURT: All right. Any response to that, Ms.
3 Charbonneau?

4 SOLICITOR CHARBONNEAU: Judge, other than the cases
5 being tried together or separately, they would not be able
6 to call Mr. Jackson even if he was tried first, which that's
7 not a guarantee. He is still a defendant who then would be
8 on appeal. So, he would not be able to call him as a
9 witness.

10 Any evidence that's, that's entered in this joint trial
11 is the same evidence that would be entered in a separate
12 trial, and that's the reason for cross-examination, and he
13 can argue that to the jury in closing.

14 THE COURT: All right. I, I agree with the State and,
15 and my ruling is the same and the motion is denied.

16 MR. THOMPSON: Thank you, Your Honor.

17 THE COURT: So, Mr. Jackson, Denzell Jackson, if y'all
18 stand for me and we're gonna swear you in. I'm gonna ask
19 you some, some questions.

20 THE CLERK: Please raise your right-hand.

21 (WHEREUPON, Defendant Jackson was placed under oath at
22 this time.)

23 THE CLERK: Your Honor, he's been sworn.

24 THE COURT: All right. And, Mr. Johnson, have you
25 conferred with Mr. Jackson regarding his vaccination status?

EXHIBIT

B



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1345

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 23, 2022

DCRP
Court Administration
1220 Senate Street, Suite 200
Columbia, SC 29201

Dear DCRP:

Please provide us with the following transcript:

The State v. Shakel Rakeem Dixon

Case #: 2019-GS-02-02016, 2019-GS-02-02017, 2019-GS-02-02018

Appellate Case No. 2021-000948

County: Aiken

Date of Trial: 8/11/2021

Presiding Judge: Clifton Newman

Pursuant to the SC Court Reporter's Manual, please number the lines on the paper from 1-25 and include any and all recorded motions (pretrial and post-trial). Consecutive numbering of pages must be used throughout all volumes regardless of the number of volumes involved. Additionally, please transcribe the **jury selection** and the State and defense counsel's **opening and closing arguments** and include the **jury strike sheet**. Please be sure to include **headers** and a **complete index** including a **listing of exhibits**. **Please, do not include keyword indexing.**

If you are aware of any co-defendants, additional transcripts, or if the Attorney General's Office has already requested a transcript, please let us know.

SCCID **prefers** that all transcripts are sent via **certified mail**. If you choose to send transcripts electronically, you must use the SC Department of Technology's file transfer service at <https://scfiledrop.sc.gov>. New users click the register button to sign up for the service. For assistance with registration or passwords, contact the SC Department of Technology Service Center at 803-896-0001, option 2.

To ensure prompt payment, please sign and complete the enclosed form and include the original criminal case number (indictment number) where the space is provided.

Sincerely,

Scott Leverett
Administrative Assistant

cc: S. C. Court of Appeals
Attorney General's Office
S. C. Court Administration