

North Carolina Court of Appeals

Docket Sheet

Bobbitt v Safrit., et al

Case Number: P14-766

As of: 03/29/2024

Case Closed: Yes

Close Date:

Case Type: Criminal (Crim_othr)

Mediation: No

KENNETH D. BOBBITT

V.

DANNY SAFRIT, ADMINISTRATOR,
ALEXANDER CORRECTIONAL INSTITUTION

AND

ROY C. COOPER, III,
ATTORNEY GENERAL,
STATE OF NORTH CAROLINA.

Docket Date:		File Date:		File Time:		Acquired Date:	10-02-2014
Bond Collected:	No	Docket Fee:	No	Pauper:	No	Print Deposit:	No
						State Appeals:	No

History

Venue: Alleghany (34) **Heard In:** Superior Court

To SC: **From SC:**

Lower Court Number(s)

Location: Alleghany (34)

Judge:

Case #: 13CRS3050 98CRS857-60

Tracking/Argue

Opinion

Documents

Document	Date Recvd	Cert of Service	Rec/Brf Due	Resp. Due	Resp. Recvd	Mailed Out	Ruling	Ruling Date
(1) PHC	10-02-2014	09-26-2014					Special Order	10-06-2014
(2) PWC	10-02-2014	09-26-2014			see below		Special Order	10-16-2014

1 - PHC (Special Order) - 10-06-2014
 Filed: 10-02-2014 @ 07:26:24
 FOR: Plaintiff-Appellant Bobbitt, Kenneth Delano
 BY : Ms. Anna S. Lucas
 LAW OFFICE OF ANNA S. LUCAS, PLLC

The following order was entered:

The petition filed in this cause by defendant Kenneth D. Bobbitt on 2 October 2014 and designated 'Petition for Writ of Habeas Corpus or, in the Alternative, Petition for Writ of Certiorari' is decided as follows: It appearing that there is possible merit to defendant's argument challenging the sufficiency of the indictments for first-degree sexual offense, the State is hereby directed to file a response to the petition by 10 October 2014. A copy of this order shall be served on the criminal appellate section of the attorney general's office.

By order of the Court this the 6th of October 2014.

The above order is therefore certified to the Clerk of the Superior Court, Alleghany County.

2 - PWC (Special Order) - 10-16-2014
 Filed: 10-02-2014 @ 07:27:14
 FOR: Plaintiff-Appellant Bobbitt, Kenneth Delano
 BY : Ms. Anna S. Lucas
 LAW OFFICE OF ANNA S. LUCAS, PLLC

The following order was entered:

The petition filed in this cause by defendant Kenneth D. Bobbitt and designated 'Petition for Writ of Habeas Corpus or, in the Alternative, Petition for Writ of Certiorari' is allowed as follows: On 23 March 1999, defendant pled guilty to four counts of first-degree statutory sex offense and four counts of indecent liberties. The convictions were consolidated into one judgment imposing 288 to 355 months in prison. Because the indictments for first-degree statutory sex offense failed to allege all of the essential elements of that offense and also allege elements contained in the distinct offense of statutory rape or sex offense of a 13, 14, or 15 year old, which was not charged, without alleging all of the elements of either offense, the trial court lacked jurisdiction to enter judgment. State v. Miller, 159 N.C. App. 608, 583 S.E.2d 620 (2003), aff'd per curiam, 358 N.C. 133, 591 S.E.2d 520 (2004). Accordingly, we vacate the judgment entered 23 March 1999 by Judge L. Todd Burke and order the trial court to conduct a hearing to determine whether defendant is entitled to his immediate release from custody.

A copy of this order shall be sent to the senior resident superior court judge and district attorney of the Twenty-Third judicial district.

By order of the Court this the 16th of October 2014.

The above order is therefore certified to the Clerk of the Superior Court, Alleghany County.

RESPONSE TO PWC
 Filed: 10-10-2014
 BY : Ms. Kimberly N. Callahan
 N.C. DEPARTMENT OF JUSTICE

RESPONSE TO PWC
 Filed: 10-15-2014
 BY : Ms. Anna S. Lucas
 LAW OFFICE OF ANNA S. LUCAS, PLLC

Financial Information

Receipts

Date Charged	Charge Type	Amount Charged	Amount Paid	Document	Pages	Receipt #	Date Paid
	Pre Docket Fees	10.00	0.00				

Exhibits

Parties

Party Name	Role
Bobbitt, Kenneth Delano	Plaintiff-Appellant
Safrit, Danny	Defendant-Appellee
Cooper, Roy Attorney General	Defendant-Appellee

Attorneys

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