

STATE OF TENNESSEE

IN THE CRIMINAL COURT
OF HAMILTON COUNTY
CHATTANOOGA, TN.
DIVISION II

V.

DONYELL HOLLAND

)
)
) Case No: 311001, 317210
) Honorable Judge Amanda Dunn

FILED IN OFFICE

2024 OCT 22 PM 2:03

VINCE DEW, CLERK

BY DC

MOTION TO DISMISS
SUPERSEDED INDICTMENTS
FOR DUE PROCESS VIOLATIONS

COMES NOW the Defendant, Donyell Holland, representing Self Pro'se, and Respectfully moves this Honorable Court to Dismiss the Superseded Indictment issued against Mr. Holland in Case No. 317210, on the grounds that the superseded indictments violated Donyell Holland due process rights guaranteed under the Fourteenth Amendment of the United States Constitution as well as under the Tennessee Constitution.

FACTUAL BACKGROUND:

The Defendant was originally indicted on the charge of First Degree Premeditated Murder on the date of March 17th 2021.

The State issued superseded indictments on 4-23-20 which modified the charges, including: 1) First degree murder, 2) Felony murder, 3) especially aggravated Kidnapping, 4) employing a firearm during the commission of a dangerous felony, 5) possession of a firearm with prior violent felony convictions

The superseding indictments were issued without sufficient notice, proper clarity, or the opportunity for the Defendant to adequately prepare a defense, thereby Violating Fundamental due process principles.

LEGAL ARGUMENT:

Lack of Adequate Notice and Deficiency in the Indictments:

The U.S. SUPREME COURT, in *Russell v. United States*, 369 U.S. 749 (1962), held that an indictment must provide sufficient clarity and specificity to allow the defendant to understand the nature of the accusations and adequately prepare a defense. The superseded indictment in this case failed to provide such clarity, thereby denying the Defendant his right to a fair trial and defense preparation.

The due process protections in *United States v. Cruikshank*, 92 U.S. 542 (1876) reaffirm that a defendant has the right to be fully informed of the nature and cause of the accusations against them. Any vagueness or broadening of the charges, as in this case, violates this fundamental right.

Unlawful Expansion of Indictments During Proceedings:

In *Stirone v. United States*, 361 U.S. 212 (1960), the Supreme Court ruled that when an indictment is broadened or modified beyond the scope initially authorized by the grand jury, it constitutes a fatal flaw and is grounds for dismissal.

The superseded indictments in this case expanded the scope of the charges without proper adherence to procedural safeguards, thus rendering the charges Constitutionally Invalid.

The principle of *Nullum tempus occurrit regi* (Time does not run against the King) reminds us that statutes of limitations and procedural deadlines protect the integrity of the judicial process.

Violating the timing and content integrity of indictments disregards this maxim.

Prejudicial Impact on Defendants Rights:

The Court in *United States v. Cotton*, 535 U.S. 625 (2002), emphasized that any defects in an indictment that prejudice the defendants substantial rights amount to a Violation of due process. In this case, the lack of proper notice and clarity regarding the charges severely prejudiced the Defendant's ability

to mount a full and adequate defense, warranting dismissal of the superseded indictments.

MAXIM:

Actus curiae neminem gravabit (An act of the court shall prejudice no one) applies here. The expansion and ambiguity of the indictments issued against the Defendant amount to a judicial error that prejudiced his rights, and it is this Courts duty to rectify such errors.

CONCLUSION:

Wherefore, based on the above case precedents and legal principles, the Defendant Respectfully requests that this Court dismiss the superseded indictments in their entirety, as they violate his Constitutional Rights to due process, fairness, and adequate Notice.

On this 18th day of October 2024.

Respectfully Submitt
Donzell D. Holloman
pro'se counsel

I swear under the penalty of perjury,
that the foregoing motion is True,
and accurate to the best of my Knowledge.

CERTIFICATE OF SERVICE

I hereby certify that I mailed or otherwise delivered a true and exact copy of the foregoing Motion to all parties of interest or their counsel on this 18th day of October 2024.

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