

STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions
Larry B. Hyman Jr., Circuit Court Judge

CASE NO: 2012GS2603176

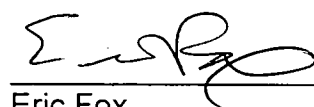
The State, Respondent,
Anthony Grate, Appellant.

FILED
HORRY COUNTY
2013 MAY 14 AM 8:34
MELANIE HUGGINS-WARD
CLERK OF COURT

NOTICE OF APPEAL

Anthony Grate, appeals the conviction and sentence in this case. The sentence was imposed by the Honorable Larry B. Hyman Jr., on May 7, 2013.

May 8, 2013



Eric Fox
Public Defender
Horry County Public Defender Office
Post Office Box 1666
Conway, SC 29528
843-915-5385
Attorney for Appellant

CERTIFIED COPY
2013 MAY 20 PM 11:46
Melanie Huggins-Ward
CLERK OF COURT
HORRY COUNTY

Other Counsel of Record

Martin Spratlin
Solicitor
Post Office Box 1276
Conway, SC 29528
843-915-5460
Attorney for Respondent

RECEIVED

MAY 13 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions
Larry B. Hyman Jr. , Circuit Court Judge

CASE NO: 2012GS2603176

The State, Respondent,

V.

Anthony Grate , Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of the Notice in the United States Mail, postage prepaid, on May 14, 2013, addressed to the attorney of record:

Martin Spratlin
Solicitor
Post Office Box 1276
Conway, South Carolina, 29528
Attorney For Respondent

May 14, 2013



Eric Fox
Public Defender
Horry County Public Defender Office
Post Office Box 1666
Conway, SC 29528
843-915-5385
Attorney for Appellant

FILED
HORRY COUNTY
2013 MAY 14 AM 8:34
MELANIE HUGGINS-WARD
CLERK OF COURT

CERTIFIED COPY
2013 MAY 20 PM 11:46
Melanie Huggins-Ward
CLERK OF COURT
HORRY COUNTY

RECEIVED

MAY 16 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

STATE OF SOUTH CAROLINA)

-VS-)

ANTHONY GRATE

DEFENDANT)
_____)

RULE 203 (B) (iv)
WRITTEN EXPLANATION OF
NO
BASIS FOR APPEAL

PERSONALLY appeared before me Eric Fox, who being duly sworn
deposes and says :

1. I represented the above named defendant before Larry B. Hyman Jr. on May 7, 2013 at

which time the defendant enter a guilty plea to his/her pending charges

2. No issues of law or fact, were raised before the Judge at that time that could be the basis for an Appeal in this matter.

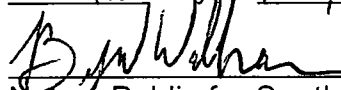
3. The defendant requested this appeal be filed based on the language used by the plea judge informing the client he has the right to appeal his guilty plea within ten (10) days.

4. I informed defendant that there were no issues to appeal.

5. Defendant requested the Appeal be filed.

Sworn to and Subscribed before me

13th day of May, 2013



Notary Public for South Carolina
My Commission expires: October 26, 2021


Signature of Attorney for Defendant

J. Eric Fox
Print name of Attorney for Defendant

FILED
HORRY COUNTY
2013 MAY 14 AM 8:34
MELANIE HUGHINS-WARD
CLERK OF COURT
CERTIFIED COPY
2013 MAY 20 PM 11:46
Melanie Hughins-Ward
CLERK OF COURT
HORRY COUNTY

COUNTY OF Horry
 STATE VS.
Anthony Jamell Grate
 AKA:
 Race: BLACK Sex: M Age: 33
 DOB: 02-07-1980 SS#: 249-43-1623
 Address: 5898 Miller Road
 City, State, Zip: Tabor City, NC 28463
 DL#: 101441872 SID#:
 *CDL Yes No CMV Yes No Hazmat Yes No

INDICTMENT/CASE#: 2012GS2603176
 A/W#: 1228527
 Date of Offense: 5/6/2012
 S.C. Code § : 16-03-0652
 CDR Code #: 0160

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State:
 Spratlin, Martin D. SCB77061 Defendant Attorney for Defendant J. E. Ego SC Bar# 2013 MAR 14 AM 8:34

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ 25.00 beginning 6/11/13
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Appointed PD or appointed other counsel.
 § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Melanie Huggins-Ward
 Court Reporter: Kay Richardson
 SCCA/217 (03/2011)

Presiding Judge _____
 Judge Code: 2152
 Sentence Date: 5-7-13

Quarantined 4-11-13 BBA

CLERK OF COURT
 Horry County
 2013 MAY 20
 CERTIFIED COPY
 2013
 15123
 14
 AM 8:34

WITNESSES

Tabitha Scott Smith Horry County Police
Department

DOCKET NO. 2012-GS-26-031710

The State of South Carolina

County of Horry

Candice Lively

12H02182

COURT OF GENERAL SESSIONS

August, 2012 TERM

THE STATE

vs.

Anthony Jamell Grate
B/M
675 Letha Ln
Loris, SC 29569-8081
DOB: 1980-02-07
SSN: 249431623

ATTORNEY: Fox, J. Eric

Indictment for

CRIMINAL SEXUAL CONDUCT, FIRST
DEGREE

MELANIE HUGGINS, WIFE
CLERK OF COURT
ORIGINAL

2013 MAY 14 AM 11:46
J. Gregory Hembree, Solicitor

FILED
HORRY COUNTY

CERTIFIED COPY

2013 MAY 20 PM 11:46

Foreperson of Petit Jury
Date:

ARREST WARRANT NUMBER

1228527

CDR: 0160 16-03-0652

DOA: 5/15/2012

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: AUG 23 2012

VERDICT

CLERK OF COURT
HORRY COUNTY

Melanie Huggins

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on August 23, 2012, the Grand Jurors of Horry County present upon their oath:

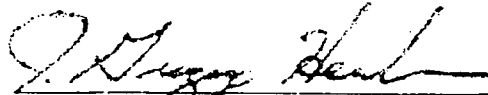
CRIMINAL SEXUAL CONDUCT, FIRST DEGREE

CDR: 0160 16-03-0652

That Anthony Jamell Grate did in Horry on or about May 6, 2012, engage in sexual battery with Sarah Ray, while the victim was also the victim of forcible confinement, kidnapping, robbery, extortion, burglary, housebreaking, or any other similar offense or act, in violation of Section 16-03-0652, S. C. Code of Laws, 1976, as amended.

FILED
HORRY COUNTY
2013 MAY 14 AM 8:35
MELANIE HUGGINS-WARD
CLERK OF COURT

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


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

2013 MAY 20 PM 11:46
Melanie Huggins-Ward
CLERK OF COURT
HORRY COUNTY

CERTIFIED COPY

ARREST WARRANT

1-228527

STATE OF SOUTH CAROLINA

County/ Municipality of

Horry

THE STATE

Anthony Jamell Grate

Address: 675 Letha Ln

Loris, SC 29569-8081

Phone: SSN: 249-43-1623

Sex: M Race: B Height: 6 Weight: 185

DL State: SC DL #: 101441872

DOB: 2/7/1980 Agency ORI #: SC0260400

Prosecuting Agency: Horry County Police Department

Prosecuting Officer: Paul Vescevi - 1822

Offense: Sex / Criminal sexual conduct - First degree

Offense Code: 0160

Code/Ordinance Sec: 16-03-0652

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

is to be arrested and brought before me to be dealt with according to the law.

(I.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Anthony S. Vescevi on 5-15-12

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SSCA 518

Horry County/ Municipality of)
Horry)
I, Paul Vescevi, do hereby depose and say that defendant Anthony Jamell Grate did within this county and state on or about 05/06/2012 violate the criminal laws of the State of South Carolina in the following particulars:
2012 MAY 20 2 21 PM Horry County
2012 MAY 20 2 21 PM Horry County
2012 MAY 20 2 21 PM Horry County

Sex / Criminal sexual conduct - First degree
CLERK OF COURT
HORRY COUNTY

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 May 6, 2012, the defendant did covertly enter the victim's vehicle while she conducted business inside the Wilco Gas Station located at 5370 Broad St. in the Loris section of Horry County. Upon the victim entering into her vehicle and driving away, the defendant made himself known to her commanding her to drive to a nearby location where he forcibly had sexual intercourse and oral sex with the victim while alleging he had a weapon and making threats to harm the victim. The defendant also stole two rings from the victim during the commission of the crime. The defendant was captured on store surveillance contemporaneous to the incident and was identified by the victim and law enforcement personnel from Columbus County Sheriff's Office and the city of Loris. Based on the information there is probable cause to believe the defendant did commit the offense of Criminal Sexual Conduct 1st pursuant to section 16-03-0652
Call # 12043443 D Vescevi

Signature of Affiant

STATE OF SOUTH CAROLINA

Affiant's Address: 2560 N. Main Street
Conway, SC 29526

Affiant's Telephone: (843)915-5350

Horry

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 5/6/2012 defendant Anthony Jamell Grate did violate the criminal laws of the State of South Carolina (or ordinance of Horry) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - First degree

Having found probable cause and the above affiant having sworn that 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, 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 05/10/2012)
Mark A Harris)
Judge Code: 7152)
Judge's Address: 3817 Walnut Street
Loris, SC 29569
Judge's Telephone: (843)756-7918
Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF Horry)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

CERTIFICATE OF REPRESENTATION
(APPOINTING AS COUNSEL)

-VS-)
ANTHONY GRATE)

ERIC FOX

DEFENDANT)

FILE NO: 26A12-00001499

SSN: 249-43-1623

TO: Court of General Sessions of the Fifteenth Judicial Circuit
Office of the Solicitor
Appointed Counsel
Defendant

This certifies that the above captioned Defendant is eligible for the services of the Public Defender, such determination having been made on, 1st day of June, 2012, regarding the charge(s) of:

I-228527 Sex / Criminal sexual conduct - First degree

I-228528 Kidnapping / Kidnapping

I-228530 Robbery / Armed Robbery, robbery while armed with a deadly weapon

The Defendant's Counsel is Eric Fox. The office of the Public Defender requests on the Defendant's behalf any and all evidence in the possession of you and your agents pursuant to S.C. Criminal Practice Rule 5, and Brady v. Maryland, 373 U.S. 383 (1963). The formal Motion for Discovery is attached.



ORRIE E. WEST
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

CONWAY, SC
DATED: June 1, 2012

FILED
HORRIFIED
2012 JUN -1 AM 9:38
MELANIE ROBERTSON
CLERK OF COURT

CERTIFIED COPY
2012 MAY 29 AM 11:46
CLERK OF COURT
HORRIFIED

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSION
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

NOTICE AND MOTION FOR PRODUCTION
OF SPECIFIC EVIDENCE AND
DISCLOSURE OF WITNESSES

-VS-

ANTHONY GRATE
DEFENDANT)

FILED
HORRY COUNTY
2013 MAY 11 AM 8:35
MELANIE HUBBINS
CLERK OF COURT

FILE NO: 26A12-00001499

SSN:: 249-43-1623

TO: SOLICITOR FOR THE FIFTEENTH JUDICIAL CIRCUIT

FILED
HORRY COUNTY
2012 JUN 11 AM 3:59
MELANIE HUBBINS
CLERK OF COURT

YOU WILL PLEASE TAKE NOTICE that unless the prosecution responds to the Defendant's request for disclosure within 30 days, or within such time as may be ordered by the Court, Counsel for the Defendant will move this Court for an Order compelling that the State:

1. Make available for Defendant any and all written and oral statements by the Defendant which are, or may come to be, in the possession of the State.
2. Make available for purposes of inspection, and copying, any and all police reports relating to the investigation and circumstances surrounding the crime which the Defendant is charged with, including any and all statements taken from witnesses and the Defendant.
3. Make available to the Defendant all tangible objects obtained during the investigation of this case, including, but not limited to:
 - (a) All tangible objects obtained from the scene of the crime; and
 - (b) All tangible objects obtained from the State's witnesses in this case.
 - (c) All tangible objects the State intends to introduce into evidence at Trial which are relevant to the offense charged.
4. Make available any witnesses known to the State who have knowledge of facts which might be favorable to the Defendant.
5. Make available any promises made or actions taken by the State which caused or might have caused any witnesses for the State to testify on behalf of the State.
6. Make available any inconsistent statements made by witnesses for the State or any statements made by witnesses for the State which tend to exculpate the Defendants or to negate participation by the Defendants in the alleged crime.
7. Make available to the Defendant all results of laboratory tests, scientific tests, or physical examinations conducted in connection with this case, including but not limited to:
 - (a) Analysis of handwriting
 - (b) Photographs secured of the scene of the crime
 - (c) Comparison of fingerprints

FILED
HORRY COUNTY
2013 MAY 20 AM 11:45
MELANIE HUBBINS
CLERK OF COURT

8. Make available any facts which tend to exculpate the Defendant.
9. Make available any and all scientific or medical, psychiatric, legal or other information, reports or records which might tend to reflect on the credibility or competence of any of prospective witnesses for the State.
10. Make available to the Defendant the names and addresses of all persons who have knowledge of this case or who have been interviewed by the investigating officers in connection with this case.
11. Make available to the Defendant, the SLED, FBI, and local arrest and conviction records of all persons, including the Defendant, named in connection with this proceeding.
12. Make any chemist, analyst, and all persons within the chain of custody appear in Court for the purpose of personally testifying. Attorney for the Defense thus objects to the introduction of any chemist's or analyst's report pursuant to Rule 6, S.C. Rules of Criminal Procedure.

This information is requested pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure. This information is further requested pursuant to Brady vs Maryland, 373 U.S. 383, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963), U.S. vs Agurs, 427 U.S. 97, 49 L Ed 2nd 342, 96 S. Ct. 2392 1976, State vs Mixon 274 S.E. 2nd 406 (1981). Further this information is requested on the grounds that it is essential to insure the Defendant's right to a fair trial, right to confrontation of witnesses, the right to effective Counsel and due process of law guaranteed by the South Carolina Constitution, and the United States Constitution.

WHEREFORE, Defendant prays:

- (a) That the Solicitor be Ordered to produce all information described herein and allow the Defendant the right to examine, inspect, copy and photograph such materials and information at a specific time and place to be fixed by the Court.
- (b) That the information be provided no later than 30 days from the date of this request, as reflected by the Clerk of Court's time-stamp appearing on the face of this Document.
- (c) That the Court enter an Order requiring the Solicitor's Office to make continuing disclosure of all matters requested herein up to and during the Trial of the charges against the Defendant.

RESPECTFULLY SUBMITTED,



ORRIE E. WEST
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

DATED: June 1, 2012
CONWAY, SOUTH CAROLINA

FILED
 Horry County
 CLERK OF COURT
 JAMES W. JAGGINS, JR.
 2012 MAY 14 AM 8:25
 CERTIFIED COPY
 2012 MAY 20 PH11-46
 M. Elaine Mcginnis-Ward
 CLERK OF COURT
 Horry County

Fifteenth Circuit Public Defender

HORRY & GEORGETOWN COUNTIES

HORRY

Edward "Ed" Chrisko
CHIEF PUBLIC DEFENDER
203 LAUREL STREET
P.O. Box 1666
CONWAY, SC 29526



GEORGETOWN
Ronald Hazzard
SENIOR TRIAL ATTORNEY
401 CLELAND STREET
P.O. Box 2898
GEORGETOWN, SC 29440

Orrie E. West

CIRCUIT PUBLIC DEFENDER

TEL: 843-915-5385
FAX: 843-915-6385

WWW.HGCDEFENDER.ORG

TEL: 843-545-3671
FAX: 843-545-3673

MAY 8, 2013

The Honorable Jeanette Barber
Clerk of the South Carolina Court Of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: STATE OF SOUTH CAROLINA VS. ANTHONY GRATE
CASE NO: 2012GS2603176

Dear Ms. Barber:

Enclosed for filing is a Notice of Appeal in the above criminal case. Also enclosed are the following:

1. Proof of Service of the Notice of Appeal on the Respondent.
2. A copy of the Order(s)/ Sentence Sheet(s) which is/are to be challenged on appeal.
3. Self-addressed stamped envelope

I would appreciate your filing the Notice of Appeal, as well as the Proof of Service, and returning to me the date-stamped copies in the enclosed self addressed envelope.

If you have any questions concerning this matter please contact me.

Sincerely,

Eric Fox
Horry County Public Defender
Post Office Box 1666
Conway, South Carolina, 29528
Phone: 843-915-5385

RECEIVED

MAY 16 2013

SC Court of Appeals

NOTICE TO APPELLATE DEFENSE

To: Division of Appellate Defense/ Office of Attorney General

From: L. Bellamy

Date: May 24, 2013

Re: Notice of Filing of Notice of Appeal

Case Name: The State v. Anthony Grate

Case Number: 2012-GS-26-03176

County: Horry

Date of Filing: May 16, 2013

Filed by: Eric Fox, Esquire

Judge: The Honorable Larry B. Hyman

Hearing Date: May 7, 2013

Guilty plea: Yes