

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM HORRY COUNTY  
Court of General Sessions

Duane Shuler, Circuit Court Judge

Case Nos.: 94-GS-26-1381  
94-GS-26-1383  
94-GS-26-1393

The State, . . . . . Respondent.

v.

David Dixon, . . . . . Appellant.

NOTICE OF APPEAL

David Dixon appeals his convictions and sentences in these cases. The sentences were imposed by the Honorable Duane Shuler on January 19, 1996.

January 22, 1996.

*David Dixon*

David Dixon, Appellant, pro se  
SCDC # 217520 Cooper Unit B8  
Lieber Correctional Institution  
P.O. Box 205  
Ridgeville, South Carolina 29472-0205  
(No Telephone)

SWORN AND SUBSCRIBED TO BEFORE ME  
THIS 22nd DAY OF JANUARY, 1996.

*J. M. Williams*

NOTARY PUBLIC IN AND FOR THE  
STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES: *1/27/2000*

cc: Ralph Wilson, Solicitor (Counsel for Respondent)

P.O. Box 1276  
Conway, S.C. 29526

Clerk of Court for Horry County

P.O. Box 677  
Conway, S.C. 29526

S.C. Office of Appellate Defense

1122 Lady St., Suite 940  
Columbia, S.C. 29201

Hon. Charles M. Condon (Counsel for Respondent)

Attorney General for the State of South Carolina

P.O. Box 11549  
Columbia, S.C. 29211-1549

RECEIVED  
JAN 23 1996  
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM Horry COUNTY  
Court of General Sessions

Duane Shuler, Circuit Court Judge

Case Nos.: 94-GS-26-1381  
94-GS-26-1383  
94-GS-26-1393

The State, . . . . . Respondent.


v.

David Dixon, . . . . . Appellant.

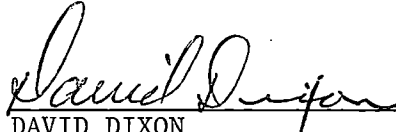
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State by depositing copies in the United States Mail, postage prepaid, on this day, addressed to Counsel of Record for the State, Ralph Wilson, Solicitor, P.O. Box 1276, Conway, South Carolina 29526, and by depositing copy in the United States Mail, postage prepaid, to Hon. Charles M. Condon, Attorney General for the State of South Carolina P.O. Box 11549, Columbia, South Carolina 29211-1549.

SWORN AND SUBSCRIBED TO BEFORE ME  
THIS 22nd DAY OF JANUARY, 1996.

  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 7/27/2000

  
\_\_\_\_\_  
DAVID DIXON  
SCDC #217520 COOPER UNIT B8  
LIEBER CORRECTIONAL INSTITUTION  
P.O. BOX 205  
RIDGEVILLE, SOUTH CAROLINA 29472-0205  
(NO TELEPHONE)

96-CR-0169

PM 1-24-96  
POS 1-24-96

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

4-29

*M. Duane*

Appeal From Horry County  
Court of General Sessions  
Honorable Malcom D. Shuler  
Circuit Court Judge  
Case Nos. 1381, 1383 & 1393

*94-65-26*

The State, . . . . . Respondent.

v.

David E. Dixon, . . . . . Appellant.

NOTICE OF APPEAL

David E. Dixon appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Malcom D. Shuler, on January 19, 1996.

January 23, 1996

*David H. Breen*

David Hart Breen  
4603 Oleander Dr., Suite 5,  
Myrtle Beach, South Carolina 29577  
803-449-4455  
Attorney for Appellant

Other Counsel of Record:

Blake Martin  
Deputy Solicitor  
Post Office Box 1276  
Conway, South Carolina 29526

RECEIVED  
803-278-1318

JAN 25 1996

S. C. SUPREME COURT

STATE OF SOUTH CAROLINA )	IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY )	FIFTEENTH JUDICIAL CIRCUIT
	CASE NUMBERS: 94-GS-26-1381
	94-GS-26-1383
STATE OF SOUTH CAROLINA, )	94-GS-26-1393
Plaintiff, )	
vs. )	CERTIFICATE OF MAILING
DAVID EDWARD DIXON, )	
Defendant. )	

The undersigned hereby certifies that he served the documents described below by sending same by depositing same in the United States Mail on the date set forth below, to the following in an envelope with a return address and with the proper postage affixed thereto:

TO: Blake Martin, Deputy Solicitor  
P.O. Box 1276  
Conway, SC 29526

The Honorable Clyde N. Davis, Jr.  
Clerk of the South Carolina Supreme Court  
Post Office Box 11330  
Columbia, SC 29211

- DOCUMENT(S):
- 1) NOTICE OF APPEAL
  - 2) CLOCKED COPY OF NOTICE OF APPEAL FAILED WITH HORRY COUNTY CLERK OF COURT
  - 3) CERTIFICATE OF MAILING

DATE OF MAILING: January 24, 1996.

FILED  
HORRY COUNTY  
95 JAN 25 1996  
CLERK OF COURT  
WILLIAM ROSSON

*David H. Breen*

David H. Breen, Esquire

**RECEIVED**

JAN 25 1996

HORRY COUNTY

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

Appeal From Horry County  
Court of General Sessions  
Honorable Malcom D. Shuler  
Circuit Court Judge  
Case Nos. 1381, 1383 & 1393

FILED  
HORRY COUNTY  
SS JAN 23 PM 2:32  
BILLY G. ROBINSON  
CLERK OF COURT

\_\_\_\_\_  
The State, . . . . . Respondent

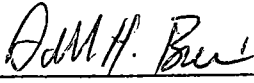
v.

David E. Dixon, . . . . . Appellant.

\_\_\_\_\_  
NOTICE OF APPEAL  
\_\_\_\_\_

David E. Dixon appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Malcom D. Shuler, on January 19, 1996.

January 23, 1996

  
\_\_\_\_\_  
David Hart Breen  
4603 Oleander Dr., Suite 5,  
Myrtle Beach, South Carolina 29577  
803-449-4455  
Attorney for Appellant

Other Counsel of Record:

Blake Martin  
Deputy Solicitor  
Post Office Box 1276  
Conway, South Carolina 29526  
803-248-1318

RECEIVED

BLAKE MARTIN, ESQUIRE  
ASSISTANT SOLICITOR FOR  
HORRY COUNTY  
S.C. SUPREME COURT  
CONWAY, S.C. 29526

DAVID DIXON  
SCDC #217520 Computer Unit B8  
Lieber Correctional Institution  
P.O. Box 205  
Ridgeville, S.C. 29472-0205

January 31, 1996

RE: State of S.C. vs. David Edward Dixon  
94-GS-26-1381, 1383, & 1393

Dear Solicitor Martin:

I received today a letter from the Clerk of Court for Horry County informing me that they received my Motion for Reduction (Reconsideration) of Sentence, and that due to a filing of a Notice of Appeal, the Solicitor's Office forwarded a copy of the motion to the Attorney General's Office for action deemed appropriate.

The motion was filed within the required ten (10) days. The Circuit Court, (Court of General Sessions), has jurisdiction over the motion, to my information and belief. I am informed and believe that the appeal should be put into abeyance pending the outcome of the motion. I am informed that at the outcome of the motion, I will then have ten (10) days to refile Notice of Appeal if I desire to.

By copy of this letter I am requesting the Honorable Clyde N. Davis, Jr. place my appeal into abeyance until the motion for sentence reduction (reconsideration) is ruled upon with a final Order.

I would appreciate your facilitating this matter (motion) being heard at the earliest convenience of the Court.

Thanking you for your assistance in this matter, I remain

Very truly yours,



David Dixon

cc: Honorable Clyde N. Davis, Jr., Clerk of Court, S.C. Supreme Court  
Clerk of Court for Horry County (Attn: Dianne P. Larrimore, Admin. Asst.)



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

4-29

January 29, 1996

Ms. Loriene French  
Legal Services Coordinator  
South Carolina Office of Appellate Defense  
1122 Lady Street, Suite 940  
Columbia, SC 29201

RE: The State v. David Edward Dixon  
(Horry County)

Dear Loriene:

As the lead attorney for the State in the above appeal, I would appreciate your staff sending any material pertaining to the above matter directly to me.

Thanks for passing this information to the appropriate attorney.

Sincerely,

Salley W. Elliott  
Assistant Deputy Attorney General

SWE:kws

cc: The Honorable Ralph J. Wilson  
The Honorable Clyde N. Davis, Jr.  
Ms. Lynn Graham, Attorney General's Office

RECEIVED

JAN 31 1996

S.C. SUPREME COURT

DAVID DIXON  
SCDC #217520 COOPER UNIT B8  
LIEBER CORRECTIONAL INSTITUTION  
POST OFFICE BOX 205  
RIDGEVILLE, SOUTH CAROLINA 29472-0205

HONORABLE CLYDE N. DAVIS, JR.  
CLERK OF COURT FOR THE  
SOUTH CAROLINA SUPREME COURT  
POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

FEBRUARY 7, 1996

RE: State vs. Dixon  
Appeal from Horry County Court of General Sessions

Dear Clerk Davis:

I was recently tried in the Court of General Sessions for Horry County, the Honorable Duane Shuler, Judge, presiding. Following trial by jury I was convicted of a number of charges.

The proceeding was different than usual in that I represented myself at trial, with standby counsel. I was sentenced to an aggregate sentence of thirty (30) years (multiple sentences of various lengths, all concurrent, with the greatest sentences being thirty (30) years.

I filed a motion for reconsideration (reduction) of sentence with the Clerk of Court and served copy upon the Solicitor. A Notice of Appeal had been filed with your office the day before the Motion was filed in the Horry County Circuit Court. The filing of the Motion was within the ten (10) days provided for in Rule 29, SCRCrimP.

I have previously written to you requesting the appeal be placed in abeyance until the Motion is determined by the lower court (sentencing court.) I received a letter from the Clerk of Court for Horry County informing me they were referring the matter to the Horry County Solicitor's Office (15th Judicial Circuit Solicitor) because there was also a Notice of Appeal filed in the matter.

I wrote to the Solicitor's Office submitting to the Solicitor that the motion was filed within the ten (10) day timeframe permitted by law, and that the Circuit Court had jurisdiction and that the Circuit Court was required to hear the motion.

Assistant Solicitor Blake Martin, Esquire has now written to me explaining his belief that the South Carolina Supreme Court now has sole jurisdiction over the subject matter and over me (basically, over the case,) and that the Circuit Court no longer has jurisdiction and should not, or can not hear the motion.

I understand Supreme Court Rule 24 was repealed. In the past, in the case of a matter being under appeal, and a post-trial motion being filed, it was necessary to seek the Supreme Court's leave to proceed with the motion. I understand this is no longer the case. As stated, I wrote to your office requesting the appeal be placed in abeyance pending the outcome of the motion for reconsideration of sentence. I believe this proper and permitted under law.

To my information and belief, Assistant Solicitor, to a great extent has some input in the scheduling of the Circuit Court's hearing the motion for reconsideration (reduction) of sentence. As it is, I doubt if the matter (motion) will be heard until the Solicitor's Office for the Fifteenth Judicial Circuit is informed that the appeal is in abeyance pending the outcome of the motion in the Horry County Circuit Court.

I request you confirm the placing of the appeal into abeyance and inform me if I must file and serve another Notice of Appeal following the outcome of the hearing if appropriate at that time, (as I believe,) or if a letter requesting the appeal be taken out of abeyance will suffice.

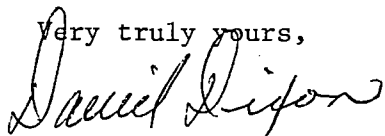
I would sincerely appreciate your informing Assistant Solicitor Blake Martin the status of the appeal, (whether it is in abeyance,) with instructions on how he is required to proceed in the Circuit Court.

The problem I believe arose with my standby counsel taking action and with me taking action simultaneously, or at least closely related in time. I was permitted to proceed in the Circuit Court pro se following my request. I am not quite sure what went wrong after trial, but I believe I am entitled to have my motion for reconsideration (reduction) of sentence heard and ruled upon by the judge as it was timely and I believe, in my humble opinion, is valid in law.

I request you inform the Solicitor's Office and myself what the status of my appeal is so that the motion may be heard at the earliest convenience of the Circuit Court. I feel it is always best to have this type of matter heard while the subject matter is fresh in the judge's mind.

Thanking you for your assistance in this matter, I remain, with kind regards, and

Very truly yours,



David Dixon

cc: Blake Martin, Esq., Office of the Solicitor for the 15th Judicial Circuit  
The Honorable Duand Shuler, Circuit Court Judge  
S.C. Office of Appellate Defense, Attn: Lorientie French, Coordinator  
Office of the Attorney General  
Clerk of Court for Horry County

RECEIVED  
FEB 08 1996  
S. C. SUPREME COURT

David Dixon  
SCDC #217520 Cooper Unit B8  
Lieber Correctional Institution  
P.O. Box 205  
Ridgeville, S.C. 29472-0205

February 14, 1996

Hon. Clyde N. Davis, Jr.  
Clerk of Court for the  
S.C. Supreme Court  
P.O. Box 11330  
Columbia, S.C. 29211

R

FEB 21 1996

S. C. SUPREME COURT

Re: State v. David E. Dixon

Dear Clerk Davis:

I am in receipt of your letter dated February 9, 1996 where you again inform me that you would not consider or have the Court consider the document I submitted directly as you believe I am represented by counsel, (David Hart Breen.)

First, Attorney Breen does not, to my information and belief, represent me in the referenced matter or in any way can he be looked upon as my advocate and counsel.

At trial of referenced matter before the Honorable Duane Shuler, Judge, I proceeded pro se; Attorney Breen acted solely as standby counsel. I elected to represent myself and made my request to the trial court that I be permitted to represent myself at trial as provided for in Faretta vs. California, 422 U.S. 806 (1975). Although Attorney Breen was present at my trial in Horry County, he did not represent me, nor does he represent me now.

It appears that Attorney Breen has taken it upon himself to file documents with your office on my behalf. Although his motives for doing so may be his perception of my best interest, I have not authorized him to act in my interest at all.

In your recent letters to me you have basically refused filing of documents which amount to requests I have attempted to make to the Court. You have indicated in your letters that any document I desire considered by the Court must be submitted through Attorney David Hart Breen. You base this instruction upon the general proposition that litigants represented by counsel are prohibited from submitting any documents to the Court excepting through counsel. Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

I believe the Clerk's Office in returning the documents without the Court considering them in this instance is improper as Attorney Breen does not represent me.

I have filed a motion for reconsideration of sentence in the circuit court. The pleading was filed in a timely manner, with copies provided to the Solicitor and the Sentencing Judge. I have written to your office requesting that any appeal of

my conviction and sentence be placed in abeyance pending the outcome and determination of my motion in the circuit court.

It is my belief and understanding of applicable court rules that the circuit court retains jurisdiction over the matter until determination of the motion.

Assistant Solicitor Blake Martin of Horry County apparently does not wish my motion for reconsideration of sentence heard in open court. The motion goes to matters of mitigation and extenuation that I was not able to adequately present at sentencing due to the circumstances surrounding the case. Mr. Martin appears to be opposing the motion being heard, though timely filed, arguing that the South Carolina Supreme Court has sole jurisdiction over the party and subject matter as a NOA was filed.

My request to the South Carolina Supreme Court is that the appeal be placed in abeyance until such time as the motion in the circuit court is heard and determined. It is my understanding that after a final determination of the motion I will be required to file and serve another Notice of Appeal if I desire to appeal. This, of course, would depend upon the decision of the circuit court relating to the motion for reconsideration.

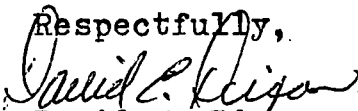
I here renew this request. I request the appeal be placed in abeyance pending determination and final ruling upon my motion for reconsideration of sentence in the circuit court by the Honorable M. Duane Shuler, Judge, who presided at my trial.

Again, I am informed and believe that Attorney David Hart Breen does not represent me; it is my request that Attorney David Hart Breen does not represent me.

If, following determination of the motion for reconsideration of sentence in the circuit court I feel appeal appropriate, based upon the circuit court's ruling on the motion, I will file and serve a Notice of Appeal. If that comes to pass, I will be in a position to decide whether to apply for the services of the South Carolina Office of Appellate Defense or not to represent me for the purpose of appeal.

Please inform me of the Court's position concerning my request that the appeal be placed in abeyance until determination of the motion in the circuit court.

Respectfully,

  
David E. Dixon

cc: Mr. Blake Martin Esq.  
Asst. Solicitor for the  
15th Judicial Circuit  
P.O. Box 1276  
Conway, S.C. 29526

Hon. Billie Richardson  
Clerk of Court for Horry County  
P.O. Box 677  
Conway, S.C. 29526

Hon. M. Duane Shuler, Judge  
P.O. Box 980  
Kingstree, S.C. 29556

Mr. David Hart Breen, Esq.  
4603 Oleander Drive, Ste. 5  
Myrtle Beach, S.C. 29577

S.C. Court Administration  
P.O. Box 50447  
Columbia, S.C. 29250

RECEIVED

FEB 21 1996

S.C. SUPREME COURT

2-  
DAVID DIXON  
SCDC #217520 COOPER UNIT B8  
LIEBER CORRECTIONAL INSTITUTION  
POST OFFICE BOX 205  
RIDGEVILLE, SOUTH CAROLINA 29472-0205

HONORABLE CLYDE N. DAVIS, JR.  
CLERK OF COURT FOR THE  
SOUTH CAROLINA SUPREME COURT  
POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211

FEBRUARY 7, 1996

RE: State vs. Dixon  
Appeal from Horry County Court of General Sessions

Dear Clerk Davis:

I was recently tried in the Court of General Sessions for Horry County, the Honorable Duane Shuler, Judge, presiding. Following trial by jury I was convicted of a number of charges.

The proceeding was different that usual in that I represented myself at trial, with standby counsel. I was sentenced to an aggregate sentence of thirty (30) years (multiple sentences of various lengths, all concurrent, with the greatest sentences being thirty (30) years.

I filed a motion for reconsideration (reduction) of sentence with the Clerk of Court and served copy upon the Solicitor. A Notice of Appeal had been filed with your office the day before the Motion was filed in the Horry County Circuit Court. The filing of the Motion was within the ten (10) days provided for in Rule 29, SCRCrimP.

I have previously written to you requesting the appeal be placed in abeyance until the Motion is determined by the lower court (sentencing court.) I received a letter from the Clerk of Court for Horry County informing me they were referring the matter to the Horry County Solicitor's Office (15th Judicial Circuit Solicitor) because there was also a Notice of Appeal filed in the matter.

I wrote to the Solicitor's Office submitting to the Solicitor that the motion was filed within the ten (10) day timeframe permitted by law, and that the Circuit Court had jurisdiction and that the Circuit Court was required to hear the motion.

Assistant Solicitor Blake Martin, Esquire has now written to me explaining his belief that the South Carolina Supreme Court now has sole jurisdiction over the subject matter and over me (basically, over the case,) and that the Circuit Court no longer has jurisdiction and should not, or can not hear the motion.

I understand Supreme Court Rule 24 was repealed. In the past, in the case of a matter being under appeal, and a post-trial motion being filed, it was necessary to seek the Supreme Court's leave to proceed with the motion. I understand this is no longer the case. As stated, I wrote to your office requesting the appeal be placed in abeyance pending the outcome of the motion for reconsideration of sentence. I believe this proper and permitted under law.

To my information and belief, Assistant Solicitor, to a great extent has some input in the scheduling of the Circuit Court's hearing the motion for reconsideration (reduction) of sentence. As it is, I doubt if the matter (motion) will be heard until the Solicitor's Office for the Fifteenth Judicial Circuit is informed that the appeal is in abeyance pending the outcome of the motion in the Horry County Circuit Court.

I request you confirm the placing of the appeal into abeyance and inform me if I must file and serve another Notice of Appeal following the outcome of the hearing if appropriate at that time, (as I believe,) or if a letter requesting the appeal be taken out of abeyance will suffice.

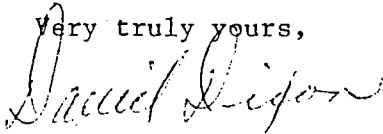
I would sincerely appreciate your informing Assistant Solicitor Blake Martin the status of the appeal, (whether it is in abeyance,) with instructions on how he is required to proceed in the Circuit Court.

The problem I believe arose with my standby counsel taking action and with me taking action simultaneously, or at least closely related in time. I was permitted to proceed in the Circuit Court pro se following my request. I am not quite sure what went wrong after trial, but I believe I am entitled to have my motion for reconsideration (reduction) of sentence heard and ruled upon by the judge as it was timely and I believe, in my humble opinion, is valid in law.

I request you inform the Solicitor's Office and myself what the status of my appeal is so that the motion may be heard at the earliest convenience of the Circuit Court. I feel it is always best to have this type of matter heard while the subject matter is fresh in the judge's mind.

Thanking you for your assistance in this matter, I remain, with kind regards, and

Very truly yours,



David Dixon

cc: Blake Martin, Esq., Office of the Solicitor for the 15th Judicial Circuit  
The Honorable Duand Shuler, Circuit Court Judge  
S.C. Office of Appellate Defense, Attn: Lorientie French, Coordinator  
Office of the Attorney General  
Clerk of Court for Horry County

RECEIVED  
FEB 16 1996  
SHERIFF'S OFFICE

The State of South Carolina  
In the Supreme Court

5-20  
7-22

RECEIVED

MAR 14 1996

S. C. SUPREME COURT

TITLE OF  
CASE

(  
(  
(  
(  
(  
(  
(  
(  
(  
(

State

vs.

David Dixon

\_\_\_\_\_  
NOTICE  
\_\_\_\_\_

Upon request and for good cause shown, Helen D. Bone, Court Reporter, is hereby granted an extension up to and including May 22, 1996 to prepare and deliver the Transcript of Record in the above case.

By Angela Skull  
South Carolina  
Court Administration

Columbia, South Carolina  
March 13, 1996

cc: Ms. Loriene French  
Helen D. Bone

Supreme Court Receipt Acknowledged

B78

Date

3-14-96

**SOUTH CAROLINA OFFICE OF APPELLATE DEFENSE**

Daniel T. Stacey  
Chief Attorney  
Joseph L. Savitz, III  
Deputy Chief Attorney

1122 Lady Street, Suite 940  
Columbia, S.C. 29201-3243

Telephone: (803) 734-1330  
Fax: (803) 734-1397

Wanda H. Haile  
Senior Assistant Appellate Defender  
Robert M. Pachak  
Robert M. Dudek  
M. Anne Pearce  
Lisa T. Gregory  
Lesley M. Coggiola  
Assistant Appellate Defenders

June 6, 1996

Mrs. Dianne H. Ponder  
S. C. Supreme Court  
Post Office Box 11330  
Columbia, South Carolina 29211

JUN 11 1996  
S.C. SUPREME COURT

Dear Dianne:

The following list of cases fall under the 60 day rule for direct appeals, and the date we received the transcript is listed to the side.

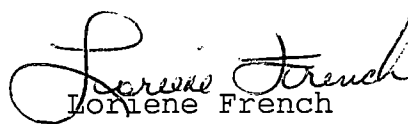
The State v. David Dixon

6/6/96

I would appreciate you beginning our time limits from the above dates, and if you need additional information, or have any questions please contact me.

Thank you for your assistance in this matter.

Sincerely yours,



Lorraine French  
Legal Services Coordinator



## The Supreme Court of South Carolina

CLYDE N. DAVIS, JR.  
CLERK OF COURT  
BRENDA F. SHEALY  
DEPUTY CLERK

P.O. Box 11330  
COLUMBIA, S.C. 29211  
(803) 734-1080

June 14, 1996

Mr. David Dixon #217520  
Cooper Unit B8  
Lieber Correctional Institution  
P. O. Box 205  
Ridgeville, S. C. 29472-0205

Re: The State v. David E. Dixon

Dear Mr. Dixon:

This will acknowledge receipt of your Petition for Writ of Mandamus dated May 28, 1996 concerning the above entitled case on appeal.

Because you are represented by the South Carolina Office of Appellate Defense, any document you wish to be considered by the Court must be submitted through that office. Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989). You may contact the Office of Appellate Defense at 1122 Lady Street, Suite 940, Columbia, South Carolina 29201. The telephone number for that office is 734-1330.

We are herewith returning your document, and I hope that the above information will be of help to you in the future.

Very truly yours,

CLERK

CND, Jr./bfs

Enclosure

cc: Assistant Deputy Attorney General Salley W. Elliott

Office of Appellate Defense

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Horry County

Honorable M. Duane Shuler, Judge

---

THE STATE,

RESPONDENT,

V.

DAVID E. DIXON,

APPELLANT.

---

O R D E R

---

UPON MOTION of Wanda H. Haile, attorney for appellant, it is hereby ordered that State's Exhibit #2 (tape), be released to the Office of the Attorney General, or its designee, for transporting to the Supreme Court of South Carolina for purposes of review by the Court for the above-captioned case.

IT IS SO ORDERED.

ERNEST A. FINNEY, JR., CHIEF JUSTICE

By  CLERK

Columbia, South Carolina

August 2, 1996

Copy to: Wanda H. Haile, Esquire  
Salley W. Elliott, Esquire

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CA # 94-GS-1393, 1381, 1383

THE STATE

VS

DAVID E. DIXON

AFFIDAVIT OF RECEIVING

I THE UNDERSIGNED DO HEREBY CERTIFY THAT I HAVE RECEIVED  
ON THIS 14<sup>th</sup> DAY OF Aug 1996 THE HEREINBELOW SPECIFIED.

(PCPD) Selena Bryant  
RECEIVER AND TITLE

RE: STATE EXHIBIT # 2 (TAPE)

Sean Miller, Administrative Assistant  
RECEIVER AND TITLE

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Horry County

Honorable M. Duane Shuler, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

DAVID DIXON,

APPELLANT.

---

CERTIFICATE OF SERVICE

---

The undersigned attorney hereby certifies that a true copy of the Initial Anders Brief of Appellant and Designation of Matter to be Included in the Record on Appeal in the above referenced case has been served upon opposing counsel, Salley W. Elliott, Esquire, this 5th day of August, 1996.



WANDA H. HAILE

Senior Assistant Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me  
this 5th day of August, 1995.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: 3/24/2003



## The Supreme Court of South Carolina

CLYDE N. DAVIS, JR.  
CLERK OF COURT  
BRENDA F. SHEALY  
DEPUTY CLERK

P.O. Box 11330  
COLUMBIA, S.C. 29211  
(803) 734-1080

October 24, 1996

Senior Assistant Appellate Defender Wanda H. Haile  
Office of Appellate Defense  
1122 Lady Street, Suite 940  
Columbia, SC 29201

Re: The State v. Dixon, David E.

Dear Counsel:

The above case has been docketed and assigned Supreme Court Docket No. 96-885

Notice as provided under Rule 216 of the Appellate Court Rules will be mailed to counsel of record at the proper time, if or when this case is set for oral argument.

The final brief in this matter should be served and filed no later than November 12, 1996.

Very truly yours,

Clyde N. Davis, Jr., Clerk

By Jean Peebles  
Administrative Assistant

CND, Jr./adm

cc: Assistant Deputy Attorney General Salley W. Elliott

DAVID E. DIXON  
#217520 F3/A252  
EVANS CORRECTIONAL INSTITUTION  
POST OFFICE BOX 2951202  
BENNETTSVILLE, SOUTH CAROLINA 29512-5202

DECEMBER 3RD, 1996

MR. BLAKE A. MARTIN  
CHIEF DEPUTY SOLICITOR  
FIFTEENTH JUDICIAL CIRCUIT  
POST OFFICE BOX 1276  
CONWAY, SOUTH CAROLINA 29526

**RECEIVED**  
DEC 05 1996  
**S.C. SUPREME COURT**

Dear Mr. Martin:

I need information as to what I must do to have the taped statement authenticated that the Solicitors office has in its possession.

I feel quite sure that you know the tape that I am talking about ? This particular taped statement was given by me on November 18th, and 19th, 1993 and was introduced into evidence at trial on January 16th, 1995 and January 16th, 1996.

Since my Attorney worked directly for you and not for me and was so ineffective in his representation at my trial I have no other choice but to find out how this must be done.

I would like for your office to have this done and after I see the results and if it is agreeable with me, then I'll follow up with further Court proceedings. The tapes are not true and or correct and I am going to prove this once and for all.

One thing that really bothers me is if you knew that the County Police had deliberately tampered with these tapes ? I am quite sure that you probably don't even know that when the Police Officers testified at my trial they told one lie after the other and now I have the taped statement and both of the transcripts of the trials, it cannot be disputed now Mr. Martin and sooner or later the truth will surface. Please inform me by return letter what must be done to have the tapes authenticated. I feel at this time that this should be of interest to the Solicitors office and it is time to get it over with, do you agree ?

Page Two:

Since we both know that the County Police PARTICULARIZED the SEARCH WARRANT and I am intent on pressing charges against any and all of the Police officers involved in this wrong doing and I feel that I must bring this to your attention at this time.

You know, funny thing crosses my mind when I think of this, the County Police had no idea and or Roy Sanders had no idea that I had the original search warrant and when the County Police came up with their scheme to cover their wrong doings and this is very similar to the deception of tampering with the taped statement just to get a conviction against me.

I am notifying you Mr. Martin, that I want to press charges against the Police officers involved of the illegal search warrant and the illegal taking of mine and my wifes property on November 22nd, and 23rd, of October 1993. I am also notifying you that the search warrant was not in the discovery that I received from my then Attorney, David Hart Breen, and now you know this and have known this for quite some time I believe ?

What is the procedure that I must follow to have charges filed on the Police Department for particularizing the search warrant ? Magistrate Rebecca Lovelace, signed the search warrant and has refused to send to me copies of the original search warrant and I believe that the Magistrate knows infact that this has happened and is refusing to follow up with these alligations that I have presented. Magistrate Lovelace, answered a question in the Horry Independent and said and I quote, if anyone knows of a Police officer changing a warrant that she must be notified immediately. I did this and Magistrate Lovelace did not respond to my letter.

By copy of this letter I am forwarding copies to,  
Magistrate Dennis Phipps  
Ralph Wilson, Solicitor Fifteenth Circuit

South Carolina Supreme Court


S.L.E.D.

Page Three:

Magistrate Rebecca S. Lovelace  
Attorney General Charles M. Condon  
file

Looking forward to hearing from you Mr. Martin and to your intentions as to what the necessary steps are that I must follow to take care of the illegal tactics of the Horry County Police Department and to rectify my particular situation.

Yours very truly,

  
David E. Dixon



THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

---

The State, ..... Respondent,

v.

David Dixon, ..... Appellant.

---

Appeal From Horry County  
M. Duane Shuler, Circuit Court Judge

---

**ORDER**

---

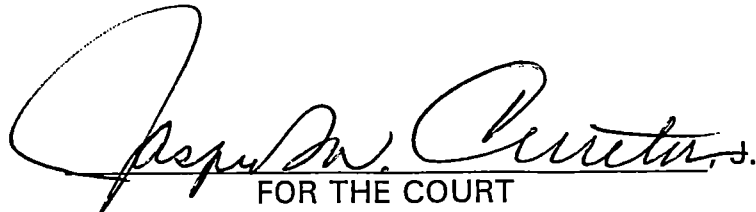
Counsel for Appellant has submitted a brief pursuant to Anders v. California, 386 U.S. 738 (1967), and has petitioned this Court to be relieved as counsel. We deny the petition to be relieved as counsel and direct the parties to brief the following issue:

(1) Did the trial judge err by sentencing Dixon to twenty-five years for accessory after the fact to armed robbery? State v. Fowler, 277 S.C. 472, 289 S.E.2d 412 (1982).

The parties shall also discuss any other issues which may need resolution in order to dispose of the above issue.

Appellant shall serve and file a brief on this issue within twenty (20) days of the date of this Order. Respondent shall file and serve its reply brief within thirty (30) days thereafter.

**IT IS SO ORDERED.**

  
FOR THE COURT

Columbia, South Carolina  
March 31, 1997

ACM - JRE  
CARD. SR-



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

April 23, 1997

Wanda H. Haile, Esquire  
South Carolina Office of Appellate Defense  
1122 Lady Street, Suite 940  
Columbia, South Carolina 29201-3243

RE: State v. David Dixon

Dear Ms. Haile:

I am in receipt of the Brief of Appellant in the above-referenced matter. Please be advised that **Senior Assistant Attorney General Charles Richardson** will be handling this case on behalf of the State. Please forward all future correspondence concerning this case directly to him.

Sincerely,

A handwritten signature in cursive script that reads "Salley Elliott".

Salley W. Elliott  
Assistant Deputy Attorney General

SWE: kws

cc: The Honorable Kenneth A. Richstad

RECEIVED

APR 24 1997

S.C. Court of Appeals

ORIGINAL

S. C. Court of Appeals

MAY 10 1997

RECEIVED

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Horry County  
Court of General Sessions  
Honorable M. Duane Shuler, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID DIXON,

APPELLANT.

**MOTION TO FILE SUPPLEMENTAL RECORD ON APPEAL**

This appeal was initially briefed pursuant to Anders v. California, 386 U.S. 738 (1967) and counsel for Appellant petitioned the Court to be relieved as counsel. The petition was denied by an Order dated March 31, 1997 and the parties were directed to brief the following issue:

Did the trial judge err by sentencing Dixon to twenty-five years for accessory after the fact of armed robbery? State v. Fowler, 277 S.C. 472, 289 S.E.2d 412 (1982).

According to the certificates of service, the Record on Appeal, the Supplemental Record on Appeal and the Supplemental II Record on Appeal was served and filed on October 21, 1996; the Final Anders Brief of Appellant was served on November 12, 1996. The Brief of Appellant was served April 21, 1997.

In responding to the issue raised in the appeal, it appears that additional matter should be included in the Record on Appeal, specifically the sentencing sheet for the charge of accessory after the fact of armed robbery associated with the indictment 94-GS-26-1381 of Appellant. This sentencing sheet reflects a sentence of ten (10) years for such offense and is essential to the Court's

resolution of the issue on appeal. Such is at variance with the sentence imposed on Appellant set forth in the Transcript of Record.

**WHEREFORE**, Respondent respectfully requests permission to supplement the Record on Appeal.

Respectfully submitted,

CHARLES M. CONDON  
Attorney General

JOHN W. McINTOSH  
Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

CHARLES H. RICHARDSON  
Senior Assistant Attorney General


RALPH J. WILSON  
Solicitor, Fifteenth  
Judicial Circuit

BY:   
CHARLES H. RICHARDSON

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR RESPONDENT

I CONSENT:

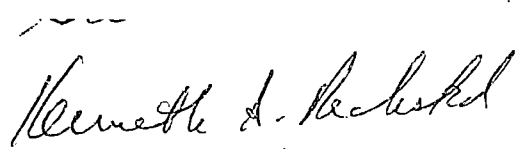
  
WANDA H. HAILE  
Senior Assistant Appellate Defender

South Carolina Office  
of Appellate Defense  
1122 Lady Street, Suite 940  
Columbia, S.C. 29201  
(803) 734-1330

ATTORNEY FOR APPELLANT

May 15, 1997.

n

  
CERK

Columbia, SC  
June 9, 1997

ORIGINAL

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY  
Court of General Sessions

Honorable M. Duane Shuler, Circuit Court Judge

THE STATE,

Respondent,

vs.

DAVID DIXON,

Appellant.

**PROOF OF SERVICE**

I, CHARLES H. RICHARDSON, certify that I have served the Motion To File Supplemental Record On Appeal by depositing three (3) copies of the same in the United States mail, postage prepaid, addressed to his attorney of record:

Wanda H. Haile  
Senior Assistant Appellant Defender  
S.C. Office of Appellate Defense  
1122 Lady Street, Ste. 940  
Columbia, SC 29201

I further certify that all parties required by Rule to be served have been served.

This 19th day of May, 1997

  
CHARLES H. RICHARDSON

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEY FOR RESPONDENT



# The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

9 KAR  
June 8, 1997

Senior Assistant Attorney General Charles Richardson  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

Re: The State v. Dixon, David E.

Dear Mr. Richardson:

The Court has Granted your Motion To File Supplemental Record On Appeal in the following order endorsed thereon:

"Motion \_\_\_\_\_"

By: Kenneth A. Richstad  
CLERK

Columbia, South Carolina  
June 08, 1997."

9 KAR

Very truly yours,

Handwritten signature of Kenneth A. Richstad.  
Kenneth A. Richstad  
CLERK

KAR/ccy

cc: Assistant Deputy Attorney General Salley W. Elliott  
Mr. David Dixon #217520  
Senior Assistant Appellate Defender Wanda H. Haile  
The Honorable Ralph J. Wilson



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

June 11, 1997

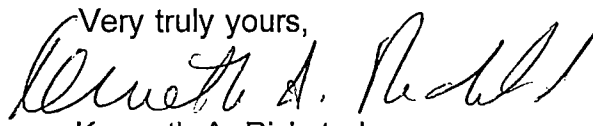
Mrs. Betty J. Dixon  
1125 Willard Rd  
Conway, SC 29526

Re: The State v. Dixon, David E.

Dear Mrs. Dixon:

I have received the copy of the transcript you sent me by letter dated, June 3, 1997. Before I can allow this to become part of the record, you must serve an exact copy of this transcript on the opposing counsel, Charles Richardson of the Attorney General's Office. If this transcript was before the Lower Court and if there is no objection from Mr. Richardson, the transcript can become part of the appellate record.

To serve Mr. Richardson, mail him a copy of the transcript with a cover letter. Then send this Court your statement that you have mailed it to him and give the address to which you mailed it.

Very truly yours,  
  
Kenneth A. Richstad  
CLERK

KAR/ccy

cc: Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
The Honorable Ralph J. Wilson  
Mr. David Dixon #217520

ORIGINAL

S. C. Court of Appeals

JUN 26 1997

RECEIVED

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY  
Court of General Sessions

Honorable M. Duane Shuler, Circuit Court Judge

THE STATE,

Respondent,

vs.

DAVID DIXON,

Appellant.

**RETURN TO PRO SE MOTION TO RELIEVE COUNSEL AND STAY APPEAL**

Respondent, by and through undersigned counsel, would respectfully show unto this Court that:

I.

Respondent was not served with a copy of the referenced pro se motion to relieve counsel and stay appeal but was forwarded a copy by this Court which was received in this office on June 19, 1997.

II.

Appellant was indicted by the grand jury for the court of general sessions for Horry County on three separate indictments with a total of seventeen charges. His case came to trial before the Honorable M. Duane Shuler, presiding judge,

and a jury on January 16-19, 1996. Directed verdicts of acquittal were issued on a charge of accessory before the fact of armed robbery and two counts of accessory before the fact of kidnapping.

Appellant was found guilty of two counts of accessory before the fact of armed robbery, three counts of accessory after the fact of armed robbery, two counts of accessory after the fact of kidnapping, two counts of accessory before the fact of first degree burglary, two counts of accessory after the fact of first degree burglary, and three counts of criminal conspiracy. Judge Shuler imposed concurrent sentences totalling thirty years. These sentences were to run consecutive to a twenty year sentence Appellant was serving at the time of sentencing for prior convictions.

III.

Appellant filed and served notice of intent to appeal.

IV.

On or about August 5, 1996, Senior Assistant Appellate Defender Wanda H. Haile filed an Initial Anders Brief of Appellant and Petition to be Relieved as Counsel pursuant to Anders v. California, 386 U.S. 738 (1967).

V.

The Petition to be relieved as counsel was denied by an Order of this Court dated March 31, 1997 and the parties were directed to brief the issue of:

Did the trial judge err by sentencing Dixon to twenty-five years for accessory after the fact to

armed robbery? State v. Fowler, 277 S.C. 472, 289 S.E.2d 412 (1982).

VI.

Pursuant to the Order, on or about April 21, 1997 the Brief of Appellant was filed with this Court. The Brief of Respondent was filed May 19, 1997.

VII.

Appellant had failed to show good cause for appointment of new counsel or to stay his appeal. United States v. Gallop, 838 F.2d 105 (4th Cir. 1988). He contends that counsel should be relieved because she failed to adhere to Anders v. California, 386 U.S. 738 (1967) and was deficient and ineffective in her representation. However, as set forth, the Anders review procedure was followed and Appellant's counsel followed her professional and constitutional obligations.

VIII.

Although Appellant is entitled to effective assistance of appellate counsel, Evitts v. Lucey, 469 U.S. 387 (1985), he is not entitled to appointed counsel of his own choosing. Appellant's counsel is not required to raise every non-frivolous or frivolous issue that is presented by the transcript. Jones v. Barnes, 463 U.S. 745 (1983); Thrift v. State, 302 U.S. 535, 397 S.E.2d 523 (1990). Here, Appellant's counsel, after reviewing the entire transcript of Appellant's trial, addressed the only arguable issue which she believed merited review that arose during the course of the trial.

Moreover, to allow criminal defendants to pick and choose appointed counsel and stay this appeal, particularly at this stage of the appeal process, would forever thwart the administration of justice and tax the judicial economy of this Court. As set forth in United States v. Corporan-Cuevas, 35 F.3d 953 at 956 (4th Cir. 1994), "the court must weigh the defendant's right to choose counsel against the countervailing state interest in proceeding with prosecutions on an orderly and expeditious basis." Furthermore, if for whatever reasons, Appellant believes appellate counsel was somehow ineffective in representing him on appeal, following the ruling by this Court in this appeal, he may then file an application for post-conviction relief setting forth his allegations. Therefore, there is no basis for the motion to relieve counsel or stay the appeal.

For the reasons stated, Respondent objects to Appellant's requests.

Respectfully submitted,

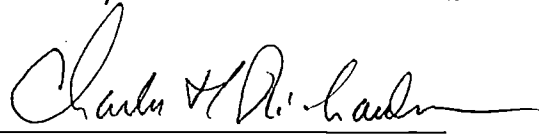
CHARLES M. CONDON  
Attorney General

JOHN W. McINTOSH  
Deputy Attorney General

SALLEY W. ELLIOTT  
Assistant Deputy Attorney General

CHARLES H. RICHARDSON  
Senior Assistant Attorney General

RALPH J. WILSON  
Solicitor, 15th Judicial Circuit

BY:   
CHARLES H. RICHARDSON

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEYS FOR RESPONDENT

June 26, 1997

ORIGINAL

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY  
Court of General Sessions

Honorable M. Duane Shuler, Circuit Court Judge

THE STATE,

Respondent,

vs.

DAVID DIXON,

Appellant.

**PROOF OF SERVICE**

I, CHARLES H. RICHARDSON, certify that I have served the Return to Pro Se Motion to Relieve counsel and Stay Appeal on Appellant by depositing two (2) copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Wanda H. Haile, Senior Assistant Appellant Defender, S.C. Office of Appellate Defense, 1122 Lady Street, Suite 940, Columbia, SC 29201-3243 and to Appellant, David Dixon, SCDC# 217520, F3/A256, Evans Correctional Institution, Post Office Box 2951202, Bennettsville, SC 29512-5202.

I further certify that all parties required by Rule to be served have been served.

This 26th day of June, 1997



CHARLES H. RICHARDSON

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727

ATTORNEY FOR RESPONDENT



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211

1015 SUMTER STREET  
COLUMBIA, S. C. 29201  
(803) 734-1890

July 3, 1997


Ms. Betty J. Dixon  
1125 Willard Road  
Conway, SC 29526

Re: State v. Dixon, David E.

Dear Ms. Dixon:

I have received an objection from the Attorney General's Office concerning the transcript you sent me. Therefore, in order to have the Court consider making it a part of the Record On Appeal, Mr. Dixon's attorney would have to file a motion to have it included in the Record On Appeal.

Very truly yours,

  
Kenneth A. Richstad  
Clerk

KAR/ccy

Betty J. Dixon  
1125 Willard Road  
Conway, S.C. 29526

June 23rd, 1997

The South Carolina Court of Appeals  
Kenneth A. Richstad, Clerk  
Post Office Box 11629  
Columbia, S.C. 29211

Dear Mr. Richstad:

Today's date, I have mailed to Mr. Charles Richardson, of the Attorney General's office and exact copy of the transcript that I mailed to you on June 3rd, 1997. Addressed to, Office of the Attorney General, P.O. Box 11549, Columbia, S.C. 29211.

This is in reference to the State v. David E. Dixon.

Yours very truly,

  
Betty J. Dixon

//  
cc: David E. Dixon

**RECEIVED**

JUN 26 1997

S.C. Court of Appeals

ORIGINAL

JUN 21 1997

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

RECEIVED

---

Appeal from Horry County

Honorable M. Duane Shuler, Circuit Court Judge

---

DAVID E. DIXON,

APPELLANT,

vs.

THE STATE,

RESPONDENT.

---

MOTION TO RELIEVE APPELLANT COUNSEL  
AND  
MOTION TO STAY APPEAL

---

DAVID E. DIXON  
SCDC #217520 F3/A256  
EVANS CORRECTIONAL INSTITUTION  
POST OFFICE BOX 2951202  
BENNETTSVILLE, S.C. 29512-5202

APPELLANT PRO-SE.

RECEIVED

JUN 17 1997

CLERK

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )  
DAVID E. DIXON, )  
) APPELLANT, )  
) V. )  
THE STATE, )  
) RESPONDENT. )

---

IN THE SUPREME COURT

**S. C. Court of Appeals**

JUN 11 1997

**RECEIVED**  
MOTION FOR APPOINTMENT OF  
LEGAL APPELLANT COUNSEL,  
COUNSEL FREE OF CONFLICT  
OF INTEREST AND  
REQUEST FOR STIPULATIONS

The undersigned Appellant, David E. Dixon, SCDC #217520 would respectfully show this Court:

That appointed Appellant Counsel, Wanda Hagler Haile, has denied the Appellant David E. Dixon, effective assistance of Counsel and should be relieved as Counsel for Appellant and duly moves this Honorable Court to appoint Appellant Counsel who is free of a Conflict of Interest, and for stipulations by Court Appointed Counsel on the allegations raised in the Appellant's attached Motion for the following reason or reason's.

The Appellant moves Court appointed Appellant Counsel for the following stipulations, as to Appellant Counsel's lack of representation in the Appellant's Direct Appeal that is now before the Court. The Appellant alleges Court appointed Appellant Counsel should be relieved as a result of the Appellant receiving Ineffective Assistance of Appellant Counsel, because his Counsel failed to adhere to Anders V. California, 386 U.S. 738 (1967). A criminal Appellant may not be denied representation on appeal based on -

Appointed counsel's bare assertion that he or she is of the opinion that there is no merit to the appeal. Before such counsel can be dismissed from the case, he must conduct a conscientious examination of the record and file a brief referring to anything in the record that might arguably support the appeal.

The Appellant alleges, and Court Appointed Appellant Counsel should stipulate, that she filed a **deficient Anders brief**, **Nell V. James**, 811 F.2d 100 (2nd Cir. 1987), On appeal, his lawyer filed a **deficient Anders brief** and asked to be relieved. Nell, pro-se, asked for other counsel, and the state asked for summary dismissal.

The second Circuit used this case to remind the bar of its obligations when filing **Anders** briefs; relieved assigned counsel (while also reducing his CJA voucher because of the poor job he'd done) and appointed new counsel to conduct further proceedings on Nell's behalf.

The Appellant alleges, and Court Appointed Appellant counsel should stipulate, that she failed to take any action whatsoever with respect to Appellant's pro-se brief, **Freels V. Hills**, 843 F.2d 958 (6th Cir. 1988), Counsel filed a four-page brief in which he simply asked the Appellate Court to look at the record since he himself saw nothing to appeal. He took no action whatsoever with respect to the defendant's pro-se brief, which raised several reasonable sounding issues.

The 6th Circuit rules that **failure of appellant counsel to file and anders brief is presumptively ineffective and prejudicial.** It reversed and remanded for the state to give the defendant a new appeal, with new counsel, who would then be required to adhere to Anders if he didn't find what he thought were meritorious issues on appeal.

The Appellant alleges, and Court Appointed Appellant Counsel should stipulate, that she only filed an eight page brief and writing what was essentially a summary of the proceedings, with emphasis given to reasons for holding them correct. Sanders V. Clarke, 856 F.2d 1134 (8th Cir. 1988), and Evans V. Clarke, 868 F.2d 267 (8th Cir. 1989) This failure to file a proper Anders brief was deemed to be ineffective assistance by appellant counsel. The 8th Circuit went on to overrule its earlier decision in Sanders V. Clarke, 856 F.2d 1134, 1136-37 (8th Cir. 1998) in which it held that an Anders violation wasn't enough by itself to justify reversal, but that prejudice must be shown. In this case, citing the Supreme Court's Penon decision, the Circuit Court now rules that the Anders violation is enough, without any showing of prujudice. Penon V. Ohio, 102 L.Ed.2d 300, 488 U.S. 75, 109 S.Ct. 346 (1988).

The Appellant alleges, and Court Appointed Appellant Counsel should stipulate, that she filed "a"skimpy nine page 'Anders' brief. Johns V. Coughlin,

750 F. Supp.76 (E.D.N.Y. 1990) In 1984, Johns was sentenced to nine years for burglary and related charges.

His appointed appellate counsel filed "a skimpy nine page 'Anders' brief, asserting that there were no issues which would 'merit reversal,'" and stating that petitioner had requested new counsel. One and one-half pages of that brief listed eight "questions presented," each of which was disposed of with a short statement of why the argument was unlikely to succeed.

The Appellant alleges, and Court Appointed Appellant Counsel should stipulate, that the Appellant file an extensive brief in his behalf and listed ten (10) issues before the Court that he believe's does have merit in his appeal and all were ignored by Appellant Counsel except for the fact that Appellant Counsel noted one (1) issue, an illegally imposed sentence which has no merit whatsoever.

In a letter that I have attached, dated August 26th, 1996, From Appellant Counsel, Wanda H. Haile, RE: Your Appeal, line eight (8) The Court's review will include a review of the right to counsel issue that surfaced in your case.

Attorney's appointed as standby counsel for a pro-se defendant should not have been allowed to litigate, on their own motion and over the defendant's objection, issues relating to the defendant's mental status, a majority of the North Carolina Supreme Court held May 9. The Attorney's exceeded their statutory authority as standby counsel, and the defendant's right of self-representation was infringed, the majority

Concluded. State (North Carolina) V. Thomas, NC SupCt,  
No. 218A90-2 5/9/97.

Finally, appointing counsel for a limited purpose violated the rule against a defendant proceeding both pro-se and by counsel. In Thomas, this Court held that a defendant has only two choices: "to appear in propria persona or, in the alternative, by counsel. There is no right to appear both in propria persona and by counsel." 331 N.C. at 677, 417 S.E.2d at 477 (quoting State V. Parton, 303 N.C. 55, 61, 277 S.E.2d 410, 415 (1981), disavowed on other grounds by State V. Freeman, 314 N.C. 432, 333 S.E.2d 743 (1985)). Due to this prohibition against hybrid representation, a Court cannot allow defendant to proceed pro-se while also appointing counsel to represent him, even for a limited purpose. For the reasons stated herein, the trial Court erred by allowing standby counsel to advocate a position over defendant's objection, and defendant is entitled to a new trial.

Evitts V. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed. 2d 821 (1985).

Nominal representation on appeal does not comport with the right to effective assistance on appeal. The due process clause of the 14th, Amendment guarantees the effective assistance of counsel on a first appeal as of right.

The Appellant alleges, and Court Appointed Appellant Counsel should stipulate, that she has been ineffective assistance of Appellate Counsel, Gray V. Greer, 800 F.2d 644 (7th Cir. 1985), Writing "were it legitimate to dismiss a claim of

Ineffective assistance of counsel on appeal solely because we found it improper to review appellate counsel's choice of issues, the right to effective assistance of counsel on appeal would be worthless," the 7th Circuit remanded this case with instructions to review the trial court record and determine whether the issues which petitioner claims appellate counsel failed to raise would have been clearly more likely to result in reversal or an order for a new trial, and were so obvious from the record that the failure to present such issues amounted to ineffective assistance of appellate counsel. See, Matire V. Wainwright, 811 F.2d 1430 (11th Cir.1987), Henderson V. Sargent, 926 F.2d 706 8th Cir.(1991), Henderson V. Sargent, 939 F.2d 586 (8th Cir. 1991), Mathis V. Hood, 937 F.2d 790 (2nd Cir. 1991), American Bar Association Standards, The ABA standards which provide guidance as to what constitutes "reasonable" professional conduct, See Nix V. Whiteside, 475 U.S. 157, 106 S.Ct. 988, 994, 89 L.Ed. 2d 123 (1986); Strickland, 446 U.S. at 688, 104 S.Ct. at 2064-65, also mandate counsel's duty to investigate all leads relevant to the merits of the case. ABA Standards for Criminal Justice 4-4.1, 4.54-4.55 (1980).

The Appellant alleges, and Court Appointed Appellant Counsel should stipulate, that she filed a Poorly Written Brief, High V. Rhay, 519 F.2d 109 (9th Cir. 1975), Here Munro, in three sentences, merely stated the simple question of the sufficiency of the evidence and invited the court to review the entire transcript itself. On these generalities he submitted

The case to the court without oral argument. Counsel failed to make even a minimal statement of the facts which are relevant to the issues on appeal. The 'brief' is worthless. It could not have required more than five minutes to draft. No client in his right mind would pay one cent for such a performance. Finding ineffective assistance of appellant counsel, the 9th Circuit ordered the writ granted unless the State of Washington gave High new counsel and a new appeal. See Robinson V. Wyrick, 635 F.2d 757 (8th Cir. 1980), Jenkins V. Coombe, 821 F.2d 158 (2nd Cir. 1987), Mathis V. Hood, 937 F.2d 790 (2nd Cir. 1991).

RELIEF SOUGHT

1. That the Honorable Court Grant Appellant's Motion to relieve Appellant Counsel, Wanda Hagler Haile, as Court Appointed Counsel with the aforementioned stipulations.
2. That the Honorable Court re-appoint counsel, counsel free of a conflict of interest.
3. That the Honorable Court grant Appellant whatever relief it deems just and proper, and grant appellant's motion to stay appeal until this matter is settled before the court.

The Appellant Forever Prays.

*David E. Dixon*

David E. Dixon, SCDC #217520

Demod.

~~Robert Curran, J.~~

~~Robert G. G. J.~~

~~Kaye L. G. J.~~

Columbia, SC

September 2, 1997

David E. Dixon

David E. Dixon, SCDC #217520  
Evans Correctional Institution  
Post Office Box 2951202  
Bennettsville, S.C. 29512-5202

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 10<sup>th</sup> DAY OF JUNE, 1997

D. A. W. Brendel  
NOTARY PUBLIC

MY COMMISSION EXPIRES: 8-14-99

DED/jcr

cc: Wanda Hagler Haile

File

Attachements

SOUTH CAROLINA OFFICE OF APPELLATE DEFENSE

Daniel T. Stacey  
Chief Attorney  
Joseph L. Savitz, III  
Deputy Chief Attorney

1122 Lady Street, Suite 940  
Columbia, S.C. 29201-3243

Telephone: (803) 734-1330  
Fax: (803) 734-1397

Wanda H. Haile  
Senior Assistant Appellate Defender  
Robert M. Pachak  
Robert M. Dudek  
M. Anne Pearce  
Lisa T. Gregory  
Lesley M. Coggiola  
Assistant Appellate Defenders

August 26, 1996

Mr David Dixon #217520  
Lieber Correctional Institution  
P.O. Box 205  
Ridgeville, S.C. 29472

RE: Your appeal

Dear Mr. Dixon:

This is in response to your most recent letter addressed to me. Do not be alarmed that I am filing an Anders brief on your behalf. In an Anders situation, the Court will review your entire transcript to ensure that I have not overlooked any issues of legal merit in your case. If I have erred in concluding that there are no issues of legal merit in your case, which is the definition of an Anders brief, then the Court will contact me and I will contact you and submit another brief on your behalf. The Court's review will include a review of the right to counsel issue that surfaced in your case. In addition, you will have an opportunity to submit your own brief or statement to the Court if you so desire. You will receive written notice from the Court about the date on which to file your own brief if you choose to do so. This is not mandatory.

If you have further questions about your case, please contact me.

Sincerely,



Wanda H. Haile  
Senior Assistant Appellate Defender

S.C. Court of Appeals

JUN 11 1997

RECEIVED



Page Two:  
The State v. David E. Dixon  
Continued:

And the Judge also allowed counsel to represent me in my defence,  
I didn't have complete control of my case.

Please get back to me as soon as possible.

Sincerely,

*David E. Dixon*  
David E. Dixon

cc: file

RECEIVED  
JUN 11 1997  
S. C. SUPREME COURT

ORIGINA

S. C. Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

JUN 11 1997

RECEIVED

APPEAL FROM HORRY COUNTY  
Court of General Sessions

Honorable M. Duane Shuler, Circuit Court Judge

DAVID E. DIXON,

APPELLANT,

VS.

THE STATE,

RESPONDENT.

PROOF OF SERVICE

I, David E. Dixon, certify that I have served the within Motion for Appointment of Counsel, Counsel Free of a Conflict of interest, and request for Stipulations, with attachments, in the above-captioned matter to the following and have deposited same in the United States Mail, postage prepaid, addressed to the South Carolina Supreme Court, and Wanda H. Haile, Appellant Defence:

The South Carolina Supreme Court  
Clyde N. Davis, Jr., Clerk  
Post Office Box 11330  
Columbia, S.C. 29211

S.C. Office of Appellant Defence  
Ms. Wanda H. Haile  
1122 Lady Street, Suite 940  
Columbia, S.C. 29201-3243

RECEIVED

JUN 11 1997

S. C. SUPREME COURT

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS 10th DAY OF JUNE 1997

David E. Dixon, SCDC #217520

NOTARY PUBLIC

David E. Dixon  
Applicant, Pro-se

Oscar W. Brandy



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

September 2, 1997

Mr. David Dixon #217520  
Evans Correctional Institution  
P. O. Box 2951202  
Bennettsville, SC 29512-5202

Re: The State v. Dixon, David E.

Dear Mr. Dixon:

The Court has Denied your Motion To Relieve Appellant Counsel and Motion To Stay Appeal in the following order endorsed thereon:

"Motion denied.

s/ Jasper M. Cureton, J.

s/ C. Tolbert Goolsby, J.

s/ Kaye G. Hearn, J.

Columbia, South Carolina  
September 2, 1997."

Very truly yours,

A handwritten signature in cursive script, appearing to read "Kenneth A. Richstad".

Kenneth A. Richstad  
CLERK

KAR/ccy

cc: Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
The Honorable Ralph J. Wilson

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

The State, . . . . . Respondent,

v.

David E. Dixon, . . . . . Appellant.

---

Appeal From Horry County  
M. Duane Shuler, Circuit Court Judge

---

Unpublished Opinion No. 97-UP-483  
Submitted September 9, 1997 - Filed September 23, 1997

**AFFIRMED**

Senior Assistant Appellate Defender Wanda H. Haile, of the South Carolina Office of Appellate Defense, of Columbia, for appellant.

Attorney General Charles Molony Condon, Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Salley W. Elliott, and Senior Assisant Attorney General Charles Richardson, of Columbia; and Solicitor Ralph J. Wilson, of Conway, for respondent.

---

**PER CURIAM:** Appellant, David Dixon was tried in January 1996 on three indictments containing seventeen criminal charges. The trial court directed verdicts on three of the offenses. Dixon was ultimately convicted of two counts of accessory before the fact of armed robbery, three counts of accessory after the fact of armed robbery, two counts of accessory after the fact of kidnapping, two counts of accessory before the fact of first degree burglary, two counts of accessory after the fact of first degree burglary and three counts of criminal conspiracy. The trial court imposed concurrent sentences totalling thirty years imprisonment. Dixon appeals his

## STATE v. DIXON

convictions and sentences. We affirm.<sup>1</sup>

Prior to trial, Dixon moved for the dismissal of all charges against him on the ground that he had been denied the right to a speedy trial. Dixon also made a pretrial motion to suppress his custodial confession on the ground that it was procured by illegal means. In support of his motion to suppress his confession, Dixon argued that he was ill during the time he made the confession and was not allowed to take his medication. As to Dixon's motion to dismiss the indictments, the trial court found that any delay in the trial of Dixon's case was due to his unwillingness to cooperate with a court ordered mental evaluation. Further, after conducting a Jackson v. Denno hearing, the trial court found that the preponderance of the evidence showed that Dixon voluntarily confessed to his role in the crimes with which he was charged. The trial court accordingly denied both motions.

The South Carolina Office of Appellate Defense filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967) on Dixon's behalf arguing that the trial court erred in issuing an illegal sentence. That Office also filed a petition to be relieved as counsel. Dixon filed a pro se brief in support of his appeal arguing the trial court erred in failing to grant his motion for a directed verdict inasmuch as the State failed to prove his confession was voluntary and failed to grant him a speedy trial. Finding the issues Dixon raises in his pro se brief to be without merit, this court ordered rebriefing only on the issue of whether the trial court issued an illegal sentence.

Dixon argues that the trial court issued an illegal sentence as to his conviction for accessory after the fact of armed robbery. We find no reversible error.

Ruling from the bench, the trial court orally sentenced Dixon to twenty-five years imprisonment for accessory after the fact of armed robbery. Dixon correctly notes that at the time of his conviction, accessory after the fact of armed robbery was punishable under S.C. Code Ann. § 17-25-20 (1985) by incarceration for a period not to exceed fifteen years.<sup>2</sup> This issue, however, is not properly before us on appeal

---

<sup>1</sup> Because oral argument would not aid the court in resolving the issues on appeal, we decide this case without oral argument pursuant to Rule 215, SCACR.

<sup>2</sup> South Carolina Code Ann. § 16-1-90, which became effective after the occurrence of the crimes for which Dixon was eventually convicted but before he was sentenced, provides that robbery while armed with a deadly weapon is classified as a Class A felony. S.C. Code Ann. § 16-1-90 (Supp. 1996).

S.C. Code Ann. §16-1-55 (Supp. 1996) - Classification of accessory crimes - provides that :

**STATE v. DIXON**

since Dixon did not object to the error at trial. State v. Outlaw, 304 S.C. 347, 404 S.E.2d 516 (Ct. App. 1991), reversed on other grounds, 307 S.C. 177, 414 S.E.2d 147 (1992); State v. Shumate, 276 S.C. 46, 275 S.E.2d 288 (1981). Moreover, on rebriefing, the State provided the sentencing sheet in a supplement to the record. On this sentencing sheet, the trial court reduced all of Dixon's sentences to writing. It reflects that the court imposed a concurrent ten year sentence for accessory after the fact of armed robbery, and thus the court's oral order was simply a misstatement. In such a case, the trial court's written order is controlling. Case v. Case, 243 S.C. 447, 134 S.E.2d 394 (1964); State v. DeAngelis, 257 S.C. 44, 183 S.E.2d 906 (1971).

For the foregoing reasons, the decision of the trial court is

**AFFIRMED.**

**CURETON, GOOLSBY, and HEARN, JJ., concur.**

---

A person who commits the offense of accessory after the fact must be punished based upon the classification below the punishment provided for the principal offense, except for Class A, Class B, and Class C felonies or murder. If the principal offense is a Class A, Class B, or Class C felony or murder, the penalty must be as prescribed for a Class D felony.

Dixon was convicted of accessory after the fact of a Class A felony. Pursuant to §16-1-55, his penalty should have been as prescribed for a Class D felony. As provided by S.C. Code Ann. § 16-1-20(A), the penalty for a Class D felony is "not more than fifteen years" imprisonment.



No. 6086

Judgment **AFFIRMED**

---

---

**The State of South Carolina**

IN THE COURT OF APPEALS

September Term, 1997

Horry County

---

---

The State, Respondent,

vs.

David E. Dixon, Appellant.

---

---

PER CURIAM

*Jasper W. Currier* J.

*Edward G. Gandy* J.

*Kaye D. Helms* J.

South Carolina Court of Appeals  
Clerk's Office, Columbia, S. C.

FILED ~~SEP 23~~ SEP 23 1997

*Honnet A. Richards*  
Clerk

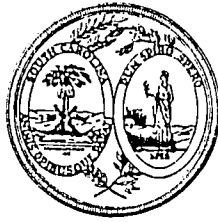


Page Two:

Yours truly,

  
David E. Dixon

cc: Ralph J. Wilson, Solicitor, Fifteenth Judicial Circuit  
Blake A. Martin, Chief Deputy Solicitor, Fifteenth Judicial  
Circuit  
Chief Magistrate, Dennis Phipps, Horry County  
Magistrate Rebecca S. Lovelace, Horry County  
~~South Carolina Supreme Court~~  
File



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

June 30, 1997

The Honorable Kenneth A. Richstad  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: The State v. Dixon, David E.

Dear Mr. Richstad:

On June 27, 1997 this Office received a copy of a transcript enclosed with a letter from Ms. Betty Dixon regarding the referenced appeal. In an earlier letter dated June 11, 1997 you had indicated that if such a transcript was before the lower court and there was no objection from the State, the transcript could become a part of the appellate record.

While the State introduced a tape, State's exhibit 2, (Supplemental Record, page 351) which was played at the trial (Supplemental Record II, page 5) and which has been transported to the Court for use on appeal per an Order of the Supreme Court, there is no indication that any transcript of the tape was separately introduced at trial. Therefore, inasmuch as I am unaware of the referenced transcript having been introduced at trial, the State would oppose its becoming part of the record on appeal.

With kind regards, I am,

Very truly yours,

A handwritten signature in cursive script that reads "Charles H. Richardson".

Charles H. Richardson  
Senior Assistant Attorney General

kws

cc: Ms. Betty J. Dixon  
Wanda H. Haile, Esquire



David Edward Dixon  
SCDC #217520  
Evans Correctional Institution  
Post Office Box 2951202  
Clematonsville, South Carolina 29512-5202

July 29th, 1997

The Honorable Charles H. Richardson  
Senior Assistant Attorney General  
Post Office Box 11549  
Columbia, S.C. 29211-1549      S. C. Court of Appeals

RE: The State v. David E. Dixon      AUG 1 1997

Dear Mr. Richardson:

**RECEIVED**

I have attempted to explain my situation to you and to the Court of Appeals, The South Carolina Supreme Court.

I have written several letter's to the above and all I get is dead ends!

This is the bottom line! The Horry County Police and the Solicitor's office in Conway, South Carolina, have told numerous lies about the taped statement that I gave on the 18th, and 19th, of November 1993. The tape is not authentic and has been tampered with by one (1) or both of the above mentioned department's and the both above mentioned department's did form a conspiracy by willfully and knowingly, with malice cause an injury to me that is irreparable and irrefutable!

I am going to file suit against each and everyone envolved, I do have the evidence and it has taken me quite some time to accmulate it, these people have been just a little bit too smart for their own good...

Now, I have something for you to put in your pipe and I want you to smoke it. I believe I can get your attention this time, with what I'm going to say to you!

Back in April of 1975, I was questioned about a Highway Patrolman that had gotten killed in South Carolina, I can remember something about a Mustang Automobile, I know the names of two (2) individuals that just may have information about this incident. You may already know everything that you need to know about this, I do not know

Page Two:

What has happened in this case. I will tell you this, several months ago I read in the paper that some woman had been arrested in connection with this murder and there was something about a Mustang Automobile. I haven't heard anything since and it would be very interesting to me and you, if I could give you two (2) names that may have been part of this incident, would you agree? I can give you the names of three Deputy Sheriff's at the time, one of which is deceased, one of which has retired, and one that is a Magistrate at this time I believe?

In 1973 or 1974, a man by the name of Curtis Adams was killed in Jasper County, I have never heard that anyone had been caught for this murder. I can give you the names of two (2) men and one (1) woman that just maybe connected to this crime and one of which that would have had motive. If I can find in some of my paper work I can and will show you who would have had a motive to kill Curtis Adams. By the way, Curtis Adams, was in the fire works business, he had a store at the foot of the old Talmadge Memorial Bridge, and a fire works store at the intersection of 17-A and 17, in Jasper County. This should be very easy for you to find out about these two incident's.

I will give you all the information that I have knowledge of under one condition. The taped statement that I gave own the 18th, and 19th, of November 1993, must be authenticated and it must be done right, I am no fool, and I am not playing any games, do not harass me in any way, I have been through too much as it is and will not stand to be mistreated any more.

Funny thing crosses my mind, if by chance you need to talk to someone that really knows what I am capable of doing, give Randy Murdaugh a call, I believe you should know who this is, and also his Daddy, Buster Murdaugh, I believe they are still in Hampton County, hopefully Buster is still living and in good health. I met them in 1975, I didn't play any games with them either!

RECEIVED

JUL 3 1997

S. C. SHERIFF

Page Three:

I will patiently await your response and hopefully we have a deal?  
It is time to get to the bottom of this situation.

Sincerely,



David E. Dixon

cc: The South Carolina Supreme Court

Betty J. Dixon

File

RECEIVED

JUL 3 1997

S. C. SUPREME COURT



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

September 24, 1997

Mr. David Dixon #217520  
Evans Correctional Institution  
P. O. Box 2951202  
Bennettsville, SC 29512-5202

Re: The State v. Dixon, David E.

Dear Counsel:

This will acknowledge receipt of your document, dated September 23, 1997 concerning the above entitled case on appeal.

Because you are represented by the South Carolina Office of Appellate Defense, I am forwarding your letter to that office.

Very truly yours,

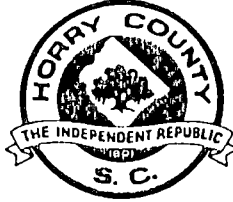
A handwritten signature in cursive script, appearing to read "Kenneth A. Richstad".

CLERK

KAR/pb

cc: Senior Assistant Appellate Defender Wanda H. Haile, with enclosure  
Attorney General Charles Molony Condon  
Deputy Attorney General John W. McIntosh  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
The Honorable Ralph J. Wilson

Jeanne J. Roberts  
Horry County Clerk of Court  
P. O. Box 677  
Conway, SC 29528-0677



Telephone (803) 248-1559  
626-1559

Fax (803) 365-0064

June 16, 1997

Mr. David Edward Dixon  
SCDC #217520  
Evans Correctional Institution  
P. O. Box 2951202  
Bennettsville, SC 29512-5202

Re:96-CP-26-3508

Dear Mr. Dixon:

This will acknowledge receipt of your letter dated June 4, 1997.

1. The forfeiture hearing is scheduled by the Solicitors Office. The address is P. O. Box 11276, Conway, SC 29526.

2. We do have a tape in our evidence vault from your trial. We do not know what is on the tape.

3. To check on your PCR, you need to contact the Attorney Generals Office. The address is P. O. Box 11549, Columbia, SC 29211.

If we may be of further assistance, please advise.

Sincerely,

*Angela A. Robbins*  
Angela A. Robbins

/aar

~~ORIGINAL~~

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM HORRY COUNTY  
General Sessions Court  
M. Duane Shuler, Circuit Court Judge

---

Opinion No. 97-UP-483 (S.C. Ct. App. filed September 23rd, 1997)

---

David E. Dixon,.....Petitioner,

v.

The State,.....Respondent.


---

PROOF OF SERVICE

---

I certify that I have served the notice of Petition for Rehearing by depositing the original plus six (6) copies as per instructions in the United States Mail, postage prepaid, on October 1st, 1997, addressed to the South Carolina Court of Appeals, Kenneth A. Richstad, Clerk, Post Office Box 11629, Columbia, S.C. 29211.

October 1st, 1997

1st   
David E. Dixon, SCDC #217520  
Evans Correctional Institution  
Post Office Box 2951202  
Bennettsville, S.C. 29512-5202  
Petitioner Pro-se

**RECEIVED**

OCT 1 1997

S.C. Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

---

APPEAL FROM HORRY COUNTY

General Sessions Court

M. Duane Shuler, Circuit Court Judge

---

Opinion No. 97-UP-483 (S.C. Ct. App. filed September 23rd, 1997)

---

David E. Dixon,.....Petitioner,

v.

The State,.....Respondent.

---

PETITION FOR REHEARING

---

David E. Dixon, Pro-se  
SCDC #217520 F3-A-256  
Evans Correctional Inst.  
Post Office Box 2951202  
Bennettsville, S.C. 29512

THE STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )  
DAVID E. DIXON, )  
                  PETITIONER, )  
                                  ) )  
                  V. ) )  
THE STATE, ) )  
                  RESPONDENT. ) )

---

IN THE COURT OF APPEALS

PETITION FOR REHEARING

The undersigned Petitioner, David E. Dixon, SCDC #217520 would respectfully show this Court:

1. Petitioner was denied the right to a fast and speedy trial under the law(s) of the State of South Carolina Constitution and the United States Constitution when in fact Defendant remained in jail nineteen (19) days before being appointed an Attorney and in which Attorney was appointed to represent Defendant on a drug charge that had been nol-prossed September 10th, 1993, two (2) months and nine (9) days prior to the arrest on November 18th, 1993, on the existing charges. Defendant was denied any and all due process of law. No bond hearing until May 9th, 1994. Defendant had to request the bond hearing himself, no preliminary hearing, no notice whatsoever. No pretrial matters. **SCRC:** Rule 1. Any and all arrest warrants were returned to the Solicitor's Office and not to the Magistrate as proscribed by law; Rule 2. Preliminary Hearing, none, (a) Notice of Right, none; (b) Time for Hearing, none; (c) Probable Cause, none; (d) Conclusion of Hearing, none; Rule 3. Disposition of Arrest Warrants, all of the arrest warrants were returned to the Solicitor's office and remained there through January 3rd, 1994, and then they were transferred to the Clerk of Court, clocked in and returned to the Solicitor's office. (b) Transmittal to Solicitor, this is the only section that was apparently done correctly; (c) Action on Warrant, the Solicitor did not take action on the warrants and there was no indictment before September 8th, 1994, approximately

Ten (10) months passed before indictment on any of the charges.

(d) Extensions of time, none; (e) is there any records of the proceedings, did the Solicitor petition the Court for an extension?

2. Defendant was appointed an Attorney on December 7th, 1994, to represent him on a drug charge that had been nol-prossed, C. Bradley Ruffin, Jr., first Attorney. At the first bond hearing May 9th, 1994, Mr. Ruffin stated to the Court that he knew nothing of the existing charges, matter of record. Chief Deputy Solicitor Blake A. Martin spoke up and told the Judge that this was true and he also told the Judge that Mr. Ruffin had kinda gotten pushed into these new charges, matter of record. Defendant's first Attorney did absolutely nothing to defend and or represent the Defendant through August of 1994, when at that time Defendant filed a motion to relieve Mr. Ruffin, motion heard on September 19th, 1994 and motion granted, matter of record. September 19th, 1994, Defendant was reasigned an Attorney, David Hart Breen. Mr. Breen was also appointed tp represent Defendant on the same drug charge that had been nol-prossed September 10th, 1993. Defendant wrote to Mr. Breen and explain the situation and Mr. Breen went back before the Court and was appointed to represent Defendant on the existing charges which are before the Court at this time. Amended Order Appointing Counsel, dated and clocked in by the Clerk's office, October 18th, 1994, Mr. Breen was appointed to represent Defendant on the existing charges, matter of record.

3. Defendant was sent to William S. Hall, Psychiatric Institute May 16th, 1994, for evaluation for competency to stand trial. First trial, January 16th, 1995. Second trial January 16th, 1996. Defendant had already been evaluated and found competent to stand trial, Defendant refuse to cooperate when he was sent back to William S. Hall, for another evaluation May 16th, 1995, and would not cooperate per instructions from Attorney David Hart Breen, VIA telephone from William S. Hall, in the presence of Doctor Tracy Gunter, Psychiatrist. Defendant has a right under the Fifth Amendment to the Constitution of the United States to remain quiet, Defendant exercised his rights per instructions from Attorney.

Defendant was first sent to William S. Hall, to be evaluated for the drug charge and not for the existing charges of November 18th, 1993, that the Defendant was arrested on. Defendant did never at any time delay trial, the delay was solely due to the Solicitor and his ploys for the second evaluation. Defendant was black-mailed by the Solicitor's office by not allowing the Defendant to have an independent evaluation and even after the Judge signed the order for the evaluation Defendant was not allowed the independent evaluation until he cooperated with the Court order for the second evaluation at William S. Hall, per Mr. Blake A. Martin, Chief Deputy Solicitor. Defendant did not at any time delay either trial, trial was denied by the Solicitor, Blake A. Martin and his delay tactics. Solicitor Blake A. Martin denied the Defendant any and all pretrial matters that was due the Defendant.

4. Speedy Trial: The Due Process Clause of the Fifth Amendment to the United States Constitution provides that "[n]o person shall...be deprived of life, liberty, or property without due process of law." U.S. CONST. amend. V. The Fourteenth Amendment imposes the identical limit on the states. U.S. CONST. amend XIV.

The Sixth Amendment provides in relevant part that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." U.S. amend. VI. The Sixth Amendment speedy trial guarantee is binding on the states through the Due Process Clause of the Fourteenth Amendment. **Klopfer v. North Carolina, 386 U.S. 213, 222-23 (1967)**

**18 U.S.C. §§ 3161-3174 (1988 & Supp. V 1993) (Specifying time limits between arrest, indictment, and trial, and permissible delays within each period.**

**Fed. R. Crim. P. 48 (b)** (authorizing courts to dismiss indictments for government's unnecessary delay); **Fed. R. Crim. P. 50 (b)** (requiring district courts to prepare plans for prompt dispositions of cases). There is also an argument that a delay between probable cause and arrest that damages the defendant's capacity to defend should have the same affect as a speedy trial violation. The United States Supreme Court has given guidelines for such an argument even if not expressly recognizing it.

**United States v. Iovas Co., 431 U.S. 783 (1987).** The Court there suggested that such a delay, while not violating speedy trial, might violate due process if it were an extended, prejudicial delay not occasioned by the conduct of the defendant but rather by the bad faith of prosecution.

While pre-indictment delay has a different constitutional basis from speedy trial, the defence might attempt a "tacking" argument in a case in which both appear. See **United States v. McDonald, 456 U.S. 1 (1982).**

In **Gerstein v. Pugh, 420 U.S. 103 (1975)**, the Supreme Court held that "the Fourth Amendment requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following arrest." In **County of Riverside v. McLaughlin, 500 U.S. 103 (1975)**, the Supreme Court held that jurisdiction providing a probable cause determination within forty-eight hours of arrest are immune from systemic challenges of undue delay; however, when an individual is detained for more than forty-eight hours without a Gerstein hearing, the delay is presumed excessive and may only be justified by "a bona fide emergency or other extraordinary circumstance.

5. In conclusion, the petitioner was denied the right to a fast and speedy trial in all sense of the words, **FAST AND SPEEDY TRIAL.** The petitioner was not allowed due process of the law when in fact the Solicitor denied him any and all pretrial matters in his defence and delayed trial solely due the fact that the statement that the petitioner gave on the 18th, and 19th, 1993, had been altered, the search warrants had been altered as well. Petitioner did not receive an attorney before October 18th, 1994, after being in jail since November 18th, 1993. The Solicitor did in fact hold each and every arrest warrant, first warrant served on November 18th, 1993, twenty-nine warrants served on November 22nd, 1993, one warrant served on December 1st, 1993. The first arrest warrant that reached the Solicitor's office and transferred to the clerk of court, January 3rd, 1994, from the Solicitor's office, clocked in and returned to the Solicitor's on January 10th, 1994. The remaining arrest warrants and not in consecutive-

Order, took as many as one-hundred and seventeen (117) days before reaching the clerk of court, clocked in and returned to the Solicitor's office for indictment. Defendant was not indicted until September 8th, 1994, Defendant did not receive an attorney until after the indictment, October 18th, 1994, AMENDED ORDER APPOINTING COUNSEL, David Hart Breen, Attorney for Defendant. Petitioner has enclosed appointment of counsel beginning December 7th, 1993, for your inspection.

South Carolina, like all States, now has a constitutional obligation to provide "a fair and reliable determination of probable cause as a condition for any significant pretrial restraint of liberty, and this determination must be made by a judicial officer either before or promptly after arrest." *Gerstein v. Pugh*, 420 U.S. 103, 125 (1975). This must be done as soon as possible, see *Lively v. Cullinane*, 451 F. Supp. 1000 (D.D.C. 1978) (suggesting that one and one-half hours presumptively may be too long), and certainly within twenty-four hours (excluding Sundays). *Dommer v. Hatcher*, 427 F. Supp. 1040 (N.D. Ind. 1977). In cases triable in circuit court the magistrate holds the warrant during the time in which a defendant may request a preliminary hearing pursuant to S.C. Code Ann. §22-5-320 (Law. Co-op. 1989). The Solicitor's office does not hold the warrant for the magistrate and to prevent the defendant from receiving a preliminary hearing! The State's position is to make sure that the defendant receives due process of law. The petitioner in this case, was prejudiced severely by the prosecution's actions and inactions for failure to provide to the defendant access to the court, when in fact petitioner was at all times available for trial, petitioner had been evaluated May 16th, 1994, by William S. Hall, Psychiatric Institute, why should there be two (2) evaluations? Was there something that needed to be done before the second trial? Was the defendant competent to stand trial? Medical records enclosed.

Illegally obtained and tainted confession:

Petitioner would respectfully show this court; Petitioner was picked up and transported to Conway, South Carolina from Beaufort, South Carolina on November 18th, 1993, by two (2) J. Reuben Long

Detention Center Officer's, for transportation, and two (2) Horry County Police Detective's. Upon arriving in Horry County, defendant was taken to the J. Reuben Long Detention Center, petitioner was not booked at this time. Immediately left and went directly to the Horry County Police Department for questioning. Arrived at approximately 2:30 p.m.. Defendant was taken in and went to the interrogation room. In this room was a number of officer's and the two (2) transportation officer's. J. Gordon Harris, Chief of Police, Captain Guy Osborne, Lieutenant Rory Avant, Detective Lance Winburn, Gordon Thompson, Horry County Police. I had already called Chief Harris and told him if they would come and get me and help me with the physical and mental problems that I was having I would tell them what I knew, this was agreed on. We talked for about one (1) hour before I was given the miranda warning's. The waiver of rights form was signed at 3:20 p.m.. Before petitioner would sign the waiver of rights form, it was agreed on that defendant would not be prosicuted for what he told in his statement. Petitioner was told by Captain Osborne that the Solicitor Ralph Wilson was backing him one-hundred percent. To prove this to the defendant, Captain Osborne sent out of the room Detective Winburn to get a miranda form with the Solicitor's letter head on it to prove to the defendant that what he said was true. Defendant had no choice but to believe that he had a deal. That is the way it is done, something for something! Defendant then signed the miranda form. Petitione was promised a deal! Defendant was in waist chains, hand cuffs, leg chains and cuffs. Detective Winburn was sent out of the room to get a tape recorder and gave it to Captain Osborne. At the beginning of the taped statement, the date, the time, defendant's name, the officer's that were present, the deal that was offered, cessation from prosicution, medical treatment, and psychiatric treatment. Defendant was told that co-defendant would not give a statement and they were going to burn his ass! There were three (3) tape cassetts used on the 18th, of November 1993. Captain Osborne operated the recorder the entire time. Out of approximately four (4) hours of recording there is only one (1) hour and twenty-eight minutes of tape. The Solicitor introduce the tapes at trial

And said that these are the original tapes, two (2) tapes and of which both sides are full. Two (2) sixty minute tapes, which converts into two (2) hours which there was only one hour and approximately twenty-eight minutes on these two tapes, only three (3) sides have the recording on them, what happened to the rest of the tapes? The recording began at 3:20 p.m., and continued through 7:30 p.m., on the 18th, of November 1993. Defendant provided in his pro-se brief a copy of the medical of the 18th, of November 1993. Defendant was sent to the Conway Hospital at approximately 7:45 p.m., and was signed in at 8:00 p.m., approximately? After the Conway Hospital defendant was transported to the Myrtle Beach Jail and remained there until 3:00 p.m., November 19th, 1993, this has been denied by the Horry County Police that testified at trial January 16th, 1996. September 16th, 1997, petitioner received the booking report from the Myrtle Beach Jail and in fact the defendant was at this jail, I have enclosed the booking report. The Horry County Police also denied that Sergeant Jerry Sarvis with the Horry County Police did not pick up the defendant from this jail and bring him back to the Horry County Police Department on the 19th, of November, I have enclosed the paper work that I received from the Myrtle Beach Police Department. On numerous occasions petitioner attempted to retrieve this information from the Myrtle Beach Jail and failed. After several letters to attorney David Hart Breen asking him to get this information he refused petitioner as well. This particular information would prove in fact that the Horry County Police have lied and did in fact lie about the statement that defendant gave on the 18th, and 19th, of 1993, in their perjured testimony during trial of the petitioner in January of 1995, and the trial of January 1996, which is now before the Court of Appeals. During trial of January 16th, 1996, Chief Deputy Solicitor made the statement that his office had took it on himself to take an excerpt from this tape. Defendant objected to the taped statement being admitted into evidence, defendant objection was over ruled by Judge Shuler. Defendant had no attorney representation and in an attempt to represent himself had no evidence to prove to the court as to what he was saying was the truth about the tape statement, the defendant was taken to the Myrtle Beach Jail on the 18th,-

Of November and booked in at 2315 11:15 p.m., this was after the Conway Hospital and medical treatment that petitioner received. On the 19th, of November 1993, petitioner was pick up by Sergeant Sarvis and transported back to the Horry County Police Department for the second part of the statement which has been denied by the Horry County Police and did as well testify to this at trial. Defendant was picked up on November 19th, at 1500 3:00 p.m., and signed for by Sergeant Jerry Sarvis, releasing officer, Benny Altman, Myrtle Beach Law Enforcement Center. The Horry County Police also testified that we never talked about the half-gallon jar of white liquor, it as well is on the tape. Petitioner has enclosed a copy of the booking report as well as other information to prove that petitioner was at the Myrtle Beach Jail. In the petitioner's pro-se brief he enclosed a copy of the booking report from the J. Reuben Long Detention Center, marked exhibit #10. How could the defendant be in two (2) Jails at one time? Why did the Horry County Police testify that the Defendant was never at the Myrtle Beach Jail? Why is there now two (2) booking reports? Why didn't defendant's attorney retrieve the booking report when asked to do so by the defendant? The tape recorded statement has been altered, it is not authentic! The defendant also asked attorney Breen to have the tape statement authenticated by writing and explaining what happened, he refused as well. Before the prosecution can introduce any extra-judicial confession it has to show that the miranda warnings were given to the defendant before the statements were made and that the defendant validly waived miranda rights or made the statement with legal representation. Waiver will be presumed from the mere fact that the defendant talked after being given the warnings; if the defendant made the waiver after a lengthy interrogation or incommunicado incarceration, counsel may be able to show that the waiver is invalid. When the voluntariness of a confession is questioned, the issue is first argued before the judge, preferably by a pretrial motion to suppress, or at the trial out of the jury's hearing. **Jackson v. Denno, 378 U.S. 368 (1964)**. If the judge determines that the confession is admissible, it will be introduced over the objection of the defendant, and the question of voluntariness will be submitted to the jury with other factual issues in the case.

State v. Goolsby, 275 S.C. 110, 268 S.E.2d 31 (1980); State v. Cannon, 248 S.C. 506, 151 S.E.2d 752 (1966), State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991). Even when the judge admits the incriminating statement, counsel should frame an instruction for the judge to emphasize to the jury the need for determining the voluntariness of the statement before it can be relied on as probative evidence.

Baker v. McCollan, 443 U.S. 137, 145 (1979) (detention pursuant to valid warrant may, after lapse of significant time, constitute deprivation of liberty without due process, depending upon procedures afforded by states; three-day delay over long weekend not due process violation because "Fourteenth Amendment does not protect against all deprivations of liberty"); Coleman v. Frantz, 754 F.2d 719, 725 (7th Cir. 1985) (18-day detention in county jail violated Fourteenth Amendment due process requirements because procedural safeguards traditionally afforded by timely initial appearance denied). Fed. R. CRIM. P.5.

U.S. v. Wilson, 838 F.2d 1081, 1085 (9th, Cir. 1988) (20-hour delay before arraignment impermissible when deliberate and for sole purpose of obtaining confession). Defendant was convicted in the United States District Court for the District of Arizona, Paul G. Rosenblatt, of second degree murder and he appealed. The Court of Appeals, Goodwin, Circuit Judge, held that: (1) delay in bringing defendant before magistrate was not reasonable, and (2) defendant's waiver of rights to counsel and confession were not shown to be voluntary. Reversed.

Criminal law key No. 1139, 1158 (2), 70 (2), 519 (8) This construction is consistent with the language of section 3501 and a scheme under which the admissibility of confessions turns on voluntariness. The intergration, however, is not perfect. The effect of the proviso of subsection 3501 (c) is to remove discretion from the trial judge by requiring him to admit a confession, otherwise voluntary, given more than six hours [after] arrest during a delay in arraignment if the delay was reasonable considering problems in transporting the defendant to the magistrate. The petitioner had been in jail in Beaufort County from November 7th, 1993, through November 18th, 1993, and then transported to the Horry County Police Department for the statement.

The defendant had had a hold placed on him from the Horry County Police Department. The interrogation lasted for approximately four (4) hours before ending. Petitioner was then transported to the Conway Hospital and from there to the Myrtle Beach Jail and held incommunicado, until the next day, November 19th, 1993. Defendant was not allowed to make any phone calls whatsoever, could not have called an attorney, and or wife to say the least. The Government's reliance on the waiver of miranda rights becomes weaker as the period of pre-arraignment detention increases. If unreasonable delay in excess of six hours can itself form the basis for a finding of involuntariness, that same delay may also suggest involuntariness of the miranda waiver. **see Frazier v. United States, 419 F.2d 1161, 1167 (D.C. Cir. 1969)** (noting that the government's "already 'heavy burden' of showing effective waiver" increases with the delay between arrest and confession). The five factors considered in § 3501 (b) are: (1) the time between arrest and arraignment if the confession occurred between those two events; (2) whether the defendant understood the offence alleged; (3) whether the defendant knew or was advised that she did not have to make any statements and that any statements she made could be used against her; (4) whether the defendant was advised of her right to counsel; and (5) whether the defendant had assistance of counsel when confessing. *Id.* The Horry County Police and the Solicitor's office could not allow into evidence that the defendant had been taken to the Myrtle Beach Jail and held over night and then being taken back to the Horry County Police Department for the second part of the interrogation on November 19th, 1993. Thus, the interrogation was in fact illegal and the authorities could not allow defendant to retrieve the information from the Myrtle Beach Jail and thus, this formed a conspiracy to harm the defendant and deny the defendant of any and all rights afforded him under the South Carolina Constitution and the United States Constitution. The defendant remained in the custody of the Horry County Police for nineteen (19) days before being taken before a judge and then he was only appointed an attorney and attorney was only appointed to represent defendant on an old charge that was nol-prossed September 10th, 1993.

Defendant had already been in jail for eleven days in Beaufort County before being transported to Horry County and then remained in jail for nineteen (19) days without a bond hearing and or any pretrial rights. If the defendant's attorney had been effective in representation of the defendant and had gotten the booking report from the Myrtle Beach Jail the out come of the trial would have been different and the confession would have been suppressed. If the attorney for defendant had made a motion to have the taped statement authenticated it would have proven that the defendant did tell the truth about the statement and would have shown that the Horry County Police and or the Solicitor's office did in fact alter the taped statement in question, and it must be authenticated! The first section of the taped recorded statement is missing, the Police officer's testified at the first trial that the defendant began talking about the Public Works Robbery, this is true, but this is not what's on the taped statement that is before the court at this time, it begins by saying, Tony Martin supplied all the money for the marijuana. The defendant's wife Betty Dixon took it on herself to have the taped statement transcribed and copies were sent to the Clerk of Court, Mr. Kenneth Richstad, and to the Attorney General's office, Mr. Charles Richardson. The defendant was provided a copy of the taped statement December 12th, 1994, by attorney David Hart Breen in the discovery material that was provided by the Solicitor's office. Defendant had already been in jail thirteen (13) months before the discovery material was ever received. The copy of the transcription of the taped statement was objected to by the Attorney General Office, that would be very easy to explain if you didn't want it to become part of the Appeal and a very important piece of the evidence as well as the booking report from the Myrtle Beach Jail that has quite an impact on this case! I will someday find out just exactly how to have the taped statement authenticated and it will be done. I certainly hope that this court will find it and grant the petitioner in this Appeal the benefit of doubt that he has placed before this Honorable Court and grant him his wishes that the taped statement is illegal and has been tainted to cause the defendant severe injury in his Appeal. The petitioner would be most grateful.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the Circuit Court.

October 1st, 1997

Respectfully submitted,

  
/s/ David E. Dixon

David E. Dixon, SCDC #217520  
Evans Correctional Inst.  
Post Office Box 2951202  
Bennettsville, S.C. 29512  
Petitioner Pro-se

AGE 50 DATE/TIME 11-7-93 BOOKING # 3320 CASE NUMBER 93-87695

DEFENDANT NAME (LAST, FIRST, MIDDLE) **Dixon, David Edward**

RACE **W** SEX **M** DATE OF BIRTH **12-18-46** DOCKET #

AGE **HT** **N** **604** EYEIGHT **760** HAIR **BRD** EYES **BRD** SOCIAL SECURITY NUMBER **252683735** VISIBLE SCARS AND MARKS NGIC I.D. #

ADDRESS (NUMBER AND STREET) **3320 Baywater Dr** CITY **Conway** STATE **SC** ZIP CODE **29526** RESIDENT **S** U PHONE NUM **None**

ALIAS PLACE OF BIRTH **Savannah, GA** DRIVERS LICENSE NUMBER **002443869**

EMPLOYER OR OCCUPATION **unemployed** NEXT OF KIN **Betty Dixon (wife)** ADDRESS (CITY AND STATE) **Same**

BOOKING OFFICER'S NAME NUMBER ARRESTING OFFICER **D. Rice** AGENCY **BCSD** NUMBER **R2920**

ARRESTEE ARMED  YES  NO WEAPON TYPE:  SEMI-AUTO  FULL-AUTO  ON VIEW ARREST  SUMMONED  CUS

JUVENILE DISPOSITION: 1.  HANDLED, RELEASED 2.  REFERRED TO OTHER AUTHORITY \*J - This Jurisdiction. S - State. O - Out of State. U - Ur

ADDITIONAL CASE NUMBERS MORE IN REMARKS

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A, B, C

CHARGE I.D.	A	B	C
CHARGE	<b>A 47400 A</b>		
STATUTE	<b>6-1-40</b>		
BOND AMOUNT			
BOND TYPE			
RET. DATE	<b>1-3-94</b>		
DISPOSITION			
	DAYS	AMOUNT	DAYS
SENTENCE			
TIME SERVED			
GOOD TIME			
BALANCE			
PAID			
RECEIPT NUMBER			

RELEASE DATE TIME RELEASING OFFICER NUMBER AGENCY RELEASED TO

SIGNATURE OF RECEIVING OFFICIAL X \_\_\_\_\_ LIST ANY REMARKS BE REMARKS:

DEFENDANTS PERSONAL PROPERTY RECEIPT TOTAL CASH AT TIME OF ARREST → \$

QUANTITY	ITEM	QUANTITY	ITEM

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

X \_\_\_\_\_ DEFENDANT'S SIGNATURE AT TIME OF ARREST OFFICER

I HEREBY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

12 (A) X

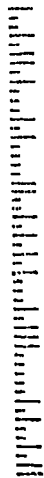


**City of Myrtle Beach**  
**POLICE DEPARTMENT**

1101 OAK STREET/MYRTLE BEACH/SOUTH CAROLINA 29577

DAVID E. DIXON  
SCDC #217520 F3-A-256  
EVANS CORRECTIONAL INSTITUTION  
POST OFFICE BOX 2951202  
BENNETTSVILLE, S.C. 29512-5202

29512-5202



SUMMONS NO: 1134318 COURT DATE: NO. 12989

INMATE NAME (LAST, FIRST, MIDDLE): Nixon, David Edward

RACE: WM SEX: M DATE OF BIRTH: 12/8/46 DOCKET NUMBER: \_\_\_\_\_

ETH: N HEIGHT: 604 WEIGHT: 305 HAIR: BRN EYES: BRN SOCIAL SECURITY NUMBER: 252682735 VISIBLE SCARS AND MARKS: \_\_\_\_\_ NIC: NS I.D. NUMBER: \_\_\_\_\_

RES. NUMBER AND STREET: 320 Bay Water Dr CITY: Aynor STATE: SC ZIP CODE: 29511 RESIDENT: (S) PHONE NUMBER: 3656275

PLACE OF BIRTH: Savannah GA DRIVERS LICENSE NUMBER: 002443869 STATE: GA

EMPLOYER OR OCCUPATION: Disabled NEXT OF KIN: Bethy ADDRESS (CITY AND STATE): 3376

WORKING OFFICE'S NAME: Shubert NUMBER: 452 ARRESTING OFFICER: AVANT, Roy NUMBER: 1001 LOCATION OF ARREST: J. Keith Long

TESTEE ARMED:  YES  NO WEAPON TYPE: \_\_\_\_\_  SEMI-AUTO  FULL-AUTO  ON VIEW ARREST  SUMMONED  CUSTODY

FINAL DISPOSITION: 1.  HANDLED, RELEASED 2.  REFERRED TO OTHER AUTHORITY MARITAL STATUS:  MARRIED  SINGLE

ADDITIONAL CASE NUMBERS: \_\_\_\_\_ MORE IN REMARKS:  PRIOR ARREST:  YES  NO

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE — A, B, C

CHARGE I.D.:	<u>A</u> <u>D 134318</u>	B	C
CHARGE:	<u>Burg 2nd</u>		
FINANCIAL AMOUNT:	<u>HIC</u>		
POSITION:			

REMARKS: \_\_\_\_\_

QUANTITY	ITEM	QUANTITY	ITEM
01	Cigarettes		
01	Ticagmet		
01	Willet		
01	Check 726.75		
		TOTAL CASH AT TIME OF ARREST \$ <u>726.75</u>	

BY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTE ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST. RESPONSIBLE FOR PROPERTY OVER 30 DAYS.

David Nixon DEFENDANT'S SIGNATURE AT TIME OF ARREST Robert A. Spill OFFICER

BY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON PERSON AT THE TIME OF MY ARREST.

RELEASE DATE: 11/18/93 TIME: 1500 RELEASING OFFICER: ASMAN NUMBER: 512 AGENCY RELEASED TO: HCPD

SIGNATURE OF RECEIVING OFFICIAL X Jerry James

FILE COPY



MYRTLE BEACH LAW ENFORCEMENT CENTER

Clerk of Court  
1101 Oak Street  
Myrtle Beach, South Carolina 29577  
(803) 626-7693

120576

NAME- DIXON

DAVID

EDWARD

CHARGES- BURGLARY

RELEASE TO OTHER AGENCY

05

DATE- 11/19/93

TIME- 14:53:54

BOND- \$0

RELEASED TO- HCPD

ARRESTING OFFICIER- Horry County Police

RELEASING OFFICIER ALTMAN, BENNY

ARREST NO.- A9312989

I WAIVE SERVICE OF WARRANT UNTIL I APPEAR IN COURT.

*David Dixon*

ARREST WARRANT

D- 734318

0734318

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of Horry

THE STATE

against DAVID E. DIXON

Address: 3320 Baywater Dr. Myrtle SC

Phone: 365-6275 SSN: 252-68-8735

Sex: M Race: W Height: 604 Weight: 305

State: DL #:

DOB: 12/16/46 Agency ORI #:

Prosecuting Agency: Horry County Police Dept

Prosecuting Officer: Lt. Rory Avant

Offense: BURGLARY 2ND DEGREE

Offense Code: 16-11-312

Code/Ordinance Sec. 16-11-312

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

The accused

to be arrested and brought before me to be

held with according to law.

(LS.)

Signature of Judge

Return

RETURN

A copy of this arrest warrant was delivered to

defendant David E. Dixon

on 11/12/93

Signature of Constable/Law Enforcement Officer

TURN WARRANT TO:

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of Horry

AFFIDAVIT

Form Approved by S.C. Attorney General July 26, 1990 SCCA 51B

Personally appeared before me the affiant RORY AVANT

being duly sworn deposes and says that defendant DAVID E. DIXON

did within this county and state on 8/15 1993

violate the criminal laws of the State of South Carolina (or ordinance of [ ] County/ [ ] Municipality of )

in the following particulars:

DESCRIPTION OF OFFENSE: 16-11-312 BURGLARY 2ND DEGREE

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:

SEE ATTACHED AFFIDAVIT

Sworn to and subscribed before me on 11/12/93

Signature of Affiant

Affiant's Address P O BOX 68

CONWAY S.C. 29526

Affiant's Telephone 8032486241

Signature of Issuing Judge (LS.)

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of 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 8/15/93 defendant DAVID E. DIXON

did violate the criminal laws of the State of South Carolina (or ordinance of

[ ] County/ [ ] Municipality of ) as set forth below:

DESCRIPTION OF OFFENSE: 16-11-312 BURGLARY 2ND DEGREE

Now, therefore, 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. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (LS.) Judge's Address 4152 J. REUBEN LONG AVE.

Signature of Issuing Judge Judge's Telephone 8033659222

Judge Code: 112 Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

AFFIDAVIT

DESCRIPTION OF OFFENSE:

CODE SECTIONS

I further state that there is probable cause to believe that the defendant(s) did commit the crime set forth and that such probable cause is based on the following facts:

In that on or about August 15, 1993, David E. Dixon along with a co-defendant did go to the Horry County Public Works and forcibly enter several buildings and did take, steal, and carry away two Hardee trailers, two welding machines, seven Stihl chain saws, five McCulloch chain saws, one (1) Black and Decker angler grinder, One (1) Honda generator, one (1) Industrial air compressor, one (1) air conditioner reclaiming, two (2) Motorola walkie talkies, One (1) 5-ton jack, One (1) Arc welder, two (2) cutting torches, two (2) hydraulic jacks, one (1) Homelite 3" centrifugal water pump, one (1) tool chest with roll away cabinet, one (1) fax machine, one (1) wheel dolly, One (1) 3/8" cordless drill, and numerous other tools, starters, alternators, computers, and other shop equipment, without consent of the owner. With the said value of above things being more than \$1,000, the defendant did commit the offense of Burglary 2nd Degree.

Sworn to and subscribed before me )  
on 12th November 1993 )

MB [Signature] )  
Signature of issuing Judge )

[Signature]  
Signature of Affiant

No: 1, ONE

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )  
STATE OF SOUTH CAROLINA )  
v. )  
David Dixon )  
Defendant. )

IN THE COURT OF GENERAL SESSIONS  
OF THE FIFTEENTH JUDICIAL CIRCUIT

ORDER  
SUBSTITUTING  
COUNSEL

HORRY COUNTY  
DEC - 7 PM 3:44

This matter comes before me on 12/07/1993, regarding substitution of counsel for the Defendant. The Defendant is charged with:

Traffick in Marij, 1st

It appears that the Defendant is eligible for court-appointed counsel, such determination having been made on 07/14/1992, by the Clerk of Court. Inasmuch as the Office of the Public Defender already represented a co-defendant, Assistant Public Defender Barbara Krug was inadvertently appointed to represent the defendant on the above charges.

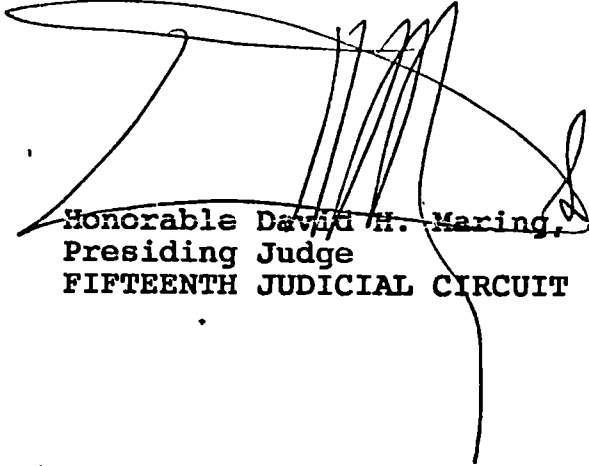
Based on the above, the Court finds that good cause has been shown to relieve Assistant Public Defender Barbara Krug and substitute Attorney Bradley Ruffin, Jr.

IT IS THEREFORE ORDERED that Barbara W. Krug be relieved and that Attorney Bradley Ruffin, Jr. be substituted as counsel for the defendant.

C. Ruffin, Jr.  
P.O. Drawer 14950  
Surfside Beach, SC 29587  
238-8836

IT IS SO ORDERED.

Dated: Dec 7 1993  
Conway, South Carolina



Honorable David H. Maring, Sr.  
Presiding Judge  
FIFTEENTH JUDICIAL CIRCUIT

No: 2. Two

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 ) OF THE FIFTEENTH JUDICIAL CIRCUIT  
 COUNTY OF HORRY )  
 )  
 THE STATE OF SOUTH CAROLINA )  
 )  
 V )  
 )  
 David E. Dixon )

ORDER  
SUBSTITUTING  
COUNSEL

HORRY COUNTY  
 94 SEP 22 PM 3: 27  
 BILLIE G. RICHARDSON  
 CLERK OF COURT

File No. 92-07-0927  
 S.S. No. 252-68-8735

This matter comes before me on September 19, 1994, regarding substitution of counsel for the Defendant. The Defendant is charged with:

Traffick in Marij, 1st

The above-captioned defendant is eligible for the services of the Public Defender, such determination having been made on 07/14/1992.

It appears that the Public Defender's Office appointed Attorney Brad Ruffin on December 7, 1993, to represent the above-named defendant on the above-referenced charges. The Honorable David Maring ordered that Mr. Ruffin be replaced. The Court is now informed that Mr. Ruffin will represent the defendant on the above charges.

The Court finds that good cause has been shown to relieve Atty. Brad Ruffin and substitute David Breen as counsel.

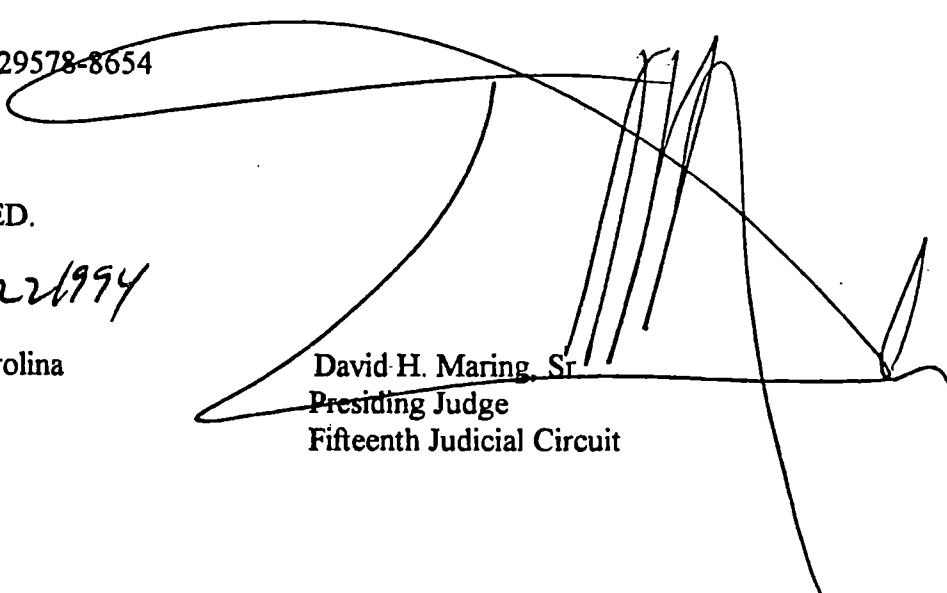
IT IS THEREFORE ORDERED that C. Ruffin, Jr. be relieved and that the following attorney be substituted as counsel for the Defendant:

David Breen  
 P.O. Box 8654  
 Myrtle Beach, SC 29578-8654  
 626-3599

IT IS SO ORDERED.

Dated: Sept 22 1994

Conway, South Carolina

  
 David H. Maring, Sr.  
 Presiding Judge  
 Fifteenth Judicial Circuit

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Horry )  
 )  
 )  
 )  
 )  
 THE STATE OF SOUTH CAROLINA )  
 )  
 VS. )  
 )  
 David E Dixon )  
 )  
 \_\_\_\_\_ )  
 Defendant )

IN THE COURT OF GENERAL SESSIONS  
 OF THE FIFTEENTH JUDICIAL CIRCUIT

WARRANT NO.(s)

CERTIFICATE OF REPRESENTATION  
 AND APPOINTMENT: CONFLICT  
 (Appointing as Counsel)  
 David Breen

Horry County  
 94 SEP 23 PM 12:55  
 BILLIE G. RICHARDSON  
 CLERK OF COURT

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 at 07/14/1992, regarding the charge(s) of:

Traffick in Marij, 1st

However, due to a conflict of interest, a private attorney has been appointed on 08/10/1992 to represent the defendant, such attorney being:

David Breen  
 P.O. Box 8654  
 Myrtle Beach, SC 29578-8654  
626-3599 *old #*

Since any formal notice of appointed counsel may be delayed in the mail, this Office hereby requests on behalf of appointed counsel, a Pretrial Conference was requested with the Solicitor's Office for disclosure in compliance with Rule 5, SCRCrimP.

This Certificate is issued in compliance with the Administrative Order of the Honorable Don S.

Rushing dated December 12, 1988, and approved by the South Carolina Supreme Court.

Appointment of counsel as named herein is subject to modification by the court.

A handwritten signature in cursive script that reads "Orrie E. West". The signature is written in black ink and is positioned above a horizontal line.

ORRIE E. WEST  
OFFICE OF THE PUBLIC DEFENDER

No. 3. Three

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	OF THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF Horry	)	
	)	WARRANT NO.(s)
	)	
	)	
THE STATE OF SOUTH CAROLINA	)	CERTIFICATE OF REPRESENTATION
	)	AND APPOINTMENT: CONFLICT
VS.	)	(Appointing as Counsel)
	)	David Breen
David E Dixon	)	
	)	
<u>Defendant</u>	)	

Horry County  
 94 SEP 23 PM 12:54  
 BILLIE G. HARRIS  
 CLERK OF COURT

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 at 07/14/1992 , regarding the charge(s) of:  
Traffick in Marij, 1st

However, due to a conflict of interest, a private attorney has been appointed on 08/10/1992 to represent the defendant, such attorney being:

David Breen  
 P.O. Box 8654  
 Myrtle Beach, SC 29578-8654  
 626-3599

Since any formal notice of appointed counsel may be delayed in the mail, this Office hereby requests on behalf of appointed counsel, a Pretrial Conference was requested with the Solicitor's Office for disclosure in compliance with Rule 5, SCRCrimP.

This Certificate is issued in compliance with the Administrative Order of the Honorable Don S.

Rushing dated December 12, 1988, and approved by the South Carolina Supreme Court.

Appointment of counsel as named herein is subject to modification by the court.

A handwritten signature in cursive script, reading "Orrie E. West". The signature is written in black ink and is positioned above a horizontal line.

ORRIE E. WEST

OFFICE OF THE PUBLIC DEFENDER



STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
COUNTY OF HORRY ) OF THE FIFTEENTH JUDICIAL CIRCUIT  
) ORDER  
) SUBSTITUTING  
) COUNSEL  
THE STATE OF SOUTH CAROLINA )  
) V )  
) David E. Dixon )

HORRY COUNTY  
94 SEP 22 PM 3:27  
CLERK OF COURT

File No. 92-07-0927  
S.S. No. 252-68-8735

This matter comes before me on September 19, 1994, regarding substitution of counsel for the Defendant. The Defendant is charged with:

Traffick in Marij, 1st *No1 Pros 9-10-93*

The above-captioned defendant is eligible for the services of the Public Defender, such determination having been made on 07/14/1992.

It appears that the Public Defender's Office appointed Attorney Brad Ruffin on December 7, 1993, to represent the above-named defendant on the above-referenced charges. The Honorable David Maring ordered that Mr. Ruffin be replaced. The Court is now informed that Mr. Ruffin will represent the defendant on the above charges.

The Court finds that good cause has been shown to relieve Atty. Brad Ruffin and substitute David Breen as counsel.

IT IS THEREFORE ORDERED that C. Ruffin, Jr. be relieved and that the following attorney be substituted as counsel for the Defendant:

David Breen  
P.O. Box 8654  
Myrtle Beach, SC 29578-8654  
626-3599

IT IS SO ORDERED.

Dated: *Sept 22 1994*

Conway, South Carolina

*[Handwritten Signature]*  
David H. Maring, Sr.  
Presiding Judge  
Fifteenth Judicial Circuit

No. 4. Four

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
COUNTY OF HORRY ) OF THE FIFTEENTH JUDICIAL CIRCUIT  
) )  
) ) AMENDED ORDER  
STATE OF SOUTH CAROLINA ) APPOINTING  
) ) COUNSEL  
) )  
v. )  
) )  
David E Dixon )  
\_\_\_\_\_ ) Defendant.)

HORRY COUNTY  
94 OCT 18 AM 9:07  
BILLIE G. RICHARDS  
CLERK OF COURT

This matter comes before me on Thursday, October 13, 1994, regarding appointment of counsel for the Defendant. The Defendant was arrested several different times beginning November of 1989 thru September of 1993, for the offense(s) of:

Breach of Trust With Fraudulent Intent, Possession of Stolen Auto, Malicious Damage To Real Property, Kidnapping (2cts), Burglary 1st Degree (2cts), Burglary 2nd Degree (3cts), Burglary 3rd Degree (2cts), Petit Larceny (4cts), Grand Larceny (6cts), Attempted Armed Robbery (3cts), Conspiracy To Commit A Crime (6cts)

After hearing from the Defendant, the Court finds that the Defendant is eligible for court-appointed counsel. Inasmuch as the Office of Public Defender already represents a co-defendant, the Court must appoint a private attorney.

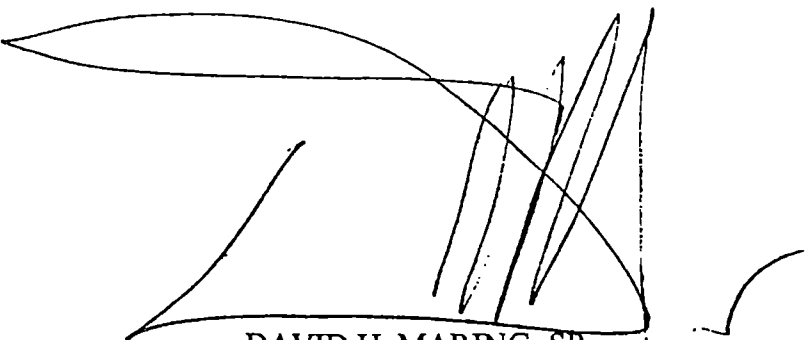
However, the Defendant is now placed on notice by this Court that, pursuant to the Defense of Indigents Act as contained in S.C. Code 17-3-30 (A), (1993 as amended), the costs of legal representation may be assessed against the Defendant at the conclusion of the case.

IT IS ORDERED that the following attorney is appointed to represent the Defendant on the above-referenced offense(s):

David Breen  
P.O. Box 8654  
Myrtle Beach, SC 29578-8654  
626-3599

AND IT IS ORDERED.

Dated: Oct 14, 1994



DAVID H. MARING, SR.  
PRESIDING JUDGE  
FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
COUNTY OF HORRY ) OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA )  
v. )  
David E Dixon )  
Defendant.)

AMENDED ORDER  
APPOINTING  
COUNSEL

HORRY COUNTY  
94 OCT 18 AM 9:07  
BILLIE G. RICHARDS  
CLERK OF COURT

This matter comes before me on Thursday, October 13, 1994, regarding appointment of counsel for the Defendant. The Defendant was arrested several different times beginning November of 1989 thru September of 1993, for the offense(s) of:

Breach of Trust With Fraudulent Intent, Possession of Stolen Auto, Malicious Damage To Real Property, Kidnapping (2cts), Burglary 1st Degree (2cts), Burglary 2nd Degree (3cts), Burglary 3rd Degree (2cts), Petit Larceny (4cts), Grand Larceny (6cts), Attempted Armed Robbery (3cts), Conspiracy To Commit A Crime (6cts)

After hearing from the Defendant, the Court finds that the Defendant is eligible for court-appointed counsel. Inasmuch as the Office of Public Defender already represents a co-defendant, the Court must appoint a private attorney.

However, the Defendant is now placed on notice by this Court that, pursuant to the Defense of Indigents Act as contained in S.C. Code 17-3-30 (A), (1993 as amended), the costs of legal representation may be assessed against the Defendant at the conclusion of the case.

IT IS ORDERED that the following attorney is appointed to represent the Defendant on

the above-referenced offense(s):

*after 11 months in jail on these charges I got a lawyer*  
David Breen *No pre-trial hearing, No Prelim way, No Bond*  
P.O. Box 8654  
Myrtle Beach, SC 29578-8654  
626-3599  
# 15, 449-4455  
AND IT IS ORDERED.

Dated: *Oct 14 1994*

DAVID H. MARING, SR.  
PRESIDING JUDGE  
FIFTEENTH JUDICIAL CIRCUIT

Conway, S.C.

*Wrong  
Phone  
number*

FORENSIC UNIT OUTPATIENT EVALUATION

MAY 16, 1994

PRESIDING: Thomas W. Behrmann, M.D.

OTHERS PRESENT: Carlos Torres, LMSW

DIAGNOSES: AXIS I: Pathological gambling.  
AXIS II: No diagnosis.  
AXIS III: Hypertension.  
Esophageal reflux.

38

COMPETENCY TO STAND TRIAL: Yes.

CRIMINAL RESPONSIBILITY: Yes.

CAPACITY TO CONFORM: Yes.

DISPOSITION: Return to Horry County authorities for disposition of charges.

PERTINENT STATEMENTS: David E. Dixon is a 47-year-old white male who is seen today pursuant to an order from the Horry County Court of General Sessions ordering an evaluation for competency to stand trial, criminal responsibility and capacity to conform behavior. The patient is charged with the offense of trafficking in marijuana which allegedly occurred on or about June 18, 1992 in Horry County, South Carolina. Prior to beginning the interview the purpose and nature of the interview were explained to the patient. The patient was able to demonstrate an understanding of his Miranda rights and possessed the ability to waive his rights for the purpose of the evaluation.

The patient has no past history of diagnosis of major mental illness or treatment for such. The patient does describe a pattern of behavior however which is consistent with a diagnosis of pathological gambling which first became manifest in 1988 and lasted until the time of his arrest. The patient denies any history of use of psychoactive substances.

MENTAL STATUS EXAM: The patient is a well-developed, well-nourished white male who appears somewhat older than his stated age. At the time of the evaluation the patient was alert, polite and at least superficially cooperative. The patient displayed no evidence of psychomotor agitation or retardation. The patient was dressed in jail clothing and displayed a fair level of grooming. The patient's speech was normal in rate, fluent and coherent. The patient's mood was described as "not too good" and his affect while full in range appeared to be irritable at times. Thought process was generally logical and goal directed, however the patient tended to be over inclusive. The patient voiced no evident delusional thought or preoccupation. The patient denied current homicidal or suicidal ideation but does admit to having experienced suicidal thoughts in the past. The patient gave a vague description of an hallucinatory

CONFIDENTIAL

This information has been disclosed to you from records whose confidentiality is protected by Federal regulations (42 CFR Part 2) and S. C. Law, Section 44-23-1090. This prohibits you from making any further disclosure of it without the specific and written consent of the person to whom it pertains. A person's ability to sue for the release of medical or other information is not sufficient for this purpose.

COPY RELEASED BY WSHPI  
to David E. Dixon

DIXON, DAVID E.

941-0413

OUTPATIENT EVALUATION

29

WILLIAM S. HALL PSYCHIATRIC INSTITUTE  
FORENSIC UNIT STAFFING 1696

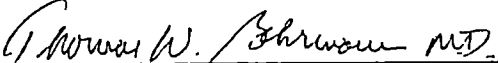
experience which was not consistent with those seen with major mental illness. His intellectual functioning appeared to be in the low average range with an adequate fund of knowledge. The patient's concentration appeared intact as noted by his ability to attend during the interview but he had some difficulty with simple tests of concentration. The patient was able to interpret proverbs in an abstract manner. Memory testing was intact to registration, recent and remote memory. The patient was alert and oriented in three spheres. The patient's insight into his current situation appears to be generally preserved. His judgement based on past behavior is felt to be impaired and his impulse control and frustration tolerance is low.

**CONCLUSION REGARDING COMPETENCY TO STAND TRIAL:** Mr. Dixon when asked about his charges stated that he had numerous charges against him. He was shown a copy of the warrant and court order and stated that he thought that the charge against him had been dropped and that there was no basis for it. The patient did admit however that it was a serious charge and that he realized that he could end up going to prison if found guilty of the charge. The patient correctly identifies his attorney as a resource for any questions about possible sentences or other issues related to his case. The patient is aware of his options in pleading to his charge and has at least a general knowledge of the process of plea bargaining. The patient is aware of the roles of the various court officers and is also aware of the adversarial nature of the court. The patient demonstrates a self-protective attitude. The patient expressed some dissatisfaction with his present attorney but is aware of what he needs to do to cooperate with an attorney in his own defense. The patient is also aware of what he must do if he should seek to have a new attorney appointed to his case. The patient is aware of the proper roles of conduct in the court room. The patient expresses the wish that his case go well and that he be allowed to return home with his wife and children. Based on these findings we conclude that the patient is competent to stand trial.

**CONCLUSION REGARDING CRIMINAL RESPONSIBILITY:** Mr. Dixon is diagnosed with pathological gambling. There is however, no evidence of a major mental illness or defect which would have prevented the patient from appreciating the nature of his acts or from differentiating between moral and legal right and moral and legal wrong on the date of the alleged offense. We conclude therefore that pursuant to the McNaghten Standard the patient is criminally responsible towards his charge.

**CONCLUSION REGARDING CAPACITY TO CONFORM:** Mr. Dixon is diagnosed with pathological gambling. There is however no evidence of a major mental illness or defect which would have prevented the patient from controlling his behavior on the date of the alleged offense as far as the actions leading to the charges against him is concerned. We conclude therefore that the patient did possess a capacity to conform his behavior to the requirement of the law.

**RECOMMENDATIONS:** Patient should seek treatment for his impulsive gambling following disposition of his charges.

  
Thomas W. Behrman, M.D.  
Attending Psychiatrist

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

COPY RELEASED BY WSHPI  
To David E. Dixon

DIXON, DAVID E.  
941-0413  
OUTPATIENT EVALUATION

WILLIAM S. HALL PSYCHIATRIC INSTITUTE 30  
FORENSIC UNIT STAFFING 1696 2

TWB/lds

D: 05/16/94  
RT/EM: 05/17/94  
F/EM: 05/23/94

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

WILLIAM S. HALL PSYCHIATRIC INSTITUTE  
FORENSIC UNIT STAFFING 1696

31

3

DIXON, DAVID E.  
941-0413  
OUTPATIENT EVALUATION

FORENSIC UNIT OUTPATIENT EVALUATION

DATE: August 1, 1995

PRESIDING: Tracy D. Gunter, M.D.

OTHERS PRESENT: Ann Sherman, LMSW

DIAGNOSES: AXIS I: Pathological Gambling.  
AXIS II: No Diagnosis.  
AXIS III: Hypertension and Esophageal Reflux.

COMPETENCY TO STAND TRIAL: No opinion.

CRIMINAL RESPONSIBILITY: No opinion.

CAPACITY TO CONFORM: No opinion.

DISPOSITION: Return to Lieber Corrections.

CONFIDENTIAL  
This information has been disclosed to you from records  
which are controlled by the FBI pursuant to Federal regulations  
(42 CFR 1.617) and (25 CFR 161.104-2). This  
document is for your information only. Disclosure of it  
without the specific written consent of the person to whom  
it pertains is prohibited for the release of medical  
or other information. NOT sufficient for this purpose.

COPY RELEASED BY WSHPEI  
To David E. Dixon

PERTINENT STATEMENTS: Mr. Dixon is a 48-year-old disabled white male who was seen at the William S. Hall Psychiatric Institute, Forensic Unit Outpatient Service for an evaluation. He is under a court order for an evaluation of his competency to stand trial, criminal responsibility pursuant to the McNaughten standard for his actions on or about November 11, 1989, and March 18, 1990, and if responsible, a determination of his capacity to conform his behavior to the requirements of the law on the dates in question. The patient is charged with two counts of accessory before the fact of burglary first degree, two counts of accessory after the fact to burglary, first degree, two counts of accessory before the fact to kidnapping, two counts of accessory after the fact to kidnapping, and two counts of criminal conspiracy. He is referred from the Horry County Court of General Sessions. The patient was angry and irritable at having been transported to the Hall Institute for this evaluation because he had refused to participate on 05/16/95 and so to him it was as though his attorney did not respect his decision not to participate. He expressed a great deal of anger towards his attorney for not believing that he could be mentally ill prior to the trial, but now asking him to consent to an evaluation after his conviction. We attempted to contact his attorney by phone. He spoke with his attorney at some length. Although he was quite angry and at times raised his voice, he was able to terminate the conversation when asked to do so. He conveyed his thoughts in a goal-directed manner. His attorney was aware of his dissatisfaction, but stated that this was unusual for the patient.

The patient stated that he did not want wish to participate in the interview and exercised his right to remain silent.

32  
WILLIAM S. HALL PSYCHIATRIC INSTITUTE  
FORENSIC UNIT STAFFING 3716 1  
DIXON, DAVIE  
941-041  
OUTPATIENT EVALUATION

There is no known history of Mental Health Center contacts, medications for anxiety, or substance abuse prior to this evaluation. He has had difficulty with gambling and with mood swings as well as with his temper. Attempts were made to get his S.C. Department of Corrections folder with the notes of Dr. DeWitt and Dr. Blanton after the patient signed a release for information. Mr. Dixon told us about an MMPI, that he had taken, but we have not yet received any information. Additional attempts were made to get records from Dr. Shauna Shields-Alford. The number that the directory assistant had for Dr. Alford had been disconnected and no forwarding number was left. The records from Dr. Cynthia Squires were received and reviewed as part of this evaluation. Also reviewed were a social history obtained by Carlos Torres, LMSW, using the patient's Mental Health Center worker as a primary informant. The patient's wife was also used as an informant. In addition Mr. Dixon called his attorney in our presence and explained his difficulties with his attorney.

**MENTAL STATUS EXAM:** In general Mr. Dixon was adequately groomed. He was alert and oriented in all spheres. His thought process was logical and goal directed. He was initially angry and irritable because he had been transported for an evaluation that he did not wish to participate in. He was irritable with his attorney because he did not feel that his attorney was working in his best interest prior to the trial and was now raising questions about his mental status after a trial. His level of abstraction was good. His concentration appeared to be adequate. He complained of being anxious. His affect was congruent with this stated mood. He was without evidence of psychosis. He stated that there had not been changes since the prior staffing note, except for the medications that he is currently being given. Those medications include Atarax, Zoloft, Axid, ASA, Lotensin, and Lopressor. Other past medications include Prinivil, Calan SR, and Hyten.

**CONCLUSION REGARDING COMPETENCY TO STAND TRIAL:** No opinion.

**CONCLUSION REGARDING CRIMINAL RESPONSIBILITY:** No opinion.

**CONCLUSION REGARDING CAPACITY TO CONFORM:** No opinion.

**RECOMMENDATIONS:** Mr. Dixon should be educated about his options for participating in the evaluation or securing additional legal counsel. He did appear to be irritable and angry during the evaluation, but expressed reality based concerns about his situation. He has clear ideas about possible defenses against the current charges, but it is unknown at this time how realistic these plans are. There is no history of psychosis or treatment with antipsychotic medications. The patient was able to verbalize that not everyone was out to get him but did state that he felt that his wishes were ignored. He denied interval changes in level of understanding about the court system. In May of 1994, he was found competent to stand trial, criminally responsible pursuant to the McNaughten standard, and able to conform his behavior to the requirements of the law on the date in question.

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

33

DIXON, DAVID  
941-0413  
OUTPATIENT EVALUATION

The patient should seek treatment for his gambling. He may also benefit from a group such as adult children of alcoholics. His adopted father and stepfather both had difficulties with substance dependence.

*Tracy D. Gunter*

Tracy D. Gunter, M.D.  
Teaching Psychiatrist I

TDG/vmh

D: 08/18/95  
RT/EM: 08/23/95  
F/EM:  
mb: 08/25/95

COPY RELEASED BY WSHPI  
To *David E. Dixon*

34

DIXON, DAVID  
941-0413  
OUTPATIENT EVALUATION

FORENSIC UNIT OUTPATIENT EVALUATION

DECEMBER 9, 1995

PRESIDING: David H. Tiller, M.D.

OTHERS PRESENT: Shirley D. Furtick, MSW.

DIAGNOSES: AXIS I: Anxiety Disorder.  
AXIS II: Personality Disorder NOS.  
AXIS III: Coronary Artery Disease.  
Peptic Ulcer Disease.  
Hypertension.

COMPETENCY TO STAND TRIAL: Yes.

CRIMINAL RESPONSIBILITY: Yes.

CAPACITY TO CONFORM: Yes.

DISPOSITION: Patient is returned to confinement at Horry County for disposition of his charges.

PERTINENT STATEMENTS: Mr. David Dixon was sent here for outpatient evaluation by the Court of General Sessions in Horry County. He had been here in the past, specifically in August of 1995, and had been evaluated here in 1994 as well. In August he declined to participate with the exam and was returned to jail at that time. Today he states that he will comply with the exam. We have reviewed his chart as well as his charges and statements that are available to us. Mr. Dixon has been cooperative with the exam process and did waive his rights at this time. After being presented with same, he was able to describe his rights in his own word and exhibit an understanding of his Miranda Rights.

MENTAL STATUS EXAM: Patient is well kempt, appears to have lost weight since he was here in August of 1995. He states that he is at William S. Hall Psychiatric Institute (WSHPI) and the date is December 9, 1995. Patient does have some difficulty with serial 7's, however, he can do basic subtraction. Further, on serial multiplication, he can multiply up to 194. Mr. Dixon was given a Kent exam and exhibits average range of intelligence of the Kent exam. We did inquire as to thoughts of suicide and he states that he has had thoughts of suicide in the past stating "I seem to get real down." He further states that he gets extremely depressed and has anxiety episodes. When asked what physical symptoms he experienced with the anxiety, he described esophageal reflex with this causing him to quit breathing. He also describes trouble sleeping, primarily falling asleep and staying asleep. He also states that at times he has felt depressed enough that he wanted to kill himself and his family when he was acutely depressed. When asked about audio or visual hallucinations the patient describes having seen his now deceased mother sitting in his truck and stating that when he sees her there he just goes way down. He does not describe

CONFIDENTIAL

This information has been disclosed to you from records whose confidentiality is protected by Federal regulations (42 CFR Part 2) and S. C. Law, Section 44-23-1050. This prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

COPY RELEASED BY WSHPI  
to David E. Dixon

35

DIXON, DAVID  
941-0413

OUTPATIENT EVALUATION

auditory hallucinations. He does not describe command hallucinations, thought insertion, or ideas of reference. Patient was asked if he felt he had a mental illness and he responded affirmatively saying that he has had problems for some time stating that his problems began in 1989-90. On parables, the patient gave rather concrete answers. He exhibits normal psychomotor function, speech is goal-directed without looseness of association, flight of ideas, or latency of speech.

**CONCLUSION REGARDING COMPETENCY TO STAND TRIAL:** Mr. Dixon, as noted above, was given his Miranda Rights, did exhibit good understanding of his rights, and chose to waive said rights to complete this exam. He was able to tell us that his attorney is David Hart Breen in Myrtle Beach and he is aware that his function is to defend him against charges. Mr. Dixon is also aware that the solicitor is a Mr. Blake Martin who is the prosecutor in the case and will try to convict him. He does make some discouraging remarks about the solicitor stating "he hates my guts." Mr. Dixon also is aware of his charges and of the seriousness of the charges. He presents with a good knowledge of the function of the judge and jury as well as the importance of evidence and witnesses. When given a hypothetical situation, he was able to appropriately identify means of assisting in his own defense. While Mr. Dixon does have an anxiety disorder and has had depressive symptoms with it for some time, this is not of such significance that it interferes with his capacity to stand trial. We find no impairment which would preclude his ability to assist in his defense to understand the proceedings against him and to make informed decisions.

**CONCLUSION REGARDING CRIMINAL RESPONSIBILITY:** Mr. Dixon was able to tell us that he has had a number of charges against him, that he has been to trial for drug charges in 1993, that he had charges in 1992 that were nolle-pros. He states that since 1986 he has been treated with antidepressants having been on Norpramin and Zoloft in the past. He relates most of his current problems to his mother becoming ill and being in a nursing home from 1986-87 and she died in 1987. He states that this was devastating to him and was a turning point in his life. He does not choose to talk or answer questions specifically related to the incident but rather give us history of having been with at least two other individuals that he states "they did the crimes." He describes having these individuals with him in his vehicle and riding around before any of the crimes took place, but when asked about his involvement he was able to decline to answer any questions in that regard. While Mr. Dixon does give a history of being treated for some time for mental illness, specifically depression and anxiety, we do not have any evidence that it interfered in any way with his ability to understand legal or moral right from legal or moral wrong. Indeed he does make self protective statements in reference to past instances. At this time there is no evidence of mental illness that would have impaired his responsibility.

**CONCLUSION REGARDING CAPACITY TO CONFORM:** Mr. Dixon understands both legal and moral right from legal and moral wrong. He does not give a history of any psychiatric symptoms that would have impaired his capacity to conform.

**RECOMMENDATIONS:** We have returned Mr. Dixon to Horry County for disposition of his charges. He does have some significant medical problems which will need to be followed, specifically, his heart disease and hypertension. As to psychiatric illnesses, there is evidence that he does have an anxiety

disorder and he has been treated for depression in the past. He would benefit from periodic evaluations by mental health providers.

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

36

DIXON, DAVID  
941-0413  
OUTPATIENT EVALUATION

*David H. Tiller M.D.*

David H. Tiller, M.D.  
Fellow in Forensic Psychiatry

DHT/gm

D: 12/14/95  
RT/EM: 12/14/95  
F/EM:  
mb: 12/18/95

COPY RELEASED BY WSHPI  
To *David E. Dixon*

FORENSIC PSYCHIATRY SOCIAL WORK ADMISSION/EVALUATION HISTORY

IDENTIFICATION DATA

Name David Dixon ID # VH EH CH JH 941 0412  
Wm. S. Hall Psychiatric Institute Unit Forensic  
Date of Admission/Evaluation 5/16/94 Sex M Race Caucasian Age 47  
Date of Birth 12/18/46 Number Prior Hospitalizations 0  
Patient's Home Address/County ~~Attn: Dr. Box 335, Conway, S.C. 29526/Horry~~  
County 3320 Baywater Dr, Rynow, S.C. 29511/Horry County  
Marital Status married Usual Occupation mechanic  
Working Prior to Hospitalization? disabled  
S.S.N. unknown Driver's License?  Yes  No  Unknown

COPY RELEASED BY WSHPI  
To David E. Dixon

INFORMANT (S)

Record of Attempts to Contact Informants 5/13/94 - 1:50pm left message on machine for wife to call back; 1:55pm Made contact with wife at work & made an appointment for 5/16/94 at 8:30am to obtain social history information

Name Beth Beverly Relationship Horry County MHC worker  
Address 1804 N. Main St. P.O. Box 1502, Conway, S.C. 29526 Phone (h) 248-7213 (w)  
Attitude Toward Patient professional  
History taken  By Phone  In Person

Name Betty-Dixon Relationship wife  
Address 4344 Grove Court, Conway, S.C. 29526 Phone 385-6275 (h) 248-9083 (w)  
3320 Baywater Dr., Rynow, S.C. 29511  
Attitude Toward Patient concerned  
History Taken  By Phone  In Person

Instructions: To be completed within three (3) working days of admission/evaluation.  
Page one (1) of eleven (11).

(over 1)  
Dixon, David  
941-0413

Informants

(1) Julie Keaton (nurse) at detention center  
# 365-9222

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Is Information Reliable? Yes \_\_\_ No

Comments on informants' relationship to patient, patient's problems.

Informants seem to aware of pt's behavior & problems

REASON FOR THIS ADMISSION/EVALUATION

(Thought Processes, Interpersonal Functioning, Self-Care, Destructive Behavior, CST, CR, etc.)

Mr. Dixon is coming for an outpatient CST/CR evaluation as ordered by the Horry County Court of General Sessions. Mrs. Newton, nurse at detention center, to have been incarcerated since 11/20/93 (on a charge of stealing heavy equipment from the county). Reportedly while incarcerated, Mr. Dixon has attempted manipulative  
(over)

History of Problem (Onset/Precipitant, etc.) Reportedly the pt.'s problem began around '88, & continued up until incarceration on 11/20/93. The wife reported the pt. has been gambling extensively during this time, has gambled away the family's home, land; pawned household items to get money for gambling; has lost \$1500 in one sitting; would get paid in the morning & by noon had gambled all of it away. The wife  
(over)

Formal Psychiatric History

Has Patient Been Hospitalized Before? \_\_\_ Yes ✓ No \_\_\_ Multiple Admits

If Yes, Details \_\_\_\_\_

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Instructions: To be completed within three (3) working days of admission/evaluation.  
Page two (2) of eleven (11)

Dixon, David  
941 - 0413

Reason for Evaluation (Thought process, behavior):

behaviors to obtain drugs from the staff at the jail. Also reportedly, Mr. Dixon has displayed angry affect often & has gotten involved in several verbal altercations.

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

History of Problem

also reported the pt as having mood swings "laugh & joking with you one minute, cursing you out the next." Reportedly, prior to gambling, the pt, paces around much, cannot seem to stay still, occupies his time hunting for money. When the pt wins, reportedly, he treats his family (take them out to eat) & the wife will suggest that they use the money to pay some bills, but the pt. will sneak out for everyone has gone to bed & gamble some more. When the pt. loses, reportedly, he is irritable, moody. The wife stated, that she has known the pt. since '80 & he has had mood swings all along, but the gambling did not start until after the pt's biological mother's death in '87. Reportedly the pt. <sup>ever since</sup> felt responsible when the mother went into a coma after an operation he gave his permission to be done.

Has Patient Been Treated on an Outpatient Basis?  Yes  No

If Yes, Details Beth Beverly, MHC, reported no contact between MHC  
& pt.

Has patient been placed on medication for psychiatric problems in the past?  
 Yes  No Did patient have any problems with medication or side  
effects?  Yes  No. If yes, details \_\_\_\_\_

What Has Been Compliance with Follow-Up or Outpatient Treatment?  
 Good  Inconsistent  Poor  Not Applicable

Comments \_\_\_\_\_

WILLIAM S HALL  
PSYCHIATRIC INSTITUTE

History of Substance Abuse

Has There Been a Substance-Abuse Problem?  <sup>error</sup> ~~Yes~~  No

Substance(s) Abused, Frequency and Amount, Duration of Abuse \_\_\_\_\_

Has Problem Ever Been Treated?  Yes  No Details \_\_\_\_\_

Instructions: To be completed  
within three (3) working days  
of admission/evaluation.  
Page three (3) of eleven (11).

Dixon, David  
941-0413

Medical History

Problems known to informant, surgeries, injuries, head trauma, seizures, allergies) Reportedly, the pt. is blind in his right eye from an accident (type & date are unknown), has heart palpitations, has a back injury from a work accident in '91. No other information is known.

Current Medications, if any Prinivil .20mg bid (blood), Carafate qid, Calen SR 240 mg (blood) Hytrin 5mg qhs (urinary retention) - according to the jail nurse.

WILLIAM S. FALL  
PSYCHIATRIC INSTITUTE

FAMILY HISTORY

Father's Name William Dixon (adopted) Age 70's

If Deceased, Date & Cause heart attack, reported

History of Mental Illness Yes No Type \_\_\_\_\_

Employment \_\_\_\_\_ Comments (Health, Substance Abuse, Current

Relationship with patient, etc. Reportedly the adopted father died prior to <sup>DECEASED</sup> 1980, abused alcohol, & did not have a good relationship with pt.

Mother's Name Glady's Dixon (adopted) Age 70's

If Deceased, Date & Cause Cancer

History of Mental Illness Yes No Type \_\_\_\_\_

Employment \_\_\_\_\_ Comments (Health, Substance Abuse, Current

Relationship with patient, etc.) Reportedly, <sup>DECEASED</sup> the adopted mother died prior to 1980, had no substance abuse, & had a very good relationship with pt. Reportedly, the adopted parents were easier to the <sup>over 1</sup> pt's biological mother (over 1)

Instructions: To be completed within three (3) working days of admission/evaluation. Page four (4) of eleven (11).

Dixon, David  
941 - 0413

## Family History

(1) Alice Sing (biological mother), reportedly died from a ~~brain~~<sup>spinal</sup> brain tumor at the age of 74 in 1987, had contact with the pt. of of the pt's life, had a good relationship, & abused w substances.

James Thomas Sing (step-father), reportedly died in '85 from a heart attack which was unexpected since he had always been in fine health, die abuse alcohol, & got along fine with the pt. Reportedly the step-fath was 69 yrs. old at time of death.

No information is known about the biological father.

Number of Siblings 1 Patient's Birth Order 2 Number Living at Home 0

Name Helen Robinson M  Age 62 Comment Reportedly, no problems.

Name \_\_\_\_\_ M F Age \_\_\_\_\_ Comment \_\_\_\_\_

Name \_\_\_\_\_ M F Age \_\_\_\_\_ Comment \_\_\_\_\_

Name \_\_\_\_\_ M F Age \_\_\_\_\_ Comment \_\_\_\_\_

(If more space is required, use reverse, head-to-toe.)

Family History of mental illness, suicide attempt, substance abuse in the paternal or maternal family and in patient's siblings. Indicate if Treated, Results of treatment.

The wife did not have any information regarding mental illness or suicide attempt on the family's part. It was reported that the step-father & adopted father abused alcohol (drank very heavily).

Has anyone in the family served time in jail or prison? \_\_\_ Yes  No

If so, describe \_\_\_\_\_

WILLIAM S. HALE  
PSYCHIATRIC INSTITUTE

### PERSONAL HISTORY

Is Patient  Natural Child \_\_\_ Adopted Child. If Adopted, Information on Natural Parents Reportedly the biological mother gave the pt. to her cousin because she could not afford to raise him.

### Childhood

Was Mother's Pregnancy, Labor, Delivery Within Normal Limits? \_\_\_ Yes \_\_\_ No

Comments unknown

Was Patient's Early Development Within Normal Limits? \_\_\_ Yes \_\_\_ No

Instruction: To be completed within three (3) working days of admission/evaluation.  
Page five (5) of eleven (11).

Dixon, David  
941-0413

Comments on patient's Early Development unknown

Childhood Family Functioning/Home Environment Reportedly the adopted father did ~~not~~ "talk loud" to the pt & withheld his emotions from the pt. No incidents of fire-setting or being mean to animals was reported. Reportedly the pt. was getting into trouble (types unknown) & was sent to a military school

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Any History of abuse/trauma? ? Yes      No

Reportedly there may have been verbal abuse on the adopted father's part towards the pt.

Initial Adjustment to School unknown

Last Grade Completed? unknown GED earned? ✓ Can patient read? Yes

Comments on School Performance or Problems Reportedly the pt. could have made excellent grades, but chose not to; was in regular classes

Usual Peer Group Interaction no problems reported

Extra-Curricular Activities none reported

Any Early Trouble With Legal System? Yes No Details Reportedly the pt. was sent to a correctional institution as a youth

College or Vocational Training? none reported

Instructions: To be completed within three (3) workings days of admission/evaluation.  
Page six (6) of eleven (11).

Dixon, David  
941-0413

Adult Functioning

Military Service? Yes  No  Branch \_\_\_\_\_ Type Discharge \_\_\_\_\_

Dates/Length of Service \_\_\_\_\_ Highest Rank Attained \_\_\_\_\_

Comments \_\_\_\_\_

Has Patient Ever Held a Job for Pay?  Yes  No For How Long? years

Currently Employed? Yes  No  Current Employer \_\_\_\_\_

Is This Competitive Employment?  Yes  No, Sheltered

Overall Number of Jobs Held \_\_\_\_\_ Usual Length of Employment years

What Is Patient's Attitude Toward Work? Enjoys working, reportedly

Comments Reportedly the pt has worked as a mechanic, truck driver, owned his own repair business; has not worked since '91 due to a back injury. Last job, reportedly was as a (lover?)

Marital History

Patient's (Current) Spouse Betty Dixon Age 40

If Deceased, Date & Cause \_\_\_\_\_

History of Mental Illness in Spouse  Yes  No Type \_\_\_\_\_

Comment on State of the Marriage Reportedly the pt. & spouse have been married for 14 years & have a good relationship for the first 8-10 years (lover?)

Age at (1st) Marriage teen's Number of Marriages 2 Number of Divorces 1

Reason for Divorce(s)? Reportedly the first wife faked a pregnancy, the first marriage lasted 2 months;

Children (Names, Ages, Problems, etc.)

1. Mark, 12, boy, having behavior problems since father's incarceration
2. Alison, 6, girl, no problems
3. Lei

4. \_\_\_\_\_

(If additional space is needed, use reverse, head to toe.)

Instruction: To be completed within three (3) working days of admission/evaluation. Page seven (7) of eleven (11).

Dixon, David  
941-0413

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Work History

(2) mechanic for sunbeam bread from '88-'91.

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Marital History

(1) Reportedly since the pt started gambling, there has been many arguments concerning finances.

Sexual History

(Females Only) Menarche                      Problems?                     

Pregnancies?                      Deliveries?                      Miscarriages?                     

Abortions?                      Onset of Menopause?                     

(All Patients) Currently Sexually Active?    Yes    No    Unknown *(not since incarceration)*

Does Patient Use Birth Control/Method? none reported

History of Sexual Trauma? none reported

History of Homosexual Behavior? none reported

Patient's Childhood Religious Affiliation? none

Patient's Current Religious Affiliation none

Is He a Church Member?    Yes    No For How Long?                     

Is He Active in Church?    Yes    No

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Significance to Patient?                     

CURRENT LIVING/SOCIAL SITUATION

Patient's Current Peer/Support Group Reportedly, the pt. has no peer/support group outside of family members.

Constellation of Current Family Group Wife, children

Is Family Supportive of Patient?  Yes    No

Usual Leisure Activities/Hobbies fishing, target practice, hunting

Instructions: To be completed within three (3) working days of admission/evaluation. Page eight (8) of eleven (11).

Dixon, David  
49 941-0413

Financial Situation

Monthly Income \$ 0 Source of Income \_\_\_\_\_ Salary \_\_\_\_\_ SSI \_\_\_\_\_ SSDI \_\_\_\_\_

\_\_\_\_ Retirement/Pension \_\_\_\_\_ AFDC \_\_\_\_\_ Survivor's Benefits \_\_\_\_\_ VA Benefits

Does Extended Family Support Patient?

\_\_\_\_ Other (Describe \_\_\_\_\_)

Is There Medical Insurance?  Yes \_\_\_\_\_ No Describe Medicare

Comments Reportedly the wife's job is the source of income.

Living Situation

\_\_\_\_ Own Home or Mobile Home  Rents House or Apartment \_\_\_\_\_ With Family \_\_\_\_\_

\_\_\_\_ Public Housing/Apt. \_\_\_\_\_ "Shelter," Homeless

\_\_\_\_ Lives in Boarding Home (Operator, Phone \_\_\_\_\_)

\_\_\_\_ Other Comments \_\_\_\_\_

LEGAL STATUS

Current Charges Trafficking Marijuana

History of Legal Contacts, Including Charges, Dates, Dispositions if known.

Reportedly the pt. has had numerous contacts with the law.

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Instructions: To be completed within three (3) working days of admission/evaluation. Page nine (9) of eleven (11).

Dixon, David  
941-0413

SUMMARY AND TREATMENT PLAN RECOMMENDATIONS

Patient's Liabilities, with a special focus on system/support outside the hospital Current legal charges, gambling

Patient's Strengths, with the same focus Family support

Identified Problems the Institute can not address Legal charges

Anticipated Community Referrals Henry County MHC as needed

Comments on Informant/Family's Expectations of Hospitalization/Evaluation:

Family understands the reason for pt's evaluation & hopes pt. will understand pt's need for help.

How Will Patient's Family Participate in Patient's Treatment? Family

will provide social history information.

SOCIAL WORK TREATMENT PLAN FOR THIS HOSPITALIZATION:

N/A - pt. is coming for an outpatient evaluation.

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Instructions: To be completed within three (3) working days of admission.  
Page ten (10) of eleven (11).

Dixon, David  
941-0413

TENTATIVE DISCHARGE PLAN

Obstacles to Discharge CST/CR evaluation

Anticipated Living Situation Horry County Detention Center

Follow-Up Care To be provided by Horry County MHC, as needed

Name of Case Manager, if any to be assigned Phone 248-7213

Additional Data or Comments

Carlos M. Torres, LMDW  
Signature

5/13/94 - initiated  
Date  
5/16/94 - completed

COPY RELEASED BY WSHP  
To David E. Dixon

Instructions: To be completed within three (3) working days of admission/evaluation.  
Page eleven (11) of eleven (11).

Dixon, David  
941-0413

FORENSIC SOCIAL WORK ADDENDUM

IDENTIFICATION DATA

Name DAVID DIXON ID # VH EH (CH) JH 941-0413  
 Wm. S. Hall Psychiatric Institute Unit Cooper Building  
 Date of Admission/Evaluation 5-16-95 Sex M Race CAUCASIAN Age 31  
 Date of Birth 12-18-~~83~~46 Number Prior Hospitalizations \_\_\_\_\_  
 Patient's Home Address/County 1125 Willard Rd Conway SC 29526  
Horry County  
 Marital Status M Usual Occupation Incarcerated since 11-93  
 Working Prior to Hospitalization? \_\_\_\_\_  
 S.S.N. 252-68-8135 Driver's License? Yes \_\_\_ No #

COPY RELEASED BY WSHPI  
 To David E. Dixon

INFORMANT (S)

Record of Attempts to Contact Informants 5-8-95 (1015) NO ANSWER @ 3656275  
<sup>11315</sup>  
<sup>5/8</sup> WAGAMAW MHC unable to provide info @ this time - WILL CALL BACK  
ON MONDAY 5-15-95. 5/8 NO answer @ 896-2922 (Edisto Bldg Dept Corrections)  
<sup>(1010AM)</sup>  
<sup>4:00pm</sup>  
<sup>5/9</sup> Contact letter mailed 5/9 no answer @ 8962922 5/11 no answer @ 3656275  
<sup>(150pm)</sup>  
<sup>2:20pm</sup> <sup>3:20pm</sup> <sup>4:28pm</sup>  
<sup>5/15</sup> not at home yet - will call back 5/15 NO ANSWER 5/15 Not at home

NO ANSWER  
 Name Betty Dixon Relationship wife  
 Address 1125 Willard Rd Conway SC (803) Phone 365 6275 (h) (w)  
 Attitude Toward Patient \_\_\_\_\_

History taken \_\_\_\_\_ By Phone \_\_\_\_\_ In Person \_\_\_\_\_

Name Karen Henderson Relationship Medical professional  
 Address Dept of Corrections Phone (h) 896 8549 (w)

Attitude Toward Patient professional

History Taken 5-15-95 By Phone \_\_\_\_\_ In Person \_\_\_\_\_

Instructions: To be completed within seven (7) working days of admission/evaluation.  
 Page one (1) of eleven (11).

Patricia will have someone call us  
back tomorrow 5/12.  
/95 Dept of Corrections (896 8581 Medical)  
896 8500, 896 2922

5/12/95 - Linda Tarpley returned yesterday's phone call  
+ suggested contacting med. records 896 8549  
Karen Hendrickson

5/15/95 - Karen Henderson is attempting to locate client's (medical)  
records and fax info to us (896 8549)  
Her fax # 896 1221 court ordered faxed to her @ 1415: (AM)

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Is Information Reliable?  Yes  No

Comments on informants' relationship to patient, patient's problems.

② Ms. Henderson provided information obtained from pt's medical records from Dept of Corrections

REASON FOR THIS ADMISSION/EVALUATION

(Thought Processes, Interpersonal Functioning, Self-Care, Destructive Behavior, CST/CR, etc.)

CST/CR evaluation

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

② History of Problem (Onset/Precipitant, etc.) pt has been in Dept of Corrections since 11-22-93, and was labeled "violent" on admission.

Formal Psychiatric History

Has Patient Been Hospitalized Before?  Yes  No  Multiple Admits

If Yes, Details

② Diagnosed i mixed personality disorder (secondary to insomnia?)

Instructions: To be completed ID  
within seven (7) working days of  
admission/evaluation.  
Page two (2) of eleven (11)

55

Dixon, David E  
941-0413

Has Patient Been Treated on an Outpatient Basis?  Yes  No

If Yes, Details \_\_\_\_\_

\_\_\_\_\_

Has patient been placed on medication for psychiatric problems in the past?

*enter  
CWS*

~~X~~ Yes  No Did patient have any problems with medication or side effects?  Yes ~~X~~ No. If yes, details \_\_\_\_\_

\_\_\_\_\_

What Has Been Compliance with Follow-Up or Outpatient Treatment?

Good  Inconsistent  Poor  Not Applicable

Comments \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

History of Substance Abuse

Has There Been a Substance-Abuse Problem?  Yes  No  
Substance Abused, Frequency, Amount, Duration of Abuse \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

\_\_\_\_\_

\_\_\_\_\_

Has Problem Ever Been Treated?  Yes  No Details \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Instructions: To be completed ID  
within seven (7) working days  
of admission/evaluation.  
Page three (3) of eleven (11).

*Dixon, David E.*

*941-0413*

*56*

Medical History

Operations, injuries, head trauma, seizures, allergies ? Ulcer

(2) Hypertension Sleeps only 3-4<sup>o</sup> per night ; sees psychiatrist  
periodically

Current Medications 5-ASA Zolof 100mg PO HS x45 days

(2) ? (INSPA) 2mg PO HS x45 days ; Atarax 100mg PO HS x45 days  
5-ASA Enteric coated ASA PO x90 days ; Axid 150mg PO HS x90 days  
Lolensin 10mg PO BID x90 days ; Lopressor 50mg PO BID x90 days ~~over~~

FAMILY HISTORY

Father's Name \_\_\_\_\_ Age \_\_\_\_\_

If Deceased, Date & Cause \_\_\_\_\_

History of Mental Illness  Yes  No Diagnosis \_\_\_\_\_

Usual Employment \_\_\_\_\_

Comments (Health, Substance Abuse, Current Relationship with patient, etc.)  
\_\_\_\_\_  
\_\_\_\_\_

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Mother's Name \_\_\_\_\_ Age \_\_\_\_\_

If Deceased, Date & Cause \_\_\_\_\_

History of Mental Illness  Yes  No Diagnosis \_\_\_\_\_

Usual Employment \_\_\_\_\_

Comments (Health, Substance Abuse, Current Relationship with patient, etc.)  
\_\_\_\_\_  
\_\_\_\_\_

Instructions: To be completed within seven (7) working days of admission/evaluation.  
Page four (4) of eleven (11).

ID

Number of Siblings \_\_\_\_\_ Patient's Birth Order \_\_\_\_\_ Number Living at Home \_\_\_\_\_

Name \_\_\_\_\_ M F Age \_\_\_\_\_ Comments \_\_\_\_\_

Name \_\_\_\_\_ M F Age \_\_\_\_\_ Comments \_\_\_\_\_

Name \_\_\_\_\_ M F Age \_\_\_\_\_ Comments \_\_\_\_\_

Name \_\_\_\_\_ M F Age \_\_\_\_\_ Comments \_\_\_\_\_

(If more space is required, use reverse, head-to-toe.)

Family History of mental illness, suicide attempts, substance abuse in the paternal or maternal family and in patient's siblings. Indicate if treated, results of treatment.

Has anyone in the family served time in jail or prison?  Yes  No

If so, describe \_\_\_\_\_

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

PERSONAL HISTORY

Is Patient  Natural Child  Adopted Child. If Adopted, Information on Natural Parents \_\_\_\_\_

Childhood

Was Mother's Pregnancy, Labor, Delivery Within Normal Limits?  Yes  No

Comments \_\_\_\_\_

Was Patient's Early Development Within Normal Limits?  Yes  No

Instruction: To be completed within seven (7) working days of admission/evaluation.

ID

Page five (5) of eleven (11).

Dixon, David E.  
941-0413

Comments on Patient's Early Development \_\_\_\_\_

Childhood Family Functioning/Home Environment \_\_\_\_\_

WILLIAM S HALL  
PSYCHIATRIC INSTITUTE

Any History of Abuse/Trauma  Yes  No

Initial Adjustment to School \_\_\_\_\_

Last Grade Completed \_\_\_\_\_ GED earned \_\_\_\_\_ Can patient read \_\_\_\_\_

Comments on School Performance or Problems \_\_\_\_\_

Usual Peer Group Interaction \_\_\_\_\_

Extra-Curricular Activities \_\_\_\_\_

Any Early Trouble With Legal System  Yes  No Details \_\_\_\_\_

College or Vocational Training \_\_\_\_\_

Instructions: To be completed ID  
within seven (7) working days of  
admission/evaluation.  
Page six (6) of eleven (11).

Dixon, David E.  
941-0413

Adult Functioning

Military Service  Yes  No Branch \_\_\_\_\_ Type Discharge \_\_\_\_\_

Dates/Length of Service \_\_\_\_\_ Highest Rank Attained \_\_\_\_\_

Comments \_\_\_\_\_

Has Patient Ever Held a Job for Pay?  Yes  No For How Long \_\_\_\_\_

Currently Employed  Yes  No Current Employer \_\_\_\_\_

Is This Competitive Employment?  Yes  No, Sheltered \_\_\_\_\_

Overall Number of Jobs Held \_\_\_\_\_ Usual Length of Employment \_\_\_\_\_

What Is Patient's Attitude Toward Work? \_\_\_\_\_

Comments \_\_\_\_\_

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Marital History

Patient's (Current) Spouse Betty Dixon Age \_\_\_\_\_

If Deceased, Date & Cause \_\_\_\_\_

History of Mental Illness in Spouse  Yes  No Type \_\_\_\_\_

Comment on State of the Marriage \_\_\_\_\_

Age at (1st) Marriage \_\_\_\_\_ Number of Marriages \_\_\_\_\_ Number of Divorces \_\_\_\_\_

Reason for Divorce(s) \_\_\_\_\_

Children (Names, Ages, Problems, etc.)

1. Mark 13 yrs old (son)

2. 7 yrs old (daughter)

3. \_\_\_\_\_

4. \_\_\_\_\_

(If additional space is needed, use reverse, head to toe.)

Instruction: To be completed ID  
within seven (7) working days of  
admission/evaluation.  
Page seven (7) of eleven (11).

Dixon, David E.  
941-0413

10

Sexual History

(Females Only) Menarche \_\_\_\_\_ Problems? \_\_\_\_\_

Pregnancies \_\_\_\_\_ Deliveries \_\_\_\_\_ Miscarriages \_\_\_\_\_

Abortions \_\_\_\_\_ Onset of Menopause \_\_\_\_\_

(All Patients) Currently Sexually Active \_\_\_ Yes \_\_\_ No \_\_\_ Unknown

Birth Control/Method \_\_\_\_\_

History of Sexual Trauma \_\_\_\_\_

History of Homosexual Behavior \_\_\_\_\_

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Patient's risk status for STD/HIV \_\_\_\_\_

Patient's Childhood Religious Affiliation \_\_\_\_\_

Patient's Current Religious Affiliation \_\_\_\_\_

Church Member \_\_\_ Yes \_\_\_ No For How Long \_\_\_\_\_

Active in Church \_\_\_ Yes \_\_\_ No

Significance to Patient \_\_\_\_\_

CURRENT LIVING/SOCIAL SITUATION

Patient's Current Peer/Support Group \_\_\_\_\_

Constellation of Current Family Group \_\_\_\_\_

Is Family Supportive of Patient? \_\_\_ Yes \_\_\_ No

Usual Leisure Activities/Hobbies \_\_\_\_\_

Instructions: To be completed within seven (7) working days of admission/evaluation. ID

Page eight (8) of eleven (11).

Dixon, David E.  
941 - 0413

61

Financial Situation

Monthly Income \$ \_\_\_\_\_ Source of Income \_\_\_\_\_ Salary \_\_\_\_\_ SSI \_\_\_\_\_ SSDI

\_\_\_\_\_ Retirement/Pension \_\_\_\_\_ AFDC \_\_\_\_\_ Survivor's Benefits \_\_\_\_\_ VA Benefits

\_\_\_\_\_ Does Extended Family Support Patient?

\_\_\_\_\_ Other (Describe \_\_\_\_\_)

Medical Insurance \_\_\_\_\_ Yes \_\_\_\_\_ No Describe \_\_\_\_\_

Comments \_\_\_\_\_

Living Situation

\_\_\_\_\_ Own Home or Mobile Home \_\_\_\_\_ Rents House or Apartment \_\_\_\_\_ With Family

\_\_\_\_\_ Public Housing/Apt. \_\_\_\_\_ "Shelter," Homeless

\_\_\_\_\_ Boarding Home (Operator, Phone \_\_\_\_\_)

\_\_\_\_\_ Other Comments \_\_\_\_\_

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

LEGAL STATUS

Current Charges Accessory Before the fact to Burglary 1<sup>st</sup> (2 counts);

Accessory After the Fact to Burglary 1<sup>st</sup> (2 counts); Accessory Before the fact to Kidnapping (2 counts); Accessory After the fact to Kidnapping (2 counts)  
History of Legal Contacts, Including Charges, Dates, Dispositions if known. And criminal conspiracy (2 counts)

11-11-89

3-18-90

Instructions: To be completed within seven (7) working days of admission/evaluation.  
Page nine (9) of eleven (11). ID

62

Dixum David E.  
941 - 0413

SUMMARY AND TREATMENT PLAN RECOMMENDATIONS

Patient's Liabilities, with a special focus on system/support outside the hospital \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Patient's Strengths, with the same focus \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Anticipated Community Referrals \_\_\_\_\_  
\_\_\_\_\_

Comments on Informant/Family's Expectations of Hospitalization/Evaluation  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How Will Patient's Family Participate in Patient's Treatment? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SOCIAL WORK TREATMENT PLAN FOR THIS HOSPITALIZATION:

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Instructions: To be completed within seven (7) working days of admission.  
Page ten (10) of eleven (11).

ID

63

Dixon, David E.  
941 - 0413

TENTATIVE DISCHARGE PLAN

Obstacles to Discharge \_\_\_\_\_

Anticipated Living Situation \_\_\_\_\_

Follow-Up Care \_\_\_\_\_

Case Manager/Hospital Liaison \_\_\_\_\_ Phone \_\_\_\_\_

Additional Data or Comments \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Chym Murphy MSW Intern  
Signature

5-15-95  
Date

COPY RELEASED BY WSHPI  
To David E. Dixon

WILLIAM S. HALL  
PSYCHIATRIC INSTITUTE

Instructions: To be completed within seven (7) working days of admission/evaluation. Page eleven (11) of eleven (11). ID

64

Dixon, David E.  
941-0413



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

October 9, 1997

The Honorable Jeanne J. Roberts  
Clerk of Court, Horry County  
P. O. Box 677  
Conway, SC 29526-0677

Re: The State v. Dixon, David E.

Dear Ms. Roberts:

Enclosed is the Remittitur in the above entitled matter.

Returned herewith is the following exhibit filed in the above case.

State's Ex. 2 - Cassette Tape

Please sign the copy acknowledging receipt of this exhibit and return.

Very truly yours,

Handwritten signature of Kenneth A. Richstad in cursive script.  
CLERK

KAR/jsc

Enclosures

cc: Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson



97-48-483

# The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

October 9, 1997

FILED  
HORRY COUNTY  
OCT 10 AM 11:19  
IDA R. CARSON  
CLERK OF COURT

The Honorable Jeanne J. Roberts  
Clerk of Court, Horry County  
P. O. Box 677  
Conway, SC 29526-0677

Re: The State v. Dixon, David E.

Dear Ms. Roberts:

Enclosed is the Remittitur in the above entitled matter.

Returned herewith is the following exhibit filed in the above case.

State's Ex. 2 - Cassette Tape

Please sign the copy acknowledging receipt of this exhibit and return.

Very truly yours,

CLERK

KAR/jsc

Enclosures

cc: Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson

RECEIPT ACKNOWLEDGMENT:

Signed: D. Williams

Date: 10-10-97

RECEIVED

OCT 20 1997

S.C. Court of Appeals

*JSC*  
*KAR*

97-UP-483

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
In The Supreme Court

APPEAL FROM HORRY COUNTY  
General Sessions Court  
M. Duane Shuler, Circuit Court Judge

Opinion No. 97-UP-483 (S.C. Ct. App. filed September 23rd, 1997)

David E. Dixon,.....Petitioner,

v.

The State,.....Respondent.

PETITION FOR REHEARING  
PETITION FOR WRIT OF CERTIORARI

David E. Dixon, Pro-se  
SCDC #217520 F3-A-256  
Evans Correctional Inst.  
Post Office Box 2951202  
Bennettsville, S.C. 29512



David Edward Dixon  
SCDC #217520  
Evans Correctional Institution  
Post Office Box 2951202  
Bennettsville, South Carolina 29512-5202

October 16th, 1997

The South Carolina Supreme Court  
Mr. Clyde N. Davis, Jr., Clerk  
Post office Box 11330  
Columbia, S.C. 29211

RECEIVED  
OCT 17 1997  
S. C. SUPREME COURT

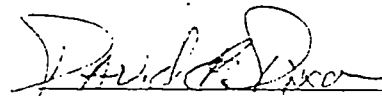
Re: PETITION FOR WRIT OF CERTIORARI

Dear Mr. Davis:

Please excuse what I have sent to your office. I attempted to file a PETITION for REHEARING in the Court of Appeals and it was objected to and returned to me on October 2nd, 1997. Mr. Kenneth A. Richstad, Clerk of the Court of Appeals wrote to me and stated that I had an Attorney, this may have been so, I didn't feel like I did. I had filed a motion to relieve Appellant Counsel and it must have made someone angry. I am asking you to relax the South Carolina Rules of Court and allow me to file this motion for PETITION FOR WRIT OF CERTIORARI?

I have left attached one (1) copy of the original proof of service that I sent to the Court of Appeals. I have changed the petition's as well, I cannot afford to keep paying for the copies. When I received the order from the court, there was a note attached saying that I had fifteen (15) days to file for rehearing, I did this as instructed! I have also included a new proof of service, and a original petition, please file this petition for me and thank you very much.

cc: file

  
David E. Dixon, Pro-Se



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE Box 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

December 10, 1997

The Honorable Clyde N. Davis, Jr.  
Clerk, Supreme Court  
P. O. Box 11330  
Columbia, South Carolina 29211

Re: The State v. Dixon, David E.

Dear Mr. Davis:

The remittitur in the above referenced case was recalled on November 10, 1997.

A follow-up letter was sent to the Horry County clerk's office on November 25, 1997. On December 1, 1997, Donna Williams of the Horry County clerk's office telephoned and spoke with Jill Collins of this office. She stated that the State's Ex. 2 had been delivered to the Court of Appeals on November 17, 1997.

Upon confirming that the exhibit had been delivered, Jill telephoned Ms. Williams on December 5, 1997, stating that the remittitur had not been included with the exhibit. Ms. Williams stated that the remittitur could not be found. Jill explained what the remittitur looked like and Ms. Williams checked all their information but stated she could not find it. Jill then requested her to send a letter confirming their telephone conversation. Attached is a copy of that letter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Kenneth A. Richstad".

CLERK

KAR/jsc



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

January 9, 1998

Mr. David Dixon #217520  
Evans Correctional Institution  
P. O. Box 2951202  
Bennettsville, SC 29512-5202

Re: The State v. Dixon, David E.

Dear Sir:

We received your petition for rehearing filed in the above referenced case.

In response to your cover letter, the file contains a document titled "Transcription of Interview". The Clerk's office is assuming this is the same copy of the transcribed taped statement you state your wife filed for you. This information is in the file and available to the Court.

Also pursuant to Rule 224(d), of the South Carolina Appellate Court Rules, a copy of your petition for rehearing must be served on each party. Since you have failed to serve the other parties, the Clerk's office is going to forward a copy to Salley W. Elliott and Ralph Wilson. In the future you must comply with the South Carolina Appellate Court Rules and serve all documents on the other parties.

As soon as the Court takes action on your petition for rehearing, you will be notified.

Very truly yours,

Handwritten signature of Kenneth A. Richstad in cursive script.  
CLERK

KAR/jsc

cc: Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
The Honorable Ralph J. Wilson

# The Supreme Court of South Carolina

The State,

Respondent,

v.

David E. Dixon,

Petitioner.

---

## O R D E R



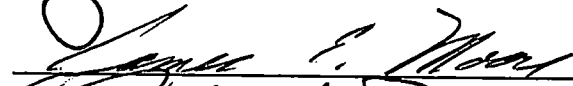
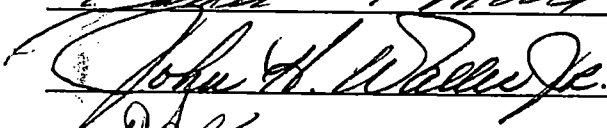
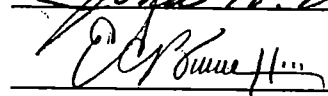
---

Petitioner's convictions and sentences were affirmed on appeal by the Court of Appeals. State v. Dixon, Op. No. 97-UP-483 (S.C. Ct. App. filed September 23, 1997). Following the issuance of the opinion, petitioner timely filed a pro se petition for rehearing. Because petitioner was represented by counsel on appeal, the Court of Appeals refused to accept the pro se petition for rehearing pursuant to Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989). When counsel failed to timely file a petition for rehearing on petitioner's behalf, the Court of Appeals sent the remittitur to the lower court. Petitioner now seeks permission to file a petition for a writ of certiorari to the Court of Appeals.

The Court of Appeals has now recalled the remittitur in this matter. We now direct the Court of Appeals to accept petitioner's pro se

petition for rehearing for filing. Petitioner's request for a writ of certiorari is premature and is, therefore, denied without prejudice.

IT IS SO ORDERED.

 C.J.  
 A.J.  
 A.J.  
 A.J.  
 A.J.

Columbia, South Carolina

December 18, 1997

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM Horry COUNTY  
GENERAL SESSIONS COURT

M. Duane Shuler, Circuit Court Judge

ORIGINAL

RECEIVED

JAN 8 1998

S.C. Court of Appeals

Opinion No. 97-UP-483 (S.C. Ct. App. Filed September 23rd, 1997)

David E. Dixon,.....Petitioner,

vs.

The State,.....Respondent.

PROOF OF SERVICE

I certify that I have served the notice of petition for rehearing by depositing the original plus six (6) copies as PER INSTRUCTIONS in the United States Mail, postage prepaid, on January 7, 1998, addressed to the South Carolina Court of Appeals, Kenneth A. Richstad, Clerk, Post Office Box 11629, Columbia, S.C. 29211.

January 7, 1998



David E. Dixon, SCDC 217520  
Evans Correctional Inst.  
Post Office Box 2951202  
Bennettsville, S.C. 29512-5202  
Petitioner Pro se

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM HORRY COUNTY  
GENERAL SESSIONS COURT  
M. Duane Shuler, Circuit Court Judge

---

Opinion No. 97-UP-483 (S.C. Ct. App. Filed September 23rd, 1997)

---

David E. Dixon,.....Petitioner,

vs.

The State,.....Respondent.

---

PETITION FOR REHEARING

---

*Denial.*  
*[Signature]* J.  
*[Signature]* J.  
*[Signature]* J.

*David E. Dixon*  
David E. Dixon. Pro se  
SCDC #217520 F3-A-256  
Evans Correctional Inst.  
Post Office Box 2951202  
Bennettsville, S.C. 29512

Columbia, South Carolina  
February 19, 1998.

THE STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )  
DAVID E. DIXON, )  
PETITIONER, )  
V. )  
THE STATE, )  
RESPONDENT. )

IN THE COURT OF APPEALS

PETITION FOR REHEARING

The undersigned Petitioner, David E. Dixon, SCDC #217520 would respectfully show this Court:

1. Petitioner was denied the right to a fast and speedy trial under the law(s) of the State of South Carolina Constitution and the United States Constitution when in fact Defendant remained in jail nineteen (19) days before being appointed an Attorney and in which Attorney was appointed to represent Defendant on a drug charge that had been nol-prossed September 10th, 1993, two (2) months and nine (9) days prior to the arrest on November 18th, 1993, on the existing charges. Defendant was denied any and all due process of law. No bond hearing until May 9th, 1994. Defendant had to request the bond hearing himself, no preliminary hearing, no notice whatsoever. No pretrial matters. **SCRC:** Rule 1. Any and all arrest warrants were returned to the Solicitor's Office and not to the Magistrate as proscribed by law; Rule 2. Preliminary Hearing, none, (a) Notice of Right, none; (b) Time for Hearing, none; (c) Probable Cause, none; (d) Conclusion of Hearing, none; Rule 3. Disposition of Arrest Warrants, all of the arrest warrants were returned to the Solicitor's office and remained there through January 3rd, 1994, and then they were transferred to the Clerk of Court, clocked in and returned to the Solicitor's office. (b) Transmittal to Solicitor, this is the only section that was apparently done correctly; (c) Action on Warrant, the Solicitor did not take action on the warrants and there was no indictment before September 8th, 1994, approximately

Ten (10) months passed before indictment on any of the charges.  
(d) Extensions of time, none; (e) is there any records of the proceedings, did the Solicitor petition the Court for an extension?

2. Defendant was appointed an Attorney on December 7th, 1994, to represent him on a drug charge that had been nol-prossed, C. Bradley Ruffin, Jr., first Attorney. At the first bond hearing May 9th, 1994, Mr. Ruffin stated to the Court that he knew nothing of the existing charges, matter of record. Chief Deputy Solicitor Blake A. Martin spoke up and told the Judge that this was true and he also told the Judge that Mr. Ruffin had kinda gotten pushed into these new charges, matter of record. Defendant's first Attorney did absolutely nothing to defend and or represent the Defendant through August of 1994, when at that time Defendant filed a motion to relieve Mr. Ruffin, motion heard on September 19th, 1994 and motion granted, matter of record. September 19th, 1994, Defendant was reassigned an Attorney, David Hart Breen. Mr. Breen was also appointed to represent Defendant on the same drug charge that had been nol-prossed September 10th, 1993. Defendant wrote to Mr. Breen and explain the situation and Mr. Breen went back before the Court and was appointed to represent Defendant on the existing charges which are before the Court at this time. Amended Order Appointing Counsel, dated and clocked in by the Clerk's office, October 18th, 1994, Mr. Breen was appointed to represent Defendant on the existing charges, matter of record.

3. Defendant was sent to William S. Hall, Psychiatric Institute May 16th, 1994, for evaluation for competency to stand trial. First trial, January 16th, 1995. Second trial January 16th, 1996. Defendant had already been evaluated and found competent to stand trial, Defendant refuse to cooperate when he was sent back to William S. Hall, for another evaluation May 16th, 1995, and would not cooperate per instructions from Attorney David Hart Breen, VIA telephone from William S. Hall, in the presence of Doctor Tracy Gunter, Psychiatrist. Defendant has a right under the Fifth Amendment to the Constitution of the United States to remain quiet, Defendant exercised his rights per instructions from Attorney.

Defendant was first sent to William S. Hall, to be evaluated for the drug charge and not for the existing charges of November 18th, 1993, that the Defendant was arrested on. Defendant did never at any time delay trial, the delay was solely due to the Solicitor and his ploys for the second evaluation. Defendant was black-mailed by the Solicitor's office by not allowing the Defendant to have an independant evaluation and even after the Judge signed the order for the evaluation Defendant was not allowed the independant evaluation until he cooperated with the Court order for the second evaluation at William S. Hall, per Mr. Blake A. Martin, Chief Deputy Solicitor. Defendant did not at any time delay either trial, trial was denied by the Solicitor, Blake A. Martin and his delay tactics. Solicitor Blake A. Martin denied the Defendant any and all pretrial matters that was due the Defendant.

4. Speedy Trial: The Due Process Clause of the Fifth Amendment to the United States Constitution provides that "[n]o person shall...be deprived of life, liberty, or property without due process of law." U.S. CONST. amend. V. The Fourteenth Amendment imposes the identical limit on the states. U.S. CONST. amend XIV.

The Sixth Amendment provides in relevant part that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." U.S. amend. VI. The Sixth Amendment speedy trail guarantee is binding on the states through the Due Process Clause of the Fourteenth Amendment. **Klopper v. North Carolina, 386 U.S. 213, 222-23 (1967)**

**18 U.S.C. §§ 3161-3174 (1988 & Supp. V 1993) (Specifying time limits between arrest, indictment, and trial, and permissable delays within each period.**

**Fed. R. Crim. P. 48 (b)** (authorizing courts to dismiss indictments for government's unnecessary delay); **Fed. R. Crim. P. 50 (b)** (requiring district courts to prepare plans for prompt dispositions of cases). There is also an argument that a delay between probable cause and arrest that damages the defendant's capacity to defend should have the same affect as a speedy trial violation. The United States Supreme Court has given guidelines for such an argument even if not expressly recognizing it.

**United States v. Iovas Co., 431 U.S. 783 (1987).** The Court there suggested that such a delay, while not violating speedy trial, might violate due process if it were an extended, prejudicial delay not occasioned by the conduct of the defendant but rather by the bad faith of prosecution.

While pre-indictment delay has a different constitutional basis from speedy trial, the defence might attempt a "tacking" argument in a case in which both appear. See **United States v. McDonald, 456 U.S. 1 (1982).**

In **Gerstein v. Pugh, 420 U.S. 103 (1975),** the Supreme Court held that "the Fourth Amendment requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following arrest." In **County of Riverside v. McLaughlin, 500 U.S. 103 (1975),** the Supreme Court held that jurisdiction providing a probable cause determination within forty-eight hours of arrest are immune from systemic challenges of undue delay; however, when an individual is detained for more than forty-eight hours without a Gerstein hearing, the delay is presumed excessive and may only be justified by "a bona fide emergency or other extraordinary circumstance.

5. In conclusion, the petitioner was denied the right to a fast and speedy trial in all sense of the words, **FAST AND SPEEDY TRIAL.** The petitioner was not allowed due process of the law when in fact the Solicitor denied him any and all pretrial matters in his defence and delayed trial solely due the fact that the statement that the petitioner gave on the 18th, and 19th, 1993, had been altered, the search warrants had been altered as well. Petitioner did not receive an attorney before October 18th, 1994, after being in jail since November 18th, 1993. The Solicitor did in fact hold each and every arrest warrant, first warrant served on November 18th, 1993, twenty-nine warrants served on November 22nd, 1993, one warrant served on December 1st, 1993. The first arrest warrant that reached the Solicitor's office and transferred to the clerk of court, January 3rd, 1994, from the Solicitor's office, clocked in and returned to the Solicitor's on January 10th, 1994. The remaining arrest warrants and not in consecutive-

Order, took as many as one-hundred and seventeen (117) days before reaching the clerk of court, clocked in and returned to the Solicitor's office for indictment. Defendant was not indicted until September 8th, 1994, Defendant did not receive an attorney until after the indictment, October 18th, 1994, AMENDED ORDER APPOINTING COUNSEL, David Hart Breen, Attorney for Defendant. Petitioner has enclosed appointment of counsel beginning December 7th, 1993, for your inspection.

South Carolina, like all States, now has a constitutional obligation to provide "a fair and reliable determination of probable cause as a condition for any significant pretrial restraint of liberty, and this determination must be made by a judicial officer either before or promptly after arrest." *Gerstein v. Pugh*, 420 U.S. 103, 125 (1975). This must be done as soon as possible, see *Lively v. Cullinane*, 451 F. Supp. 1000 (D.D.C. 1978) (suggesting that one and one-half hours presumptively may be too long), and certainly within twenty-four hours (excluding Sundays). *Dommer v. Hatcher*, 427 F. Supp. 1040 (N.D. Ind. 1977). In cases triable in circuit court the magistrate holds the warrant during the time in which a defendant may request a preliminary hearing pursuant to S.C. Code Ann. §22-5-320 (Law. Co-op. 1989). The Solicitor's office does not hold the warrant for the magistrate and to prevent the defendant from receiving a preliminary hearing! The State's position is to make sure that the defendant receives due process of law. The petitioner in this case, was prejudiced severely by the prosecution's actions and inactions for failure to provide to the defendant access to the court, when in fact petitioner was at all times available for trial, petitioner had been evaluated May 16th, 1994, by William S. Hall, Psychiatric Institute, why should there be two (2) evaluations? Was there something that needed to be done before the second trial? Was the defendant competent to stand trial? Medical records enclosed.

Illegally obtained and tainted confession:

Petitioner would respectfully show this court; Petitioner was picked up and transported to Conway, South Carolina from Beaufort, South Carolina on November 18th, 1993, by two (2) J. Reuben Long

Detention Center Officer's, for transportation, and two (2) Horry County Police Detective's. Upon arriving in Horry County, defendant was taken to the J. Reuben Long Detention Center, petitioner was not booked at this time. Immediately left and went directly to the Horry County Police Department for questioning. Arrived at approximately 2:30 p.m.. Defendant was taken in and went to the interrogation room. In this room was a number of officer's and the two (2) transportation officer's. J. Gordon Harris, Chief of Police, Captain Guy Osborne, Lieutenant Rory Avant, Detective Lance Winburn, Gordon Thompson, Horry County Police. I had already called Chief Harris and told him if they would come and get me and help me with the physical and mental problems that I was having I would tell them what I knew, this was agreed on. We talked for about one (1) hour before I was given the miranda warning's. The waiver of rights form was signed at 3:20 p.m.. Before petitioner would sign the waiver of rights form, it was agreed on that defendant would not be prosicuted for what he told in his statement. Petitioner was told by Captain Osborne that the Solicitor Ralph Wilson was backing him one-hundred percent. To prove this to the defendant, Captain Osborne sent out of the room Detective Winburn to get a miranda form with the Solicitor's letter head on it to prove to the defendant that what he said was true. Defendant had no choice but to believe that he had a deal. That is the way it is done, something for something! Defendant then signed the miranda form. Petitione was promised a deal! Defendant was in waist chains, hand cuffs, leg chains and cuffs. Detective Winburn was sent out of the room to get a tape recorder and gave it to Captain Osborne. At the beginning of the taped statement, the date, the time, defendant's name, the officer's that were present, the deal that was offered, cessation from prosicution, medical treatment, and psychiatric treatment. Defendant was told that co-defendant would not give a statement and they were going to burn his ass! There were three (3) tape cassetts used on the 18th, of November 1993. Captain Osborne operated the recorder the entire time. Out of approximately four (4) hours of recording there is only one (1) hour and twenty-eight minutes of tape. The Solicitor introduce the tapes at trial

And said that these are the original tapes, two (2) tapes and of which both sides are full. Two (2) sixty minute tapes, which converts into two (2) hours which there was only one hour and approximately twenty-eight minutes on these two tapes, only three (3) sides have the recording on them, what happened to the rest of the tapes? The recording began at 3:20 p.m., and continued through 7:30 p.m., on the 18th, of November 1993. Defendant provided in his pro-se brief a copy of the medical of the 18th, of November 1993. Defendant was sent to the Conway Hospital at approximately 7:45 p.m., and was signed in at 8:00 p.m., approximately? After the Conway Hospital defendant was transported to the Myrtle Beach Jail and remained there until 3:00 p.m., November 19th, 1993, this has been denied by the Horry County Police that testified at trial January 16th, 1996. September 16th, 1997, petitioner received the booking report from the Myrtle Beach Jail and in fact the defendant was at this jail, I have enclosed the booking report. The Horry County Police also denied that Sergeant Jerry Sarvis with the Horry County Police did not pick up the defendant from this jail and bring him back to the Horry County Police Department on the 19th, of November, I have enclosed the paper work that I received from the Myrtle Beach Police Department. On numerous occasions petitioner attempted to retrieve this information from the Myrtle Beach Jail and failed. After several letters to attorney David Hart Breen asking him to get this information he refused petitioner as well. This particular information would prove in fact that the Horry County Police have lied and did in fact lie about the statement that defendant gave on the 18th, and 19th, of 1993, in their perjured testimony during trial of the petitioner in January of 1995, and the trial of January 1996, which is now before the Court of Appeals. During trial of January 16th, 1996, Chief Deputy Solicitor made the statement that his office had took it on himself to take an excerpt from this tape. Defendant objected to the taped statement being admitted into evidence, defendant objection was over ruled by Judge Shuler. Defendant had no attorney representation and in an attempt to represent himself had no evidence to prove to the court as to what he was saying was the truth about the tape statement, the defendant was taken to the Myrtle Beach Jail on the 18th,-

Of November and booked in at 2315 11:15 p.m., this was after the Conway Hospital and medical treatment that petitioner received. On the 19th, of November 1993, petitioner was pick up by Sergeant Sarvis and transported back to the Horry County Police Department for the second part of the statement which has been denied by the Horry County Police and did as well testify to this at trial. Defendant was picked up on November 19th, at 1500 3:00 p.m., and signed for by Sergeant Jerry Sarvis, releasing officer, Benny Altman, Myrtle Beach Law Enforcement Center. The Horry County Police also testified that we never talked about the half-gallon jar of white liquor, it as well is on the tape. Petitioner has enclosed a copy of the booking report as well as other information to prove that petitioner was at the Myrtle Beach Jail. In the petitioner's pro-se brief he enclosed a copy of the booking report from the J. Reuben Long Detention Center, marked exhibit #10. How could the defendant be in two (2) Jails at one time? Why did the Horry County Police testify that the Defendant was never at the Myrtle Beach Jail? Why is there now two (2) booking reports? Why didn't defendant's attorney retrieve the booking report when asked to do so by the defendant? The tape recorded statement has been altered, it is not authentic! The defendant also asked attorney Breen to have the tape statement authenticated by writing and explaining what happened, he refused as well. Before the prosecution can introduce any extra-judicial confession it has to show that the miranda warnings were given to the defendant before the statements were made and that the defendant validly waived miranda rights or made the statement with legal representation. Waiver will be presumed from the mere fact that the defendant talked after being given the warnings; if the defendant made the waiver after a lengthy interrogation or incommunicado incarceration, counsel may be able to show that the waiver is invalid. When the voluntariness of a confession is questioned, the issue is first argued before the judge, preferably by a pretrial motion to suppress, or at the trial out of the jury's hearing. **Jackson v. Denno, 378 U.S. 368 (1964)**. If the judge determines that the confession is admissible, it will be introduced over the objection of the defendant, and the question of voluntariness will be submitted to the jury with other factual issues in the case.

**State v. Goolsby**, 275 S.C. 110, 268 S.E.2d 31 (1980); **State v. Cannon**, 248 S.C. 506, 151 S.E.2d 752 (1966), **State v. Torrence**, 305 S.C. 45, 406 S.E.2d 315 (1991). Even when the judge admits the incriminating statement, counsel should frame an instruction for the judge to emphasize to the jury the need for determining the voluntariness of the statement before it can be relied on as probative evidence.

**Baker v. McCollan**, 443 U.S. 137, 145 (1979) (detention pursuant to valid warrant may, after lapse of significant time, constitute deprivation of liberty without due process, depending upon procedures afforded by states; three-day delay over long weekend not due process violation because "Fourteenth Amendment does not protect against all deprivations of liberty"); **Coleman v. Frantz**, 754 F.2d 719, 725 (7th Cir. 1985) (18-day detention in county jail violated Fourteenth Amendment due process requirements because procedural safeguards traditionally afforded by timely initial appearance denied). Fed. R. CRIM. P.5.

**U.S. v. Wilson**, 838 F.2d 1081, 1085 (9th Cir. 1988) (20-hour delay before arraignment impermissible when deliberate and for sole purpose of obtaining confession). Defendant was convicted in the United States District Court for the District of Arizona, Paul G. Rosenblatt, of second degree murder and he appealed. The Court of Appeals, Goodwin, Circuit Judge, held that: (1) delay in bringing defendant before magistrate was not reasonable, and (2) defendant's waiver of rights to counsel and confession were not shown to be voluntary. Reversed.

**Criminal law key No. 1139, 1158 (2), 70 (2), 519 (8)** This construction is consistent with the language of section 3501 and a scheme under which the admissibility of confessions turns on voluntariness. The intergration, however, is not perfect. The effect of the proviso of subsection 3501 (c) is to remove discretion from the trial judge by requiring him to admit a confession, otherwise voluntary, given more than six hours [after] arrest during a delay in arraignment if the delay was reasonable considering problems in transporting the defendant to the magistrate. The petitioner had been in jail in Beaufort County from November 7th, 1993, through November 18th, 1993, and then transported to the Horry County Police Department for the statement.

The defendant had had a hold placed on him from the Horry County Police Department. The interrogation lasted for approximately four (4) hours before ending. Petitioner was then transported to the Conway Hospital and from there to the Myrtle Beach Jail and held incommunicado, until the next day, November 19th, 1993. Defendant was not allowed to make any phone calls whatsoever, could not have called an attorney, and or wife to say the least. The Government's reliance on the waiver of miranda rights becomes weaker as the period of pre-arraignment detention increases. If unreasonable delay in excess of six hours can itself form the basis for a finding of involuntariness, that same delay may also suggest involuntariness of the miranda waiver. **see Frazier v. United States, 419 F.2d 1161, 1167 (D.C, Cir. 1969)** (noting that the government's "already 'heavy burden' of showing effective waiver" increases with the delay between arrest and confession). The five factors considered in § 3501 (b) are: (1) the time between arrest and arraignment if the confession occurred between those two events; (2) whether the defendant understood the offence alleged; (3) whether the defendant knew or was advised that she did not have to make any statements and that any statements she made could be used against her; (4) whether the defendant was advised of her right to counsel; and (5) whether the defendant had assistance of counsel when confessing. *Id.* The Horry County Police and the Solicitor's office could not allow into evidence that the defendant had been taken to the Myrtle Beach Jail and held over night and then being taken back to the Horry County Police Department for the second part of the interrogation on November 19th, 1993. Thus, the interrogation was in fact illegal and the authorities could not allow defendant to retrieve the information from the Myrtle Beach Jail and thus, this formed a conspiracy to harm the defendant and deny the defendant of any and all rights afforded him under the South Carolina Constitution and the United States Constitution. The defendant remained in the custody of the Horry County Police for nineteen (19) days before being taken before a judge and then he was only appointed an attorney and attorney was only appointed to represent defendant on an old charge that was nol-prossed September 10th, 1993.

Defendant had already been in jail for eleven days in Beaufort County before being transported to Horry County and then remained in jail for nineteen (19) days without a bond hearing and or any pretrial rights. If the defendant's attorney had been effective in representation of the defendant and had gotten the booking report from the Myrtle Beach Jail the out come of the trial would have been different and the confession would have been suppressed. If the attorney for defendant had made a motion to have the taped statement authenticated it would have proven that the defendant did tell the truth about the statement and would have shown that the Horry County Police and or the Solicitor's office did in fact alter the taped statement in question, and it must be authenticated! The first section of the taped recorded statement is missing, the Police officer's testified at the first trial that the defendant began talking about the Public Works Robbery, this is true, but this is not what's on the taped statement that is before the court at this time, it begins by saying, Tony Martin supplied all the money for the marijuana. The defendant's wife Betty Dixon took it on herself to have the taped statement transcribed and copies were sent to the Clerk of Court, Mr. Kenneth Richstad, and to the Attorney General's office, Mr. Charles Richardson. The defendant was provided a copy of the taped statement December 12th, 1994, by attorney David Hart Breen in the discovery material that was provided by the Solicitor's office. Defendant had already been in jail thirteen (13) months before the discovery material was ever received. The copy of the transcription of the taped statement was objected to by the Attorney General Office, that would be very easy to explain if you didn't want it to become part of the Appeal and a very important piece of the evidence as well as the booking report from the Myrtle Beach Jail that has quite an impact on this case! I will someday find out just exactly how to have the taped statement authenticated and it will be done. I certainly hope that this court will find it and grant the petitioner in this Appeal the benefit of doubt that he has placed before this Honorable Court and grant him his wishes that the taped statement is illegal and has been tainted to cause the defendant severe injury in his Appeal. The petitioner would be most grateful.

THE STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )  
DAVID E. DIXON, )  
                  APPELLANT, )  
                  VS. )  
THE STATE, )  
                  RESPONDENT. )

IN THE COURT OF APPEALS

MEMORANDUM

**RECEIVED**

JAN 8 1998

**S.C. Court of Appeals**

The Appellant, Petitioner, David E. Dixon, SCDC #217520 would respectfully show this Honorable Court that appellant did receive ineffective assistance of appellant counsel, namely, Wanda Hagler Haile, Senior Assistant Appellant Defender.

Appellant counsel failed to adhere to Anders v. California, 386 U.S. 738 (1967). A criminal Appellant may not be denied representation on appeal based on appointed counsel's bare assertion that he or she is of the opinion that there is no merit to the appeal. Before such counsel can be dismissed from the case, he must conduct a conscientious examination of the record and file a brief referring to anything in the record that might arguably support the appeal.

Appellant alleges, Court appointed appellant counsel failed to take any action whatsoever with respect to appellant's pro se brief, Freels vs. Hills, 843 F.2d 958 (6th Cir. 1988), counsel filed a four-page brief in which he simply asked the Appellate Court to look at the record since he himself saw nothing to appeal. He took no action whatsoever with respect to the defendant's pro se brief, which raised several reasonable sounding issues. The 6th, circuit rules that failure of appellant counsel to file an Anders brief is presumptively ineffective and prejudicial. It reversed and remanded for the state to give the defendant a new appeal, with new counsel, who would then be required to adhere to Anders if he didn't find what he thought were

Meritorious issues on appeal.

Appellant alleges, Court appointed appellant counsel filed an eight page brief and writing what was essentially a summary of the proceedings, with emphasis given to reasons for holding them correct. Sanders vs. Clarke, 856 F.2d 1134 (8th, Cir. 1998)), and Evans vs. Clarke, 868 F.2d (8th, Cir, 1989). This failure to file a proper Anders brief was deemed to be ineffective assistance by appellant counsel. The 8th, Circuit went on to overrule its earlier decision in Sanders vs. Clarke, 856 F.2d 1134, 1136-37 (8th, Cir. 1988) in which it held that an Anders violation wasn't enough by itself to justify reversal, but that prejudice must be shown. In this case, citing the Supreme Court's Penon decision, the Circuit Court now rules that the Anders violation is enough, without any showing of prejudice. Penon vs. Ohio, 102 L.Ed.2d 300, 488 U.S. 75, 109 S.Ct. 346 (1988).

Appellant alleges, Court Appointed appellant counsel filed a skimpy eight page Anders brief. Johns vs. Coughlin, 750 F. Supp. 76 (E.D.N.Y. 1990) In 1984, Johns was sentenced to nine years for burglary and related charges. His appointed appellant counsel filed a skimpy nine page Anders brief, asserting that there were no issues which would merit reversal, and stating that petitioner had requested new counsel. One and one half pages of that brief listed eight questions presented, each of which was disposed of with a short statement of why the argument was unlikely to succeed. Appellant counsel listed only one issue, an illegally imposed sentence which had no merit whatsoever, appellant was at the mercy of the appellant defender with absolutely no representation in his defence. See Appellant's motion to relieve appellant counsel and motion to stay appeal filed in the Court of Appeals and dismissed March 31st, 1997.

In a letter that is with the record, dated August 26th, 1996, from appellant counsel, Wanda H. Haile, Re: Your Appeal; line

Eight (8); The Court's review will include a review of the right to counsel issue that surfaced in your case.

Appellant counsel filed nothing in the appellant's brief that was of any merit to appellant and thus, was very ineffective in her representation of the appellant.

Appellant alleges, Court appointed counsel was ineffective assistance of counsel, Gray vs. Greer, 800 F.2d 644 (7th Cir. 1985), Writing were it legitimate to dismiss a claim of ineffective assistance of counsel on appeal solely because we found it improper to review appellate counsel's choice of issues, the right to effective assistance of counsel on appeal would be worthless, the 7th Circuit remanded this case with instructions to review the trial court record and determine whether the issues which petitioner claims appellate counsel failed to raise would have been clearly more likely to result in reversal or an order for a new trial, and were so obvious from the record that the failure to present such issues amounted to ineffective assistance of appellant counsel.

See, Matire vs. Wainwright, 811 F.2d 1430 (11th Cir. 1987), Henderson vs. Sargent, 926 F.2d 706 8th Cir. (1991), Henderson vs. Sargent, 939 F.2d 586 (8th Cir. 1991, Mathis vs. Hood, 937 F.2d 790 (2nd Cir. 1991). American Bar Association Standards, The ABA standards which provide guidance as to what constitutes "reasonable" professional conduct, See Nix vs. Whiteside, 475 U.S. 157, 106 S.Ct. 988, 99 89 L.Ed 2d 123 (1986); Strickland, 446 U.S. at 688, 104 S. Ct. at 2064-65, also mandate counsel's duty to investigate all leads relevant to the merits of the case.

Appellant alleges, Court appointed counsel was ineffective in filing a Poorly written brief, High vs. Rhay, 519 F.2d 109 (9th Cir. 1975), Here Munro, in three sentences, merely stated the simple question of the sufficiency of the evidence and invited the court to review the entire transcript itself. On these generalities he submitted the case to the court without oral argument. Counsel failed to make even a minimal statement of the facts which are relevant to the issues on appeal.

The "brief" is worthless. It could not have required more than five minutes to draft. No client in his right mind would have paid one cent for such a performance. Finding ineffective assistance of appellant counsel, the 9th Circuit ordered the writ granted unless the State of Washington gave High new counsel and a new appeal. See Robinson vs. Wyrick, 635 F.2d 757 (8th Cir. 1980), Jenkins vs. Coombe, 821 F.2d 158 (2nd Cir. 1987), Mathis vs. Hood, 937 F.2d 790 (2nd Cir. 1991).

Transcript of record; did the trial Judge err in allowing the defendant to proceed pro se and with the assistance of attorney? Attorney's appointed as standby counsel for a pro se defendant should not have been allowed to litigate, on their own motion and over the defendant's objection, issues relating to the defendant's mental status, a majority of the North Carolina Supreme Court held May 9. The Attorney's exceeded their statutory authority as standby counsel, and the defendant's right of self-representation was infringed, the majority concluded. State (North Carolina) vs. Thomas, NC SupCt, No. 218A90-2 5/9/97. Finally, appointing counsel for a limited purpose violated the rule against a defendant proceeding both pro se and by counsel. In Thomas, this court held that a defendant has only two choices: "to appear in propria persona or, in the alternative, by counsel". There is no right to appear both in propria persona and by counsel. 331 N.C. at 677, 417 S.E.2d at 477 (quoting State vs. Parton, 303 N.C. 55, 61, 277 S.E.2d 410, 415 (1981), disavowed on other grounds by State vs. Freeman, 314 N.C. 432, 333 S.E.2d 743 (1985)). Due to this prohibition against hybrid representation, a court cannot allow defendant to proceed pro se while also appointing counsel to represent him, even for a limited purpose. For the reasons stated herein, the trial court erred by allowing standby counsel to advocate a position over defendant's objection, and defendant is entitled to a new trial.

The defendant asked for a hybrid representation and the judge granted his request, citing State vs. Sanders, (1977) 269 SC

215, 237 SE2d 53, to the court by the defendant.

Did the trial judge err in allowing the defendant a hybrid representation for the first portion of the trial and then stopping the hybrid representation later on in the trial? Matter of record....Furthermore, by allowing standby counsel to advocate a position over the defendant's objection, the court interfered with the constitutional right of self-representation recognized in *Faretta vs. California*, 422 U.S. 806 (1975). Finally, the result of the trial court's action was that the defendant proceeded both pro se and by counsel, which state caselaw forbids.

**Waiver of Counsel and Pro Se Representation.** In *Feretta vs. California*, the Supreme Court held that an accused has a sixth amendment right to conduct her own defence in a criminal case. To proceed pro se, a defendant must knowingly and intelligently waive the right to counsel. To insure a valid waiver of counsel, the trial judge must make a "searching or formal" inquiry into both the defendant's understanding of the sixth amendment waiver and her awareness of the disadvantages of self-representation. The judge's failure to hold a waiver hearing, however, may not be sufficient error to warrant reversal, particularly if the trial record otherwise demonstrates a knowing and intelligent waiver. See *McMahon vs. Fulcomer*, 821 F.2d 934, 94 (3rd Cir. 1987) (court must conduct inquiry to determine if defendant waived right to counsel with awareness of dangers inherent in self-representation). *U.S. vs. Sandles*, 23 F.3d 1121, 1128 (7th Cir. 1994) (waiver invalid when court failed to make adequate inquiry into defendant's understanding of consequences of waiver). Did the defendant make a timely and unequivocal request to proceed pro se, the court should make the defendant aware of the dangers and disadvantages of self-representation, including such areas as possible exclusion of evidence, self-incrimination, and waiver of potential defences. A court should also inquire into the defendant's age and education; ascertain whether the defendant is aware of the nature of the charges and the maximum possible sentence; and ascertain whether the defendant knows about the rules of evidence and criminal procedure and will follow them.

The court's appointment of a standby counsel to assist a person who has invoked the right to proceed pro se does not violate the sixth amendment. A defendant may request that standby counsel be appointed to assist in the criminal proceedings. However, the court need not permit "HYBRID" representation. Standby counsel is not to interfere with the defendant's control of the defences, such as the content of the defence, making of motions, arguing points of law, participating in "VOIR DIRE", questioning of witnesses, and addressing of the COURT and JURY. To determine whether standby counsel interfered with the defendant's right to SELF-REPRESENTATION, the court must determine whether (1) the pro se defendant "PRESERVE[D] the actual control over the case, and (2) whether standby counsel's participation "DESTROY[ED] the jury's perception that the defendant [was] representing himself. But standby counsel's assistance to the pro se defendant with routine procedural or evidentiary obstacles does not violate the right to self-representation. Did the Judge err when he allowed the defendant to proceed pro se and with the assistance of counsel?

Petitioner would at this time direct the court's attention to the trial transcript, VOLUME I OF III, page twenty-four beginning at line twenty-five and continuing through page three-hundred and fifteen, line nineteen, end of VOLUME I of III- beginning of VOLUME II OF III, page six, line three and continuing through, page eleven line twelve-beginning of VOLUME III of III, page eighty-six, line twenty-four, and continuing through page ninety-one line two.

Thus far the petitioner has proven that he received ineffective assistance of appellant counsel, ineffective assistance of trial counsel, before and during trial, and petitioner has proven without a doubt, that the Judge in this case erred when he allowed the defendant to proceed both by counsel and pro se, and the defendant did not have enough knowledge of the court procedures to know what he was getting into and the Judge did not question the defendant as to his mental capacity, age, background, self-incrimination, and waiver of potential defences. For the foregoing reasons and not limited to, the petitioner ask's this Honorable Court to reverse and vacate sentence and conviction.

## CONCLUSION

Petitioner is not a lawyer, petitioner has only stated the facts of the case and has to the best of his ability told the truth at all times relevant to this petition.

Petitioner has included several documents for the court's review. Finally, the petitioner will conclude that he was denied the effective assistance of counsel and did not receive counsel in the case before the court until October of 1994, after being arrested on November 18th, 1993. Petitioner filed his own motions with the court, petitioner asked his attorney to file a motion to have the taped statement authenticated and he refused to do this as well as represent the defendant at any time during his appointment to represent the defendant.

**The taped statement is not the original and I am filing a motion to this Honorable court for an order of authentication and identification of said tape.**

For the reasons stated herein, petitioner request that his sentences and conviction be reversed, vacated and he be granted a new an fair trial with assistance of effective representation at all stages of the trial.



David E. Dixon, Pro se  
SCDC #217520  
Evans Correctional Institution  
Post Office B0x 2951202  
Bennettsville, S.C. 29512-5202

DED/jcr

cc: file  
with enclosures

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

JAN 8 1998

S.C. Court of Appeals

APPEAL FROM HORRY COUNTY  
GENERAL SESSIONS COURT  
M. Duane Shuler, Circuit Court Judge

Opinion No. 97-UP-483 (S.C. App. Filed September 23rd, 1997)

David E. Dixon,.....Petitioner,

vs.

The State,.....Respondent.

DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD

Petitioner proposes the following be included in the record for rehearing:

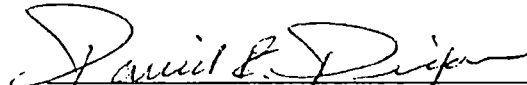
- (1) Transcript of trial, volume I, II, and III;
- (2) Taped statement dated November 18th, 1993;
- (3) Booking reports from Beaufort, S.C., J. Reuben Long Detention Center, and, the Myrtle Beach Law Enforcement Center, dated November 7th, 1993, November 18th, 1993, and November 18th, 1993;
- (4) Transcription of taped statement dated May 5th, 1997, taken from David E. Dixon;
- (5) Transcription of taped statement taken from Jimmy Sawyer, X's two, and, Clifford Corns, and, Gregg A. Fogner;
- (6) Eleven miranda forms entitled, THE STATE OF SOUTH CAROLINA, COUNTY OF HORRY, AND ONE MIRANDA FORM ENTITLED,

THE STATE OF SOUTH CAROLINA, OFFICE OF THE SOLICITOR:

- (7) Order substituting counsel dated December 7th, 1993,  
order substituting counsel dated September 22nd, 1994,  
certificate of representation and appointment: conflict  
(appointing as counsel) David Breen, dated September 23rd,  
Amended order appointing counsel, dated October 18th,  
1994, Order substituting counsel, dated September 22nd,  
1994.

I certify that this designation contains no matter which  
is irrelevant to this petition for rehearing.

January 7th, 1998

  
David E. Dixon, SCDC #217520  
Evans Correctional Institution  
Post Office Box 2951202  
Bennettsville, S.C. 29512-5202  
Petitioner pro se

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

JAN 8 1998

S.C. Court of Appeals

DAVID E. DIXON, )  
PETITIONER, )  
  
VS. )  
  
THE STATE, ET. AL, )  
RESPONDENT. )

In Re Dixon

PETITION FOR AUTHENTICATION  
AND IDENTIFICATION

The undersigned petitioner, David E. Dixon, SCDC #217520, would respectfully show this Court:

I. STATEMENT OF THE CASE

1. The cause arises out of the refusal of the above named respondents to have the taped statement authenticated for its ALTERATION, when in fact it has been ALTERED, and is not the original and dated November 18th, 1993.

II. JURISDICTION

2. The South Carolina Court of Appeals has jurisdiction to issue an order commanding the respondents, an inferior tribunal, board, corporation, or person to perform a purely ministerial duty imposed by law. *Nebel vs. Nebel*, 241 N.C. 491, 85 S.E. 2d 876, 882. Extraordinary writ which lies to compel performance of ministerial act or mandatory duty where is a clear legal right to petitioner, a corresponding duty in defendant, and want of any other appropriate and adequate remedy.

III. PETITIONER

3. Petitioner is a pro se litigant attempting to litigate his claim that the taped statement given on November 18th, and 19th, 1993, is not the original and it has in fact been

Altered and was given in the presence of, Captain Guy Osborne, Chief J. Gordon Harris, Lieutenant Rory Avant, Detective Lance Winburn, Horry County Police Officer Gordon Thompson, transportation officer's for J. Reuben Long Detention Center, Dale Graham and Anthony McCullum.

The taped statement must be authenticated for its; re-recording; tampering; variation; changing; making different. A change of a thing from what it was without destroying its identity. An alteration is said to be material when it affects, or may possibly affect, the rights of the person interested in the document.

**ALTER:** To make a change in; to modify; to vary in some degree; to change some of the elements or ingredients or details without substituting and entirely new thing or destroying the identity of the thing affected. To change partially. To change in one or more respects, but without destruction of existence or identity of the thing changed; to increase or diminish.

#### IV. FACTS

4. The tainted and illegal taped recording of the petitioner was used at two different trials, January 16th, and 17th, 1995, and January 16th, 17th, 18th, and 19th, 1996. Chief Deputy Solicitor, Blake A. Martin stated to the court at both trials that the tape was the original and full on both sides of two tapes, not true! Tape marked one (1), both sides are full. Tape marked two (2) would only reflect approximately twenty-eight minutes of taping for a total of one hour and twenty-eight minutes of tape. The tapes are sixty minute tapes and that would be a total of two hours, one hundred and twenty minutes. The first section of the tape is missing, if it hadn't of been altered it would have said, This is a taped statement being taken from David Dixon; this statement is in reference to burglaries and other crimes of which he wished to give a statement on; present at this interview is myself, Captain Osborne, and the aforementioned officer's that I have listed; Today's date is November 18th, 1993, the time is 3:20 p.m. David Dixon was promised cessation from prosecution for this statement and was promised medical help for his physical and

Mental problems. PATHOLOGICAL GAMBLING ADDICTION, DIAGNOSED  
May 16th, 1994, May 16th, 1995, August 1st, 1995, and November  
21st, 1995. The Horry County Police deliberately took advantage  
of the defendant and in doing so, ALTERED TAPED STATEMENT.  
The police officer's that testified at both trials are, Captain  
Guy Osborne, Lieutenant Rory Avant, Detective Lance Winburn,  
swore under oath that the defendant started off talking about  
the Horry County Public Works burglary, this is not how the  
tape starts off at all! Petitioner's wife has had the taped  
statement transcribed and it is very plain to see and reads,  
that this is not true. The tape recording would also reflect  
that the tape starts off talking about something entirely diff-  
erent. The tape that is now in the custody of the Clerk's office  
in Horry County, has an echo at the very beginning and then  
it starts with, Q. (inaudible) did he think was (inaudible)  
when all that was said and done, we've (inaudible). We're just  
wondering whose it was.

A. Well, Tony Martin supplied all the money for the damned  
(inaudible). and it goes on, the tape is not the original.  
The first section of the tape recording is missing. The second  
day of questioning is also missing.

I say to this Honorable Court and of the truth, the taped statem-  
ent was tampered with and the police officer's involved perjured  
their testimony, why did they do this?

#### V. LEGAL CLAIMS

There is no legal provision for any court in the United States  
to rule on one issue favorable to one party and simply ignore  
the rights of the second party.

The Constitutional Rights of the petitioner do not lie dependent  
upon the whim and caprice of the Fifteenth Judicial Circuit.

#### REASONS THE RELIEF SOUGHT IS NOT AVAILABLE IN ANY OTHER COURT:

The Fifteenth Judicial Circuit answers to the Supreme Court.  
Justice delayed is justice denied. There is simply no need  
for this cause of action to wait any longer and that an order  
should be granted as to the petitioner's request.

There is no one in this world that would believe that the taped statement hasn't been altered. It must be rectified!

Petitioner swears under oath, that he has told the truth and he must be allowed to prove the aforementioned stipulations.

**RELIEF REQUESTED**

Petitioner humbly request that the Court of Appeals issue an order for the authentication and identification of taped recorded statement that is in the custody and control of the respondents.

cc: file

Date: January 7th, 1998

Respectfully Submitted,



David E. Dixon, #217520  
Evans Correctional Inst.  
Post Office Box 2951202  
Bennetttsville, S.C. 29512  
Petitioner Pro se

AG NO. 500

DATE/TIME OF ARREST

11-7-98

OR

CASE NUMBER

93-87695

(10)

DEFENDANT NAME (L, ST, M, J, MIDDLE) **Dixon, David Edward**

RACE **W** SEX **M** DATE OF BIRTH **12-18-46** DOCKET NUMBER

AGE **47** ETH **N** HGT **604** WGT **160** HAIR **BRD** EYES **BRD** SOCIAL SECURITY NUMBER **252688735** VISIBLE SCARS AND MARKS

ADDRESS (NUMBER AND STREET) **3320 Baywater Dr** CITY **Conway** STATE **SC** ZIP CODE **29526** RESIDENT **S** U **NO** PHONE NUMBER

ALIAS PLACE OF BIRTH **Savannah, GA** DRIVERS LICENSE NUMBER **002443869** STATE **SC**

EMPLOYER OR OCCUPATION **unemployed** NEXT OF KIN **Betty Dixon (wife)** ADDRESS (CITY AND STATE) **same**

BOOKING OFFICER'S NAME NUMBER ARRESTING OFFICER **D. Rice** AGENCY **BCSD** NUMBER **R2920**

ARRESTEE ARMED  YES  NO WEAPON TYPE:  SEMI-AUTO  FULL-AUTO  ON VIEW ARREST  SUMMONED  CUSTOD

JUVENILE DISPOSITION: 1.  HANDLED, RELEASED 2.  REFERRED TO OTHER AUTHORITY \* J - This Jurisdiction, (S) - State, O - Out of State, U - Unknown

ADDITIONAL CASE NUMBERS MORE IN REMARKS

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHANGE - A, B, C

CHARGE I.D.	A	B	C
CHARGE	47400 A		
STATUTE	6-1-40		
BOND AMOUNT			
BOND TYPE			
RET. DATE	1-3-79 0800 hrs. session		
DISPOSITION			
	DAYS	AMOUNT	DAYS
SENTENCE			
TIME SERVED			
GOOD TIME			
BALANCE			
PAY			
RECEIPT NUMBER			

RELEASE DATE TIME RELEASING OFFICER NUMBER AGENCY RELEASED TO

SIGNATURE OF RECEIVING OFFICIAL X **RECEIVED** LIST ANY REMARKS BELOW

REMARKS:

JAN 8 1998

S.C. Court of Appeals

DEFENDANTS PERSONAL PROPERTY RECEIPT TOTAL CASH AT TIME OF ARREST → \$

QUANTITY	ITEM	QUANTITY	ITEM

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

X DEFENDANT'S SIGNATURE AT TIME OF ARREST OFFICER

I HEREBY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

19. 25 X

AGENCY ID. SC 0260E00

DATE

3

TIME OF ARREST

3:15

MYRTLE BEACH POLICE BOOKING REPORT

CASE NUMBER

N-UCR

SUMMONS NO. 134318 COURT DATE 12899

DEFENDANT NAME (LAST, FIRST, MIDDLE)

Dixon David Edward

RACE SEX

WM

DATE OF BIRTH

12-8-46

DOCKET NUMBER

ETH. HEIGHT WEIGHT HAIR EYES

46 N 604 305 BKA BPO 252688735

SOCIAL SECURITY NUMBER

VISIBLE SCARS AND MARKS

NCIC

I.D. NUMBER

RES. (NUMBER AND STREET)

320 Bay Water Dr

CITY

Aynor

STATE

SC

ZIP CODE

29511

RESIDENT

SO

PHONE NUMBER

3656275

PLACE OF BIRTH

Savannah GA

DRIVERS LICENSE NUMBER

002443869

STATE

GA

EMPLOYER OR OCCUPATION

Disabled

NEXT OF KIN

Bethy

ADDRESS (CITY AND STATE)

3736

ARRESTING OFFICER'S NAME

Phelps

NUMBER

452

ARRESTING OFFICER'S

AWARD

NUMBER

1001

LOCATION OF ARREST

3736

TESTEE ARMED  YES  NO WEAPON TYPE:

SEMI-AUTO  FULL-AUTO

ON VIEW ARREST  SUMMONED

CUSTODY

OFFENSE DISPOSITION: 1.  HANDLED, RELEASED 2.  REFERRED TO OTHER AUTHORITY

MARITAL STATUS:  MARRIED  SINGLE

ADDITIONAL CASE NUMBERS

MORE IN REMARKS

PRIOR ARREST:  YES  NO

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A, B, C

CHARGE I.D.  A D 734318

B

C

CHARGE BWS 2nd

AMOUNT HIC

DISPOSITION

REMARKS:

PROPERTY RECEIVED BY: s 000 m 000 t 000 w 000 t 000 f 000 s 000 s 000 m 000 t 000 w 000 t 000 f 000 s 000 s 000 m 000 t 000 w 000 t 000 f 000 s 000

QUANTITY	ITEM	QUANTITY	ITEM
01	Cigarettes		
01	Tygamet		
01	Willet		
01	Check 776 75		
		TOTAL CASH AT TIME OF ARREST \$ 0.00	

DEFENDANT STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTE ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST. RESPONSIBLE FOR PROPERTY OVER 30 DAYS.

DEFENDANT'S SIGNATURE AT TIME OF ARREST: David Dixon

OFFICER: Robert A. Phelps

DEFENDANT STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

DEFENDANT SIGNATURE: David Dixon

RELEASING OFFICER: ASHMAN

AGENCY REFERRED TO: SC 11000

SIGNATURE OF RECEIVING OFFICIAL X: [Signature]

Pg. 26

FILE COPY



MYRTLE BEACH LAW ENFORCEMENT CENTER

120576

Clerk of Court  
1101 Oak Street  
Myrtle Beach, South Carolina 29577  
(803) 626-7693

NAME- DIXON

DAVID

EDWARDS

CHARGES- BURGLARY

~~RELEASE TO OTHER AGENCY~~

05

~~DATE - 01/10/22~~

~~TIME - 14:55~~

BOND- \$0

~~RELEASED TO HCPD~~

ARRESTING OFFICER- Horry County Police

RELEASING OFFICER ALTMAN, BENNY

ARREST NO. - A9312989

I WAIVE SERVICE OF WARRANT UNTIL I APPEAR IN COURT.

*David Dixon*

*Pa. 27*

ARREST WARRANT

D- 734318

D734318

STATE OF SOUTH CAROLINA

[X] County of Horry / [ ] Municipality of

THE STATE

against

DAVID E. DIXON

Address: 3320 Baywater Dr.

Aynor, SC

Phone: 365-6275 SSN: 252-68-8735

Sex: M Race: W Height: 60" Weight: 305

State: DL #:

DOB: 12/16/46 Agency ORI #:

Prosecuting Agency: Horry County Police Dept

Prosecuting Officer: L.T. Rory Avant

Offense: BURGLARY 2ND DEGREE

Offense Code: 16-11-312

Code/Ordinance Sec. 16-11-312

This warrant is CERTIFIED FOR SERVICE in the

[ ] County / [ ] Municipality of

The accused

to be arrested and brought before me to be

held with according to law.

Signature of Judge (L.S.)

RETURN

A copy of this arrest warrant was delivered to

Defendant: David E. Dixon

Date: 8/15/93

Signature of Constable/Law Enforcement Officer: Gordon Thompson HCPD 244

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

[X] County of Horry / [ ] Municipality of

AFFIDAVIT

Form Approved by S.C. Attorney General July 26, 1990 SCCA 518

Personally appeared before me the affiant RORY AVANT who

being duly sworn deposes and says that defendant DAVID E. DIXON

did within this county and state on 8/15 1993 violate the criminal laws of the

State of South Carolina (or ordinance of [ ] County / [ ] Municipality of )

in the following particulars:

DESCRIPTION OF OFFENSE: 16-11-312

BURGLARY 2ND DEGREE

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:

SEE ATTACHED AFFIDAVIT

Sworn to and subscribed before me )

on 11/12/93 )

Signature of Affiant )

Signature of Issuing Judge (L.S.) )

Signature of Affiant

Affiant's Address P O BOX 68

Affiant's Telephone 8032486241

Affiant's Telephone 8032486241

STATE OF SOUTH CAROLINA

[X] County of Horry / [ ] Municipality of

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 8/15/93 defendant DAVID E. DIXON

did violate the criminal laws of the State of South Carolina (or ordinance of

[ ] County / [ ] Municipality of ) as set forth below:

DESCRIPTION OF OFFENSE: 16-11-312

BURGLARY 2ND DEGREE

Now, therefore, 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. A copy of this Arrest Warrant shall be delivered to the

defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.) Judge's Address 4152 J. REUBEN LONG AVE.

Signature of Issuing Judge (L.S.) Judge's Telephone 8033659222

Signature of Issuing Judge (L.S.) Judge's Telephone 8033659222

Judge Code: 112 Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit



Exhibit (10)

AGENCY ID <b>SCO 260400</b>	DATE/TIME OF ARREST <b>11-18-93 11:43:31</b> 2:33 P.M.
--------------------------------	--

BOOKING REPORT

CASE NUMBER <b>93-30152</b>
--------------------------------

DEFENDANT NAME (LAST, FIRST, MIDDLE) <b>DIXON DAVID E.</b>										RACE <b>W</b>	SEX <b>M</b>	DATE OF BIRTH <b>121846</b>	DOCKET NUMBER	
AGE <b>45</b>	ETH. <b>N</b>	HEIGHT <b>604</b>	WEIGHT <b>310</b>	HAIR <b>BLK</b>	EYES <b>BRN</b>	SOCIAL SECURITY NUMBER <b>252-69-6735</b>	VISIBLE SCARS AND MARKS <b>N/A</b>	NCIC <b>XX</b>	ID. NUMBER					
ADDRESS (NUMBER OF STREET) <b>3320-BAYWATER Rd</b>						CITY <b>ANNOR</b>	STATE <b>S.C.</b>	ZIP CODE <b>29511</b>	RESIDENT <b>JSOU</b>	PHONE NUMBER <b>365-6275</b>				
ALIAS <b>NONE</b>				PLACE OF BIRTH <b>Chatham GA.</b>			DRIVERS LICENSE NUMBER <b>2443869</b>			STATE <b>S.C.</b>				
EMPLOYER OR OCCUPATION <b>NONE</b>				NEXT OF KIN <b>Betty Dixon</b>			ADDRESS (CITY AND STATE) <b>SAB</b>							
BOOKING OFFICER'S NAME <b>R. AVANT</b>				NUMBER <b>224</b>		ARRESTING OFFICER <b>R. AVANT</b>		AGENCY <b>WCPD</b>		NUMBER <b>224</b>				
ARRESTEE ARMED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO WEAPON TYPE:												<input type="checkbox"/> ON VIEW ARREST	<input type="checkbox"/> SUMMONED	<input checked="" type="checkbox"/> CUSTODY
JUVENILE DISPOSITION: 1. <input type="checkbox"/> HANDLED, RELEASED 2. <input type="checkbox"/> REFERRED TO OTHER AUTHORITY												*J- This Jurisdiction. S- State. O- Out of State. U- Unknown		
ADDITIONAL CASE NUMBERS <b>93-24957</b>				<b>93-30761</b>				MORE IN REMARKS <input checked="" type="checkbox"/>						
IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A, B, C														

CHARGE	CHARGE LD.	A		B		C	
	STATUTE						
	BOND TYPE						
	DISPOSITION						
		DAYS	AMOUNT	DAYS	AMOUNT	DAYS	AMOUNT
	TIME SERVED						
	BALANCE						
	RECEIPT NUMBER						
	RELEASE DATE	TIME	RELEASING OFFICER		NUMBER	AGENCY RELEASED TO	

SIGNATURE OF RECEIVING OFFICIAL **X** LIST ANY REMARKS BELOW

REMARKS: **90-07045, 89-31520, 89-32433, 92-43264, 93-30638, 93-00843, 93-42739, 93-36493, 93-30711, 93-24091, 93-26801, 93-28065**

DEFENDANT'S PROPERTY				TOTAL CASH AT TIME OF ARREST → \$	
QUANTITY	ITEM	QUANTITY	ITEM		

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

**X** \_\_\_\_\_ DEFENDANT'S SIGNATURE AT TIME OF ARREST

**30**

OFFICER

I HEREBY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

RECEIVED

No: 1 ONE

JAN 8 1998

S.C. Court of Appeals

STATE OF SOUTH CAROLINA )  
 COUNTY OF HORRY )  
 STATE OF SOUTH CAROLINA )  
 v. )  
 David Dixon )  
 Defendant. )

IN THE COURT OF GENERAL SESSIONS OF THE FIFTEENTH JUDICIAL CIRCUIT

ORDER  
SUBSTITUTING  
COUNSEL

HORRY COUNTY  
JAN 7 1998  
PH 3:44

This matter comes before me on 12/07/1993, regarding substitution of counsel for the Defendant. The Defendant is charged with:

Traffick in Marij, 1st

It appears that the Defendant is eligible for court-appointed counsel, such determination having been made on 07/14/1992, by the Clerk of Court. Inasmuch as the Office of the Public Defender already represented a co-defendant, Assistant Public Defender Barbara Krug was inadvertently appointed to represent the defendant on the above charges.

Based on the above, the Court finds that good cause has been shown to relieve Assistant Public Defender Barbara Krug and substitute Attorney Bradley Ruffin, Jr.

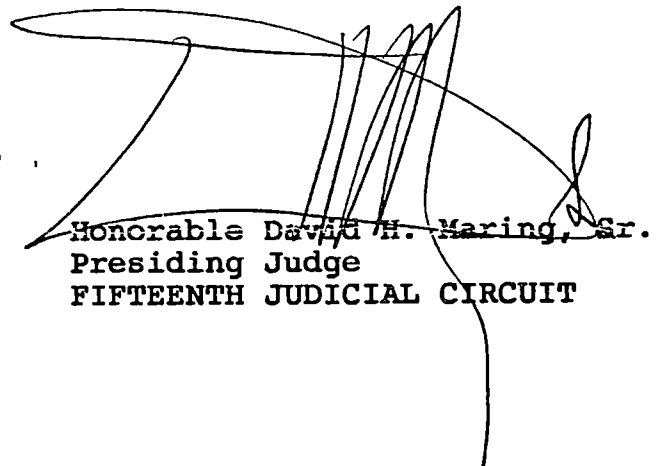
IT IS THEREFORE ORDERED that Barbara W. Krug be relieved and that Attorney Bradley Ruffin, Jr. be substituted as counsel for the defendant.

C. Ruffin, Jr.  
P.O. Drawer 14950  
Surfside Beach, SC 29587  
238-8836

*[Handwritten signature and initials]*  
31

IT IS SO ORDERED.

Dated: Dec 7 1993  
Conway, South Carolina



Honorable David H. Maring, Sr.  
Presiding Judge  
FIFTEENTH JUDICIAL CIRCUIT

No: 2. Two

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
COUNTY OF HORRY ) OF THE FIFTEENTH JUDICIAL CIRCUIT

COUNTY OF HORRY )

THE STATE OF SOUTH CAROLINA )

v )

David E. Dixon )

ORDER  
SUBSTITUTING  
COUNSEL

HORRY COUNTY  
BILLY G. RICHARDSON  
CLERK OF COURT  
SEP 22 2 27 PM '94

File No. 92-07-0927  
S.S. No. 252-68-8735

This matter comes before me on September 19, 1994 regarding substitution of counsel for the Defendant. The Defendant is charged with:

Traffick in Marij, 1st

The above-captioned defendant is eligible for the services of the Public Defender, such determination having been made on 07/14/1992.

It appears that the Public Defender's Office appointed Attorney Brad Ruffin on December 7, 1993 to represent the above-named defendant on the above-referenced charges. The Honorable David Maring ordered that Mr. Ruffin be replaced. The Court is now informed that Mr. Ruffin will represent the defendant on the above charges.

The Court finds that good cause has been shown to relieve Atty. Brad Ruffin and substitute David Breen as counsel.

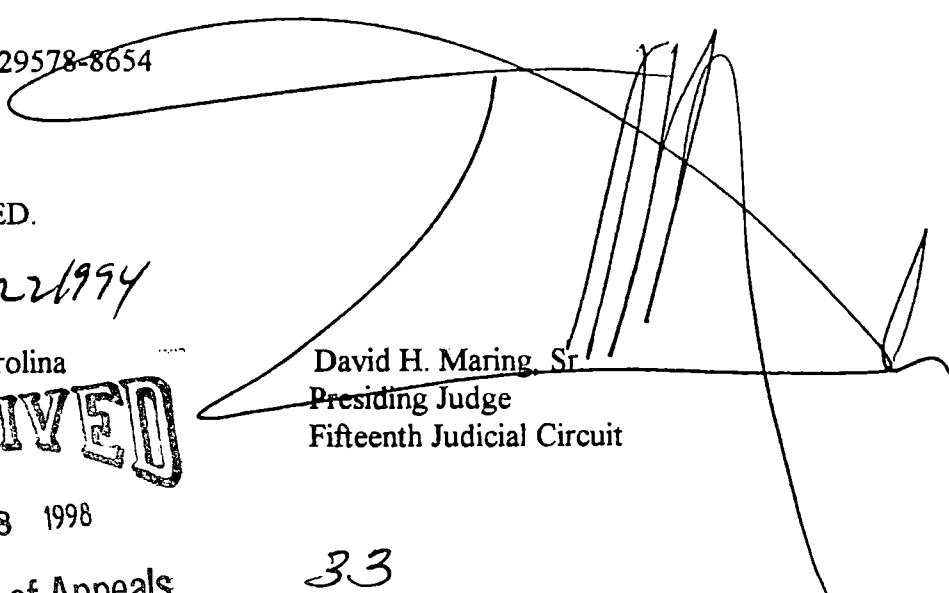
IT IS THEREFORE ORDERED that C. Ruffin, Jr. be relieved and that the following attorney be substituted as counsel for the Defendant:

David Breen,  
P.O. Box 8654  
Myrtle Beach, SC 29578-8654  
626-3599

IT IS SO ORDERED.

Dated: Sept 22 1994

Conway, South Carolina

  
David H. Maring, Sr.  
Presiding Judge  
Fifteenth Judicial Circuit

RECEIVED  
JAN 8 1998

S.C. Court of Appeals

33  
Pg. 2



Rushing dated December 12, 1988, and approved by the South Carolina Supreme Court.

Appointment of counsel as named herein is subject to modification by the court.



ORRIE E. WEST  
OFFICE OF THE PUBLIC DEFENDER

No. 4 Four

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 ) OF THE FIFTEENTH JUDICIAL CIRCUIT  
 COUNTY OF HORRY )  
 )  
 STATE OF SOUTH CAROLINA ) AMENDED ORDER  
 ) APPOINTING  
 ) COUNSEL  
 )  
 v. )  
 )  
 David E Dixon )  
 )  
 ) Defendant.)

HORRY COUNTY  
 9 OCT 18 AM 9:07  
 BILLIE G. RICHARDS  
 CLERK OF COURT

This matter comes before me on Thursday, October 13, 1994 regarding appointment of counsel for the Defendant. The Defendant was arrested several different times beginning November of 1989 thru September of 1993, for the offense(s) of:

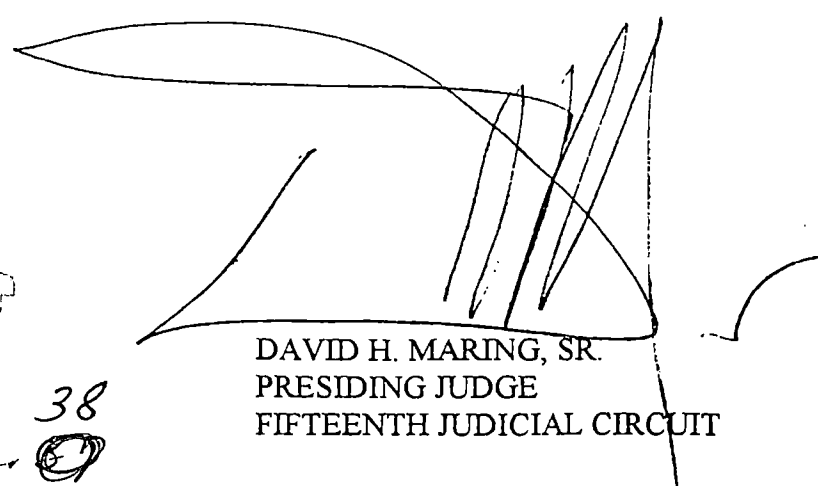
Breach of Trust With Fraudulent Intent, Possession of Stolen Auto, Malicious Damage To Real Property, Kidnapping (2cts), Burglary 1st Degree (2cts), Burglary 2nd Degree (3cts), Burglary 3rd Degree (2cts), Petit Larceny (4cts), Grand Larceny (6cts), Attempted Armed Robbery (3cts), Conspiracy To Commit A Crime (6cts)

After hearing from the Defendant, the Court finds that the Defendant is eligible for court-appointed counsel. Inasmuch as the Office of Public Defender already represents a co-defendant, the Court must appoint a private attorney.

However, the Defendant is now placed on notice by this Court that, pursuant to the Defense of Indigents Act as contained in S.C. Code 17-3-30 (A), (1993 as amended), the costs of legal representation may be assessed against the Defendant at the conclusion of the case.

IT IS ORDERED that the following attorney is appointed to represent the Defendant on the above-referenced offense(s):

David Breen  
P.O. Box 8654  
Myrtle Beach, SC 29578-8654  
626-3599



DAVID H. MARING, SR.  
 PRESIDING JUDGE  
 FIFTEENTH JUDICIAL CIRCUIT

AND IT IS ORDERED.

Dated: 10-14-1994

RECEIVED

JAN 8 1998

S.C. Court of Appeals

Conway, S.C.

Pg. 38  
 38

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 ) OF THE FIFTEENTH JUDICIAL CIRCUIT  
 COUNTY OF HORRY )  
 )  
 STATE OF SOUTH CAROLINA ) AMENDED ORDER  
 ) APPOINTING  
 ) COUNSEL  
 v. )  
 )  
 David E Dixon )  
 )  
 ) Defendant.)

Horry County  
 BILLIE G. RICHARDS  
 CLERK OF COURT  
 9/13/94 10:14 AM '94

This matter comes before me on Thursday, October 13, 1994, regarding appointment of counsel for the Defendant. The Defendant was arrested several different times beginning November of 1989 thru September of 1993, for the offense(s) of:

Breach of Trust With Fraudulent Intent, Possession of Stolen Auto, Malicious Damage To Real Property, Kidnapping (2cts), Burglary 1st Degree (2cts), Burglary 2nd Degree (3cts), Burglary 3rd Degree (2cts), Petit Larceny (4cts), Grand Larceny (6cts), Attempted Armed Robbery (3cts), Conspiracy To Commit A Crime (6cts)

After hearing from the Defendant, the Court finds that the Defendant is eligible for court-appointed counsel. Inasmuch as the Office of Public Defender already represents a co-defendant, the Court must appoint a private attorney.

However, the Defendant is now placed on notice by this Court that, pursuant to the Defense of Indigents Act as contained in S.C. Code 17-3-30 (A), (1993 as amended), the costs of legal representation may be assessed against the Defendant at the conclusion of the case.

IT IS ORDERED that the following attorney is appointed to represent the Defendant on the above-referenced offense(s):

*Along  
Phone  
Number*

*after 11 months in jail on these charges I got a lawyer*  
~~David Breen~~ *Non-Prosecutorial Hearing*  
 P.O. Box 8654  
 Myrtle Beach, SC 29578-8654  
 626-3599  
 # is, 449-4455  
 AND IT IS ORDERED.

Dated: *Oct 14 1994*

DAVID H. MARING, SR.  
 PRESIDING JUDGE  
 FIFTEENTH JUDICIAL CIRCUIT

Conway, S.C.

*39*  
*Pg.*

**RECEIVED**

THE STATE OF SOUTH CAROLINA

COUNTY OF Horry

JAN 8 1998

S.C. Court of Appeals

**YOUR RIGHTS**

Exhibit (1)(A)

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED

*[Handwritten Signature]*

**WAIVER OF RIGHTS**

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED

WITNESS AS TO DEFENDANT'S SIGNATURE:

DATE AND TIME:

Pg. 42

The State of South Carolina



Office of the Solicitor

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

Signed x David Duff

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

Signed x David Duff

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

Signed x David Duff

Witness as to Defendant's signatures:

David Duff

11-17-77

2:20 PM

Pg. 43

THE STATE OF SOUTH CAROLINA

COUNTY OF Horry

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED James Sawyer

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED James Sawyer

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED James Sawyer

WITNESS AS TO DEFENDANT'S SIGNATURE:

James A. Wilson

DATE AND TIME: 11-19-93 12:15

Pg. ②  
44

THE STATE OF SOUTH CAROLINA

COUNTY OF Horry

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED Jimmy Sawyer

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED Jimmy Sawyer

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED Jimmy Sawyer

WITNESS AS TO DEFENDANT'S SIGNATURE:

DATE AND TIME: 10/22/93 2:31PM

Pg. 45

THE STATE OF SOUTH CAROLINA

COUNTY OF Horry

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED x Andrew Elkins

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED x Andrew Elkins

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED x Andrew Elkins

WITNESS AS TO DEFENDANT'S SIGNATURE:

Ray [Signature] # 227

DATE AND TIME: 11-2-93-5:54

THE STATE OF SOUTH CAROLINA

COUNTY OF Horry

(Education 14/1/93)

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED x Mark A. Rogers

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED x Mark A. Rogers

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED \_\_\_\_\_

WITNESS AS TO DEFENDANT'S SIGNATURE:

x [Signature] 24/1/93  
G. B. Boone

DATE AND TIME: 11/1/93 1:07

Pg. 47

COUNTY OF Horry

(Education 1341)

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED

[Handwritten signature]

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED

[Handwritten signature]

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED

WITNESS AS TO DEFENDANT'S SIGNATURE:

[Handwritten signature]

DATE AND TIME: 11/1/93 5:0

THE STATE OF SOUTH CAROLINA

COUNTY OF Horry

(Educator 124w H.S.)

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED

[Handwritten signature]

Educator 124w H.S.

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED

[Handwritten signature]

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED

WITNESS AS TO DEFENDANT'S SIGNATURE:

[Handwritten signature] 11/1/93

DATE AND TIME: 11:10 AM

Pg. 049

KEN  
10

THE STATE OF SOUTH CAROLINA

COUNTY OF Horry

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED: [Signature]

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED: \_\_\_\_\_

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED: \_\_\_\_\_

WITNESS AS TO DEFENDANT'S SIGNATURE:

DATE AND TIME: \_\_\_\_\_

Pg. 50

✓ Read/wrote

Rt 3. Box 326-B  
Mullins S.C.

THE STATE OF SOUTH CAROLINA

5-21-50 (43)  
250-86-8126  
464-6251 Hm

COUNTY OF Horry

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED x B. H. B. L. B.

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED x B. H. B. L. B.

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED x B. H. B. L. B.

WITNESS AS TO DEFENDANT'S SIGNATURE:

James A. Wilburn

DATE AND TIME: 11-2-43 10:20

Rt 2, Box 1146  
Marion S.C.

✓ Read/Wrote

THE STATE OF SOUTH CAROLINA

COUNTY OF Horry

9-2-51 (42)  
251-90-7682  
r23-3448 Hm.

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED *Richie Goodhold*

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED *Richie Goodhold*

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED *Richie Goodhold*

WITNESS AS TO DEFENDANT'S SIGNATURE:

*James A. Wilburn*

DATE AND TIME: 11-12-93 10:00 A.

read/write

141 East Laurel St.  
Mullins S.C.

THE STATE OF SOUTH CAROLINA

12-29-53 (40)  
249-94-2866  
464-9224 wk  
464-1453 Hm

COUNTY OF Horry

YOUR RIGHTS

YOU HAVE THE RIGHT TO REMAIN SILENT.

ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING, IF YOU WISH ONE.

IF YOU DESIRE TO MAKE A STATEMENT OR ANSWER QUESTIONS, YOU HAVE THE RIGHT TO STOP AT ANY TIME.

THIS IS TO CERTIFY THAT THE ABOVE RIGHTS HAVE BEEN EXPLAINED TO ME AND I UNDERSTAND EACH ONE OF THEM.

SIGNED *Billy Owens*

WAIVER OF RIGHTS

I AM WILLING TO MAKE A STATEMENT AT THIS TIME. I DO NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND HAS BEEN USED AGAINST ME.

SIGNED *Billy Owens*

THIS IS TO CERTIFY THAT I HAVE RECEIVED A COPY OF THE ABOVE.

SIGNED *Billy Owens*

WITNESS AS TO DEFENDANT'S SIGNATURE:

*Laura Wilson*

DATE AND TIME: 11-12-93 9:30 AM



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S.C. 29211

1015 SUMTER STREET  
COLUMBIA, S.C. 29201  
(803) 734-1890

February 19, 1998

Mr. David Dixon #217520  
Evans Correctional Institution  
P. O. Box 2951202  
Bennettsville, SC 29512-5202

Re: The State v. Dixon, David E.

Dear Mr. Dixon:

Your Petition for Rehearing has been denied in the following Order:

"Denied.

s/Jasper M. Cureton, J.  
s/C. Tolbert Goolsby, Jr., J.  
s/Kaye Hearn, J.

Columbia, South Carolina  
February 19, 1998."

The Remittitur in this case will be held in this Court only so long as required by Appellate Court Rule 221 (b).

Please notify this office, in writing, within ten (10) days from the date of this letter, whether or not you want any of the remaining Records on Appeal and briefs we may have in this case. Also enclose a check payable to the S. C. Court of Appeals, in the amount of \$7.50, to cover mailing costs. If we have not heard from you within ten (10) days, the Record on Appeal and briefs will be destroyed.

Sincerely,

*Kenneth A. Richstad*  
CLERK

KAR/jsc

cc: Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
The Honorable Ralph J. Wilson  
The Honorable Clyde N. Davis, Jr.



97-UP-483  
CM - FB

## The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT  
BRENDA F. SHEALY  
DEPUTY CLERK

P.O. Box 11330  
COLUMBIA, S.C. 29211  
(803) 734-1080

April 12, 1999

RECEIVED  
APR 13 1999

S.C. Court of A. 1999

Mr. David E. Dixon, #217520  
Evans Correctional Institution  
P. O. Box 2951202  
Bennettsville, SC 29512-5202

Re: **The State v. Dixon, David E.**  
**94-GS-26-1381; 1383; 1393**

Dear Mr. Dixon:

The Court has issued the following Order on your Petition for Writ of Certiorari in the above-entitled matter:

"Petition for Writ of Certiorari denied.

s/ Ernest A. Finney, Jr. C.J.  
For the Court

April 12, 1999."

By copy of this letter we are advising all interested parties of the action of the Court in this matter.

Very truly yours,

*Daniel E. Shearouse*  
CLERK

DES/sgl

cc: Kevin M. Barth, Esquire  
Ralph J. Wilson, Esquire  
Senior Assistant Attorney General Charles H. Richardson  
Honorable Kenneth Richstad  
West Publishing Company

*Jrc*  
*KRC*

97MP-153



David Edward Dixon  
SCDC #217520  
Evans Correctional Institution  
Post Office Box 2951202  
Bennettsville, South Carolina 29512-5202

MARCH 19TH, 1998

The South Carolina Court of Appeals  
Kenneth A. Richstad, Clerk  
Post Office Box 11629  
Columbia, S.C. 29211

Dear Mr. Richstad:

Please accept this letter as my certificate of service.  
I have this 19th, day of March 1998, placed in the United States  
Mail, one (1) copy of Petition For Writ Of Certiorari to The  
South Carolina Court of Appeals, with proper postage attached.  
The original plus six (6) copies of the original to the South  
Carolina Supreme Court, plus one (1) copy to the Attorney  
General, Charles M. Condon, plus one (1) copy to Solicitor  
Ralph J. Wilson.

David E. Dixon, pro se  
SCDC #217520  
Evans Correctional Institution  
Post Office Box 2951202  
Bennettsville, S.C. 29512-5202

cc: file

RECEIVED  
1998 MAR 20 AM 10:31  
COURT OF APPEALS

03/20/98

THE STATE OF SOUTH CAROLINA

In The Supreme Court

FILED  
1997 MAR 20 AM 10:31  
SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM HORRY COUNTY  
Court of Common Pleas  
M. Duane Shuler, Circuit Court Judge

Opinion No. 97-UP-483 (S.C. Ct. App. filed September 23rd, 1997)

David E. Dixon,.....Petitioner,

vs.

The State,.....Respondent.

PETITION FOR WRIT OF CERTIORARI

David E. Dixon, pro se  
SCDC #217520  
Evans Correctional Inst.  
Post Office Box 2951202  
Bennettsville, S.C. 29512

Other Counsel of Record:

Charles M. Condon  
Attorney General  
Post Office Box 11549  
Columbia, S.C. 29211

Ralph J. Wilson  
Solicitor, Fifteenth Judicial Circuit  
Post Office Box 1276  
Conway, S.C. 29526

## QUESTIONS PRESENTED

1. Did the Court of Appeals err in it's decision holding that the Defendant received a Fast and Speedy Trial?
2. Did the Court of Appeals err in it's decision holding that the Defendant's confession was not procured by illegal means and in fact Defendant objected to it's admission into evidence and explained to the court that it was infact altered?
3. Did the Court of Appeals err in it's decision holding that the Defendant caused the delay in indictment when in fact he did not cause the delay and was in fact caused by the Solicitor's office and had nothing to do with the trial of January 16th, 1996, when in fact the Defendant was indicted September 8th, 1994. Defendant was evaluated May 16th, 1994, at William S. Hall, for any and all trial's per court order. The Defendant has a Constitutional Right under the Fifth Amendment to the United States to remain silent, the Defendant did not cause a delay in any trial. Defendant had already been tried on some of the existing charges on January 16th, 1995. Any evaluation of the Defendant after May 16th, 1994, was unnecessary, and due to the Solicitor's delay tactics.
4. Did the Court of Appeals err in it's decision by holding that the Appellant's brief had no merit?
5. Did the Court of Appeals err in it's decision by holding that the Appellant's Attorney should have brief any and all issues in the case when in fact, Appellant Defender briefed only one (1) meritless issue, illegally imposed sentence, after the Court of Appeals sent it back for further briefing?
6. Did the Court of Appeals err in not finding that the Circuit Court Judge erred in allowing Defendant to proceed pro se and with the assistance of counsel, and then stopping counsel in the middle of the trial? The defendant also objected to this issue during trial and gave an explanation to the trial judge.

THE STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )  
DAVID E. DIXON, )  
PETITIONER, )  
V. )  
THE STATE, )  
RESPONDENT. )

IN THE SUPREME COURT

PETITION FOR WRIT OF  
CERTIORARI

The undersigned Petitioner, David E. Dixon, SCDC #217520 would respectfully show this Court:

1. Petitioner was denied the right to a fast and speedy trial under the law(s) of the State of South Carolina Constitution and the United States Constitution when in fact Defendant remained in jail nineteen (19) days before being appointed an Attorney and in which Attorney was appointed to represent Defendant on a drug charge that had been nol-prossed September 10th, 1993, two (2) months and nine (9) days prior to the arrest on November 18th, 1993, on the existing charges. Defendant was denied any and all due process of law. No bond hearing until May 9th, 1994. Defendant had to request the bond hearing himself, no preliminary hearing, no notice whatsoever. No pretrial matters. SCRC: Rule 1. Any and all arrest warrants were returned to the Solicitor's Office and not to the Magistrate as proscribed by law; Rule 2. Preliminary Hearing, none, (a) Notice of Right, none; (b) Time for Hearing, none; (c) Probable Cause, none; (d) Conclusion of Hearing, none; Rule 3. Disposition of Arrest Warrants, all of the arrest warrants were returned to the Solicitor's office and remained there through January 3rd, 1994, and then they were transferred to the Clerk of Court, clocked in and returned to the Solicitor's office. (b) Transmittal to Solicitor, this is the only section that was apparently done correctly; (c) Action on Warrant, the Solicitor did not take action on the warrants and there was no indictment before September 8th, 1994, approximately

DD


Ten (10) months passed before indictment on any of the charges.  
(d) Extensions of time; none; (e) is there any records of the proceedings, did the Solicitor petition the Court for an extension?

2. Defendant was appointed an Attorney on December 7th, 1994, to represent him on a drug charge that had been nol-prossed, C. Bradley Ruffin, Jr., first Attorney. At the first bond hearing May 9th, 1994, Mr. Ruffin stated to the Court that he knew nothing of the existing charges, matter of record. Chief Deputy Solicitor Blake A. Martin spoke up and told the Judge that this was true and he also told the Judge that Mr. Ruffin had kinda gotten pushed into these new charges, matter of record. Defendant's first Attorney did absolutely nothing to defend and or represent the Defendant through August of 1994, when at that time Defendant filed a motion to relieve Mr. Ruffin, motion heard on September 19th, 1994 and motion granted, matter of record. September 19th, 1994, Defendant was reassigned an Attorney, David Hart Breen. Mr. Breen was also appointed to represent Defendant on the same drug charge that had been nol-prossed September 10th, 1993. Defendant wrote to Mr. Breen and explain the situation and Mr. Breen went back before the Court and was appointed to represent Defendant on the existing charges which are before the Court at this time. Amended Order Appointing Counsel, dated and clocked in by the Clerk's office, October 18th, 1994, Mr. Breen was appointed to represent Defendant on the existing charges, matter of record.

3. Defendant was sent to William S. Hall, Psychiatric Institute May 16th, 1994, for evaluation for competency to stand trial. First trial, January 16th, 1995. Second trial January 16th, 1996. Defendant had already been evaluated and found competent to stand trial, Defendant refuse to cooperate when he was sent back to William S. Hall, for another evaluation May 16th, 1995, and would not cooperate per instructions from Attorney David Hart Breen, VIA telephone from William S. Hall, in the presence of Doctor Tracy Gunter, Psychiatrist. Defendant has a right under the Fifth Amendment to the Constitution of the United States to remain quiet, Defendant exercised his rights per instructions from Attorney

Defendant was first sent to William S. Hall, to be evaluated for the drug charge and not for the existing charges of November 18th, 1993, that the Defendant was arrested on. Defendant did never at any time delay trial, the delay was solely due to the Solicitor and his ploys for the second evaluation. Defendant was black-mailed by the Solicitor's office by not allowing the Defendant to have an independent evaluation and even after the Judge signed the order for the evaluation Defendant was not allowed the independent evaluation until he cooperated with the Court order for the second evaluation at William S. Hall, per Mr. Blake A. Martin, Chief Deputy Solicitor. Defendant did not at any time delay either trial, trial was denied by the Solicitor, Blake A. Martin and his delay tactics. Solicitor Blake A. Martin denied the Defendant any and all pretrial matters that was due the Defendant.

4. Speedy Trial: The Due Process Clause of the Fifth Amendment to the United States Constitution provides that "[n]o person shall...be deprived of life, liberty, or property without due process of law." U.S. CONST. amend. V. The Fourteenth Amendment imposes the identical limit on the states. U.S. CONST. amend XIV.

 The Sixth Amendment provides in relevant part that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." U.S. amend. VI. The Sixth Amendment speedy trial guarantee is binding on the states through the Due Process Clause of the Fourteenth Amendment. *Klopfer v. North Carolina*, 386 U.S. 213, 222-23 (1967)

18 U.S.C. §§ 3161-3174 (1988 & Supp. V 1993) (Specifying time limits between arrest, indictment, and trial, and permissible delays within each period.

Fed. R. Crim. P. 48 (b) (authorizing courts to dismiss indictments for government's unnecessary delay); Fed. R. Crim. P. 50 (b) (requiring district courts to prepare plans for prompt dispositions of cases). There is also an argument that a delay between probable cause and arrest that damages the defendant's capacity to defend should have the same affect as a speedy trial violation. The United States Supreme Court has given guidelines for such an argument even if not expressly recognizing it.

United States v. Iovas Co., 431 U.S. 783 (1987). The Court there suggested that such a delay, while not violating speedy trial, might violate due process if it were an extended, prejudicial delay not occasioned by the conduct of the defendant but rather by the bad faith of prosecution.

While pre-indictment delay has a different constitutional basis from speedy trial, the defence might attempt a "tacking" argument in a case in which both appear. See United States v. McDonald, 456 U.S. 1 (1982).

In Gerstein v. Pugh, 420 U.S. 103 (1975), the Supreme Court held that "the Fourth Amendment requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following arrest." In County of Riverside v. McLaughlin, 500 U.S. 103 (1991), the Supreme Court held that jurisdiction providing a probable cause determination within forty-eight hours of arrest are immune from systemic challenges of undue delay; however, when an individual is detained for more than forty-eight hours without a Gerstein hearing, the delay is presumed excessive and may only be justified by "a bona fide emergency or other extraordinary circumstance."

5. In conclusion, the petitioner was denied the right to a fast and speedy trial in all sense of the words, **FAST AND SPEEDY TRIAL**. The petitioner was not allowed due process of the law when in fact the Solicitor denied him any and all pretrial matters in his defence and delayed trial solely due the fact that the statement that the petitioner gave on the 18th, and 19th, 1993, had been altered, the search warrants had been altered as well. Petitioner did not receive an attorney before October 18th, 1994, after being in jail since November 18th, 1993. The Solicitor did in fact hold each and every arrest warrant, first warrant served on November 18th, 1993, twenty-nine warrants served on November 22nd, 1993, one warrant served on December 1st, 1993. The first arrest warrant that reached the Solicitor's office and transferred to the clerk of court, January 3rd, 1994, from the Solicitor's office, clocked in and returned to the Solicitor's office on January 10th, 1994. The remaining arrest warrants and not in consecutive-

Order, took as many as one-hundred and seventeen (117) days before reaching the clerk of court, clocked in and returned to the Solicitor's office for indictment. Defendant was not indicted until September 8th, 1994, Defendant did not receive an attorney until after the indictment, October 18th, 1994, AMENDED ORDER APPOINTING COUNSEL, David Hart Breen, Attorney for Defendant. Petitioner has enclosed appointment of counsel beginning December 7th, 1993, for your inspection.

South Carolina, like all States, now has a constitutional obligation to provide "a fair and reliable determination of probable cause as a condition for any significant pretrial restraint of liberty, and this determination must be made by a judicial officer either before or promptly after arrest." *Gerstein v. Pugh*, 420 U.S. 103, 125 (1975). This must be done as soon as possible, see *Lively v. Cullinane*, 451 F. Supp. 1000 (D.D.C. 1978) (suggesting that one and one-half hours presumptively may be too long), and certainly within twenty-four hours (excluding Sundays). *Dommer v. Hatcher*, 427 F. Supp. 1040 (N.D. Ind. 1977). In cases triable in circuit court the magistrate holds the warrant during the time in which a defendant may request a preliminary hearing pursuant to S.C. Code Ann. §22-5-320 (Law. Co-op. 1989). The Solicitor's office does not hold the warrant for the magistrate and to prevent the defendant from receiving a preliminary hearing! The State's position is to make sure that the defendant receives due process of law. The petitioner in this case, was prejudiced severely by the prosecution's actions and inactions for failure to provide to the defendant access to the court, when in fact petitioner was at all times available for trial, petitioner had been evaluated May 16th, 1994, by William S. Hall, Psychiatric Institute, why should there be two (2) evaluations? Was there something that needed to be done before the second trial? Was the defendant competent to stand trial? Medical records enclosed.

Illegally obtained and tainted confession:

Petitioner would respectfully show this court; Petitioner was picked up and transported to Conway, South Carolina from Beaufort, South Carolina on November 18th, 1993, by two (2) J. Reuben Long

Detention Center Officer's, for transportation, and two (2) Horry County Police Detective's. Upon arriving in Horry County, defendant was taken to the J. Reuben Long Detention Center, petitioner was not booked at this time. Immediately left and went directly to the Horry County Police Department for questioning. Arrived at approximately 2:30 p.m.. Defendant was taken in and went to the interrogation room. In this room was a number of officer's and the two (2) transportation officer's. J. Gordon Harris, Chief of Police, Captain Guy Osborne, Lieutenant Rory Avant, Detective Lance Winburn, Gordon Thompson, Horry County Police. I had already called Chief Harris and told him if they would come and get me and help me with the physical and mental problems that I was having I would tell them what I knew, this was agreed on. We talked for about one (1) hour before I was given the miranda warning's. The waiver of rights form was signed at 3:20 p.m.. Before petitioner would sign the waiver of rights form, it was agreed on that defendant would not be prosicuted for what he told in his statement. Petitioner was told by Captain Osborne that the Solicitor Ralph Wilson was backing him one-hundred percent. To prove this to the defendant, Captain Osborne sent out of the room Detective Winburn to get a miranda form with the Solicitor's letter head on it to prove to the defendant that what he said was true. Defendant had no choice but to believe that he had a deal. That is the way it is done, something for something! Defendant then signed the miranda form. Petitione was promised a deal! Defendant was in waist chains, hand cuffs, leg chains and cuffs. Detective Winburn was sent out of the room to get a tape recorder and gave it to Captain Osborne. At the beginning of the taped statement, the date, the time, defendant's name, the officer's that were present, the deal that was offered, cessation from prosicution, medical treatment, and psychiatric treatment. Defendant was told that co-defendant would not give a statement and they were going to burn his ass! There were three (3) tape cassetts used on the 18th, of November 1993. Captain Osborne operated the recorder the entire time. Out of approximately four (4) hours of recording there is only one (1) hour and twenty-eight minutes of tape. The Solicitor introduce the tapes at trial

And said that these are the original tapes, two (2) tapes and of which both sides are full. Two (2) sixty minute tapes, which converts into two (2) hours which there was only one hour and approximately twenty-eight minutes on these two tapes, only three (3) sides have the recording on them, what happened to the rest of the tapes? The recording began at 3:20 p.m., and continued through 7:30 p.m., on the 18th, of November 1993. Defendant provided in his pro-se brief a copy of the medical of the 18th, of November 1993. Defendant was sent to the Conway Hospital at approximately 7:45 p.m., and was signed in at 8:00 p.m., approximately? After the Conway Hospital defendant was transported to the Myrtle Beach Jail and remained there until 3:00 p.m., November 19th, 1993, this has been denied by the Horry County Police that testified at trial January 16th, 1996. September 16th, 1997, petitioner received the booking report from the Myrtle Beach Jail and in fact the defendant was at this jail, I have enclosed the booking report. The Horry County Police also denied that Sergeant Jerry Sarvis with the Horry County Police did not pick up the defendant from this jail and bring him back to the Horry County Police Department on the 19th, of November, I have enclosed the paper work that I received from the Myrtle Beach Police Department. On numerous occasions petitioner attempted to retrieve this information from the Myrtle Beach Jail and failed. After several letters to attorney David Hart Breen asking him to get this information he refused petitioner as well. This particular information would prove in fact that the Horry County Police have lied and did in fact lie about the statement that defendant gave on the 18th, and 19th, of 1993, in their perjured testimony during trial of the petitioner in January of 1995, and the trial of January 1996, which is now before the Court of Appeals. During trial of January 16th, 1996, Chief Deputy Solicitor made the statement that his office had took it on himself to take an excerpt from this tape. Defendant objected to the taped statement being admitted into evidence, defendant objection was over ruled by Judge Shuler. Defendant had no attorney representation and in an attempt to represent himself had no evidence to prove to the court as to what he was saying was the truth about the tape statement, the defendant was taken to the Myrtle Beach Jail on the 18th,-

Of November and booked in at 2315 11:15 p.m., this was after the Conway Hospital and medical treatment that petitioner received. On the 19th, of November 1993, petitioner was pick up by Sergeant Sarvis and transported back to the Horry County Police Department for the second part of the statement which has been denied by the Horry County Police and did as well testify to this at trial. Defendant was picked up on November 19th, at 1500 3:00 p.m., and signed for by Sergeant Jerry Sarvis, releasing officer, Benny Altman, Myrtle Beach Law Enforcement Center. The Horry County Police also testified that we never talked about the half-gallon jar of white liquor, it as well is on the tape. Petitioner has enclosed a copy of the booking report as well as other information to prove that petitioner was at the Myrtle Beach Jail. In the petitioner's pro-se brief he enclosed a copy of the booking report from the J. Reuben Long Detention Center, marked exhibit #10. How could the defendant be in two (2) Jails at one time? Why did the Horry County Police testify that the Defendant was never at the Myrtle Beach Jail? Why is there now two (2) booking reports? Why didn't defendant's attorney retrieve the booking report when asked to do so by the defendant? The tape recorded statement has been altered, it is not authentic! The defendant also asked attorney Breen to have the tape statement authenticated by writing and explaining what happened, he refused as well. Before the prosecution can introduce any extra-judicial confession it has to show that the miranda warnings were given to the defendant before the statements were made and that the defendant validly waived miranda rights or made the statement with legal representation. Waiver will be presumed from the mere fact that the defendant talked after being given the warnings; if the defendant made the waiver after a lengthy interrogation or incommunicado incarceration, counsel may be able to show that the waiver is invalid. When the voluntariness of a confession is questioned, the issue is first argued before the judge, preferably by a pretrial motion to suppress, or at the trial out of the jury's hearing. *Jackson v. Denno*, 378 U.S. 368 (1964). If the judge determines that the confession is admissible, it will be introduced over the objection of the defendant, and the question of voluntariness will be submitted to the jury with other factual issues in the case.

State v. Goolsby, 275 S.C. 110, 268 S.E.2d 31 (1980); State v. Cannon, 248 S.C. 506, 151 S.E.2d 752 (1966); State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991). Even when the judge admits the incriminating statement, counsel should frame an instruction for the judge to emphasize to the jury the need for determining the voluntariness of the statement before it can be relied on as probative evidence.

Baker v. McCollan, 443 U.S. 137, 145 (1979) (detention pursuant to valid warrant may, after lapse of significant time, constitute deprivation of liberty without due process, depending upon procedures afforded by states; three-day delay over long weekend not due process violation because "Fourteenth Amendment does not protect against all deprivations of liberty"); Coleman v. Frantz, 754 F.2d 719, 725 (7th Cir. 1985) (18-day detention in county jail violated Fourteenth Amendment due process requirements because procedural safeguards traditionally afforded by timely initial appearance denied). Fed. R. CRIM. P.5.

U.S. v. Wilson, 838 F.2d 1081, 1085 (9th, Cir. 1988) (20-hour delay before arraignment impermissible when deliberate and for sole purpose of obtaining confession). Defendant was convicted in the United States District Court for the District of Arizona, Paul G. Rosenblatt, of second degree murder and he appealed. The Court of Appeals, Goodwin, Circuit Judge, held that: (1) delay in bringing defendant before magistrate was not reasonable, and (2) defendant's waiver of rights to counsel and confession were not shown to be voluntary. Reversed.

Criminal law key No. 1139, 1158 (2), 70 (2), 519 (8) This construction is consistent with the language of section 3501 and a scheme under which the admissibility of confessions turns on voluntariness. The intergration, however, is not perfect. The effect of the proviso of subsection 3501 (c) is to remove discretion from the trial judge by requiring him to admit a confession, otherwise voluntary, given more than six hours [after] arrest during a delay in arraignment if the delay was reasonable considering problems in transporting the defendant to the magistrate. The petitioner had been in jail in Beaufort County from November 7th, 1993, through November 18th, 1993, and then transported to the Horry County Police Department for the statement.

The defendant had had a hold placed on him from the Horry County Police Department. The interrogation lasted for approximately four (4) hours before ending. Petitioner was then transported to the Conway Hospital and from there to the Myrtle Beach Jail and held incommunicado, until the next day, November 19th, 1993. Defendant was not allowed to make any phone calls whatsoever, could not have called an attorney, and or wife to say the least. The Government's reliance on the waiver of miranda rights becomes weaker as the period of pre-arraignment detention increases. If unreasonable delay in excess of six hours can itself form the basis for a finding of involuntariness, that same delay may also suggest involuntariness of the miranda waiver. see *Frazier v. United States*, 419 F.2d 1161, 1167 (D.C, Cir. 1969) (noting that the government's "already 'heavy burden' of showing effective waiver" increases with the delay between arrest and confession). The five factors considered in § 3501 (b) are: (1) the time between arrest and arraignment if the confession occurred between those two events; (2) whether the defendant understood the offence alleged; (3) whether the defendant knew or was advised that she did not have to make any statements and that any statements she made could be used against her; (4) whether the defendant was advised of her right to counsel; and (5) whether the defendant had assistance of counsel when confessing. Id. The Horry County Police and the Solicitor's office could not allow into evidence that the defendant had been taken to the Myrtle Beach Jail and held over night and then being taken back to the Horry County Police Department for the second part of the interrogation on November 19th, 1993. Thus, the interrogation was in fact illegal and the authorities could not allow defendant to retrieve the information from the Myrtle Beach Jail and thus, this formed a conspiracy to harm the defendant and deny the defendant of any and all rights afforded him under the South Carolina Constitution and the United States Constitution. The defendant remained in the custody of the Horry County Police for nineteen (19) days before being taken before a judge and then he was only appointed an attorney and attorney was only appointed to represent defendant on an old charge that was nol-prossed September 10th, 1993.

Defendant had already been in jail for eleven days in Beaufort County before being transported to Horry County and then remained in jail for nineteen (19) days without a bond hearing and or any pretrial rights. If the defendant's attorney had been effective in representation of the defendant and had gotten the booking report from the Myrtle Beach Jail the out come of the trial would have been different and the confession would have been suppressed. If the attorney for defendant had made a motion to have the taped statement authenticated it would have proven that the defendant did tell the truth about the statement and would have shown that the Horry County Police and or the Solicitor's office did in fact alter the taped statement in question, and it must be authenticated! The first section of the taped recorded statement is missing, the Police officer's testified at the first trial that the defendant began talking about the Public Works Robbery, this is true, but this is not what's on the taped statement that is before the court at this time, it begins by saying, Tony Martin supplied all the money for the marijuana. The defendant's wife Betty Dixon took it on herself to have the taped statement transcribed and copies were sent to the Clerk of Court, Mr. Kenneth Richstad, and to the Attorney General's office, Mr. Charles Richardson. The defendant was provided a copy of the taped statement December 12th, 1994, by attorney David Hart Breen in the discovery material that was provided by the Solicitor's office. Defendant had already been in jail thirteen (13) months before the discovery material was ever received. The copy of the transcription of the taped statement was objected to by the Attorney General Office, that would be very easy to explain if you didn't want it to become part of the Appeal and a very important piece of the evidence as well as the booking report from the Myrtle Beach Jail that has quite an impact on this case! I will someday find out just exactly how to have the taped statement authenticated and it will be done. I certainly hope that this court will find it and grant the petitioner in this Appeal the benefit of doubt that he has placed before this Honorable Court and grant him his wishes that the taped statement is illegal and has been tainted to cause the defendant severe injury in his Appeal. The petitioner would be most grateful.

THE STATE OF SOUTH CAROLINA )  
 COUNTY OF HORRY )  
 DAVID E. DIXON, )  
 PETITIONER, )  
 VS. )  
 THE STATE, )  
 RESPONDENT. )

IN THE SUPREME COURT

1978 MAR 20 AM 10:31

MEMORANDUM COURT OF APPEALS

The Appellant, Petitioner, David E. Dixon, SCDC #217520 would respectfully show this Honorable Court that appellant did receive ineffective assistance of appellant counsel, namely, Wanda Hagler Haile, Senior Assistant Appellant Defender.

Appellant counsel failed to adhere to Anders v. California, 386 U.S. 738 (1967). A criminal Appellant may not be denied representation on appeal based on appointed counsel's bare assertion that he or she is of the opinion that there is no merit to the appeal. Before such counsel can be dismissed from the case, he must conduct a conscientious examination of the record and file a brief referring to anything in the record that might arguably support the appeal.

Appellant alleges, Court appointed appellant counsel failed to take any action whatsoever with respect to appellant's pro se brief, Freels vs. Hills, 843 F.2d 958 (6th Cir. 1988), counsel filed a four-page brief in which he simply asked the Appellate Court to look at the record since he himself saw nothing to appeal. He took no action whatsoever with respect to the defendant's pro se brief, which raised several reasonable sounding issues. The 6th, circuit rules that failure of appellant counsel to file an anders brief is presumptively ineffective and prejudicial. It reversed and remanded for the state to give the defendant a new appeal, with new counsel, who would then be required to adhere to Anders if he didn't find what he thought were

Meritorious issues on appeal.

Appellant alleges; Court appointed appellant counsel filed an eight page brief and writing what was essentially a summary of the proceedings, with emphasis given to reasons for holding them correct. Sanders vs. Clarke, 856 F.2d 1134 (8th, Cir. 1998)), and Evans vs. Clarke, 868 F.2d (8th, Cir, 1989). This failure to file a proper Anders brief was deemed to be ineffective assistance by appellant counsel. The 8th, Circuit went on to overrule its earlier decision in Sanders vs. Clarke, 856 F.2d 1134, 1136-37 (8th, Cir. 1988) in which it held that an Anders violation wasn't enough by itself to justify reversal, but that prejudice must be shown. In this case, citing the Supreme Court's Penson decision, the Circuit Court now rules that the Anders violation is enough, without any showing of prejudice. Penson vs. Ohio, 102 L.Ed.2d 300, 488 U.S. 75, 109 S.Ct. 346 (1988).

Appellant alleges, Court Appointed appellant counsel filed a skimpy eight page Anders brief. Johns vs. Coughlin, 750 F. Supp. 76 (E.D.N.Y. 1990) In 1984, Johns was sentenced to nine years for burglary and related charges. His appointed appellant counsel filed a skimpy nine page Anders brief, asserting that there were no issues which would merit reversal, and stating that petitioner had requested new counsel. One and one half pages of that brief listed eight questions presented, each of which was disposed of with a short statement of why the argument was unlikely to succeed. Appellant counsel listed only one issue, an illegally imposed sentence which had no merit whatsoever, appellant was at the mercy of the appellant defender with absolutely no representation in his defence. See Appellant's motion to relieve appellant counsel and motion to stay appeal filed in the Court of Appeals and dismissed March 31st, 1997.

In a letter that is with the record, dated August 26th, 1996, from appellant counsel, Wanda H. Haile, Re: Your Appeal; line

Eight (8); The Court's review will include a review of the right to counsel issue that surfaced in your case.

Appellant counsel filed nothing in the appellant's brief that was of any merit to appellant and thus, was very ineffective in her representation of the appellant.

Appellant alleges, Court appointed counsel was ineffective assistance of counsel, Gray vs. Greer, 800 F.2d 644 (7th Cir. 1985), Writing were it legitimate to dismiss a claim of ineffective assistance of counsel on appeal solely because we found it improper to review appellate counsel's choice of issues, the right to effective assistance of counsel on appeal would be worthless, the 7th Circuit remanded this case with instructions to review the trial court record and determine whether the issues which petitioner claims appellate counsel failed to raise would have been clearly more likely to result in reversal or an order for a new trial, and were so obvious from the record that the failure to present such issues amounted to ineffective assistance of appellant counsel.

See, Matire vs. Wainwright, 811 F.2d 1430 (11th Cir. 1987), Henderson vs. Sargent, 926 F.2d 706 8th Cir. (1991), Henderson vs. Sargent, 939 F.2d 586 (8th Cir. 1991, Mathis vs. Hood, 937 F.2d 790 (2nd Cir. 1991). American Bar Association Standards, The ABA standards which provide guidance as to what constitutes "reasonable" professional conduct, See Nix vs. Whiteside, 475 U.S. 157, 106 S.Ct. 988, 99 89 L.Ed 2d 123 (1986); Strickland, 446 U.S. at 688, 104 S. Ct. at 2064-65, also mandate counsel's duty to investigate all leads relevant to the merits of the case.

Appellant alleges, Court appointed counsel was ineffective in filing a Poorly written brief, High vs. Rhay, 519 F.2d 109 (9th Cir. 1975), Here Munro, in three sentences, merely stated the simple question of the sufficiency of the evidence and invited the court to review the entire transcript itself. On these generalities he submitted the case to the court without oral argument. Counsel failed to make even a minimal statement of the facts which are relevant to the issues on appeal.

The "brief" is worthless. It could not have required more than five minutes to draft. No client in his right mind would have paid one cent for such a performance. Finding ineffective assistance of appellant counsel, the 9th Circuit ordered the writ granted unless the State of Washington gave High new counsel and a new appeal. See Robinson vs. Wyrick, 635 F.2d 757 (8th Cir. 1980), Jenkins vs. Coombe, 821 F.2d 158 (2nd Cir. 1987), Mathis vs. Hood, 937 F.2d 790 (2nd Cir. 1991).

Transcript of record; did the trial Judge err in allowing the defendant to proceed pro se and with the assistance of attorney? Attorney's appointed as standby counsel for a pro se defendant should not have been allowed to litigate, on their own motion and over the defendant's objection, issues relating to the defendant's mental status, a majority of the North Carolina Supreme Court held May 9. The Attorney's exceeded their statutory authority as standby counsel, and the defendant's right of self-representation was infringed, the majority concluded. State (North Carolina) vs. Thomas, NC SupCt, No. 218A90-2 5/9/97. Finally, appointing counsel for a limited purpose violated the rule against a defendant proceeding both pro se and by counsel. In Thomas, this court held that a defendant has only two choices: "to appear in propria persona or, in the alternative, by counsel". There is no right to appear both in propria persona and by counsel. 331 N.C. at 677, 417 S.E.2d at 477 (quoting State vs. Parton, 303 N.C. 55, 61, 277 S.E.2d 410, 415 (1981), disavowed on other grounds by State vs. Freeman, 314 N.C. 432, 333 S.E.2d 743 (1985)). Due to this prohibition against hybrid representation, a court cannot allow defendant to proceed pro se while also appointing counsel to represent him, even for a limited purpose. For the reasons stated herein, the trial court erred by allowing standby counsel to advocate a position over defendant's objection, and defendant is entitled to a new trial.

The defendant asked for a hybrid representation and the judge granted his request, citing State vs. Sanders, (1977) 269 SC

215, 237 SE2d 53, to the court by the defendant.

Did the trial judge err in allowing the defendant a hybrid representation for the first portion of the trial and then stopping the hybrid representation later on in the trial? Matter of record....Furthermore, by allowing standby counsel to advocate a position over the defendant's objection, the court interfered with the constitutional right of self-representation recognized in *Faretta vs. California*, 422 U.S. 806 (1975). Finally, the result of the trial court's action was that the defendant proceeded both pro se and by counsel, which state caselaw forbids.

20  
Waiver of Counsel and Pro Se Representation. In *Feretta vs. California*, the Supreme Court held that an accused has a sixth amendment right to conduct her own defence in a criminal case. To proceed pro se, a defendant must knowingly and intelligently waive the right to counsel. To insure a valid waiver of counsel, the trial judge must make a "searching or formal" inquiry into both the defendant's understanding of the sixth amendment waiver and her awareness of the disadvantages of self-representation. The judge's failure to hold a waiver hearing, however, may not be sufficient error to warrant reversal, particularly if the trial record otherwise demonstrates a knowing and intelligent waiver. See *McMahon vs. Fulcomer*, 821 F.2d 934, 94 (3rd Cir. 1987) (court must conduct inquiry to determine if defendant waived right to counsel with awareness of dangers inherent in self-representation). *U.S. vs. Sandles*, 23 F.3d 1121, 1128 (7th Cir. 1994) (waiver invalid when court failed to make adequate inquiry into defendant's understanding of consequences of waiver). Did the defendant make a timely and unequivocal request to proceed pro se, the court should make the defendant aware of the dangers and disadvantages of self-representation, including such areas as possible exclusion of evidence, self-incrimination, and waiver of potential defences. A court should also inquire into the defendant's age and education; ascertain whether the defendant is aware of the nature of the charges and the maximum possible sentence; and ascertain whether the defendant knows about the rules of evidence and criminal procedure and will follow them.

The court's appointment of a standby counsel to assist a person who has invoked the right to proceed pro se does not violate the sixth amendment. A defendant may request that standby counsel be appointed to assist in the criminal proceedings. However, the court need not permit "HYBRID" representation. Standby counsel is not to interfere with the defendant's control of the defences, such as the content of the defence, making of motions, arguing points of law, participating in "VOIR DIRE", questioning of witnesses, and addressing of the COURT and JURY. To determine whether standby counsel interfered with the defendant's right to SELF-REPRESENTATION, the court must determine whether (1) the pro se defendant "PRESERVE[D] the actual control over the case, and (2) whether standby counsel's participation "DESTROY[ED] the jury's perception that the defendant [was] representing himself. But standby counsel's assistance to the pro se defendant with routine procedural or evidentiary obstacles does not violate the right to self-representation. Did the Judge err when he allowed the defendant to proceed pro se and with the assistance of counsel?

Petitioner would at this time direct the court's attention to the trial transcript, VOLUME I OF III, page twenty-four beginning at line twenty-five and continuing through page three-hundred and fifteen, line nineteen, end of VOLUME I of III- beginning of VOLUME II OF III, page six, line three and continuing through, page eleven line twelve-beginning of VOLUME III of III, page eighty-six, line twenty-four, and continuing through page ninety-one line two.

Thus far the petitioner has proven that he received ineffective assistance of appellant counsel, ineffective assistance of trial counsel, before and during trial, and petitioner has proven without a doubt, that the Judge in this case erred when he allowed the defendant to proceed both by counsel and pro se, and the defendant did not have enough knowledge of the court procedures to know what he was getting into and the Judge did not question the defendant as to his mental capacity, age, background, self-incrimination, and waiver of potential defences. For the foregoing reasons and not limited to, the petitioner ask's this Honorable Court to reverse and vacate sentence and conviction.

## SPEEDY TRIAL

### ADDENDUM:

The Supreme Court has ruled that the only available remedy for deprivation of a defendant's right to a speedy trial is complete reversal of the charges. *Barker vs. Wingo*, 407 U.S. 514 (1972); see also *Strunk vs. United States*, 412 U.S. 434 (1973). Although many are gratified to see the Court take this strong position, one forced upon them by simple practicality, it should be noted that because of the severity of the remedy, most courts are reluctant to apply it. It is only the strong cases that counsel will ordinarily find the cases being reversed for denial of a speedy trial.

Two provisions for the relief of persons committed to jail under a charge of felony or treason are provided by statute. S.C. Code Ann. § 17-23-90 (Law. Co-op. 1976). When a person charged with such an offence is not indicted during the next term of court after his commitment, he may apply to the trial judge for bail, which must be granted unless it appears that the witnesses for the prosecution could not be produced at the same term. Of course, this provision assumes that the defendant in such cases in which the proof is evident or the presumption great. A second provision in that statute gives the defendant charged with felony or treason the right to discharge from jail when he has not been indicted and tried by the second term after his commitment. This statute applies to discharge from incarceration, not dismissal of the charges, and is therefore available only to persons in actual confinement. *State vs. Williams*, 35 S.C. 591, 14 S.E. 24 (1891). Although this legislation has as its basis the speedy trial principle, the constitutional right to speedy trial is broader, available not only to those committed to jail to await trial, but also to persons released on bail. When the statute speaks of terms of court, it refers to those terms set by the General Assembly, not to any special terms ordered by the Chief Justice as defined in *State vs. Patterson*, 272 S.C. 2, 249 S.E.2d 770 (1978). *Ex parte Attardo*, 272 S.C. 1, 249 S.E.2d 771 (1978).

There is also an argument that a delay between probable cause and arrest that damages the defendant's capacity to defend should have the same effect as a speedy trial violation. The United States Supreme Court has given guidelines for such an argument even if not expressly recognizing it. *United States vs. Iovas Co.*, 431 U.S. 783 (1977). The Court there suggested that such a delay, while not violating speedy trial, might violate due process if it were an extended, prejudicial delay not occasioned by the conduct of the defendant but rather by the bad faith of prosecution.

### EXCLUSIONARY RULE

After the hearsay rule, the exclusionary rule accounts for a majority of the excluded evidence in criminal trials. The exclusionary rule finds force in (1) confessions taken illegally, (2) evidence obtained by illegal searches, and (3) illegally operated pretrial lineups. Note that cross-examination on contested evidence without reserving the accused's rights, is an effective waiver of the objection to admissibility of evidence. *State vs. Jackson*, 265 S.C. 278, 217 S.E.2d 794 (1975).

As in the case of illegally seized evidence, counsel should object to illegally obtained confessions or incriminating statements prior to trial by a motion to suppress. It is difficult to challenge the introduction of such items at trial without the jury discovering that some type of inculpatory and highly damaging document exists in the case.

Before the prosecution can introduce any extra-judicial confession, it has to show that the Miranda warnings were given to the defendant before the statements were made and that the defendant validly waived Miranda rights or made the statement with legal representation. Waiver will not be presumed from the mere fact that the defendant talked after being given the warnings; if the defendant made the waiver after a lengthy interrogation or incommunicado incarceration, counsel may be able to show that the waiver is invalid.

When the voluntariness of a confession is questioned,

The issue is first argued before the judge, preferably by a pretrial motion to suppress, or at the trial out of the jury's hearing. *Jackson vs. Denno*, 378 U.S. 368 (1964). If the judge determines that the confession is admissible, it will be introduced over the objection of the defendant, and the question of voluntariness will be submitted to the jury with other factual issues in the case. *State vs. Goolsby*, 275 S.C. 110, 268 S.E.2d 31 (1980); *State vs. Cannon*, 248 S.C. 506, 151 S.E.2d 752 (1966), overruled on other grounds by *State vs. Torrence*, 305 S.C. 45, 406 S.E.2d 315 (1991). Even when the judge admits the incriminating statement, counsel should frame an instruction to emphasize to the jury the need for determining the voluntariness of the statement before it can be relied on as probative evidence.

#### FILMS AND RECORDINGS

22  
A film or recording is admissible if it is relevant and is properly authenticated. *State vs. Stroman*, 281 S.C. 508, 316 S.E.2d 395 (1984); *State vs. Valenti*, 265 S.C. 380, 218 S.E.2d 726 (1975); *Gasque vs. Heublein, Inc.*, 281 S.C. 278, 315 S.E.2d 556 (Ct. App. 1984). The general authentication requirements for a film or recording are: (1) the recording device is capable of recording; (2) the operator is competent to operate the device; (3) the recording is authentic and accurate; (4) the recording has not been changed or altered; (5) the manner of preserving the recording is established; and (6) IDENTIFICATION OF THOSE WHO HAVE BEEN RECORDED. See *Estes vs. State*, 232 Ga. 703, 208 S.E.2d 806 (1974). If the recording has severe technical problems it may be excluded. *Catlett vs. Mac Queen*, 375 S.E.2d 184 (W.Va. 1988) (exclusion of videotaped deposition because of technical problems).

Uses of films and recordings in South Carolina include: (1) videotaping the testimony of a minor to be used in court, *State vs. Cooper*, 291 S.C. 351, 353 S.E.2d 451 (1987); (2) audio taping a defendant's confession, *State vs. Valenti*, supra; (3) videotaping a pre-trial experiment to be shown during trial, *Gasque vs. Heublein, Inc.*, supra; and (4) videotaping an interview with witnesses while walking through a crime scene discussing

The sequence of events. State vs. Stroman, supra.

### CONCLUSION

Petitioner is not a lawyer, petitioner has only stated the facts of the case and has to the best of his ability told the truth at all times relevant to this petition.

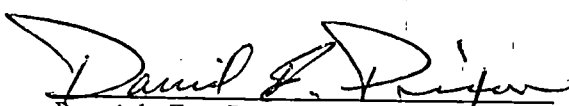
Petitioner has included several documents for the court's review.

Finally, the petitioner will conclude that he was denied the effective assistance of counsel and did not receive counsel in the case before the court until October of 1994, after being arrested November 7th, 1993, in Beaufort County and remained there through November 18th, and then transferred to Horry County pursuant to a hold being placed on defendant by the Horry County authorities, Horry County Police. Petitioner filed his own motions with the court. Petitioner asked his attorney on several occasions by writing to file a motion to have the taped statement authenticated and he refused! Any and all attorney's appointed to represent defendant and or appellant refused to represent defendant at any time before, during and or after trial.

For the reasons stated herein, petitioner request that his conviction, sentence, be vacated and that he be granted a new and fair trial and with the assistance of competent counsel.

There is no legal provision for any court in the United States to rule on any issue favorable to one party and simply ignore the rights of the second party.

Justice delayed is justice denied.

  
David E. Dixon, SCDC #217520  
Evans Correctional Inst.  
Post Office Box 2951202  
Bennettsville, S.C. 29512-5202

cc: file



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

May 11, 1999

The Honorable Jeanne J. Roberts  
Clerk of Court, Horry County  
P. O. Box 677  
Conway, SC 29528-0677

Re: The State v. Dixon, David E.

Dear Ms. Roberts:

Enclosed is the Remittitur in the above entitled matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kenneth A. Richstad".

Kenneth A. Richstad  
CLERK

KAR/ccy

cc: Mr. David Dixon #217520  
Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
Ralph J. Wilson, Esquire

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Appeal from Horry County

Honorable M. Duane Shuler, Circuit Court Judge

---

THE STATE,

RESPONDENT,

V.

DAVID DIXON,

APPELLANT.

---

DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL

---

Appellant proposes the following be included in the Record on  
Appeal:

1. Entire trial transcript (volumes I, II, and III)
2. Indictments
3. Judge Manning's order dated January 2, 1996

I certify that this designation contains no matter which is  
irrelevant to this appeal.



---

WANDA H. HAILE

Senior Assistant Appellate Defender

South Carolina Office  
Of Appellate Defense  
1122 Lady Street, Suite 940  
Columbia, S. C. 29201  
(803) 734-1330

ATTORNEY FOR APPELLANT.



# The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

November 10, 1997

✓ The Honorable Jeanne J. Roberts  
Clerk of Court, Horry County  
P. O. Box 677  
Conway, SC 29526-0677

Re: The State v. Dixon, David E.

Dear Ms. Roberts:

On October 9, 1997, we sent you the remittitur and State's Ex. 2 (Cassette Tape) in this case. The Supreme Court has directed us to recall the remittitur and exhibit so that it can consider the appellant's petition filed in that Court. Please return the remittitur and State's Ex. 2 as soon as possible.

Thank you very much.

Very truly yours,

*Kenneth A. Richstad*  
CLERK

KAR/jsc

cc: Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
The Honorable Ralph J. Wilson  
The Honorable Clyde N. Davis, Jr.

*Received by Edwin Johnson 11-14-97*  
*Rec'd by Ida R. Carson 11-17-97*

FILED  
Horry County  
97 NOV 12 11:10:10  
CLERK OF COURT

*Exhibit #150*



97-up-483

# The Supreme Court of South Carolina

CLYDE N. DAVIS, JR.  
CLERK OF COURT  
BRENDA F. SHEALY  
DEPUTY CLERK

P.O. Box 11330  
COLUMBIA, S.C. 29211  
(803) 734-1080

March 24, 1998

## REGULAR AND CERTIFIED MAIL

Mr. David E. Dixon, #217520  
Evans Correctional Institution  
Post Office Box 2951202  
Bennettsville, South Carolina 29512-5202

Re: The State v. David E. Dixon  
Case Nos. 94-GS-26-1381, 94-GS-26-1383, 94-GS-26-1393  
Opinion No. 97-UP-483

Dear Mr. Dixon:

This will acknowledge receipt of your Petition for Writ of Certiorari in the above-referenced matter.

Please be advised that you have not fully complied with Rule 226 of the South Carolina Appellate Court Rules. In order for this Court to consider your petition, it will be necessary for you to provide this Court with two copies of an Appendix as required by Rule 226(e), SCACR. According to this Rule, the appendix shall include a copy of the Record on Appeal and final briefs filed in the Court of Appeals, a copy of the decision of the Court of Appeals on which certiorari is sought, a copy of the petition for rehearing filed in the Court of Appeals, and a copy of the ruling of the Court of Appeals on the petition for rehearing.

If we do not receive the two copies of the Appendix within ten (10) days of the date of this letter, the appeal will be dismissed.

By copy of this letter we are advising all interested parties of this communication.

Very truly yours,

CLERK

CND,jr./sbm

cc: Senior Assistant Attorney General Charles H. Richardson  
The Honorable Ralph J. Wilson  
The Honorable Kenneth A. Richstad

SC COURT OF APPEALS  
1998 MAR 25 PM 3:33



Page Two:

The Judge also allowed the Attorney to impede on my representation. The Judge also allowed the taped statement into the trial, I objected to this and I gave the reason's why, why can't you see this? The Horry County Police perjured their testimony and this can be proved. The co-defendant also was allowed to perjure his testimony.

The taped statement was and had been altered by the Horry County Police, it was in fact, not the original tape statement. How can the Judge get away with not questioning me and informing of my rights to counsel.

I have no confidence in you or your office, you have sold me out and I know it!

I wrote a letter to the appellate court asking them to appoint you to represent me, I did real good didn't I?

I have found out that you are famous for filing anders Briefs, I guess its your way of not doing your job, so be it!

I will retaliate, I will be the cause of office supplies to go very high in cost.

You have let me down, I firmly do not believe that you can do your job as Senior Assistant Appellate Defender.

I believe that you are protecting the crooks in Horry County and you have done so thus far and you are continuing to do so. You have not represented me in my best interest, you have failed me!

Yours very truly,

  
David E. Dixon

cc: The South Carolina Supreme Court  
File



97-UP-483

## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

July 22, 1999

The Honorable Jeanne J. Roberts  
Clerk of Court, Horry County  
P. O. Box 677  
Conway, SC 29528-0677

Re: The State v. Dixon, David E.  
94-GS-26-381, 1383, and 1393

Dear Ms. Roberts:

The remittitur in the above referenced cases was forwarded to the Court of Horry County on May 11, 1999. Upon "cleaning house" an investigation of the exhibit closet in the Court of Appeals revealed the exhibit filed with this Court was not returned to you.

Returned herewith is the following exhibit filed in the above case:

State's Exhibit #2: 90 Minute Cassette Tape marked "David Dixon (Copy)"

We apologize for any inconvenience this may cause you; however, we do want to return the exhibit to the County Court. Please sign the copy acknowledging receipt of this exhibit and return.

Sincerely,

CLERK

KAR/irc

cc: Mr. David Dixon #217520  
Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
Ralph J. Wilson, Esquire

ACKNOWLEDGMENT:

Received by: \_\_\_\_\_ Date: \_\_\_\_\_



# The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

IDA R. CARSON  
DEPUTY CLERK

July 22, 1999

The Honorable Jeanne J. Roberts  
Clerk of Court, Horry County  
P. O. Box 677  
Conway, SC 29528-0677

Re: The State v. Dixon, David E.  
94-GS-26-381, 1383, and 1393

Dear Ms. Roberts:

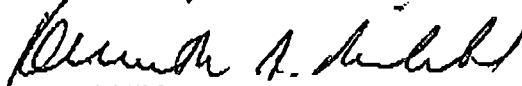
The remittitur in the above referenced cases was forwarded to the Court of Horry County on May 11, 1999. Upon "cleaning house" an investigation of the exhibit closet in the Court of Appeals revealed the exhibit filed with this Court was not returned to you.

Returned herewith is the following exhibit filed in the above case:

State's Exhibit #2: 90 Minute Cassette Tape marked "David Dixon (Copy)"

We apologize for any inconvenience this may cause you; however, we do want to return the exhibit to the County Court. Please sign the copy acknowledging receipt of this exhibit and return.

Sincerely,

  
CLERK

KAR/irc

cc: Mr. David Dixon #217520  
Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
Ralph J. Wilson, Esquire

Received 7-26-99 (100)

David E. Dixon  
SCDC #217520 F4-A-187  
Evans Correctional Institution  
Post Office Box 2951202  
Bennettsville, S.C. 29512-5202

August 18th, 1999

The Honorable Paula H. Thomas  
Judge Fifteenth Circuit  
Post Office Box 1270  
Georgetown, S.C. 29442

RE: Original Taped Statement Case #96-CP-26-3508 PENDING

Dear Judge Thomas:

I have written the most unproductive letters to you that I have ever written in my life!

August 16th, 1999, your new law clerk Jill Wright, wrote to me and stating in the second paragraph I quote; The original tapes are located in the clerk's office at the Horry County Courthouse. We cannot send you the original tapes. However, the clerk will mail you a copy of the original, as you requested. They are not sending you a copy of a copy. Unquote.

I am going to say to you the same thing I said to your law clerk, this is ridiculous!

How can Jeanne Roberts say this is all I have, a (19) minute portion from your second trial and then say I now have the original tapes from your case? When in fact Jeanne Roberts has just received a copy of where ever these tapes came from that was just sent to the clerk of court from the Court of Appeals? Some one is lying and very badly!

August 17th, 1999, I also called Jeanne Roberts and now she states that these are the tapes from my trial, not true! They are copies from the Court of Appeals that the Supreme Court ordered and were told these are the original's in which was and is a copy

of something that I have no idea where they came from! Ms. Roberts stated to me on the phone that she has never told anyone that she had the original's, that may be true also? I will tell you this, make them produce the original tapes and I will shut my mouth! They can't do it! THE ORIGINAL TAPES WERE ALTERED AND DESTROYED and they will never be found, you can bet on that!

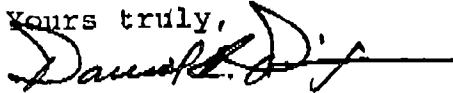
Ask Ms. Roberts if she has the original tapes or does she have copies? I have a copy of the letter that was sent to Ms. Roberts from the Court of Appeals and it is very clear, we are returning the copies that your office sent to us after cleaning out our evidence closet. That is just exactly what that means, (copies)! Jeanne Roberts does not have the original tapes and or a copy of the original tapes!

I will reiterate at this time that I want the requested subpoena's issued and I want the original tapes placed in your custody, no one else is responsible enough to keep the tapes and I will have to trust you!

On another note, I have had (2) Forfeiture Motions filed with the clerk's office, January and April 1997 and have sent with them an order to transport. According to Ms. Roberts, she has located these motions in my PCR folder and who put them there I guess I will never know? The Horry County Police STOLE mine and my WIFE'S property on October 22nd, and 23rd, 1993 and have refused to give it back and they will not honor my motions for a hearing on this issue, I'll tell you why! The Horry County Police PARTICULARIZED THE SEARCH WARRANTS and they know I know it and they were in fact invalid! I am requesting a hearing on the search warrants immediately? I have since filed a third motion for FORFEITURE and according to Jeanne Roberts, she never received it? Funny how some times the mail just don't run? I also sent to your office copies of these motions and haven't heard anything from your office in reference to this letter?

Bottom line, the clerk of court does not have the original tapes, if she does, then I request a true and certified copy of same! Not a copy of a copy that was just received from the Court of Appeals! Funny how things just pop up, isn't it? I cannot have my expert authenticate a copy, it must be the original tapes!

Yours truly,



David E. Dixon, Pro se

cc: file

Jeanne J. Roberts

Greg Hembree, Solicitor

South Carolina Supreme Court, Judge Finney, C.J.



State of South Carolina

The Circuit Court of the Fifteenth Judicial Circuit

Paula H. Thomas
Judge Fifteenth Circuit
Post Office Drawer 1270
Georgetown, South Carolina 29442

(843) 546-9618

September 29, 1999

Mr. Kenneth A. Richstad
South Carolina C
Post Office Box 1
Columbia, South

RE: The
94-G

I have already
answered this

[Handwritten signature]

Dear Mr. Richstad

I am writing in
'David Dixon (Co
of Court, Jeanne J.
copy of your letter which accompanied the returned exhibit.

See set of 1999-12-179
1999-12-179

minute cassette tape marked
and returned to our Clerk

RECEIVED
SEP 29 1999
S.C. Court of Appeals

The Defendant has been in constant communication with our office regarding the location of the original exhibit. This letter is to respectfully request any information you may have as to the location of the original exhibit. I have enclosed a copy of Mr. Dixon's latest request for your review.

If you have any questions, please feel free to contact me. I greatly appreciate any assistance you can offer in this matter.

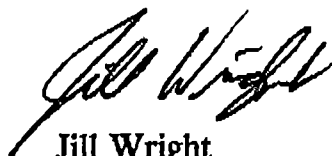
Mr. Kenneth A. Richst

September 29, 1999

Page 2

With kindest regards, I remain

Respectfully yours,



Jill Wright

Law Clerk to the Honorable Paula Thomas

cc:

David Dixon #217520

Senior Assistant Appellate Defender Wanda H. Haile

Assistant Deputy Attorney General Salley W. Elliott

Senior Assistant Attorney General Charles Richardson

Greg Hembree, Esquire, Horry County Solicitor



97-UP-483

**State of South Carolina**

**The Circuit Court of the Fifteenth Judicial Circuit**

Paula H. Thomas  
Judge Fifteenth Circuit  
Post Office Drawer 1270  
Georgetown, South Carolina 29442

(843) 546-9618

September 29, 1999

Mr. Kenneth A. Richstad  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RECEIVED**  
OCT 1 1999

RE: The State v. Dixon, David E.;  
94-GS-26-381, 1383, 1393

S.C. Court of Appeals

Dear Mr. Richstad,

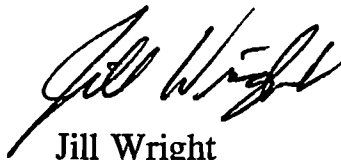
I am writing in reference to State's Exhibit #2, a 90 minute cassette tape marked "David Dixon (Copy)." This exhibit was found by you and returned to our Clerk of Court, Jeanne J. Roberts in Horry County on July 22, 1999. I have enclosed a copy of your letter which accompanied the returned exhibit.

The Defendant has been in constant communication with our office regarding the location of the original exhibit. This letter is to respectfully request any information you may have as to the location of the original exhibit. I have enclosed a copy of Mr. Dixon's latest request for your review.

If you have any questions, please feel free to contact me. I greatly appreciate any assistance you can offer in this matter.

With kindest regards, I remain

Respectfully yours,



Jill Wright

Law Clerk to the Honorable Paula Thomas

cc: David Dixon #217520  
Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
Greg Hembree, Esquire, Horry County Solicitor

RECEIVED

OCT 1 1999

S.C. Court of Appeals



# The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

July 22, 1999

The Honorable Jeanne J. Roberts  
Clerk of Court, Horry County  
P. O. Box 677  
Conway, SC 29528-0677

**RECEIVED**  
OCT 1 1999

Re: The State v. Dixon, David E.  
94-GS-26-381, 1383, and 1393

S.C. Court of Appeals

Dear Ms. Roberts:

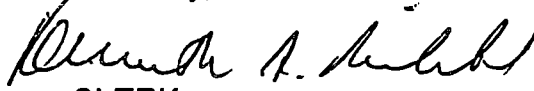
The remittitur in the above referenced cases was forwarded to the Court of Horry County on May 11, 1999. Upon "cleaning house" an investigation of the exhibit closet in the Court of Appeals revealed the exhibit filed with this Court was not returned to you.

Returned herewith is the following exhibit filed in the above case:

State's Exhibit #2: 90 Minute Cassette Tape marked "David Dixon (Copy)"

We apologize for any inconvenience this may cause you; however, we do want to return the exhibit to the County Court. Please sign the copy acknowledging receipt of this exhibit and return.

Sincerely,

  
CLERK

KAR/irc

cc: Mr. David Dixon #217520  
Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
Ralph J. Wilson, Esquire

Received 7-26-99 (100)

David E. Dixon  
SCDC #217520 F4-A-187  
Evans Correctional Institution  
Post Office Box 2951202  
Bennettsville, S.C. 29512-5202

August 18th, 1999

RECEIVED

OCT 1 1999

The Honorable Paula H. Thomas  
Judge Fifteenth Circuit  
Post Office Box 1270  
Georgetown, S.C. 29442

S.C. Court of Appeals

RE: Original Taped Statement Case #96-CP-26--3508 PENDING

Dear Judge Thomas:

I have written the most unproductive letters to you that I have ever written in my life!

August 16th, 1999, your new law clerk Jill Wright, wrote to me and stating in the second paragraph I quote; The original tapes are located in the clerk's office at the Horry County Courthouse. We cannot send you the original tapes. However, the clerk will mail you a copy of the original, as you requested. They are not sending you a copy of a copy. Unquote.

I am going to say to you the same thing I said to your law clerk, this is ridiculous!

How can Jeanne Roberts say this is all I have, a (19) minute portion from your second trial and then say I now have the original tapes from your case? When in fact Jeanne Roberts has just received a copy of where ever these tapes came from that was just sent to the clerk of court from the Court of Appeals? Some one is lying and very badly!

August 17th, 1999, I also called Jeanne Roberts and now she states that these are the tapes from my trial, not true! They are copies from the Court of Appeals that the Supreme Court ordered and were told these are the original's in which was and is a copy

of something that I have no idea where they came from! Ms. Roberts stated to me on the phone that she has never told anyone that she had the original's, that may be true also? I will tell you this, make them produce the original tapes and I will shut my mouth! They can't do it! THE ORIGINAL TAPES WERE ALTERED AND DESTROYED and they will never be found, you can bet on that!

Ask Ms. Roberts if she has the original tapes or does she have copies? I have a copy of the letter that was sent to Ms. Roberts from the Court of Appeals and it is very clear, we are returning the copies that your office sent to us after cleaning out our evidence closet. That is just exactly what that means, (copies)! Jeanne Roberts does not have the original tapes and or a copy of the original tapes!

I will reiterate at this time that I want the requested subpoena's issued and I want the original tapes placed in your custody, no one else is responsible enough to keep the tapes and I will have to trust you!

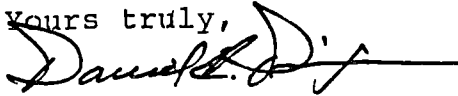
On another note, I have had (2) Forfeiture Motions filed with the clerk's office, January and April 1997 and have sent with them an order to transport. According to Ms. Roberts, she has located these motions in my PCR folder and who put them there I guess I will never know? The Horry County Police STOLE mine and my WIFE'S property on October 22nd, and 23rd, 1993 and have refused to give it back and they will not honor my motions for a hearing on this issue, I'll tell you why! The Horry County Police PARTICULARIZED THE SEARCH WARRANTS and they know I know it and they were in fact invalid! I am requesting a hearing on the search warrants immediately? I have since filed a third motion for FORFEITURE and according to Jeanne Roberts, she never received it? Funny how some times the mail just don't run? I also sent to your office copies of these motions and haven't heard anything from your office in reference to this letter?

RECEIVED  
OCT 1 1999

S.C. Court of Ap.

Bottom line, the clerk of court does not have the original tapes, if she does, then I request a true and certified copy of same! Not a copy of a copy that was just received from the Court of Appeals! Funny how things just pop up, isn't it? I cannot have my expert authenticate a copy, it must be the original tapes!

Yours truly,



David E. Dixon, Pro se

cc: file

Jeanne J. Roberts

Greg Hembree, Solicitor

South Carolina Supreme Court, Judge Finney, C.J.

**RECEIVED**

OCT 1 1999

S.C. Court of Appeals



## The South Carolina Court of Appeals

KENNETH A. RICHSTAD  
CLERK

IDA R. CARSON  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, S. C. 29211  
(803) 734-1890

October 5, 1999

Ms. Jill Wright  
Law Clerk to the Honorable Paul H. Thomas  
Fifteenth Judicial Circuit  
P. O. Drawer 1270  
Georgetown, SC 29440-1270

Re: The State v. David E. Dixon

Dear Ms. Wright:

I have received your letter of September 29, 1999 both by fax and regular mail. Along with Ida Carson, Deputy Clerk, I have examined the file in the above referenced case.

The tape in question was an exhibit in this case, identified as State's Exhibit #2. Clyde Davis, former Clerk of the South Carolina Supreme Court signed a transportation order for State's Exhibit #2 (tape). It was eventually transferred to the South Carolina Court of Appeals from the Supreme Court and logged in as State's Exhibit #2: cassette tape. The tape was returned to the Clerk of Court of Horry County with the Remittitur as State's Exhibit #2: cassette tape on October 9, 1997.

The Court of Appeals recalled the Remittitur at the direction of the Supreme Court. The exhibit was logged in: "Horry County returned exhibit 11/17/97." The Court of Appeals denied a Petition for Rehearing; the Supreme Court denied a Petition for Certiorari; the Court of Appeals sent its Remittitur on May 11, 1999. On July 22, 1999, the Court of Appeals returned "State's Exhibit #2: 90 minute Cassette Tape marked David Dixon (copy)" to the Clerk of Court of Horry County.

So far as I can tell from the file, this was the identical cassette tape submitted as State's Exhibit #2 the whole way through the court.

Very truly yours,

*Kenneth A. Richstad*  
CLERK

---

IRC/irc

cc: Mr. David Dixon #217520  
Senior Assistant Appellate Defender Wanda H. Haile  
Assistant Deputy Attorney General Salley W. Elliott  
Senior Assistant Attorney General Charles Richardson  
Ralph J. Wilson, Esquire  
The Honorable Ruby A. Moore, Clerk of Court, Georgetown County