

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
The Honorable Heath P. Taylor, Circuit Court Judge

RECEIVED

Case No: 2018GS38-00928, 2018GS38-00929

MAY 08 2023

The State Respondent

SC Court of Appeals

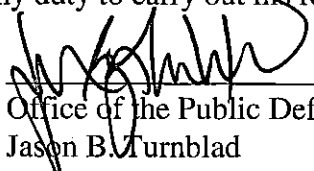
vs.

Zamal Ishme Allah Rivera Appellant

EXPLANATION OF APPEAL

Zamal Rivera appeals his guilty plea and sentence in the aforementioned cases. It is my opinion that there is no legal basis for this appeal. After his guilty plea, Mr. Rivera expressed his desire to appeal his sentence. As his attorney, it is my duty to carry out his request.

May 01, 2023


Office of the Public Defender, 1st Circuit
Jason B. Turnblad
Assistant Public Defender
P.O. Box 1112
Orangeburg, SC 29116-1112
(805)536-5682
Attorney for Appellant

Office of the Solicitor, 1st Circuit
Phil Giese
Assistant Solicitor
P.O. Box 1525
Orangeburg, SC 29115
(803) 533-6252
Attorney for Respondent

ARREST WARRANT

2018A3810100013

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Orangeburg

THE STATE against

Zamal Ishme Allah Rivera

Address: [Redacted]

Phone: [Redacted] SSN: [Redacted]

Sex: [Redacted] Race: [Redacted] Height: 6 2 Weight: 190

DL State: SC DL #: [Redacted]

DOB: [Redacted] Agency ORI #: SCSHP0000

Prosecuting Agency: S C Highway Patrol

Prosecuting Officer: Willie Mccauley, Jr - S00076

Offense: DUS / Driving under suspension, license not suspended for DUI - 1st offense

Offense Code: 0624

Code/Ordinance Sec: 56-01-0460(A)(1)(a)

This warrant is CERTIFIED FOR SERVICE in the [] County/ [] Municipality of

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

(L.S.)

Signature of Judge

Date: [Redacted]

RETURN

A copy of this arrest warrant was delivered to defendant Zamal I. A. Rivera on 3-17-18

[Signature] Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO: General Sessions 151 Docket Street P. O. Box 9000 Orangeburg, SC 29116

RECEIVED MAR 16 2018 WARRANT DIVISION ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)

[X] County/ [] Municipality of)

Orangeburg

Personally appeared before me the affiant Willie Mccauley, Jr

being duly sworn deposes and says that defendant Zamal Ishme Allah Rivera

did within this county and state on or about 3/15/2018 violate the criminal laws of the

State of South Carolina (or ordinance of [X] County/ [] Municipality of Orangeburg in the following particulars:

DESCRIPTION OF OFFENSE: DUS / Driving under suspension, license not suspended for DUI - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On 03/15/2018 Trooper Tidwell investigated a three vehicle collision on US 178 near Black Pond Road in Orangeburg County. The driver, Mr. Zamal Rivera, traveled left of center and struck a Chevy Colorado, driven by Mr. John Scott, head on. Mr. Scott was pronounced deceased on scene. While talking with Mr. Rivera I noticed a strong smell of alcohol coming from his person as well as slurred speech. Mr. Rivera was transported to Trident Hospital and I obtained a search warrant for Mr. Rivera Blood and Urine. Mr. Rivera was advised he was under arrest for Felony DUI involving death and advised of his Miranda Warnings. Also Mr. Rivera driver's license was suspended for three previous DUI's within ten years. I am available to testify to the above facts. I also spoke with Cpl McCauley about the above facts. Trooper Tidwell will be available for any testimony. This did occur in the State of South Carolina County of Orangeburg.

Signature of Affiant

STATE OF SOUTH CAROLINA)

[X] County/ [] Municipality of)

Orangeburg

Affiant's Address 1391 Middleton Street

Orangeburg, SC 29115-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/15/2018 defendant Zamal Ishme Allah Rivera

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

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

DESCRIPTION OF OFFENSE: DUS / Driving under suspension, license not suspended for DUI - 1st offense

Having found probable cause and the above affiant having sworn before me, 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

Sworn to and subscribed before me)

on 3/16/2018)

[Signature] (L.S.))

Derrick F. Dash)

Judge Code: 5909)

Judge's Address Post Office Box 9000

Orangeburg, SC 29116-

Judge's Telephone (803)533-5848

Issuing Court: [X] Magistrate [] Municipal [] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ORIGINAL

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

AFFIDAVIT

RECEIVED

MAY 08 2018

SC Court of Appeals

CLERK OF COURT ORANGEBURG, SC

2018 MAR 23 AM 9:32

FILED FOR RECORD WINNIFAB. CLARK

ARREST: TRIAL COPY

BAIL SET BY

Judge

Wesley A. De...

on

3-7-18

Type and Amount:

NO BOND

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS



ARREST WARRANT

2018A3810100012

STATE OF SOUTH CAROLINA

County/ Municipality of

Orangeburg

THE STATE against

Zamal Ishme Allah Rivera

Address: Phone: Sex: Race: Height: 6 2 Weight: 190 DL State: SC DL #: DOB: Agency ORI #: SCSHP0000 Prosecuting Agency: S C Highway Patrol Prosecuting Officer: Willie Mccauley, Jr - S00076 Offense: DUI / Felony driving under the influence, death results

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Zamal I. Rivera on 3-17-18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions 151 Docket Street P. O. Box 9000 Orangeburg, SC 29116

RECEIVED

MAR 16 2018

WARRANT DIVISION

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA County/ Municipality of Orangeburg

AFFIDAVIT

Personally appeared before me the affiant Willie Mccauley, Jr being duly sworn deposes and says that defendant Zamal Ishme Allah Rivera did within this county and state on or about 3/15/2018 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Orangeburg in the following particulars:

DESCRIPTION OF OFFENSE: DUI / Felony driving under the influence, death results

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On 03/15/2018 Trooper Tidwell investigated a three vehicle collision on US 178 near Black Pond Road in Orangeburg County. The driver, Mr. Zamal Rivera, traveled left of center and struck a Chevy Colorado, driven by Mr. John Scott, head on. Mr. Scott was pronounced deceased on scene. While talking with Mr. Rivera I noticed a strong smell of alcohol coming from his person as well as slurred speech. Mr. Rivera was transported to Trident Hospital and I obtained a search warrant for Mr. Rivera Blood and Urine. Mr. Rivera was advised he was under arrest for Felony DUI involving death and advised of his Miranda Warnings. I am available to testify to the above facts. I also spoke with Cpl McCauley about the above facts. Trooper Tidwell will be available for any testimony. This did occur in the State of South Carolina County of Orangeburg.

Signature of Affiant

STATE OF SOUTH CAROLINA County/ Municipality of Orangeburg

Affiant's Address 1391 Middleton Street Orangeburg, SC 29115- Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/15/2018 defendant Zamal Ishme Allah Rivera did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Orangeburg) as set forth below:

DESCRIPTION OF OFFENSE: DUI / Felony driving under the influence, death results

Having found probable cause and the above affiant having sworn before me, 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 Sworn to and subscribed before me

on 3/16/2018 Signature of Issuing Judge (L.S.) Derrick F. Dash Judge Code: 5909

Judge's Address Post Office Box 9000 Orangeburg, SC 29116- Judge's Telephone (803)533-5848

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL RECEIVED

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

MAY 18 2018

SC Court of Appeals

FILED FOR RECORD WINNIFAB CLARK 2018 MAR 23 AM 9:32 CLERK OF COURT ORANGEBURG SC

ATTEST: TRINA B. CLARK CLERK OF COURT ORANGEBURG COUNTY, SC

BAIL set by

Judge

D. Orin Deal

on

3-2-89

Type and Amount:

No Bond

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

CODEFENDANTS

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____



DEFENSE OF INDIGENT

Jail

APPOINTMENT SHEET

IN THE COURT OF GENERAL SESSIONS

STATE OF S.C. VS. Zamel Ishme Allah Rivera

THE ABOVE DEFENDANT, AFTER APPLYING UNDER INDIGENT STATUS HAS BEEN FOUND TO QUALIFY FOR A PUBLIC DEFENDER.

IT IS THEREFORE ORDERED THAT

(CIRCLE ONE OF THE FOLLOWING)

PEGGY HINDS

R. DOUGLAS MELLARD

BREEN STEVENS

MINH LEE WYMAN

JAMES R. ADAMS III

FILED FOR RECORD
WINNIEFA B. CLARK
2018 APR 10 P 12:21
CLERK OF COURT
ORANGEBURG, SC

IS HEREBY APPOINTED TO REPRESENT SAID DEFENDANT THIS

10 DAY OF April, 2018

S/ Winniefa B. Clark

CLERK OF COURT

RECEIVED

MAY 08 2023
SC Court of Appeals

CHARGES(S): 2018A3810100012, 13

APPOINTMENT MADE IN PERSON (IN JAIL) (CIRCLE ONE)

\$40.00 FEE PAID (DUE) (CIRCLE ONE)

FIRST APPEARANCE DATE: _____

ATTEST: TRUE COPY
Winniefa B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

1-25 years
and
\$10,100-25,100

STATE OF SOUTH CAROLINA
COUNTY OF Orangeburg

IN THE COURT OF GENERAL SESSIONS

STATE
VS.
Zamal Ishme Allah Rivera

INDICTMENT/CASE#: 2018 - GS - 38 - -0928

AKA:
Race: BLACK Sex: M Age: 43
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: [REDACTED]
DL#* [REDACTED] SID# [REDACTED]

AW#: 2018A3810100012
Date of Offense: 3/15/2018
S.C. Code §: 56-5-2945(A)
CDR Code #: 0395

RECEIVED

SENTENCE SHEET

MAY 08 2023
SC Court of Appeals

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Felony Driving Under the influence, Death Results

In violation of § 56-5-2945(A) of the S.C. Code of Laws, bearing CDR Code # 0395

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives
Presentation to Grand Jury. _____ (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
[Signature] 100615 [Signature] [Signature] 763166
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 18 days/months/years/Time Served, Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$____; provided that upon the service of _____ days/months/years/Time Served and or payment
of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

The sentence shall run
 CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
1866 days/months
 To include time spent on monitored house arrest prior to trial and sentencing.
 The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65
(Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

Plea Accepted
4/24/23
[Signature]
2775

ATTEST: TRUE COPY
Winnija B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE VS. Zamal Ishme Allah Rivera INDICTMENT/CASE#: 2018 - GS - 38 -- 0928

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: _____

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5%)				\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100			\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100			\$ <u>100.00</u>
§56-5-2995 (DUI Assessment)	\$12			\$ <u>12.00</u>
§56-1-286 (DUI Breath Test)	\$25			\$ _____
§14-1-212 (Law Enforce. Funding)	\$25			\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150			\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41			\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50			\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea			\$ _____
3% to County (if paid in installments)	TBD			\$ <u>7.11</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500			\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD			\$ _____
	TOTAL			\$ <u>244.11</u>

Clerk of Court/Deputy Clerk
Court Reporter: *Joseph Johnson*
CATLY PROVOST

Presiding Judge: _____
Judge Code: 2275
Sentence Date: 4/27/23

ATTEST: TRUE COPY

Winnaja B. Clark
CLERK OF COURT
MAGNOLIA COUNTY, SC

WITNESSES

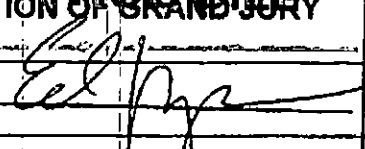
Tyler Tidwell

S C Highway Patrol

ARREST WARRANT NUMBER

2018A3810100013

Arrested: March 17, 2018

TRUE BILL
ACTION OF GRAND JURY

 Date JUN 06 2018

Foreperson of Grand Jury
Date: June 6, 2018

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018GS38-0929

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

June 11, 2018 TERM

THE STATE
vs.

Zamal-Ishme Allah Rivera

Indictment for

DRIVING UNDER SUSPENSION,
LICENSE NOT SUSPENDED FOR DUI -
1ST OFFENSE

SC Code: 56-1-460(A)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

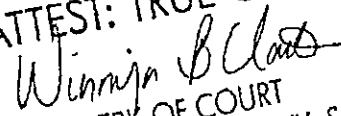
Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
 WINTER B. CLARKE
 CLERK OF COURT
 2018 JUN - 6
 2:10:05
RECEIVED

MAY 08 2023

SC Court of Appeals

ATTEST: TRUE COPY

 CLERK OF COURT
 ORANGEBURG COUNTY, SC

WITNESSES

Tyler Tidwell

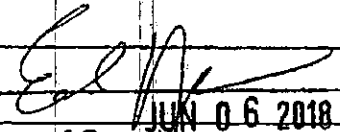
S C Highway Patrol

ARREST WARRANT NUMBER
2018A3810100012

Arrested: March 17, 2018

ACTION OF GRAND JURY

TRUE BILL



Foreperson of Grand Jury
Date: June 6, 2018

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018GS38-0928

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

June 11, 2018 TERM

THE STATE
vs.

Zamal Ishme Allah Rivera

Indictment for

FELONY DRIVING UNDER THE
INFLUENCE, DEATH RESULTS

SC Code: 56-5-2945(A)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury:

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIEFA S. CLARK
CLERK OF COURT
ORANGEBURG COUNTY, SC
2018 JUN 6 A 10:00

ATTEST: TRUE COPY
Winnifred Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

RECEIVED
MAY 08 2018
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

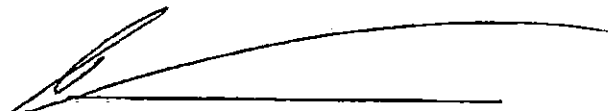
INDICTMENT
2018GS38-0928

At a Court of General Sessions, convened on June 6, 2018 the Grand Jurors of
Orangeburg County present upon their oath:

FELONY DRIVING UNDER THE INFLUENCE, DEATH RESULTS

That in Orangeburg County, South Carolina, on or about March 15, 2018, the Defendant, Zamal Ishme Allah Rivera, while driving a vehicle under the influence of alcohol, drugs, or a combination thereof, did perform an act forbidden by law or did neglect a duty imposed by law while driving, which act or neglect proximately caused the death of John Scott. This offense being a violation of Section 56-5-2945, of the South Carolina Code of Laws, as amended.

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



Ted Lupton, Solicitor