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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
George M. McFaddin, Jr., Circuit Court Judge
Case No. 2023-CP-26-0313

Appellate Case No. 2023-000048

Kenneth Dippel Appellant,

v.

State of South Carolina, 15th Circuit Solicitors Office,
And SLED Respondents.

APPENDIX TO SUPPLEMENT RECORD ON APPEAL

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krf28472@gmail.com

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Attorney for Respondent

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(803) 896-0647
Attorney for Respondent

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(803) 734-3596
Attorney for Respondent

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Columbia, SC 29211-1549
(803) 734-3727
Attorney for Respondent

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE #2022-CP-26-0313

Kenneth D. Dippel,)
Claimant - Petitioner)
vs.)

PETITION FOR EXPUNGEMENT

State of South Carolina -)
Horry County Solicitor's Office)
& SLED)
Defendants - Respondent(s))

FILED
HORRY COUNTY
2 APR -1 A 11: 14
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

PETITIONER, KENNETH D. DIPPEL personally appearing before me, who being duly sworn, says the following:

1. KENNETH D. DIPPEL is a legal resident of HORRY COUNTY South Carolina living at 4931 Forest Drive in Loris, SC.
2. On May 2, 2018 Mr. Dippel was originally charged and arrested for resisting arrest / assault, beat, or wound police officer serving process (EXHIBIT #1).¹
3. On December 7, 2018 Attorney Thomas Winslow – Mr. Dippel's Attorney negotiated a guilty plea agreement and sentencing whereby Mr. Dippel would plead guilty to the lesser offense misdemeanor resisting, receive a

¹ **S.C. Code 16-9-320(B)** provides: *"It is unlawful for a person to knowingly and willfully assault, beat, or wound a law enforcement officer engaged in serving, executing, or attempting to serve or execute a legal writ or process or to assault, beat, or wound an officer when the person is resisting an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than ten thousand dollars or imprisoned not more than ten years, or both".*

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CLERK OF COURT
HORRY COUNTY, SC

sentencing 1 day in jail, and given credit for the time he served at Reuben Long Detention Center.²

The Assistant Solicitor, Attorney, Thomas Winslow, and Mr. Dippel signed a PETITION FOR TRANSFER ORDER (BY CONSENT) on December 7, 2018 whereby the case was transferred from General Sessions to Magistrates Court (EXHIBIT #2)³

5. Mr. Dippel and his counsel on December 7, 2018 appeared before Horry County Magistrate Judge Brad Mayers for the plea bargain sentencing. Horry County Magistrate Judge Brad Mayers sentenced Mr. Dippel to pay a fine of \$128.75 and to serve 1 day in jail with credit time served at J Reuben Long Detention Center (Exhibit #3).
6. On about December 5, 2021 Mr. Dippel obtained a copy of his criminal record from the SC Law Enforcement Division. Mr. Dippel's "SLED

²**S.C Code § 16-9-320(A):** "It is unlawful for a person knowingly and willfully to oppose or resist a law enforcement officer in serving, executing, or attempting to serve or execute a legal writ or process or to resist an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned not more than one year, or both."

³ **S.C. Code Ann. § 22-3-545(A)** provides: "Notwithstanding the provisions of Sections 22-3-540 and 22-3-550, a criminal case, the penalty for which the crime in the case does not exceed [\$5,500] dollars or one year imprisonment, or both, either as originally charged or as charged pursuant to the terms of a plea agreement, may be transferred from general sessions court if the provisions of this section are followed". Also, **S.C. Code § 22-3-550 (A)** provides: "Magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine or forfeiture not exceeding five hundred dollars, or imprisonment not exceeding thirty days, or both."

Criminal Report" it is noted a charge for felony assault on a police officer while resisting arrest. (EXHIBIT #4).

7. Mr. Dippel prior to December 5, 2021 was unaware his *Record*" did not have the final disposition.
8. The final disposition was never entered into Mr. Dippel's SLED Criminal Report because the Horry County Solicitor's office did not let SLED know.⁴ Furthermore, no modification order was sent to SLED.
9. On about December 10, 2018 Mr. Dippel applied to expunge the misdemeanor resisting arrest charge he pleaded guilty to the Horry County Solicitor's office.⁵ The Horry County Solicitor Office prosecutes cases on behalf of the State, manages and processes expungement applications in Horry County.⁶

⁴ **S.C. Code § 17-1-40 (B)(4)** states: "*If a person pleads guilty to a lesser included offense and the solicitor deems it appropriate, the solicitor shall notify the State Law Enforcement Division (SLED) and SLED shall request that the person's record contained in the National Crime Information Center (NCIC) database or other similar database reflects the lesser included offense rather than the offense originally charged*".

⁵ **S.C. Code § 22-5-910 (A)** states: "*Following a conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of one thousand dollars, or both, the defendant after three years from the date of the conviction, including a conviction in magistrates or general sessions court, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant. However, this section does not apply to an offense involving the operation of a motor vehicle.*"

⁶ **S.C. Code § 17-22-940 (B)** mandates requirements and duties the Solicitor must comply on expungements. This includes but is not limited to aiding an applicant throughout the entire expungement process, coordinating with the South Carolina Law Enforcement Division (SLED), obtaining, and verifying the presence of all necessary signatures, etc.

10. Heather Bell an employee who works in the Horry County Solicitor's office and who is assigned to process applications for expungements, predetermined Mr. Dippel was not eligible for expungement because she asserted the application for expungement must be based upon the Mr. Dippel's original felony charge – assault on a police officer while resisting arrest (S.C. Code 16-9-320(B)).

Also, Heather Bell, claimed Mr. Dippel was not eligible for expungement because the charge potentially carried a maximum penalty 1 year imprisonment. Nevertheless, she claimed to have sent Mr. Dippel's application for expungement without sending his application to a Horry County summary court judge.⁷

11. On January 18, 2022 Mr. Dippel filed a Summons and Complaint in Horry County Common Pleas requesting post-conviction relief, breach of contract, gross negligence, and for the court to issue an expungement order (Case # 2022CP2600313).

12. Also, Mr. Dippel on January 19, 2022 sent a fax to SLED requesting the felony charge - assault on a police officer while resisting arrest corrected (EXHIBIT #5). The final disposition on Mr. Dippel's SLED arrest record was entered by SLED without the Horry County Solicitor's office help on January 20, 2022. It notes Mr. Dippel pleaded guilty to misdemeanor resisting arrest in violation S.C Code § 16-9-320(A) and sentenced to 1 day suspended to time served and to pay a \$128.75 fine. (EXHIBIT #6).

⁷ S.C. Code § 17-22-940 (D) provides: "In cases when charges are sought to be expunged pursuant to Section 17-22-150(a), 17-22-530(A), 17-22-330(A), 22-5-910, or 44-53-450(b), or 17-22-1010, the circuit pretrial intervention director, alcohol education program director, traffic education program director, South Carolina Youth Challenge Academy director, or summary court judge shall attest by signature on the application to the eligibility of the charge for expungement before either the solicitor or his designee and then the circuit court judge, or the family court judge in the case of a juvenile, signs the application for expungement".

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Horry County, SC

13. On February 3, 2022, the Horry County Solicitor's office filed a response and a motion requesting for a dismissal. The Solicitor's office did not properly serve a copy of their response and to date has not done so to Mr. Dippel (**Case # 2022CP2600313**).
14. On March 9, 2022 Mr. Dippel submitted an email to Heather Bell in the Horry County Solicitor's office in which he requested for Heather Bell to provide to him a written decision explaining why she found the charge he was seeking expungement was not eligible for expungement (**EXHIBIT #7**).
15. On March 10, 2022 Heather Bell in the Horry County Solicitor's office responded by email to Mr. Dippel. She wrote down in her email: *"Although you received a time served sentence, the penalty or potential sentence you could have received for this offense was up to one year imprisonment and / or a \$500 to \$1000 fine"* (**EXHIBIT #7**). She failed concede the penalty or potential sentence Mr. Dippel could have received less than 30 days.
16. Mr. Dippel on March 10, 2022 requested again for Heather Bell to supply a written decision from SLED she received showing SLED denied his request for expungement (**EXHIBIT #8**).
17. On March 18, 2022 Heather Bell forwarded to Mr. Dippel an email and an attachment from Kristen Mixon, Program Coordinator / Expungement Supervisor which said: *"Please see attached". "This would not be eligible for expungement because the charge carries a penalty over 30 days"* (**EXHIBIT #9**).
18. The attachment entitled "IN THE COURT OF GENERAL SESSIONS ORDER FOR DESTRUCTION OF ARREST RECORDS" appears to have been initialized "KM" whom is Kristen Mixon at SLED on December 29, 2021 (**EXHIBIT #10**).
19. The attachment provided to Mr. Dippel (**EXHIBIT #10**) is not a formal written decision setting forth reasons and bases for SLED's decision. The

attachment provided to Mr. Dippel is nothing more than a sign SLED did not verify the offense listed in § 22-5-910 is eligible for expungement.⁸

20. Mr. Dippel on March 22, 2022 filed a "Motion to Alter or Amend" his complaint to include a "Petition for Expungement". **SCRCP Rule 15** allows a party to amend and supplement a pleading and permits the Court to allow for amended or supplemental pleadings.
21. Venue and jurisdictional authority are proper in the Court of Common Pleas – 15th Judicial Circuit.
22. The Horry County Solicitor and the South Carolina State Law Enforcement Division are named correctly as the Defendants / Respondents and are indispensable parties.
23. The Horry County Court of Common Pleas clearly has full jurisdictional authority both as to the subject-matter and as to the parties.

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-1 A:15
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CLERK OF COURT
JENNIFER ELLIS
COURT HOUSE
155C

S.C. Code 17-22-940 (E) mandates for SLED to verify charges are expungement eligible. The statute states: "SLED shall verify and document that the criminal charges in all cases, except in cases when charges are sought to be expunged pursuant to Section 17-1-40, Section 17-22-150(a), Section 17-22-530(A), Section 17-22-330(A), or Section 44-53-450(b), are appropriate for expungement before the solicitor or his designee, and then a circuit court judge, or a family court judge in the case of a juvenile, signs the application for expungement. If the expungement is sought pursuant to Section 34-11-90(e), Section 22-5-910, Section 22-5-920, Section 63-19-2050, or Section 56-5-750(f), the conviction for any minor traffic-related offense that is not related in any way to driving under the influence of alcohol or other drugs will not be considered as a bar to expungement".

⁹ **S.C. Code 17-22-940 (E):** "Nothing in this article precludes an applicant from retaining counsel to apply to the solicitor's office on his behalf or precludes retained counsel from initiating an action in circuit court seeking a judicial determination of eligibility when the solicitor, in his discretion, does not consent to the expungement".

ARGUMENTS

FIRST CAUSE OF ACTION

The Horry County Solicitor failure to let SLED know the final disposition whereby Mr. Dippel plead guilty to the lesser offense is gross negligence. Furthermore, the Solicitor and SLED's determination Mr. Dippel is not eligible to have the misdemeanor resisting arrest (**S.C Code § 16-9-320(A)**) expunged is gross negligence. South Carolina Courts have defined gross negligence. Gross Negligence is the intentional, conscious failure to do something which one ought to do or the doing of something one ought not to do. *Clyburn v. Sumter County School Dist. # 17*, 317 S.C. 50, 451 S.E.2d 885 (1994). Gross negligence is the failure to exercise slight care. *Hollins v. Richland County Sch. Dist. One*, 310 S.C. 486, 427 S.E.2d 654 (1993).

SECOND CAUSE OF ACTION

Horry County Solicitor employee Heather Bell's ad hoc interpretation eligibility for expungement must be based on Mr. Dippel's original felony charge, assault on a police officer while resisting arrest (**S.C Code § 16-9-320(B)**) is not supported by statutory law. **S.C. Code § 17-22-910(B)** specifically says: "A person's eligibility for expungement of an offense contained in this section, or authorized by any other provision of law, must be based on the offense that the person pled guilty to or was convicted of committing and not on an offense for which the person may have been charged".

Furthermore, **S.C. Code § 22-5-910 (E)** states "As used in this section, "conviction" includes a guilty plea.

THIRD CAUSE OF ACTION

It was decided by the Solicitor employee Heather Bell and SLED employee Kristian Mixon by phone Mr. Dippel was not eligible for expungement because the crime Mr. Dippel pled guilty **S.C Code § 16-9-320(A)** potentially carried a penalty greater than 30 days (**EXHIBIT #7, EXHIBIT #8**). There is no evidence to support this. Furthermore, their statutory interpretation is ad hoc and an impermissible statutory interpretation. **S.C Code § 16-9-320(A)** does not say upon conviction, must be imprisoned not less than a year nor does it say an individual must be

imprisoned not less than one year. The statute states **not more than a year** which means Mr. Dippel could have been sentenced to just 30 days or less.

S.C Code § 16-9-320(A): "It is unlawful for a person knowingly and willfully to oppose or resist a law enforcement officer in serving, executing, or attempting to serve or execute a legal writ or process or to resist an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars ~~not more than one thousand dollars~~ or imprisoned not more than one year, or both".

Both the Solicitor and SLED want to have it both ways. They want to claim the crime Mr. Dippel pled guilty carries a potential sentencing more than 30 days while at the same time disregarding the crime Mr. Dippel pled guilty potentially carries a penalty less than 30 days.

S.C. Code § 22-5-910 (A) does not have the word "potential". Eligibility for expungement per **S.C. Code § 22-5-910** must be based upon an actual conviction and sentencing order not on a hypothetical or a potential sentencing. A conviction includes a "guilty plea". **S.C. Code § 22-5-910 (E)**. The sentencing sheet clearly shows there was a guilty plea to the lesser offense "*misdemeanor resisting arrest*" and a sentence to pay a \$128.75 fine and to serve one day in jail (**EXHIBIT #3**).

The denial of Mr. Dippel's expungement application is unlawful or gross negligence. There are no statutory bars to expunge the misdemeanor resisting arrest. Mr. Dippel has not had any other charges or convictions against him in over three years. The guilty plea is his first-time conviction, and he has not an earlier **S.C. Code § 22-5-910** expungement. The guilty plea conviction and actual sentencing order proves Mr. Dippel's penalty carried a fine less than \$500 and less than 30 days in jail.

FOURTH CAUSE OF ACTION

The Horry County Solicitor and the South Carolina Law Enforcement Division (SLED) by resorting to "lip service" and by not supplying Mr. Dippel a copy of a formal written decision setting forth the reasons and bases of

their decision violated Mr. Dippel's 5th Amendment constitutional right to due process of law which includes the right of notification.

CONCLUSION

Wherefore based on the foregoing, the Court should issue an expungement order.

Wherefore based on the foregoing, the Court should issue an order granting equitable relief including awarding the costs of court and attorney fees (see SC Code § 15-77-300).

Respectfully submitted,
Kenneth D. Dippel
Kenneth D. Dippel

FILED
HORRY COUNTY
2022 APR -1 A 11:15
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Sworn to before me,

This 31st day of March, 2022

Kimberly D. Love
Notary Public for South Carolina

My commission expires _____

KIMBERLY LOVE
Notary Public - State of South Carolina
My Commission Expires May 19, 2025

FILED
Horry County

2022 APR -1 A 11:20

RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

EXHIBITS

2018A2620500050

STATE OF SOUTH CAROLINA

County/ Municipality of

Loris

THE STATE OF SOUTH CAROLINA
against

Kenneth Duane Dippel

Address: 4931 Forest Dr
Loris, SC 29569-3121

Phone: _____ SSN: 21-_____
Sex: M Race: W Height: 5 11 Weight: 200
DL State: SC DL #: _____
DOB: 2/8/1964 Agency ORI #: SC0260500

Prosecuting Agency: Loris Police Department

Prosecuting Officer: Gregory D Lee - S00759

Offense: Resisting / Assault, beat, or wound police officer serving process or while resisting arrest

Offense Code: 0256
Code/Ordinance Sec: 16-09-0320(B)

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 Justice

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant on _____

5/2/2018

Greg Lee
Signature of Law Enforcement Officer

RETURN WARRANT TO:

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

not guilty

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

APPENDIX - SUPPLEMENT RECORD ON APPEAL

R197

ORIGINAL

Form Approved by
SC Highway Patrol
April 21, 2003
SCCA 9B

County/ Municipality of
Loris

AFFIDAVIT

Personally appeared before me the affiant Gregory D Lee who
being duly sworn, deposes and says that defendant Kenneth Duane Dippel
did within this County and State on or about 5/1/2018 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Loris)
in the following particulars:

DESCRIPTION OF OFFENSE: Resisting / Assault, beat, or wound police officer serving process or while resisting arrest

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:

That on May 1, 2018, at approximately 6:00 pm at 4931 Forest Drive in the city of Loris, Horry County, South Carolina, one Kenneth Duane Dippel did knowingly and willfully and maliciously strike an officer while resisting arrest causing marks to the officer's face. The defendant did violate section 16-9-320(B) Opposing or Resisting law enforcement officer while serving process; assaulting officer in process of South Carolina Code of Laws of 1976, Case# 18002966 R/O Huffman

Signature of Affiant

Greg Lee

STATE OF SOUTH CAROLINA
 County/ Municipality of
Loris

Affiant's Address P.O. Box 548
Loris, SC 29569-

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 5/1/2018 defendant Kenneth Duane Dippel
did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Loris) as set forth below

DESCRIPTION OF OFFENSE: Resisting / Assault; beat or wound police officer serving process or while resisting arrest

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 5/2/2018

Aaron C. Butler
Signature of Justice (L.S.)
Judge Code 6868

Judge's Address Post Office Box 548
Loris, SC 29569

Judge's Telephone (843)756-6674

Issuing Court Magistrate Municipal Circuit

ORIGINAL

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STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Indictment(s): 2018CS26042;

Warrant(s): 2018A262050005

VS.

PETITION FOR TRANSFER ORDER
(BY CONSENT)

KENNETH DONALD DIBBEL
Defendant.

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CLERK OF COURT
HORRY COUNTY, SC
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NOW COMES the State, with consent of the above-named Defendant, to petition Administrative Judge for General Sessions Court in the Fifteenth Judicial Circuit to transfer case(s) associated with the above-listed warrant(s)/indictment(s) from the General Sessions docket to the jurisdiction of the Magistrate's Court for final adjudication of warrant(s)/indictment(s).

WHEREAS the Defendant has been charged with the offense(s) of RESISTANCE ARREST and the penalty for such offense(s) is a fine not exceeding Five Thousand Five Hundred Dol (\$5,500.00) or imprisonment for not more than one (1) year or both;

WHEREAS the State has fully apprised the Defendant of—and the Defendant understands—following:

- (A) The Defendant has the right to have his/her case(s) heard in General Sessions Court
- (A) The size of the jury in General Sessions Court is twelve (12) jurors plus one (1) two (2) alternate jurors, and the size of the jury in Magistrate's Court is only six jurors plus up to four (4) alternate jurors;
- (B) The Defendant has the right to object to the transfer of his/her case, either or in writing, prior to the trial or plea in Magistrate's Court; and that such objection may be made to the Chief Administrative Judge for General Sessions, the trial plea judge, or the Fifteenth Circuit Solicitor or his designee;

WHEREAS, the Defendant, as evidenced by his/her signature below, consents to have charges described more fully above in connection with the above-listed warrant(s)/indictment(s) transferred to the Magistrate's Court for final adjudication;

THE STATE THEREFORE petitions this Honorable Court to transfer the case(s) associated with the above-listed warrant(s)/indictment(s) from the General Sessions Court docket to Magistrate's Court for final adjudication.

I SO PETITION:

I SO CONSENT:

D. S. [Signature]
Assistant Solicitor
Fifteenth Judicial Circuit

Date: 12-7-18

Kenneth Donald Dibel
Defendant Date

[Signature]
Defendant's Attorney Date 12-7

Exhibit #2

STATE v. KENNEDY QUINN DUFF

Indictment Number(s): 2018062604290

Charge(s) Defendant is Pleading Guilty to: RESISTING ARREST (MISO)

By signing this form, I am stating that I have read, understand, and agree with each statement waiver of rights listed below:

(1) I understand I have the right to have my case heard, whether by plea or trial, in General Sessions Court; I understand I have the right to object to these proceedings being heard by a Magistrate Judge, and that my objection would result in the case being transferred back to General Sessions Court.

(2) I understand if I had a trial in General Sessions Court, 12 jurors would be impaneled to hear case; I understand that if I had a trial in Magistrate Court, 6 jurors would be impaneled to hear case; I understand that in either court, the jurors would have to reach a unanimous verdict in case.

(3) I waive my right to have my case(s) heard, by plea or trial, in General Sessions Court.

(4) I waive my right to object to these proceedings being handled by a Magistrate Judge.

(5) I understand that I have the right to have an attorney, and that if I cannot afford an attorney one would be appointed to me at the State's expense.

(6) I have not been threatened, forced, or coerced into pleading guilty.

(7) I am not under the influence of drugs or alcohol.

(8) I am not suffering from any mental or emotional condition(s) that would affect my ability to understand these proceedings and/or make rational decisions.

(9) I understand the charges against me.

(10) I understand the potential sentence(s) that each charge carries and that the judge can send me to the maximum for each charge, regardless of the State's recommendation.

(11) I understand that pleading guilty could result in the revocation of parole, probation, or PT (if applicable).

(12) I understand that there may be collateral consequences associated with pleading guilty in addition to the sentence I receive, including, but not limited to, increased penalties for subsequent offenses, suspension of my driver's license, and/or the restriction of my right to possess firearm ammunition.

(13) I understand I am presumed innocent, and by pleading guilty, I am relieving the State of its burden to prove me guilty beyond a reasonable doubt.

(14) I understand that by pleading guilty, I am admitting my guilt and will not receive a jury trial.

(15) I am pleading guilty because I am guilty.

(16) I understand that I have substantial rights and that by pleading guilty, I am waiving those rights.

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Horry County
2022 APR - 1
11:21
GREEN M. DAVIS
CLERK OF COURT
Horry County, SC

(17) I understand that I have the right to a speedy, public, and fair trial by an impartial jury such a jury would have to reach a unanimous verdict, meaning they all agree; that I could during my trial, but that I could not be compelled to testify, and that if I chose not to test the judge would instruct the jury that they could not use my failure to testify against me a

(18) I waive the right to have a trial by an impartial jury.

(19) I waive the right to confront my accusers.

(20) I waive the right to see and hear all the witnesses called to testify against me; and I w right to confront, cross-examine, and question those witnesses.

(21) I waive the right to have an attorney present a legal defense on my behalf, the right to a defense on my own behalf, the right to present witnesses and/or evidence on my behalf, right to take the witness stand and testify on my own behalf.

(22) I waive the right and privilege against compulsory self-incrimination.

(23) I acknowledge that I have been advised of these important trial rights, as well as other exist, and I choose to waive and give up these rights.

(24) I understand I have the right to appeal within ten (10) days of the sentence being impos

(25) I understand I have the right to a post conviction relief (PCR) application within one (1) from the date of conviction.

By signing below, I am certifying and saying to the Court that I have been advised of my am of sound mind, and I am freely, willingly, and voluntarily waiving my rights and plead guilty.

I SO CERTIFY:

Kenneth D. Royal
Defendant Signature

Kenneth D. Royal
Defendant Printed Name

Date: 12-07-17

FILED
HERRY COUNTY
2017 APR -1 A 11:21
RENEE N. ELLIOTT
CLERK OF COURT
HERRY COUNTY

COUNTY OF Horry VS. STATE

INDICTMENT/CASE#: 2018GS2604290

AKA: Kenneth Duane Dip., pb.

A/W#: 2018A2620500050

Race: WHITE Sex: M Age: 54

Date of Offense: 5/1/2018

DOB: 02-08-1964 SS#: 240-19-3747

S.C. Code §: 16-09-0320(B)

Address: 4931 Forest Dr

CDR Code #: 0256

City, State, Zip: Loris, SC 29569-3121

DL#: 101694611 SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant, who was

TO: Resisting / Resisting Arrest; Oppose, resist, or assault law

CONVICTED OF or PLEADS

in violation of § 16-09-0320(A) of the S.C. Code of Laws, bearing CDR Code # 0326

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initial

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

ATTEST: Bratton, D. Tyler 100909 SC Bar# Defendant Winslow, Thomas W. SCB73584 SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 1 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of TIME SERVED days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 26-25-135 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5%)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75
TOTAL		\$ 128.75

Clerk of Court/ Deputy Clerk Heene Elvis
Court Reporter: Transfer Court Sal. office
SCCA/217 (07/2016)

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd in equal consecutive weekly/monthly pmts. of \$ 25.00 beginning 7/1/18

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge _____
Judge Code: _____
Sentence Date: 7/1/18



SLED CATCH

Citizens Access to Criminal Histories

Results

Name **KENNETH DIPPEL**
DOB **1964 02 08**
Gender **Male**
Maiden Name
SSN *******3747**
Transaction **125191759T**
Date of Check **December 05, 2021 at 19:18**

ARREST RECORD
S.C. LAW ENFORCEMENT DIV
HURRY

The record is based on a search using Name, First Initial, Gender, and D Birth, and SSN Only. Compare identifying data given for record subject screening subject. Fingerprint comparison recommended as the most reliable method to identify a record subject.

INTERNET RAP SHEET REQUEST
ORI-SCLED0000 SID-SC02231130 FBI-***** PUR-E
ATN-WEB, ACCOUNT

AUTHORIZED USE ONLY. ***** CONTACT CONTRIBUTING
AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-12/05/2021 TIME-19:18:18
REQ ORI-SCLED0000 S C LAW ENF DIV
SID-SC02231130 FBI-
NAME-DIPPLE, KENNETH D SEX-M RACE-W
HEIGHT-509 WEIGHT-194 EYES-BLU HAIR-BRO SKIN- BORN-NC
FPC- HENRY-
PHOTOGRAPH AVAILABLE AUTHORIZED USE ONLY
PALM PRINTS AVAILABLE AUTHORIZED USE ONLY
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

2022 APR -1 A 11: 21
FILED
HURRY COUNTY
GENEE N. ELVIS
CLERK OF COURT
HURRY COUNTY, SC

DATE RECORD ENTERED--N/A DATE OF LAST UPDATE--12/18/2019

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC	SEC	MISC	NUM
DIPPEL, KENNETH DUANE	02081964	TAT L ARM TAT R ARM TAT MRK				

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

DIPPLE, KENNETH D
SC0260400 HURRY CNTY PD
CASE-HC0103160176
ATN-261200013625
WARR-2016A2610200018
CIT-16-17-430 (B)-MISDEMEANOR

ARREST CHARGE -TELEPHONE/UNLAWFUL USE OF TELEPHONE
OFFENSE DATE-01/03/2016
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

CIT-16-17-0430 (A)-MISDEMEANOR
DOC-26
WARR-2016A2610200018

COURT CHARGE 01-TELEPHONE/UNLAWFUL USE OF TELEPHONE
COURT DISP-NON-CONVICTION;
NOT GUILTY
COURT DATE-03/13/2017
ATN-261200013625

DIPPEL, KENNETH DUANE
SC0260500 LORIS PD
CASE-HC0501182874
ATN-261200033775
WARR-2018A2620500050
CIT-16-9-320(B) FELONY

A05/01/2018

! CONFIDENTIAL

ARREST CHARGE -ASSAULT POLICE
OFFICER WHILE RESISTING
ARREST
OFFENSE DATE-05/01/2018
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

BASED ON SEARCH OF SCLED CJIS CCH FILE USING SID/SC02231130
THIS CRIMINAL HISTORY RECORD IS FOR SOUTH CAROLINA ARRESTS AND
CONVICTIONS ONLY AND IS BASED ON THE INFORMATION PROVIDED. SINCE
CHANGES MAY OCCUR DAILY A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT
USE OF THIS RECORD IS ALLOWED.

** S C CJIS END OF RECORD **

FILED
HORRY COUNTY
2018 APR -1 A 11:21
GENEVA M. ELYS
CLERK OF COURT
HORRY COUNTY, SC

→ I never plead guilty to felony resisting arrest. See my sentencing sheet.

Plead pursuant to State's plea bargain agreement
Misdemeanor resisting arrest CAR case 0326
+ 16-9-320(A). This should be removed
off my record or corrected.

HP Color LaserJet MFP M477fnw

Fax Confirmation

Jan-19-2022 3:12PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
185	1/19/2022	3:10:22PM	Send	8038967022	2:17	6	OK

FILED
HORRY COUNTY
2022 APR -1 A 11: 21
RENEE M. ELYS
CLERK OF COURT
HORRY COUNTY, SC

Dave SLED Exhump-a-1

803 - 296 - 1222

URGENT!

FROM: Kenneth Dippel
4931 Forest Drive
Loris, SC 29569
Phone: 843-491-8583

FAX

From: Kenneth Dippel

Pages: 5

Date: January 19, 2022

FILED
HORRY COUNTY
2022 APR -1 A 11: 21
RENEE M. ELYS
CLERK OF COURT
HORRY COUNTY, SC

Urgent For Review Please Comment Please Reply

(RE; Kenneth Dippel, Case #2018A2620500050, SSN 240-19-9747)

I am faxing to you my sentencing sheet with the correct disposition along with my current criminal record and CDR codes. Someone in Horry County dropped the ball on my case. As you can see I never pleaded guilty to felony resisting arrest – SC Code 16-9-320(B) – CDR Code 0256.

My attorney and I along with the State agreed for a plea to a lesser misdemeanor offense – SC Code 16-9-320(A) – CDR Code 0326. That misdemeanor offense carried a maximum penalty of just one day in jail and a fine of less than \$200. See SC Code 34-11-90 (a) (1) providing for a first time conviction in magistrate court the maximum penalty is no more than \$200 and not more than 30 days. Look on the sentencing sheet where it states wherefore the Defendant is committed to the County Detention Center for a determinate term of 1 day and given credit for time served, and to pay of \$128.75.

Please correct this error by properly removing the felony resisting arrest off my record, changing that to SC Code 16-9-320(A) (CDR Code 0326), first time conviction in HC Magistrates Court, referring to SC Code 34-11-90, and notating the correct sentencing in the sentencing sheet which was 1 day county detention center and paid \$128.75 dollar fine. Please expeditiously process and correct the error on my criminal record. If you have any question please feel free to call me at 843-877-5535.

Sincerely,
Kenneth Dippel

CDR Code: 0326

Offense Description:

Resisting / Resisting Arrest; Oppose or resist law enforcement officer serving process or making arrest

Offense Statute(s):

16-09-0320(A)

Penalty Statute(s):

16-09-0320(A)

Offense Type:

Misdemeanor

Offense Class:

C

Status:

Active

Effective Date:

Expiration Date:

Rescind/Retire Date:

Last Updated:

FILED
Horry County
2022 APR -1 A 11: 21
RICHIE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CDR Code: 0256

Offense Description:

Resisting / Assault, beat, or wound police officer serving process or while resisting arrest

Offense Statute(s):

16-09-0320(B)

Penalty Statute(s):

16-09-0320(B)

Offense Type:

Felony

Offense Class:

E

Status:

Active

Effective Date:

Expiration Date:

Rescind/Retire Date:

Last Updated:

FILED
HORRY COUNTY
2022 APR -1 A 11: 21
RENEE M. ELYS
CLERK OF COURT
HORRY COUNTY, SC

NOTE: This has been wrongfully entered in error code on my criminal history as CDR Code 0256 which pursuant to 16-09-0320(B) is a felony with a penalty not less than \$1,000 or imprisoned not more than 10 years.

COUNTY OF Horry VS. STATE

INDICTMENT/CASE#: 2018GS2604290

AKA: Kenneth Duane Dippel

A/W#: 2018A2620500050

Race: WHITE Sex: M Age: 54

Date of Offense: 5/1/2018

DOB: 02-08-1964 SS#: 3747

S.C. Code §: 16-09-0320(B)

Address: 4931 Forest Dr

CDR Code #: 0256

City, State, Zip: Loris, SC 29569-3121

SENTENCE SHEET

DL#: 101694611 SID#:

CONVICTED OF or PLEADS

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Resisting / Resisting Arrest, Oppose, resist, or assault law

in violation of § 16-09-0320(A) of the S.C. Code of Laws, bearing CDR Code # 0326

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Bratton, D. Tyler 100909 SC Bar# Defendant Winslow, Thomas W. SCB73584 Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 12 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of 12 days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 26-25-135 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____

*Fine:	\$	\$
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(B)J Breath Test Fee	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Renée Elvis
Court Reporter: Transfer Court / Sal. office
SCCA/217 (07/2016)

Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weeks/monthly pmts. of \$ 25.00 beginning 7/7/19
\$ _____ paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge _____
Judge Code: _____
Sentence Date: 12/7/18

Results

Name **KENNETH DIPPEL**
 DOB **1964 02 08**
 Gender **Male**
 Maiden Name
 SSN *******3747**
 Transaction **125191759T**
 Date of Check **December 05, 2021 at 19:18**

CONFIDENTIAL

ARREST RECORD
S.C. Law Enforcement Division

The record is based on a search using L Name, First Initial, Gender, and Date Birth, and SSN Only. Compare identifying data given for record subject w screening subject. Fingerprint comparison recommended as the most reliable means identify a record subject.

INTERNET RAP SHEET REQUEST
 ORI-SCLED0000 SID-SC02231130 FBI-***** PUR-E
 ATN-WEB, ACCOUNT

AUTHORIZED USE ONLY. ***** CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

FILED
 Horry County
 2022 APR -1 A 11:21
 RENESE N. ELVIS
 CLERK OF COURT
 Horry County, SC

PAGE-01 DATE-12/05/2021 TIME-19:18:18
 REQ ORI-SCLED0000 S C LAW ENF DIV
 SID-SC02231130 FBI-
 NAME-DIPPLE, KENNETH D SEX-M RACE-W
 HEIGHT-509 WEIGHT-194 EYES-BLU HAIR-BRO SKIN- BORN-NC
 FPC- HENRY-
 PHOTOGRAPH AVAILABLE AUTHORIZED USE ONLY
 PALM PRINTS AVAILABLE AUTHORIZED USE ONLY
 1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--N/A DATE OF LAST UPDATE--12/18/2019

ADDITIONAL IDENTIFIERS	BIRTH DATES	MARKS	SOC SEC	MISC NUM
DIPPEL, KENNETH DUANE	02081964	TAT L ARM TAT R ARM TAT MRK		

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

DIPPLE, KENNETH D
 SC0260400 Horry CNTY PD
 CASE-HC0103160176
 ATN-261200013625
 WARR-2016A2610200018
 CIT-16-17-430 (B) -MISDEMEANOR

01/03/2016

ARREST CHARGE - TELEPHONE/UNLAWFUL USE OF TELEPHONE
 OFFENSE DATE-01/03/2016
 PHOTOGRAPH AVAILABLE
 PALM PRINTS AVAILABLE

CIT-16-17-0430 (A) -MISDEMEANOR
 DOC-26
 WARR-2016A2610200018

COURT CHARGE 01-TELEPHONE/UNLAWFUL USE OF TELEPHONE
 COURT DISP-NON-CONVICTION;
 NOT GUILTY
 COURT DATE-03/13/2017
 ATN-261200013625

DIPPEL, KENNETH DUANE
SC0260500 LORIS PD
CASE-HC0501182874
ATN-261200033775
WARR-2018A2620500050
CIT-16-9-320(B) FELONY

A05/01/2018

ARREST CHARGE -ASSAULT POLICE
OFFICER WHILE RESISTING
ARREST
OFFENSE DATE-05/01/2018
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

 **CONFIDENTIAL**

BASED ON SEARCH OF SCLED CJIS CCH FILE USING SID/SC02231130
THIS CRIMINAL HISTORY RECORD IS FOR SOUTH CAROLINA ARRESTS AND
CONVICTIONS ONLY AND IS BASED ON THE INFORMATION PROVIDED. SINCE
CHANGES MAY OCCUR DAILY A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT
USE OF THIS RECORD IS ALLOWED.

** S C CJIS END OF RECORD **

FILED
HORRY COUNTY
2022 APR - 1 A 11 21
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Ken
Dippel

Explain why in a written decision and provide this to me before any SLIP decision gets submitted for expungement. It is not

Mar 9, 2022, 11:28 PM

REEEN N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2022 - APR - 1 A 11: 21

FILED
HORRY COUNTY

Mar 10, 2022, 11:47 AM

Bell, Heather

to me

As I've told you multiple times, our records indicate you pleaded guilty to misdemeanor resisting arrest in violation of section 16-9-320(A). Although you received a time served sentence, the penalty or potential sentence you could have received for this offense was up to one year imprisonment and/or a \$500 to \$1,000 fine. An offense must carry a penalty or potential sentence of less than thirty days imprisonment in order to be eligible for expungement pursuant to section 22-5-910 (see below). Because the offense you pleaded guilty to an offense that has a potential penalty of up to one year imprisonment, your conviction is not eligible for expungement.

SECTION 22-5-910. Expungement of criminal records.

(A) Following a conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of one thousand dollars, or both, the defendant after three years from the date of the conviction, including a conviction in magistrates or general sessions court, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant. However, this section does not apply to an offense involving the operation of a motor vehicle.

There is nothing more I can tell you about this matter and nothing more I can do to assist you.

From: Ken Dippel <krf28472@gmail.com>
Sent: Wednesday, March 09, 2022 11:29 PM
To: Bell, Heather <bellh@HorryCounty.org>
Subject: Re: Expungement Request

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Exhibit A9



Ken Dippel <krf28472@gmail>

SLED EXPUNGEMENT decision

1 message

Ken Dippel <krf28472@gmail.com>
To: "Bell, Heather" <bellh@horrycounty.org>

Thu, Mar 10, 2022 at 8:

Please provide me a copy of SLED's written decision and on my request for expunging the misdemeanor resisting arrest. Mail to me at my home address 4931 Forest Drive, Loris, SC 29569

FILED
HORRY COUNTY
2022 APR -1 A 11: 21
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Exhibit



Ken Dippel <krf28472@gmail.com>

FW: Mr. Dippel

1 message

Bell, Heather <bellh@horrycounty.org>
To: Ken Dippel <krf28472@gmail.com>

Tue, Mar 15, 2022 at 9:43 AM

Heather Bell

Horry County Solicitor's Office

1301 Second Avenue, Conway, South Carolina 29526
Tel: (843) 915-8622 | BellH@horrycounty.org

www.horrycounty.org

FILED
HORRY COUNTY
2022 APR -1 A 11: 21
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

From: Mixon, Kristen <kmixon@sled.sc.gov>
Sent: Tuesday, March 15, 2022 9:41 AM
To: Bell, Heather <bellh@HorryCounty.org>
Subject: Mr. Dippel

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see attached.

This would not be eligible for an expungement because the charge carries a penalty over 30 days.

Kristen Mixon

Program Coordinator / Expungement Supervisor
South Carolina Law Enforcement Division - CJIS
Desk Phone:803-896-7165
Cell Phone:803-497-8795

~~Exhibit #8~~

Exhibit #9

Fax: 803-896-7022

APPENDIX - SUPPLEMENT RECORD ON APPEAL R213

THE STATE OF SOUTH CAROLINA,

vs.

Kenneth Duane Dippel

AKA

Race: W Sex: M Age: 57
DOB: 2/8/1964 SSN: 240193747
SID: SC02231130

Charges were disposed of in the court indicated below:
() Magistrate () Municipal (X) General Sessions

RENEE ELVIS
CLERK OF COURT
HORRY COUNTY, SC
2022 APR - A 11: 21
FILED
HORRY COUNTY

IT APPEARS that the defendant is entitled to have all records, including any outstanding associated bench warrants, relating to this offense expunged and destroyed or sealed according to the applicable section of the South Carolina Code of Laws indicated below:

WARRANT/GS NO.: 2018A2620500050, 2018GS2604290
WARRANT/GS NO.:
WARRANT/GS NO.:

Arrest Charge: Resisting Arrest
Arrest Charge:
Arrest Charge:

Date of Arrest: 5/2/2018

Place of Arrest: Horry County, S.C.

<input type="checkbox"/>	§17-1-40. The charge was dismissed, <i>nolle prossed</i> , or the defendant was found not guilty on .
<input checked="" type="checkbox"/>	§22-5-910. The defendant was convicted of a first offense in magistrate, municipal or general sessions court for a crime carrying a penalty of not more than 30 days imprisonment or a fine of \$1,000, or both, on 12/7/2018, that offense did not involve the exceptions enumerated in §22-5-910, and no additional criminal conviction as defined by §22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for first offense criminal domestic violence (conduct occurring prior to June 4, 2015) or third degree domestic violence under §16-25-20. (<i>Summary court judge must attest to eligibility if disposed of in that court.</i>)
<input type="checkbox"/>	§22-5-920. The defendant was convicted of a first offense as a youthful offender on , that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by §22-5-920 has taken place during a five-year period following completion of his sentence, including probation and parole as a youthful offender. The sentence was completed on
<input type="checkbox"/>	§ 22-5-930(A). The defendant was convicted of a first offense simple possession of a controlled substance under Article 3, Chapter 53, Title 44 or unlawful possession of a prescription drug under Section 40-43-86 (EE) on and no additional convictions, to include out-of-state convictions, have taken place during a three-year period following completion of his sentence, including probation and parole. The sentence was completed on .
<input type="checkbox"/>	§ 22-5-930(B). The defendant was convicted of a first offense possession with intent to distribute a controlled substance under Article 3, Chapter 53, Title 44 on and no additional convictions, to include out-of-state convictions, have taken place during a twenty-year period following completion of his sentence, including probation and parole. The sentence was completed on .
<input type="checkbox"/>	§34-11-90(e). The defendant was convicted of a first offense misdemeanor under the fraudulent check law on and no additional criminal conviction as defined by §34-11-90(e) has taken place in one year from date of conviction.
<input type="checkbox"/>	§44-53-450(b). The defendant, who has not previously been convicted of any offense under Article 3, Chapter 53, Title 44 or any offense under any state or federal statute relating to marijuana, stimulant, depressant, or hallucinogenic drugs, successfully completed all terms of and received a conditional discharge of possession of a controlled substance under Section 44-53-370(c) and (d), or Section 44-53-375(A).
<input type="checkbox"/>	§56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on and no additional criminal conviction has taken place for three years after completion of the sentence.

SLED verifies the offense listed above is eligible for expungement: Yes No SLED MM Date 3/29/21

IT IS ORDERED that all records relating to such arrest and subsequent discharge, including associated bench warrants, pursuant to the above-referenced section be expunged and destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except as follows:

- (1) arrest and booking record, associated bench warrants, mug shots and fingerprints of the defendant shall be retained under seal pursuant to §17-1-40, by law enforcement, detention, correctional and prosecution agencies for three years and one hundred twenty days, and law enforcement and prosecution agencies may retain the information indefinitely under seal for purposes set forth in §17-1-40 (B)(1)(a) and (b); under §17-1-40 (C)(1), this order does not require the destruction of evidence gathered, unredacted incident and supplemental reports, and investigative files, which statutorily shall be retained under seal for three years and one hundred twenty days, and may be retained indefinitely under seal for purposes set forth in §17-1-40 (C)(1); and information retained under seal by law enforcement, detention, correctional and prosecution agencies pursuant to §17-1-40 is not a public information and is exempt from disclosure, except by court order;
- (2) probation records retained by S.C. Department of Probation, Pardon, and Parole Services pursuant to §17-1-40 (B) (1) (b) (3) whose charges were dismissed by conditional discharge pursuant to §44-53-450;
- (3) nonpublic information retained by S.C. Law Enforcement Division (SLED) pursuant to §22-5-910, §22-5-920, 34-11-90(e), and §44-53-450; and
- (4) nonpublic information retained by SLED and S.C. Department of Public Safety/Department of Motor Vehicles pursuant to §56-5-750(F), §17-22-330(A) and §17-22-530(A), as well as any nonpublic records retained by S.C. Commission on Prosecution Coordination as required by law.

Name of Defense Counsel (if represented)

S.C. Bar No.:

COC

Exhibit # 10

To be completed by Summary Court Judge if charge disposed of in that court:

I ATTEST that the defendant is eligible for expungement pursuant to §22-5-910 or §44-53-450(b).

I CERTIFY (check one):

The defendant was fingerprinted and the summary court has coordinated with SLED and confirmed the criminal charge is statutorily appropriate for expungement.

The defendant was not fingerprinted and the summary court has coordinated with the arresting law enforcement agency and confirmed that no fingerprints were taken from the defendant for this charge.

Summary Court Judge

Printed/Typed Name: _____

Signed this _____ day of _____, 20 21

FILED
Horry County
APR - 1 A 11:21
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

To be completed by Solicitor:

Solicitor: Consents Declines to Consent Determined Ineligible for expungement

The charge covered by this order was not dismissed or *nolle prossed* because of successful completion of the Pre-Trial Intervention Program, Traffic Education Program, Alcohol Education Program, or any other statutorily authorized diversion program operated by a solicitor's office. The charge covered by this order can legally be expunged.

Circuit Solicitor

Printed/Typed Name: Scott R. Hixson, Chief Deputy Solicitor

Signed this _____ day of _____, 20 21

IT IS SO ORDERED.

_____, Circuit Court Judge _____ Judge Code Signed this _____ day of _____, 20 21

For SLED internal use only: Expunged by SLED by: _____ Date: _____

CERTIFICATE OF SERVICE

I **Kenneth D. Dippel**, certify on **April 1, 2022** I served a copy the
Petition for Expungement by the Horry County Sheriff's office by serving a
copy to:

Jimmy Richardson, Horry County Solicitor
Horry County Solicitor's Office
1301 2nd Ave
Conway, SC 29526

I **Kenneth Dippel** certify on **April 1, 2022** I served a copy the Petition
for Expungement on the following parties by US Certified Mail with return
signature:

The Honorable Alan Wilson,
South Carolina Attorney General
1000 Assembly Street, Room 519
Columbia, S.C. 29201

Adam L Whitsett, General Counsel
South Carolina Law Enforcement Division
PO Box 21398
Columbia, SC 29221-1398

FILED
HORRY COUNTY
2022 APR - 1 A 11: 17
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

Kenneth D. Dippel
Signature

April 1, 2022
Date

CERTIFICATE OF APPELLANT

Pursuant to Rule 210(g), SCACR the Appellant certifies the Record on Appeal and the Appendix contains all material proposed to be included by any of the parties and not any other material.

Kenneth Dippel
Kenneth D. Dippel

June 6, 2023
(Date)

RECEIVED
Jun 05 2023
SC Court of Appeals