

**ORIGINAL**

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY

Diane Schafer Goodstein, Circuit Court Judge

**1977 5**

THE STATE,

v.

VINCENT LOMELLI,

**ANDERS**

**No Respondent's Brief Filed**

RESPONDENT,

**NO DEFENDANT'S BRIEF**

APPELLANT

RECORD ON APPEAL

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State of South Carolina )	In the Court of General Sessions
County of Dorchester )	First Judicial Circuit
	2011-GS-18-00150

State of South Carolina,	)	
Plaintiff,	)	
vs.	)	Transcript of Record
Vincent Lomelli,	)	
Defendant.	)	

April 14, 2011  
 St. George, South Carolina

B E F O R E:

The Honorable Diane S. Goodstein, Judge

A P P E A R A N C E S:

Glenn Justis, Esq.  
 Attorney for the Plaintiff

John Loy, Esq.  
 Attorney for the Defendant

Bonnie H. Kelly  
 Circuit Court Reporter

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I N D E X

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E X H I B I T S



1 MR. JUSTIS: The State calls Vincent Lomelli.

2 COURT CLERK: Raise your right hand.

3 (The defendant complies.)

4 COURT CLERK: State your full name for the record.

5 THE DEFENDANT: Vince Lomelli.

6 MR. LOY: You're gonna have to talk louder than that.

7 THE DEFENDANT: Vince Lomelli.

8 MR. LOY: Not into the mic. Just talk loud.

9 THE DEFENDANT: Vince Lomelli.

10 COURT CLERK: Keep your hand raised, please.

11 THE DEFENDANT: Excuse me?

12 COURT CLERK: Please keep your hand raised.

13 (The defendant complies.)

14 Whereupon Vincent Lomelli,

15 having been first duly sworn, testifies as follows:

16 THE COURT: All right. You are Vincent Lomelli?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: And you are represented by Mr. Loy?

19 MR. LOY: Yes.

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: And you've -- I think you've also been

22 represented by Mr. Bischoff in this matter?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. And I have some questions that

25 I'm going to ask of Mr. Loy, and then be back with you, Mr.

1 Lomelli. So, please listen carefully.

2 THE COURT: Mr. Loy, have you advised your client  
3 regarding the nature of this offense, the maximum possible  
4 penalty, and his constitutional rights including his right  
5 to a jury trial?

6 MR. LOY: Yes, ma'am.

7 THE COURT: And in your opinion, does he understand  
8 the nature of this offense, the maximum possible penalty,  
9 and his rights?

10 MR. LOY: Yes, ma'am.

11 THE COURT: Tell me how he wishes to plead.

12 MR. LOY: Guilty under *North Carolina vs. Alford*, Your  
13 Honor.

14 THE COURT: Okay. And do you concur with his  
15 decision?

16 MR. LOY: I do, Your Honor.

17 THE COURT: How does he wish to proceed regarding the  
18 grand jury?

19 MR. LOY: He wishes to waive presentment to the grand  
20 jury, and go forward today.

21 THE COURT: Do you have any concerns about his  
22 competency?

23 MR. LOY: No, Your Honor.

24 THE COURT: All right. From your investigation of the  
25 facts and circumstances of your client's case, do you

1 believe that the State could produce sufficient evidence to  
2 convict and establish your client's guilt beyond a  
3 reasonable doubt, and if he was to stand trial, that his  
4 conviction would be probable?

5 MR. LOY: Yes, ma'am.

6 DIRECT EXAMINATION BY THE COURT:

7 Q Mr. Lomelli, tell me how old you are.

8 A Forty-one, ma'am.

9 Q I can't hear you.

10 A Forty-one.

11 Q How far did you go in school?

12 A All the way, 12th grade.

13 Q Did you graduate?

14 A No, ma'am.

15 Q So, you didn't go all the way.

16 A (No audible response.)

17 Q If you went all the way, I think you'd have graduated.

18 A Oh.

19 Q Makes sense to me. But you went to the 12th grade.

20 A Yes, ma'am.

21 Q Okay. And do you have your GED?

22 A Yes, ma'am.

23 Q How long have you been locked up, Mr. Lomelli?

24 A Since January 17, ma'am.

25 Q Okay. And before then, where did you work?

1 MR. LOY: (To the defendant) If you weren't employed  
2 at that time, what was your last job?

3 A I was working -- it was a temp agency, ma'am.

4 Q It was a temp agency?

5 A Yeah. That ---

6 Q They sent you two different places?

7 A Yes, ma'am. But not in this state.

8 Q But not in this state.

9 A Yes, ma'am.

10 Q Okay. You were working somewhere before you came to  
11 South Carolina.

12 MR. LOY: He came to South Carolina, left and went to  
13 Tennessee. And I believe that's where he was working, and  
14 he returned to South Carolina.

15 THE COURT: Gotcha.

16 MR. LOY: Is that right, Mr. Lomelli?

17 A Yes. Yes, sir.

18 Q Okay. And so, your last position was in Tennessee.

19 A Yeah. It was like a two-day job.

20 Q That's fine. I'm just -- I'm just trying to get my  
21 mind around --

22 A Oh.

23 Q -- know a little bit about you.

24 So, your last position was with a temp agency in  
25 Virginia.

1 A Tennessee, ma'am.

2 MR. LOY: Tennessee.

3 Q Tennessee.

4 A Sorry.

5 Q Virginia, Tennessee, it's in the same place in my  
6 brain. Shouldn't be, but it is. Okay.

7 Now, have you ever been treated for alcoholism, drug  
8 abuse, or mental health issues?

9 A No, ma'am.

10 Q In the last 72 hours, have you had any medicine?

11 A No, ma'am.

12 Q Drugs or alcohol?

13 A No, ma'am.

14 Q I'm go on to the drugs and alcohol.

15 A No, ma'am.

16 Q No.

17 A No, ma'am.

18 Q No medicine?

19 A No, ma'am.

20 Q No drugs and no alcohol.

21 A No, ma'am.

22 Q Okay. Now, very well. Mr. Lomelli, are you aware of  
23 any issues or -- or any problems that you have that could  
24 keep you from knowing exactly what you're doing here today?

25 A No, ma'am. I mean, yeah. No, ma'am.

1 Q Okay. All right.

2 A No, ma'am.

3 Q Let's talk about the grand jury, Mr. Lomelli. Because  
4 you see, your indictment has invented the grand jury of  
5 Dorchester County. Do you understand that?

6 A Yes, ma'am.

7 Q Okay. Have you had a chance to talk about that with  
8 Mr. Loy?

9 A Yes, ma'am.

10 Q You feel like you understand those rights?

11 A Yes. Yes, ma'am.

12 Q Do you want me to send your indictment to the grand  
13 jury, or do you wish to waive presentment and proceed  
14 today?

15 (Mr. Loy confers with the defendant.)

16 A Yes, ma'am.

17 Q Okay. Which one? Do you want to waive and proceed?

18 A Yes, ma'am.

19 Q Okay. And you realize, now, that's your decision to -  
20 -to make.

21 A Yes, ma'am.

22 Q Okay. Now, have you been additional to the plea sheet  
23 -- I think I see your initials right here on the sentencing  
24 sheet where it says that you wish to waive presentment.

25 A Yes, ma'am.

1 Q Okay.

2 (Mr. Loy confers with the defendant.)

3 Q Yeah. See -- I -- I think you could see that far.

4 Can you ---

5 A Yes.

6 Q Very well. Now --

7 A (Clears throat) Excuse me.

8 Q That's no problem. Now, Mr. Lomelli, let's talk about  
9 your charge, because I -- I -- you're 41 years old and you  
10 went through the 12th grade, and you've had advice of  
11 counsel. You know your rights regarding the grand jury,  
12 and I believe you are waiving those rights freely and  
13 voluntarily.

14 So, now we're gonna talk about harassment in the  
15 second degree, where no restraining order is in effect. Do  
16 you understand that this offense carries a maximum possible  
17 penalty --

18 (To counsel) Gentlemen, the second degree is ...

19 MR. LOY: It's one year, Your Honor. This is under  
20 the restraining.

21 THE COURT: One year?

22 MR. LOY: Under the restraining order, yes, ma'am.

23 THE COURT: Thank -- thank you very much.

24 Q -- carries a year in prison, Mr. Lomelli. Do you  
25 understand that?

1 A Yes, ma'am.

2 Q All right. And understanding -- are you on probation  
3 or parole anywhere?

4 A No, ma'am.

5 Q Understanding, sir, then the nature of this offense  
6 and the maximum possible penalty, tell me how you wish to  
7 plead?

8 (Mr. Loy confers with the defendant.)

9 A Guilty under the *Alford* plea, ma'am.

10 Q Okay. And do you understand that you're pleading  
11 guilty under a case called *North Carolina vs. Alford* that  
12 says the following --

13 A Yes, ma'am, I know that.

14 Q -- that, Judge, while I would tell you, even  
15 potentially tell you, I don't think I'm guilty. I know the  
16 evidence against me, and I'm concerned that the jury would  
17 find me guilty. And I want to take advantage of the deal  
18 that I'm offered.

19 Do you understand that those are the component parts  
20 of an *Alford* plea?

21 A Yes, ma'am.

22 Q Okay. Now, very well. Now, Mr. Lomelli, do you  
23 understand that when you plead guilty, to include guilty  
24 under *North Carolina vs. Alford*, do you understand that you  
25 give up certain important constitutional rights?

1 A And those are, ma'am?

2 Q We're gonna talk about some.

3 A Okay.

4 Q Not all of them, but we gonna certainly talk about  
5 some of them.

6 You give up the right to remain silent; the right  
7 against self-incrimination; the presumption of innocence.  
8 You give up your right to require the State prove you  
9 guilty beyond a reasonable doubt, if they can. You give up  
10 your right to have your lawyer cross-examine witnesses  
11 against you. You give up the right to subpoena witnesses,  
12 have them come to court and testify in your defense. You  
13 give up your right to present defenses. You give up your  
14 right to challenge any incriminating statements that you  
15 may have made in your case. And you give up your right to  
16 a jury trial.

17 There or other rights. Do you understand your rights?

18 A Yes, ma'am. I do. I do understand.

19 Q Okay. And understanding those rights, do you  
20 understand that they are preserved for you at trial?

21 A Yes, ma'am. I understand that.

22 Q And do you understand that you waive them when you  
23 plead guilty?

24 A Yes, ma'am.

25 Q And is that what you want to do?

1 A Yes, ma'am.

2 Q Okay. Do you clearly understand that when you plead  
3 guilty, you give up your right to have a jury determine if  
4 are guilty or not guilty; and if I accept your plea, I will  
5 sentence you?

6 A Yes, ma'am.

7 Q All right. We're gonna pause, and we're gonna review.  
8 You've told me that you understand this offense, the  
9 maximum possible penalty. Now you tell me that you  
10 understand your constitutional rights. And keeping this in  
11 your mind, do you still want to continue with your plea?

12 A Yes, ma'am.

13 Q All right. Listen very carefully to what Mr. Justis  
14 is going to go over with me, because he's going to go over  
15 the facts, obviously, from the perspective of law  
16 enforcement and from his investigation.

17 When he's finished, I'm gonna ask you this question:  
18 Do you believe that that is the evidence that the State  
19 could produce; and is that the evidence for which you are  
20 concerned, if it was presented to a jury, that you would be  
21 found guilty? Okay?

22 A Yes, ma'am.

23 Q All right. So, listen very carefully.

24 MR. JUSTIS: Thank you, Your Honor. May it please the  
25 Court. This incident occurred on January 17, 2011. On

1 that day, a -- the victim in the case, Brandy Gallop, came  
2 home, which is located at [REDACTED] [REDACTED]

3 [REDACTED] This is Cambridge Apartments in -- in Summerville,  
4 which is a Dorchester County.

5 She came home. When she arrived home, she -- she  
6 thought she saw someone in the apartment. She realized --  
7 or she found out that it was -- it was Mr. Lomelli.

8 Mr. Lomelli and Ms. Gallop have a child in common.  
9 They were former boyfriend and girlfriend. And he was  
10 currently under -- or she was under order of protection  
11 against him.

12 She contacted police; they arrived. They searched the  
13 apartment and they found Mr. Lomelli in the apartment. The  
14 previous day the same sort of thing had happened. She  
15 contacted police, but he was not there when they got there.

16 So, based on those two incidences, the State is  
17 allowing him to plea to harassment.

18 THE COURT: Okay.

19 MR. JUSTIS: While the restraining order -- and the  
20 restraining order dates back to February of 2010, that's  
21 when it was issued, February 1, and was valid until  
22 February 1, 2011. So, it was still ---

23 THE COURT: Under that ---

24 MR. JUSTIS: --- in effect.

25 (Mr. Loy confers with the defendant.)

1 DIRECT EXAMINATION BY THE COURT:

2 Q This is not Mr. Loy's first rodeo. He's just -- he's  
3 previewing with you a little bit. Hold on, here it comes.

4 MR. LOY: No. It's part of his concern -- he is  
5 concerned and he wants to remind me -- and then we're going  
6 to refocus -- that the -- there is a charge for violation  
7 of order of protection. It's in magistrate's court, and  
8 it's being dismissed pursuant to this plea. That's part of  
9 our agreement with the State.

10 MR. JUSTIS: That's correct.

11 THE COURT: Well, yeah. Because it arguably is double  
12 jeopardy.

13 MR. LOY: So, that is happening. Now, please listen  
14 to Her Honor. She has a question for you.

15 DIRECT EXAMINATION BY THE COURT:

16 Q Okay. Thank you. Ready?

17 A Yes, ma'am.

18 Q All right. Y'all need to talk?

19 MR. LOY: No, we're good, Your Honor.

20 THE COURT: Is he all right?

21 MR. LOY: Yes, ma'am. We're good.

22 THE COURT: Okay. Okay.

23 DIRECT EXAMINATION BY THE COURT:

24 Q All right. Are those the facts that you believe the  
25 State could produce sufficient evidence, and are you

1 concerned that if you were to stand trial, you would be  
2 found guilty of having -- having done the things that Mr.  
3 Justis has just told me about?

4 A Yes, ma'am.

5 Q Okay. Now, has -- I know that this is a negotiated  
6 plea, so I know that. I will thumbs this up or thumbs it  
7 down. So, my question that I'm about to ask you doesn't  
8 have to do with the plea or the negotiations. It has to do  
9 with anything else -- has to do with the plea. It doesn't  
10 have to do with the negotiated sentence. So, I want you to  
11 listen carefully.

12 A Yes, ma'am.

13 Q Has anyone promised you anything or held any hope of a  
14 reward to get you to plead guilty?

15 A No, ma'am.

16 Q Has anyone tried to force or threaten, pressure or  
17 intimidate you to make you plead guilty?

18 A No, ma'am.

19 Q Have you had enough time to make up your mind that  
20 this is what you want to do?

21 A Yes, ma'am.

22 Q Are you pleading guilty freely and voluntarily?

23 A Yes, ma'am.

24 Q Are you satisfied with the services of your attorneys?

25 A Yes, ma'am.

1 Q Have you and your lawyers fully discussed the charges  
2 against you?

3 A Yes, ma'am.

4 Q Have you spoken with your lawyers for as often --  
5 meaning as many times -- and for as long a period on each  
6 of those occasions, as you think appropriate for them to  
7 properly represent you?

8 A Yes, ma'am.

9 Q Do you need any more time to talk to your attorneys?

10 A No, ma'am.

11 Q Have you understood your talks with them?

12 A Yes, ma'am.

13 Q Are you completely satisfied with the services of your  
14 lawyers?

15 A Yes, ma'am.

16 Q All right. Now, has anyone associated with your case  
17 mistreated you in any way?

18 A Repeat that question, please.

19 Q Sure. Absolutely. Has -- I can make it even more  
20 specific. Has anyone -- your lawyers, the solicitor, any  
21 of the police officers involved in your arrest or any of  
22 the folks at the detention facility -- has anyone  
23 associated with your case mistreated you in any way?

24 A No, ma'am.

25 Q All right. Have you understood my questions?

1 A Yes, ma'am.

2 Q Do you understand you have a right to appeal your  
3 guilty plea and any sentence that I impose; however, if you  
4 wish to appeal, you or an attorney on your behalf must do  
5 so within 10 days? You understand?

6 A That's just the -- the sentence, ma'am?

7 Q No, sir. The plea itself, or the sentence.

8 A Oh, the plea and sentence. Nothing to do with the  
9 case, ma'am? I don't understand.

10 MR. LOY: She's saying after we're done --

11 THE DEFENDANT: Uh-huh.

12 MR. LOY: -- if you want to appeal --

13 THE DEFENDANT: Uh-huh.

14 MR. LOY: -- we have to file within 10 days and you  
15 have to tell me, "I want to appeal."

16 THE DEFENDANT: Oh, okay. That's only regards to your  
17 sentence that you ---

18 MR. LOY: No, no. That's to the whole thing ---

19 THE COURT: No, sir.

20 MR. LOY: --- to your plea.

21 THE DEFENDANT: Oh. Okay. Okay. Yeah.

22 THE COURT: The plea or the sentence, or both.

23 THE DEFENDANT: Okay.

24 THE COURT: Okay?

25 THE DEFENDANT: Yes, ma'am.

1 DIRECT EXAMINATION BY THE COURT:

2 Q Now, with respect to each and every answer that you  
3 have given me here today, have you been absolutely candid  
4 and truthful?

5 A Yes, ma'am.

6 Q Have your answers be in your own answers?

7 A Yes, ma'am.

8 Q Has anyone told you how to answer my questions?

9 A No, ma'am.

10 Q All right.

11 THE COURT: Now, I -- I find that there is a  
12 substantial factual basis for the plea. And I find that  
13 the decision of Mr. Lomelli to plead guilty is freely,  
14 voluntarily, knowingly, and intelligently made; that he has  
15 had advice of counsel with whom he tells me he's satisfied.

16 Now, let me hear his record.

17 MR. JUSTIS: There's no record that I'm aware of, Your  
18 Honor.

19 THE COURT: Okay. All right. I'll accept the plea.

20 MR. LOY: Thank you very much, Your Honor.

21 THE COURT: Uh-huh.

22 (Brief pause.)

23 THE COURT: All right. Mr. Lomelli, I'm going to  
24 commit you to the State Department of Corrections for a  
25 period of one year, which I'm going to suspend and place

1 you on probation for one year. As special conditions of  
2 your probation, you are to have no contact with the victim,  
3 and that is either direct or indirect. Direct or -- that  
4 means no text, no Facebook chat, no posted messages on the  
5 wall, no telephone calls, no smoke signals, no roses, no  
6 letters in the mail. You can communicate -- you can't --  
7 don't communicate with her through your best friend,  
8 through your child in any regard.

9 I'm not telling you you can't have visitation with  
10 your child. I'm just telling you that you can't send  
11 messages to mommy through the child. I'm not telling you  
12 you can't visit with your child. There's a difference.

13 Now, with regards to how you all communicate about  
14 your child, that's up to the Family Court. I'm -- that's --  
15 -- they much better handle it -- able to handle that than  
16 me. Let me finish, and then you can ask me or ask your  
17 lawyer.

18 I want you to have a psychological evaluation and you  
19 are to follow all of the recommendations. And I want you  
20 to be on intensive probation, not to exceed six months.

21 And pursuant to 47-12, you are required to pay \$500 to  
22 the clerk during the period of your probation.

23 MR. LOY: Thank you very much, Your Honor.

24 THE COURT: Thank you. He's got questions -- ask Mr.  
25 Loy.

1 THE DEFENDANT: Wait, wait, wait, ma'am.

2 (Mr. Loy confers with the defendant.)

3 THE DEFENDANT: I was gonna question you on regards to  
4 -- I'm trying to establish paternity with the child. And  
5 how to do legal service ---

6 MR. LOY: I can talk with you about that. This is not  
7 Family Court. They've got a judge, you've been to the  
8 Family Court. Paternity is established there.

9 THE DEFENDANT: Okay.

10 MR. LOY: You can ask for a DNA test on that, too.  
11 I'm coming downstairs and talk to you.

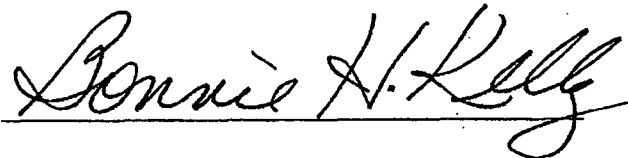
12 MR. JUSTIS: Thank you, Your Honor.

13 -- END OF TRANSCRIPT OF RECORD --  
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2  
3 **CERTIFICATE**

4 I, the undersigned Bonnie H. Kelly, court  
5 reporter for the First Judicial Circuit of the State  
6 of South Carolina, do hereby certify that the  
7 foregoing is a true, accurate, and complete transcript  
8 of record of all the proceedings had and evidence  
9 introduced in the hearing of the captioned cause,  
10 relative to appeal, in the circuit court for:  
11 Dorchester County, South Carolina, on the 14th day of  
12 April, 2011.

13 I do further certify that I am neither of kin,  
14 counsel, nor interest in any party hereto.

15 

16  
17 Bonnie H. Kelly

18 Court Reporter

19  
20 Columbia, South Carolina

21 October 5, 2011

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF DORCHESTER )  
 )  
 The State, )  
 )  
 ) PLAINTIFF, )  
 )  
 ) v. )  
 )  
 ) Vincent Lomelli, )  
 )  
 ) DEFENDANT. )  
 \_\_\_\_\_ )

COURT OF GENERAL SESSIONS

JURY SELECTION PORTION  
GS #: 2011-GS-18-00150

Dorchester County Courthouse  
May 12, 2011

BEFORE:

THE HONORABLE DIANE SCHAFER GOODSTEIN, PRESIDING

**APPEARANCES:**

Assistant Solicitor Justice  
Attorney for the State of South Carolina

John Loy, Esquire (Standby counsel)  
Attorney for Defendant

Vincent Lomelli, Pro Se

TAKEN BY MELISSA R. SINGLETARY  
CERTIFIED VERBATIM REPORTER

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The State vs. Vincent Lomelli

3

1 The Court: Mr. Lomelli?

2 A: Yes, ma'am.

3 The Court: You're Vincent Lomelli?

4 A: Yes, ma'am.

5 The Court: As best you can, Mr. Lomelli, raise your  
6 right hand.

7 (Defendant complies)

8 The Court: Do you solemnly swear or affirm that the  
9 testimony you will give will be the truth, the whole  
10 truth and nothing but the truth?

11 A: Yes, ma'am.

12 The Court: Thank you, Mr. Lomelli. Mr. Lomelli, I  
13 have your letter that you wrote and I have treated it as  
14 a motion to either vacate your sentence or to alter and  
15 amend your sentence, okay. That's the way that I've  
16 treated it.

17 A: Yes, ma'am.

18 The Court: Because otherwise it would be just to  
19 share and I don't think you meant it to be just to share,  
20 I think you were asking for relief, am I right?

21 A: Yes, ma'am.

22 The Court: And, so, what I've done is I have treated  
23 it as a pro se motion to alter and amend to set aside or  
24 to vacate your plea, okay?

25 A: Yes, ma'am.

1 The Court: You understand that?

2 A: Yes, ma'am.

3 The Court: Okay. Very well. What I did so that you  
4 and I are completely straight, what I did was let the  
5 State know that I needed to have some time for you to  
6 come and make your motion, okay. That's why you are here  
7 today. You with me?

8 A: Yes, ma'am.

9 The Court: And I didn't want the time to languish.  
10 I wanted you to have an opportunity to do that pretty  
11 immediate. So that's what we are doing today, okay?

12 A: Yes, ma'am.

13 The Court: All right. Now, let me ask you this  
14 question. You made the motion and I have treated it as  
15 you having made the motion and I don't know whether or  
16 not you have had or you have sought or you wish to have  
17 assistance of either Mr. Loy or Mr. Bishoff?

18 A: I guess that they can inform me of the  
19 procedure.

20 The court: You want them to inform you of the  
21 procedure? Okay. All right. Very well. And, counsel,  
22 you know, I don't know if I'm springing this on you guys.  
23 I probably was more concerned with having the solicitors  
24 office to arrange for Mr. Lomelli to come here, I don't  
25 know if you guys have had an opportunity to chat, have

The State vs. Vincent Lomelli

5

1 you?

2 Mr. Loy: I haven't discussed this - I've reviewed  
3 the correspondence and I think I understand the issues.  
4 I don't find it complex as far as just explaining the  
5 procedure and Mr. Lomelli and I can talk about what I  
6 believe he should address to accomplish his goals. I'm  
7 prepared to do that.

8 The Court: Okay. Very well. Do you need me to step  
9 down to do that?

10 Mr. Loy: No, Your Honor. I can. I'm happy to  
11 accommodate the court as well as Mr. Lomelli. As far as  
12 he wants procedural help and guidance, I don't need to  
13 stand down to do that.

14 The Court: Okay. Very well. All right. Very well.  
15 Then procedurally you simply tell me what your concerns  
16 are and then I'll rule on them, yes?

17 Mr. Lomelli: Actually I would like to ask have you  
18 received the request form?

19 Mr. Loy: Your Honor, my understanding is that we  
20 came in Mr. Lomelli plead to an harassment charge,  
21 received a sentence of one year suspended on one years  
22 probation.

23 The Court: Okay.

24 Mr. Loy: We had also indicated that he had a  
25 magistrate's level harassment charge which would be, this

1 is what the record would reflect, which would be nolle  
2 prossed or dismissed pursuant to our plea agreement and  
3 the had court indicated that was appropriate because  
4 there were in fact double jeopardy issues.

5 The Court: Yes.

6 Mr. Loy: Mr. Lomelli has since been taken to family  
7 court is my understanding and been given one year for non  
8 payment of child support. A matter that didn't ...  
9 wasn't before us. He also was actually convicted in  
10 magistrate's court on the charge that we said would be  
11 disposed of as part of our plea agreement. That happened  
12 without our knowledge. It did go forward. I filed the  
13 motion in Magistrate's Court to set that conviction  
14 aside. It's not working to his detriment at this point  
15 because he is doing the one year on the family court time  
16 anyway, it's not what is holding him in jail. But we  
17 have filed a Motion to set that aside. Mr. Justice,  
18 since that was part of our agreement, has signed off on  
19 that. That was actually submitted as motion and ordered  
20 by way of consent. That is back at the Magistrate's  
21 office. We have not received that back, it will be forth  
22 coming and I anticipate no problem with that. In the  
23 event there is a issue with that we will certainly appeal  
24 the denial of that motion. It will come before Your  
25 Honor.

The State vs. Vincent Lomelli

7

1 The Court: Right.

2 Mr. Loy: So, I think Mr. Lomelli's complaint as I  
3 read it is the fact that he's gotten family court time  
4 also and that he's being held on family court time. Is  
5 that incorrect?

6 Mr. Lomelli: Incorrect. Ma'am, my thing was that  
7 there was an initial, there was an agreement which I  
8 believe to be a double jeopardy because the prosecutor  
9 did state that they was going to tell you the facts, you  
10 informed the prosecutor to make sure they take care of  
11 that, if not, it would be a double jeopardy situation.  
12 And so, since then I've been to court with regards to  
13 that charge and was found guilty. And, so, to me that's  
14 a breach in the agreement that we originally had and then  
15 also double jeopardy because I was convicted of another  
16 charge.

17 The Court: Right. We all agree with that. Everybody  
18 we know. We all agree with that. I think you're right.  
19 I think you're completely correct. I think that the  
20 conviction in the magistrate's court was double jeopardy,  
21 I think you're exactly right. I think that the only  
22 question, the only question is whether or not it is going  
23 to be vacated by the magistrate or whether or not it  
24 comes on appeal here and gets vacated. That's,  
25 unfortunately, let me tell you, first of all, I

1 understand why you'd be concerned about it and I'm  
2 delighted that you are vigilant about it, good for you.  
3 But you are correct, it's going away. The magistrate's  
4 court conviction is going away. Hopefully it will be  
5 done by consent and I don't mind even sharing this with  
6 you just as a practical matter. As a practical matter it  
7 doesn't involve you but it would explain some of the  
8 delay. Our magistrate has just been appointed like within  
9 the last day or so. So, there's been a little bit of,  
10 there's been a little bit of distraction probably in  
11 magistrate's court in what you don't have it back. So,  
12 there's a wonderful group of magistrate's that are very  
13 very bright. Particularly when they realize when they  
14 see the order, when they see the motion, when they see  
15 the consent. I've very confident they will realize that  
16 was done in error and that is going to go away. If not  
17 it will come in here and it will go away in here. In any  
18 event, and you're right, so, can we, understanding your  
19 concern about that and just set aside that issue for a  
20 moment because that is going away.

21 Mr. Lomelli: Can I say another issue, ma'am.

22 The Court: The magistrate's court issue.

23 Mr. Lomelli: Well, I was asking for relief with  
24 regards to the harassment charge.

25 The Court: Which one?

The State vs. Vincent Lomelli

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1 Mr. Lomelli: The one that you sentenced me on.

2 The Court: All right. Now, I'm done with the  
3 magistrate. All right. Tell me about the general  
4 sessions charge. Tell me about that.

5 Mr. Lomelli: I was seeking relief from that because  
6 I didn't understand that when I took the plea agreement  
7 though there is no evidence to show that I would be  
8 convicted of an harassment charge, I took that as a plea  
9 agreement. I'm willing to take the initial charge, the  
10 original plea offer that the prosecutor gave me and that  
11 was five years for the protection order which I do, you  
12 know, willfully admit I did violate; however, as far as  
13 harassment I want that to go away.

14 The Court: Okay. Why?

15 Mr. Lomelli: Excuse me, ma'am.

16 The Court: Why, I mean, what's the basis. Tell me  
17 what your basis is for that.

18 Mr. Lomelli: Because the evidence does not reflect  
19 harassment there was only a violation of protection  
20 order.

21 The Court: Oh no. Because I've already made a  
22 finding of fact that it was sufficient to support the  
23 plea. So, tell me why that was in error. In other  
24 words, I don't know if you remember but Mr. Justice would  
25 have gone over a set of facts, right?

1 Mr. Lomelli: Uh-huh (affirmative response)

2 The Court: And I listened very carefully to be sure  
3 that there is evidence on each element of the offense. I  
4 wouldn't have accepted the plea to the harassment unless  
5 there was a factual basis for that.

6 Mr. Lomelli: Well, in the initial charge there was  
7 no harassment, ma'am.

8 The Court: Okay. That's just history for me, Mr.  
9 Loy.

10 Mr. Justice: Your Honor, the initial charge was  
11 burglary second degree but there were also facts to  
12 support the harassment. That's why we allowed him to  
13 plea to the harassment.

14 Mr. Lomelli: There's also some elements of the  
15 things, if you remember, I don't know if you remember  
16 seeing me before ma'am.

17 The Court: I do.

18 Mr. Lomelli: Certain things were asked of me and  
19 also I tried to interject and I tried to say some things  
20 I would like to talk to you about before, after I was  
21 given my sentence because when I looked at the plea  
22 agreement there was things that was in there that I was  
23 not agreeing to that was brought to my attention and one  
24 of the things was there was like six months intensified  
25 probation when I was informed that it would be just

The State vs. Vincent Lomelli

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1 regular probation.

2 The Court: Doesn't matter.

3 Mr. Lomelli: Ma'am.

4 The Court: It doesn't matter. That's my sentence.

5 I mean, I get to do that you see what I'm saying.

6 Mr. Lomelli: All right.

7 The Court: You don't get to control what I do.

8 Mr. Lomelli: All right.

9 The Court: You don't get to control my judgment, you  
10 see, you know, you just don't get to control my judgment.

11 Mr. Lomelli: Oh, I understand that.

12 The Court: Yeah, and so if there was an agreement to  
13 probation you're not going to tell me what I'm going to  
14 do and the terms that I'm going to set on probations  
15 because, and let me tell you why, let me tell you why,  
16 part of that. Because I'm not an ATM you don't punch in  
17 numbers and I spit something out, you know, and the  
18 reason for that and the reason that I do this job just so  
19 you know is because shame on you, I mean, when I deal  
20 with Defendants you are the focus of my world and I  
21 generally want to help you be in a very different place  
22 because I presume that where you are is not a place you  
23 want to be. It's not a place I would want to be. So, my  
24 focus particularly as a crack to probation is to try to,  
25 that's why I spend a lot of time talking to people and

1 watching them and observing them because what I want from  
2 them truly is that I wanted the end of their rationale  
3 and this process to find themselves in a sweeter and  
4 better place than they are. With all my heart. So, when  
5 I want you supported, when I want you cared about, when I  
6 want people on probation who are active with you it's  
7 because I believe, I generally believe, that if we do,  
8 that if you'll allow this interaction and you will follow  
9 what I believe to be an appropriate path, somebody has  
10 got to call balls and strikes, and I'm doing it in your  
11 world. In my heart of hearts, I believe that if you will  
12 do these things that you will find yourself in a good  
13 place, in a sweet place, a place where your life works.  
14 See, that's why I do this, you know. That's why I do  
15 this everyday. That's why I do this everyday. So, when  
16 I'm interacting with you I am not interacting with you  
17 for any other reason than in my heart of hearts trying to  
18 put you in a different place. So, you're right. These  
19 lawyers know that. These lawyers know that. They know  
20 they can't control what I do. Particularly on probation.  
21 Because as I interact with a person and I get a sense of  
22 who they are and who they'd like to be, I'm trying to tap  
23 into the goodness that I believe people are entitled.  
24 And I'm doing, when I pass those sentences I'm doing what  
25 these fantastic people on probation help me do and that

The State vs. Vincent Lomelli

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1 is, a lot of times it's painful, people don't like it.  
2 I'm trying to grab whole of the goodness inside you and  
3 pull it out. Whether it's hard headedness or whatever  
4 else is in the way, I'm trying to bat that off so when I  
5 do those terms hear me, I'm doing it not as a ATM but  
6 from a person that generally cares and wants your life to  
7 work. I can tell you why that's better. It's better for  
8 everybody. Better for you, better for the people who  
9 care about you, it's better for the world, it's better  
10 for our society. I mean, it's on every level. A person  
11 who has violated a restraining order, who has harassed is  
12 somebody that needs some support, some support, some  
13 help. A lot? I don't know. It depends on you. To  
14 guide you, we all need help in the world. Everybody  
15 needs help in the world. But to guide you to a different  
16 and better and sweeter place. That's what it's about  
17 for me. It's certainly isn't about punishment and it's  
18 certainly not about making your life miserable. It is  
19 genuinely about where you will find yourself in a better  
20 place. That's the basis of it. Does it look different,  
21 they don't ever know what I'm going to do. They try to  
22 figure it out and they can tell you I think Judge  
23 Goodstein is going to do x, y and z and sometimes they  
24 are right because we have been doing this awhile. A lot  
25 of times they are not right. So, you're know and the

1 reason they can't always be right is, you know, I've got  
2 these people that come before me and I focus a whole lot,  
3 as much as I possibly can because it matters. You  
4 matter, you matter. You matter to me, you matter to the  
5 system. You ask me why that sentence is that way. They  
6 can never tell you what it's going to be. They can give  
7 you some perimeters.

8 Mr. Loy: Mr. Lomelli and I are discussing what  
9 relief he can request and we've gone through a couple of  
10 avenues that I've told him as we've discussed them at  
11 this course I think they've been addressed and I don't  
12 think they will be productive for him. He does indicate  
13 that even if we vacate his magistrate's level plea, it  
14 will still show as a conviction on his record. And it  
15 will. It will still show up on his rap sheet as having  
16 been convicted. However, he can have that expunged. I  
17 think the solicitor's office, I'd prevail upon them to  
18 waive the fee that is associated with having that  
19 expunged since that was done in error.

20 The Court: Certainly.

21 Mr. Loy: And I'll say, I'll make the representation  
22 that we'll get that expunged, the magistrate's level  
23 expunged from the record where it wouldn't show up. If  
24 that's the relief requested. I don't mind if the court  
25 issue an Order saying that we do that.

The State vs. Vincent Lomelli

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1 The Court: Sure. Absolutely. It's appropriate.

2 Mr. Loy: I agree, Your Honor.

3 The Court: Absolutely appropriate.

4 Mr. Loy: Is that what you're after today, Mr.  
5 Lomelli to have that expunged from your record?

6 Mr. Lomelli: I was trying. I'd really like that  
7 charge to be set aside.

8 The Court: Listen I understand that fully. I  
9 understand it and I understand the basis that you're  
10 doing that is because the plea negotiation fell through  
11 the magistrate. I would specifically find that that  
12 occurred not as a result of the solicitors actions or  
13 your lawyers actions but by virtual of the fact that it  
14 occurred in magistrate's court unbeknownst to these  
15 people. In other words, yes it happened. Yes it can be  
16 corrected and I do not find that that is a violation on  
17 your plea agreement therefore I don't find that is a  
18 violation of the plea agreement.

19 Mr. Lomelli: Your Honor, the problem with this  
20 charge is it's a serious charge. I didn't know how  
21 serious this charge ...

22 Mr. Loy: Are you telling her about the magistrate's  
23 court charge or the general sessions charge. The one you  
24 plead to or the one in magistrate's court?

25 The Court: Not burg second now, you know you were

1 charged with burglary in the second degree, you know  
2 that, right?

3 Mr. Lomelli: Yes, ma'am.

4 The Court: Okay. You were charged with burglary in  
5 the second punishable by 15 years in prison, on burglary  
6 in the second degree. You know that right?

7 Mr. Lomelli: Yes, ma'am.

8 The Court: What you plead to was harassment in the  
9 second degree and the difference in the penalty is ...

10 Mr. Justice: Ten years is the harassment charge so  
11 he got a five year benefit.

12 The Court: You went from an exposure of fifteen  
13 years to an exposure to ten years. Beyond that your  
14 lawyers were able to negotiate, right, that you would be  
15 sentenced to one year and one year probation, is that  
16 right?

17 Mr. Lomelli: Harassment, is that a felony?

18 The Court: Is harassment a felony? You all went  
19 through all that.

20 Mr. Lomelli: I'm asking, I don't know. Is that a  
21 felony, ma'am.

22 Mr. Loy: I don't believe that it is but we went  
23 through it. We did go through the thing.

24 Mr. Justice: Not in the second degree, I don't  
25 believe it is.

The State vs. Vincent Lomelli

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1 The Court: Thank you.

2 Mr. Loy: But again, we did go through the things, we  
3 answered the questions.

4 The Court: Sure.

5 Mr. Justice: I don't have Mr. Lomelli's file in  
6 front of me.

7 The Court: Me either. I don't even have the plea  
8 sheet in front of me. Listen I do understand your  
9 concern about magistrate's court. I don't find that is a  
10 violation of a plea agreement because they didn't do it.  
11 Their intentions were not that you'd have in fact they  
12 have done everything they can do procedurally to have  
13 that go away. And it's going to go away. And I will  
14 order that they take all steps to expunge, become the  
15 ultimate, what I believe to be the ultimate vacating of  
16 that sentence. That there will be an expungement order.  
17 They'll put that in the order and I will sign it. Okay.  
18 I'll print that order and I'll sign, okay.

19 Mr. Lomelli: How can I guarantee that will be done?

20 The Court: I can guarantee it, I'm going to do a  
21 order. You're entitled to it as much as you're entitled  
22 to anyone in this society once a judge as signed an  
23 order. You cannot get in a stronger position.

24 Mr. Justice: Your Honor, I just looked it up.  
25 Harassment in the second degree is actually a one year

1 mismeandor. So, he went from a fifteen year felony down  
2 to a one year mismeandor.

3 The Court: Do you got that. The harassment in the  
4 second degree.

5 Mr. Justice: In the second degree is a one year  
6 misdeamor.

7 The Court: You got that? You went from fifteen  
8 years of exposure to one year or exposure. You went from  
9 a felony down to a misdemeandor.

10 Mr. Lomelli: I understand.

11 The Court: You understand? That's like a blue  
12 ribbon in a hand.

13 Mr. Lomelli: It's just due to the circumstance I  
14 felt that the burglary two was going to be dismissed as  
15 the original prosecutor ...

16 The Court: Well, it wasn't.

17 Mr. Lomelli: You know what I'm saying. Orginally  
18 ...

19 The Court: It wasn't. Hear me. It wasn't. It was  
20 not. Okay. Was it true billed, do you know.

21 Mr. Justice: I don't believe it was, Your Honor.

22 The Court: But had you gone to the grand jury they  
23 would have had to true bill it.

24 Mr. Justice: No, because looking at it, it was more  
25 of an harassment charge then a burg second. I mean, it

The State vs. Vincent Lomelli

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1 qualified for both.

2 The Court: It qualified for both.

3 Mr. Justice: Right.

4 The Court: And in negotiations with counsel you  
5 agreed that it would be a plea to harassment in the  
6 second degree. You've got a good lawyer.

7 Mr. Loy: Thank you, Your Honor.

8 The Court: Tell me what else you're worried about  
9 because we are going to be done today. Okay. Hear me,  
10 hear me. Now, focus on moving forward. Now, let me talk  
11 about moving forward okay. I want you to move forward in  
12 positive ways, okay. You can appeal my order when you  
13 get it. So, if you're not happy you have a right to  
14 appeal it okay, all right.

15 Mr. Lomelli: I understand that. That's a serious  
16 charge to be on my record.

17 The Court: But understand you're moving forward at  
18 that point. All right. You can appeal it. If you chose  
19 not to appeal it, focus, listen to me. Focus on  
20 following what I set forth for you on probation and have  
21 a good life, a different life, hear me. Okay. It's  
22 there for you. Focus on that. Positive, positive.

23 Mr. Lomelli: It's kind of hard, you know, it would  
24 probably be easier for me to get a job with a violation  
25 of protection order then to have an harassment charge on

1 my record, you know.

2 The Court: If you are as sharp and as articulate as  
3 you have been with me, whatever little thing you've got  
4 going on you fix it through probation you're not going to  
5 have any trouble finding jobs, you hear me. Okay.

6 Mr. Loy: Thank you very much, Your Honor.

7 The Court: I'm looking for an order on this. Run it  
8 by the solicitor.

9 Mr. Lomelli: Will I be receiving a copy of that,  
10 ma'am.

11 The Court: Absolutely. And remember now you've got  
12 ten days, you've got ten days from when your lawyer gets  
13 it to appeal.

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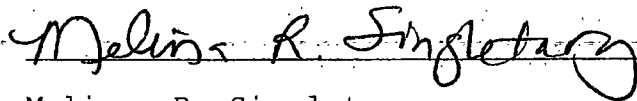
25

**CERTIFICATE**

This is to certify that the hearing in the matter of The State of South Carolina vs. Vincent Lomelli, consisting of twenty (20) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 21st day of December, 2011.



Melissa R. Singletary  
Certified Court Reporter

Notary Public for South Carolina  
My Commission Expires: 3-5-2014

FILED MAY 5 2011

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF DORCHESTER )  
 )  
 STATE OF SOUTH CAROLINA, )  
 Plaintiff, )  
 -versus- )  
 )  
 VINCENT LOMELLI, )  
 Defendant. )

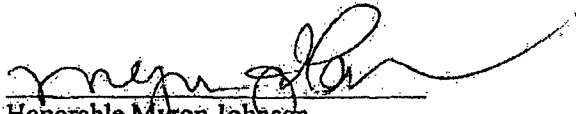
IN THE MAGISTRATE'S COURT  
COUNTY OF DORCHESTER

Ticket No.: 10218FL

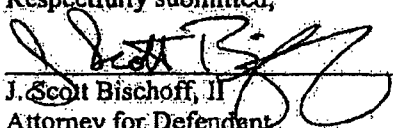
MOTION FOR DISMISSAL  
AND  
ORDER OF DISMISSAL

On April 18, 2011, the Defendant was found guilty of Violation of a Protection Order (Ticket No. 10218FL) by Judge Myron Johnson and sentenced to 30 days time served. However, this conviction is in direct violation of the plea agreement that the Defendant accepted from Solicitor Glenn Justis on 4/14/11 when he pled guilty to Harassment in the Second Degree in front of Judge Diane Goodstein. As part of the plea agreement, Solicitor Justis agreed to dismiss this aforementioned magistrate charge (Ticket No. 10218FL). Additionally, a conviction for Violation of a Protection Order in the magistrate court violates the Defendant's 5<sup>th</sup> Amendment right against double jeopardy, as this conviction arises from the same set of facts for which the Defendant pled guilty in front of Judge Goodstein on 4/14/11.

Therefore, with the consent of the Solicitor, the Defendant by and through his undersigned counsel hereby moves for an order of dismissal of the conviction associated with Ticket No. 10218FL. After careful consideration of this matter, I hereby dismiss the conviction for Ticket No. 10218FL; and it is so ORDERED!

  
 Honorable Myron Johnson  
 Dorchester Magistrate Judge

I consent:  
  
 Glenn Justis  
 Assistant Solicitor  
 First Judicial Circuit

Respectfully submitted,  
  
 J. Scott Bischoff, II  
 Attorney for Defendant  
 First Judicial Circuit Public Defender

This 2nd day of May, 2011  
Summerville, South Carolina

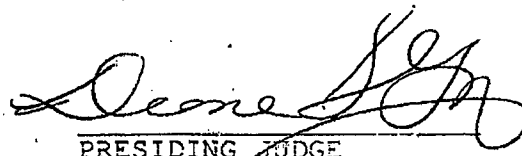


aside and dismiss the underlying charge in accordance with Mr. Lomelli's General Sessions plea bargain. He also noted that in the event that the request were denied (which he did not anticipate) this Court would hear the subsequent appeal and be in a position to assure the Defendant the benefits accorded him pursuant to his General Sessions plea.

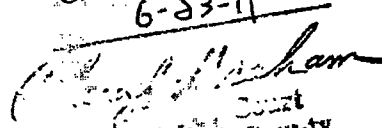
**AFTER CAREFULLY CONSIDERING THE MATTER**, I hereby deny the Defendant's Motion. While Defendant's argument is not without merit, the Court finds that he has not, as of yet, been denied the dismissal he was promised. Rather, it's execution has merely been delayed. As Defendant is serving one year for Contempt of Family Court he has not been prejudiced in the interim (he was not eligible for release regardless of the disposition of his Magistrate's case).

**THE MOTION IS DENIED AND THE GENERAL SESSIONS PLEA AND SENTENCE STAND;** and

**IT IS HEREBY ORDERED!**

  
 PRESIDING JUDGE  
 FIRST JUDICIAL CIRCUIT

St. George, South Carolina  
 This 21st day of June, 2011.

**CERTIFIED COPY**  
 6-23-11  
  
 Clerk of Court  
 Dorchester County

**WITNESSES**

M Mann

Dorchester County Sheriff

**ARREST WARRANT NUMBER**  
M471318

Arrested: January 17, 2011

**ACTION OF GRAND JURY**

Foreperson of Grand Jury  
Date: May 5, 2011

**VERDICT**

Foreperson of Petit Jury  
Date:

**DOCKET NO. 2011GS18-0150**

**The State of South Carolina**  
**County of DORCHESTER**

**COURT OF GENERAL SESSIONS**

**May 9, 2011 TERM**

**THE STATE**  
**vs.**

Vincent Lomelli

**Indictment for**

**HARASSMENT - SECOND DEGREE**

SC Code: 16-3-1710(B)

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

\* *V Lomelli*

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.

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF DORCHESTER )

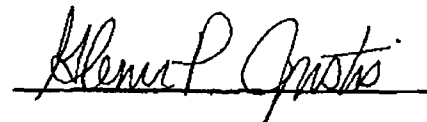
INDICTMENT  
2011GS18-0150

At a Court of General Sessions, convened on May 9, 2011 the Grand Jurors of  
Dorchester County present upon their oath:

**HARASSMENT 2ND**

That the defendant, Vincent Lomelli, did in Dorchester County on or about  
January 17, 2011 harass the victim, Brandy Gallop, by engaging in a pattern of  
intentional, substantial, and unreasonable intrusion into the private life of the  
victim that caused the victim to suffer mental distress and that the victim had  
been under a current order of protection from the defendant. This offense being  
a violation of Section 16-3-1710 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.



Glenn P. Justis, Solicitor

Prob. 1yr prob. (NEG)

UNDER

N.C. - V - ALFOIRD

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester  
STATE VS. Vincent Lomelli  
AKA: \_\_\_\_\_  
Race: W Sex: M Age: 41  
DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
Address: \_\_\_\_\_  
DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS18-0150  
AW#: M471318  
Date of Offense: 1/17/2011  
S.C. Code § 16-11-312  
CDR Code #: 0080

SENTENCE SHEET

CDL: Yes  No  CMV: Yes  No  Hazmat: Yes  No

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

TO: HARRASSMENT 2ND DEGREE - RESTRAINING ORDER IN EFFECT

In violation of § 16-3-1710(B) of the S.C. Code of Laws, bearing CDR Code # 2402

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 Initial)

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

ATTEST:

Glenn P. Justice 76606 Justis, Glenn P. SC Bar# Vincent Lomelli Attorney for Defendant SC Bar# 12016

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 \_\_\_\_\_ 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 Dept. of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

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

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_

§ 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

§ 56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Proviso 47.9 (Public Def/Prob) \$500 \$ 500

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25

§ 33.7, 1B TP (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

§ 44-53-450(C) (Conditional Discharge) \$350 \$ \_\_\_\_\_

3% to County (if paid in installments) \$ 18.90

TOTAL \$ 688.90

Cheryl Cochran  
Clerk of Court Deputy Clerk

Court Reporter: Bonnie Kelly

\_\_\_\_\_ 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 \$ \_\_\_\_\_ Beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: NO CONTACT WITH Victim, Family, Friends, Acquaintances, or Follow-up  
Recommendations: Intersu  
probation NTC (minors)

Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.

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

PRESIDING JUDGE: [Signature]

Judge Code: 2112

Sentence Date: 2-14-2011

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

The 25th day of June, 2012



Breen Richard Stevens  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Dorchester County  
Diane Schafer Goodstein, Circuit Court Judge  
\_\_\_\_\_

**ORIGINAL  
RECEIVED**  
JUN 25 2012  
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

VINCENT LOMELLI,

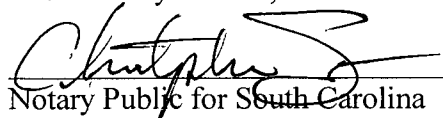
APPELLANT

\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201; and upon Vincent Lomelli, at 107 Elks Lodge Lane, Summerville, SC 29483, this 25th day of June, 2012.

  
Emily Bryson  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 25th day of June, 2012.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: May 16, 2021.