

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

R. Keith Kelly, Circuit Court Judge

Case No(s): 2022GS4200785; 2022GS4200786

RECEIVED

FEB 12 2024

SC Court of Appeals

The State

Respondent,

v.

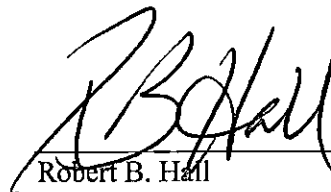
David Neil Henderson

Appellant.

EXPLANATION OF APPEAL PURSUANT TO RULE 203(d)(1)(B), SCACR

Pursuant to Rule 203(d)(1)(B), SCACR, David Neil Henderson files this explanation of his appeal of his nolo contendere plea, conviction and sentence in this case. The sentence was imposed by the Honorable R. Keith Kelly on January 30, 2024. No issues were raised during the nolo contendere plea; however, the client insisted upon an appeal; therefore, this appeal was filed pursuant to Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995), and State v. Thrift, 378 S.C. 70, 661 S.E.2d 373 (2008).

February 08, 2024



Robert B. Hall
180 Magnolia Street Suite 2137
Seventh Judicial Circuit Public Defender Office
180 Magnolia Street, Suite 2137
Spartanburg, South Carolina 29306
(864) 596-2561
Attorney for Appellant

Other Counsel of Record:

Tyler Brown, Esq.
Seventh Judicial Circuit Solicitor's Office
180 Magnolia Street
Spartanburg, South Carolina 29306
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SPARTANBURG COUNTY
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R. Keith Kelly , Circuit Court Judge

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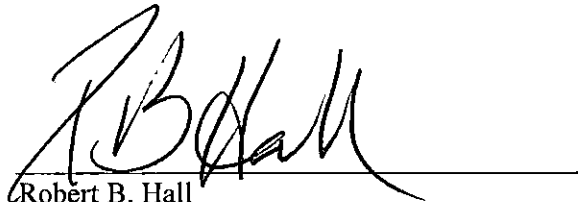
David Neil Henderson

Appellant.

PROOF OF SERVICE

I certify that I served the Explanation of Appeal Pursuant to Rule 203(d)(1)(B), SCACR, on the State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on February 08, 2024 addressed to its attorney of record, Tyler Brown, Esq., Assistant Circuit Solicitor, 180 Magnolia Street, Spartanburg, S.C. 29306.

February 08, 2024



Robert B. Hall
180 Magnolia Street, Suite 2137
Seventh Judicial Circuit Public Defender Office
180 Magnolia Street, Suite 2137
Spartanburg, South Carolina 29306
(864) 596-2561
Attorney for Appellant

STATE OF SOUTH CAROLINA

RECEIVED

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg

FEB 12 2024

INDICTMENT/CASE#: 2021GS4200786

STATE VS.

SC Court of Appeals

David Neil Henderson

A/W#: 2021A4210101153

AKA:

Date of Offense: 5-18-2021

Race: White Sex: Male Age: 41

S.C. Code §: 16-3-600

DOB: SS#:

CDR Code #: 3412

Address:

City, State, Zip:

DL#* SID#

SENTENCE SHEET

Aford

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Assault and Battery 2nd Degree (0-3 and/or up to \$2,500)

In violation of § 16-3-600 of the S.C. Code of Laws, bearing CDR Code # 3413

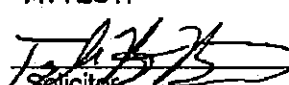
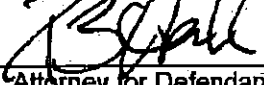
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST:

	<u>78316</u>	<u>x David Neil Henderson</u>		<u>2596</u>
Solicitor	SC Bar #	Defendant	Attorney for Defendant	SC Bar #
Tyler Brown		David Neil Henderson	Robert B. Hall	

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

for a determinate term of 3 days/months/years/Time Served Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: _____

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

21 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

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

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

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

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5%)				\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)			\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)			\$100	\$ _____
§56-5-2995 (DUI Assessment)			\$12	\$ _____
§56-1-286 (DUI Breath Test)			\$25	\$ _____
§14-1-212 (Law Enforce. Funding)			\$25	\$ _____
§14-1-213 (Drug Court Surcharge)			\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)			\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)			\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)			\$40/ea	\$ _____
3% to County (if paid in installments)			TBD	\$ _____
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees			\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund			TBD	\$ _____
		TOTAL		\$ 128.75

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____

T. Camp
J. Cendras

Presiding Judge: _____
Judge Code: _____
Sentence Date: _____

R. Keith Kelly
2165
30 January 2024

RECEIVED

FEB 12 2024

SC Court of Appeals

FILED

FEB 16 AM 9:44

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

DOCKET NO. **22-GS-42-0786**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 07 2022

TERM

THE STATE
vs.

David Neil Henderson

Indictment for

ASSAULT AND BATTERY 1st DEGREE

SC Code: 16-3-600(C)(1)(2)

CDR Code: 3412

Class: FEL/E

WITNESSES

SCSO

Jimmy G. Davis

WARRANT NUMBER
2021A4210101153

Direct Indictment

ACTION OF GRAND JURY
Indictment

Dannelle Woodward

Foreperson of Grand Jury
Date: MAR 04 2022

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

MAR 04 2022

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

ASSAULT AND BATTERY 1st DEGREE

That the Defendant, David Neil Henderson, did in Spartanburg County on or about the date of May 18, 2021, unlawfully commit an assault and battery on the victim, [REDACTED] in that he did offer or attempt to injure the victim with the present ability to do so, and the act was accomplished by means likely to produce death or great bodily injury and/or did occur during the commission of a robbery, burglary, kidnapping, or theft, to wit: throwing gasoline in the victim's face, pressing a rope against the victim's throat and threatening to kill the victim, all in violation of §16-3-600(C)(1)(2), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

Andrew Lynn

ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Spartanburg

STATE

VS.

RECEIVED

FEB 12 2024

SC Court of Appeals

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS4200785

David Nell Henderson

AKA:

Race: White Sex: Male Age: 41

DOB: _____ SS#: _____

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

A/W#: 2021A4210101152

Date of Offense: 05-18-2021

S.C. Code §: 16-11-311

CDR Code #: 0079

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Burglary 2nd Degree (Violent) (0-15)

In violation of § 16-11-312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-45

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

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

ATTEST:

Solicitor Tyler Brown SC Bar # 78316 Defendant David Neil Henderson Attorney for Defendant Robert B. Hall 2596 SC Bar #

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

for a determinate term of 7 days/months/years/Time Served Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by _____ days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

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

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

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

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
\$14-1-206 (Assessments 107.5%)			\$ _____
\$14-1-211 (A)(1)(Conv. Surcharge)			\$ _____
\$14-1-211 (A)(2)(DUI Surcharge)		\$100	\$ _____
\$56-5-2995 (DUI Assessment)		\$100	\$ _____
\$56-1-286 (DUI Breath Test)		\$12	\$ _____
\$14-1-212 (Law Enforce. Funding)		\$25	\$ _____
\$14-1-213 (Drug Court Surcharge)		\$25	\$ _____
\$34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$150	\$ _____
\$50-21-114 (BUI Breath Test Fee)		\$41	\$ _____
\$56-5-2942(J) (Vehicle Assessment)		\$50	\$ _____
3% to County (if paid in installments)		\$40/ea	\$ _____
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		TBD	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		\$500	\$ _____
		TBD	\$ _____
		TOTAL	\$ 128.75

Clerk of Court/Deputy Clerk:
Court Reporter:

T. Camp
J. Ondruski

Presiding Judge:
Judge Code:
Sentence Date:

A. Keith Kelly
2165
30 January 2024

RECEIVED

FEB 12 2024

SC Court of Appeals

WITNESSES

Spartanburg County Sheriff's Office

James G. Burns

ARREST WARRANT NUMBER

2021A4210101152

Direct Indictment

ACTION OF GRAND JURY

[Illegible]

Danielle Woodward

Foreperson of Grand Jury
Date: MAR 04 2022

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. **22-GS-42-0785**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 07 2022

TERM

THE STATE
vs.

David Neil Henderson

Indictment for

**BURGLARY, FIRST DEGREE
(Dwelling)**

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED

FEB 16 AM 9:44

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 04 2022, the Grand Jurors of Spartanburg County present upon their oath:

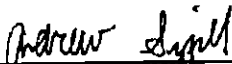
BURGLARY, FIRST DEGREE
(DWELLING)

That the Defendant, David Neil Henderson, did in Spartanburg County, on or about the date of May 18, 2021, willfully and intentionally enter the dwelling belonging to Robert Henderson, located at 561 Ray Blackley Rd., Inman, South Carolina without consent and with the intent to commit a crime therein, and the defendant:

- (1) did enter the dwelling in the nighttime and/or
- (2) was armed with a deadly weapon; and/or
- (3) caused physical injury to any person who is not a participant in the crime; and/or
- (4) used or threatened the use of a dangerous instrument; and/or
- (5) displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearms,

in violation of Section 16-11-311, Code of Laws of South Carolina (1976) as amended.

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



ASSISTANT SOLICITOR