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ALAN WILSON
ATTORNEY GENERAL

April 2, 2024

Dennis M. Temple
Tyger River Correctional Institution
Unit 6-27B
200 Prison Road
Enoree, SC 299335

Re: Dennis M. Temple v. State of South Carolina
2023-CP-37-00517

Dear Mr. Temple:

I am in receipt of your letter requesting additional documents. All the documents related to your case that our office is in possession of have been provided to you. The County Clerk of Court should be able to provide other documents at your request should they have them.

Sincerely,

s/ Talida Balaj

Talida Balaj
Assistant Attorney General

TB/zew
Enclosure

cc: Melissa C. Burton
Oconee County Clerk of Court
PO Box 678
Walhalla, SC 29691-0678

Talida Balaj, AAG
S.C. Attorney General's office
Post Office Box 11549
Columbia, South Carolina 29211-1549

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2024 MAR 27 P 2:43

RE: Dennis M. Temple v. State of South Carolina
2023-CP-37-00517

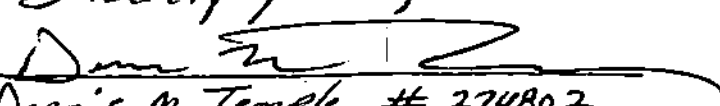
Dear Balaj:

Please be advised that I received a copy of the Respondent's original Return and Motion to Dismiss Petitioner's - petition for writ of Habeas Corpus on March 14, 2024, with its accompanying attachments. However, the initial and second Post-Conviction Relief Action, attachments and Exhibits were not included with all the attachments.

We are requesting that you disclose those and other pertinent documents related to this case, before the April 8, 2024 hearing.

Sincerely yours,

cc: Melissa C. Burton
Oconee County, Clerk of
Court.


Dennis M. Temple, # 274802
Tyger River Corr. Inst. Unit 6-27B
200 Prison Road
Enoree, South Carolina 29335

March 21, 2024

FILED
COMPUTER
No copies

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE COUNTY SOUTH CAROLINA
MELISSA C. BURTON
CLERK OF COURT
THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Dennis M. Temple, #274802,

Petitioner,

v.

State of South Carolina,

Respondent.

CASE NO. 2023-CP-37-00517

**RETURN AND MOTION TO DISMISS
PETITION FOR WRIT OF
HABEAS CORPUS**

In response to the Petition for *Writ of Habeas Corpus* filed by Dennis M. Temple (Petitioner) on July 10, 2023, Respondent, the State of South Carolina, makes the following Return and Motion to Dismiss:

PROCEDURAL HISTORY

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Oconee County Clerk of Court. On March 9, 2010, over the course of approximately nine hours, Petitioner violently attacked and sexually assaulted a Clemson student, Catherine McGough, after dragging her across the gravel yard of a storage facility by a belt around her neck and holding her hostage in his storage unit. He was arrested two days later.

During its September 2010 term, the Oconee County Grand Jury indicted Petitioner for two counts of first-degree criminal sexual conduct (CSC) (2010-GS-37-887, -889); kidnapping (2010-GS-37-888); and grand larceny, valued at five-thousand dollars or more (2010-GS-37-886).

On December 13, 2010, Petitioner proceeded *pro se* to a jury trial before Judge Maddox, with Kurt Tavernier, Esquire, serving as advisory counsel. After jury selection, Petitioner attempted to rescind his waiver of the right to counsel and moved for a continuance so that Mr. Tavernier could represent him at trial. Judge Maddox denied the motion. On December 15, 2010,



after fifteen minutes of deliberations, the jury convicted Petitioner as indicted. Judge Maddox sentenced Petitioner to consecutive terms of thirty years' imprisonment for first-degree CSC, thirty years for kidnapping, and ten years for larceny—an aggregate term of one hundred years imprisonment.¹

Petitioner filed a timely notice of appeal. Deputy Chief Appellate Defender Wanda H. Carter perfected Petitioner's appeal by filing an Anders² brief with the Court of Appeals on the following issue:

The trial judge erred by what was in effect coercing [Petitioner] to appear *pro se* at trial because although he waived his right to counsel prior to trial; ultimately, he rescinded that waiver after the jury was selected and re-asserted his right to counsel by requesting the representation of appointed counsel for his trial.

Petitioner filed a *pro se* brief in response. On September 11, 2013, the Court issued an unpublished *per curiam* opinion affirming Petitioner's convictions and granting appellate counsel's request to be relieved. State v. Temple, No. 2013-UP-350 (Ct. App. filed Sept. 11, 2013). The Remittitur was returned to the circuit court on September 27, 2013.

Initial PCR Action and Subsequent Appeal: 2013-CP-37-729

Petitioner filed his *first pro se* PCR action on October 15, 2013, alleging ineffective assistance of appellate counsel and various allegations of prosecutorial misconduct and violation of due process. Respondent filed its responsive pleadings on July 8, 2014. An evidentiary hearing

¹ Petitioner had an extensive criminal record which was provided to the court at sentencing. Petitioner was convicted in 1993 of possession of cocaine and possession with intent to distribute. Petitioner was convicted in 1995 of possession with intent to distribute or distribution of drugs within proximity of a school, simple assault, DUS 2nd, and malicious injury to personal property. Petitioner was convicted in 2001 of strong-armed robbery and received a sentence of ten (10) years. Petitioner was convicted in 2007 of fraudulent check and in 2009 of petit larceny. And, Petitioner was convicted in 1992 in Rome, Georgia, of providing false information to police. (App. 652-53).

² Anders v. California, 386 U.S. 738 (1967).

in the matter was convened on July 28, 2014, at the Oconee County Courthouse before the Honorable Edgar W. Dickson. Respondent was represented by Walt Whitmore, Esquire. Petitioner was present and represented by Hugh W. Welborn, Esquire. Judge Dickson denied Petitioner's application by Order on October 31, 2016.

Petitioner subsequently filed a notice of appeal of Judge Dickson's Order on November 8, 2016. Petitioner's appeal was perfected by Appellate Defender Taylor D. Gilliam by filing a Johnson³ Petition for *Writ of Certiorari* on Petitioner's behalf with the South Carolina Supreme Court on August 2, 2017. Pursuant to Rule 243(1), SCACR, the Supreme Court transferred Petitioner's appeal to the South Carolina Court of Appeals on October 30, 2017. On October 16, 2018, the Court of Appeals denied *certiorari*. The Remittitur was returned on November 11, 2018.

Initial Federal Habeas Corpus Action: 8:14-CV-3499-JFA-JDA

Petitioner commenced his *first pro se* Petition for *Writ of Habeas Corpus* pursuant to 28 U.S.C. § 2254 in the United States District Court for the District of South Carolina on September 9, 2014. On September 9, 2014, United States Magistrate Judge Jacquelyn D. Austin issued a Report and Recommendation that Petitioner's action be dismissed without prejudice for failure to exhaust state remedies. Petitioner did not file timely objections to the Report and Recommendations. On September 30, 2014, United States District Judge Joseph F. Anderson, Jr., issued an Order dismissing the petition without prejudice, and ordered Petitioner's certificate of appealability be denied pursuant to 28 U.S.C. § 2253(c)(2)⁴. Temple v. McFadden, No. 8:14-

³ Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988),

⁴ A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (West 2009). A prisoner satisfies this standard by demonstrating that reasonable jurists would find both that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000);

Second Federal Habeas Corpus Action: 8:18-CV-3258-JFA-JDA

On November 29, 2018, Petitioner filed a *second* Petition for *Writ of Habeas Corpus* pursuant to 28 U.S.C. § 2254 in the United States District Court for the District of South Carolina. See Temple v. Lewis, 8:18-03258-JFA-JDA. Petitioner raised the following allegations in his *pro se* petition (verbatim):

1. "The trial judge erred by what was in effect coercing [Applicant] to appear *pro se* at trial because although appellant waived his right to counsel prior to trial, ultimately, he rescinded that waiver after the jury was selected and re-asserted his right to counsel by requesting the representation of appointed counsel for his trial."
2. "The PCR Court erred in granting summary judgment to the state on the issue of ineffective assistance of appellate counsel, where there was a genuine issue of material fact as to whether probable cause was established at a pre-trial hearing and where the transcript from that hearing was not included in the Record on Appeal."
3. "Did the General Sessions Court have jurisdiction to hear appellant's criminal case when the magistrate never established it had probable cause to detain appellant on the arrest warrants."

Respondent filed a return and motion for summary judgment on April 1, 2019. On June 20, 2019, Judge Austin issued a report and recommendation that Respondent's motion for summary judgment be granted and the Petition dismissed with prejudice because (1) grounds one and two of the Petition fail to state a claim for relief; and (2) ground three is not a cognizable issue in a Federal *Habeas* action.

Petitioner filed objections to the R&R on April 25, 2019, and later filed amended objections on August 26, 2019. Respondent replied to the original objections on July 24, 2019, and again to

Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). In the instant matter, the court finds that the petitioner has failed to make "a substantial showing of the denial of a constitutional right."

the amended objections on September 9, 2019. On October 31, 2019, Judge Anderson issued an order adopting and incorporating the R&R by reference; granting Respondent's motion for summary judgment; dismissing the Petition with prejudice; and denying a certificate of appealability. Temple v. Lewis, No. CA 8:18-03258-JFA (D.S.C. Oct. 31, 2019).

Second PCR Action and Subsequent Appeal: 2020-CP-37-0695

Petitioner filed his *second pro se* PCR action on January 18, 2020, and alleged he was being in custody unlawfully for the following reasons:

1. "Ineffective assistance of counsels"
 - a. "Petitioner's counsel Sarah Drawdy and Keith Denny were ineffective for failing to object to the state's reasons establishing probable cause and failing to raise a fourth amendment claim in the July 16, 2010 preliminary hearing."
 - b. "These failure[sic] were in violation of the Petitioner's 4th, 5th, 6th, & 14th Amendments of the United States Constitution."
 - c. "In addition, Petitioner's PCR counsel was ineffective for failing to subpoena counsels to the PCR hearing and for failing to file a 59(e) motion when the court issued a[sic] order of dismissal in the case, which did not include specific findings of facts[sic] and conclusion[sic] of law and Petitioner's ineffective assistance of counsel claim against Sarah Drawdy and Keith Denny."
2. "In violation of Schmerber v. California, 384 U.S. 757 (1966) and 14th, 5th, 6th, 4th Amendments of the U.S. Constitution and S.C. Constitution, Article 1, Section 3, 12, 14, & 10."
 - a. "Petitioner's Schmerber v. California claim should have been grounded[sic] as a[sic] ineffective assistance of counsel against Kurt Tavernier for failing to object to the state's allegations regarding Petitioner's identification and probable cause to arrest, and for failing to raise a fourth amendment claim in the September 22, 2010 Schmerber hearing."
 - b. "These failure[sic] violated Petitioner's 4th, 5th, 6th, & 14th Amendments of the United States Constitution, Article 1, section 3, 10, 12, & 14."
 - c. "In addition, Petitioner's PCR counsel was ineffective for failing to amend the PCR application as a[sic] ineffective assistance of counsel claim against Kurt Tavernier regarding the Schmerber hearing issues, and for failing to file a 59(e) motion when the court issued a[sic] order of dismissal in the

case, which did not include specific findings of facts[sic] and conclusion[sic] of law on Petitioner's Schmerber hearing claim."

3. "Petitioner moves the court for a new trial because the state notified Petitioner 1 year, 10 months after direct appeal that his preliminary hearing transcript does not exist, which prevented the appellate court from conducting a meaningful appellate review."
 - a. "As a result, Petitioner's 5th, 6th, & 14th Amendments of the United States Constitution Rights have been violated."

Respondent filed its return and motion for summary judgment on September 22, 2021. On September 23, 2021, a Conditional Order of Dismissal was signed by the Honorable R. Lawton McIntosh, giving Petitioner twenty days to respond with reasons why the Order should not be final. On October 27, 2021, Petitioner filed a response to the State's Conditional Order of Dismissal. On November 22, 2021, an Order signed by Judge McIntosh was filed dismissing Petitioner's action.

Petitioner filed a Notice of Appeal on December 17, 2021. On December 22, 2021, The Supreme Court of South Carolina dismissed Petitioner's appeal for failure to show that there was an arguable basis for asserting the circuit court's determination was improper in his explanation. The Remittitur was returned on January 7, 2022.

CURRENT STATE HABEAS PETITION FILED IN COMMON PLEAS

On July 10, 2023, Petitioner filed this Petition for a *Writ of Habeas Corpus* alleging he is being held in custody unlawfully for the following reasons:

1. "Petitioner was arrested and detained upon affiant, sergeant Scott Arnold arrest warrants affidavit that was not supported substantial probable cause, contained false information and was a reckless disregard for the truth there was no determination of the credibly and reliability of the person supplying the information and the information provided in affidavit were conclusionary statements."
2. "Petitioner DNA seizure from him pursuant to S.C. Code of Laws section 16-3-740 and without probable cause."
3. "Petitioner Bond Reduction attorney Robert Mills Ariail Jr.; misrepresented the facts and lied t (his client) petitioner in order

to get him to go on record and decline the Bond Reduction consideration."

4. "Respondents held a preliminary hearing in this case on July 16 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review."
5. "Petitioner as denied by the trial Judge to call witnesses in his dense during Jury trial."
6. "Petitioner was sentenced to 30 years, 30 years, 30 years, and 10 years in prison to run consecutive by the trial Judge."
7. "Petitioner's decision to proceed pro se during jury trial was not knowing, intelligent and voluntary."
8. "A summon and a verified complaint is attached as Exhibits A and B, in support f the Writ of Habeas Corpus."
9. "The petitioner certifies that consultation with the opposing party about this matter would serve no useful purpose."

As relief, Petitioner seeks a "...new trial, a new preliminary hearing, and/or release him from prison or/and such other and further relief in favor of petitioner as the Court deems just and appropriate."

Attached to this return and incorporated by reference are the Oconee County Clerk of Court records regarding the subject convictions; Petitioner's records from the South Carolina Department of Corrections; a full and complete record of Petitioner's direct appeal, including the trial transcript; Petitioner's prior post-conviction relief records challenging these convictions and the appeal therefrom; Petitioner's federal habeas records; and the records of the current PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS

Petitioner has filed a Petition for a *Writ of Habeas Corpus* in the Oconee County Court of Common Pleas. Respondent submits that a state *habeas* petition must be filed in the original jurisdiction of the South Carolina Supreme Court and requests this action be summarily dismissed

pursuant to Rule 12(b)(1), SCRCP because this Court lacks subject matter jurisdiction.⁵ See S.C. Const. art. V, § 5 ("The Supreme Court shall have power to issue *writs* or orders of injunction, *mandamus*, *quo warranto*, prohibition, *certiorari*, *habeas corpus*, and other original and remedial *writs*." (emphasis added); see also Simpson v. State, 329 S.C. 43, 46 n.4, 495 S.E.2d 429, 431 n.4 (1998) (expressly reserving the ability to entertain *writs* of *habeas corpus* in the Supreme Court's original jurisdiction [under article V, section 5 of the South Carolina Constitution])).

Moreover, "[a] person is procedurally barred from petitioning the circuit court for a *writ* of *habeas corpus* where the matter alleged is one which could have been raised in a PCR application." Keeler v. Mauney, 330 S.C. 568, 571, 500 S.E.2d 123, 124 (Ct. App. 1998); see Al-Shabazz v. State, 338 S.C. 354, 365, 527 S.E.2d 742, 748 (2000) (explaining that any matter that is cognizable under the Uniform Post Conviction Procedure Act,⁶ "must be raised in PCR application, and may not be raised by a petition for a *writ* of *habeas corpus* before the circuit or other lower courts."). The Uniform Post Conviction Procedure Act is "broadly inclusive and will rarely be inadequate or unavailable to test the legality of the detention." Gibson v. State, 329 S.C. 37, 41, 495 S.E.2d 426, 428 (1998). A petitioner may even allege constitutional violations in PCR proceedings unless the petitioner could have raised the issue on direct appeal. Id.

"A *habeas corpus* petition must support the requested relief." Id. at 40, 495 S.E.2d at 427. Although the allegations in the petition are to be treated as true, the petitioner must make a *prima facie* case showing he is entitled to relief and present sufficient factual allegations to support the

⁵ Before a petitioner may proceed in the original jurisdiction of the Supreme Court, the petition must set out a constitutional claim that meets the standard delineated in Butler v. State, 302 S.C. 466, 397 S.E.2d 87, (1990). In Butler, our Supreme Court held that the writ of *habeas corpus* will only be issued when there has been a constitutional violation "which, in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice." 302 S.C. at 468, 397 S.E.2d at 88 (citation omitted).

⁶ S.C. Code Ann. §§ 17-27-10 to -120 (2014).

petition before he is entitled to a hearing. Id. at 40, 495 S.E.2d at 427–28. To warrant a hearing, the petition must include the two allegations described below. First, the petition must allege the petitioner has exhausted all available post-conviction relief (PCR) remedies. Simpson, 329 S.C. at 46, 495 S.E.2d at 431; Gibson, 329 S.C. at 42, 495 S.E.2d at 428. "Exhaustion includes filing of an application, the rendering of an order adjudicating the issues, and petitioning for, or knowingly waiving, appellate review." Gibson, 329 S.C. at 42, 495 S.E.2d at 428. Second, the petition must allege sufficient facts to show why other remedies, such as PCR, are unavailable or inadequate. Id. PCR is not rendered "unavailable or inadequate" merely because the petitioner's application might be dismissed as procedurally barred. Furthermore, if a person is procedurally barred, his only means of obtaining state *habeas corpus* relief is to file a petition in the original jurisdiction of the Supreme Court." Keeler, 330 S.C. at 571, 500 S.E.2d at 124 (emphasis added).

Therefore, this Petition must be dismissed because it is procedurally barred, leaving this Court without jurisdiction. Relief must be sought in the original jurisdiction of the South Carolina Supreme Court or in a successive PCR application.⁷ Here, the Petition fails to meet the standards required for the issuance of this extraordinary *writ*. The Petition contains no allegations that PCR remedies have been exhausted nor any factual justification why other remedies, such as PCR, were unavailable or inadequate to address his allegations. Petitioner could have and has raised these allegations in his prior PCR applications. Since the Petition is procedurally barred, the only remaining form of relief is left to the South Carolina Supreme Court under its original jurisdiction, leaving this Court without jurisdiction. The failure to properly file this action in the proper venue

⁷ If this Court construes this Petition as a PCR application, the State reserves the right to file an appropriate return and to raise any applicable defenses.

requires dismissal of this action for lack of jurisdiction. Thus, these claims cannot be raised in a petition for *habeas corpus* in the Circuit Courts of South Carolina.

CONCLUSION

WHEREFORE, Respondent moves to summarily dismiss the Petition for *Writ of Habeas Corpus* because state *habeas* petitions must be filed in the original jurisdiction of the Supreme Court of South Carolina.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

TALIDA BALAJ
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

March 8, 2024

Melissa C. Burton
Oconee County, Clerk of Court
Post Office Box 678
Walhalla, South Carolina 29010

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 JAN -4 P 3: 22

IN RE: Temple v. State of South Carolina, et al
Case No. 2023-CP-37-00517

Dear Ms. Burton:

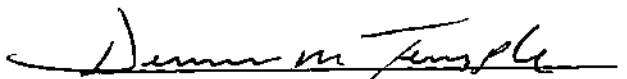
On December 4, 2023 you filed a copy of my Notice of Motion, Motion for Entry of default and default judgment, Affidavit of default, verified statement and Exhibits A-I with the Oconee County Court, however, you did not clock-in or filed the order Entering Default Judgment.

You returned (2) copies of the Order Entering Default Judgment to me with a Notice attached stating, "Petitioner can't sign the the order. The signature line will need to be for the Judge to consider."

As of now, I have corrected the "order Entering Default Judgment." I am forwarding (2) copies back to you to be clock-in and filed. Please return a copy to me for my files. Also, a copy is being forwarded to the attorney General, Alan Wilson.

As you know, you must enter the default on the record before the judge can enter the default judgment in this case.

The court records do not show that you have entered the default. So, I am preparing a Writ of Mandamus to the South Carolina Supreme Court against you and the judge.


Dennis M. Temple, #274802
Tyger River Corr, Inst. Unit C6
200 Prison Road
Enoree, South Carolina 29335

January 2, 2024

Melissa C. Burton
Oconee County, Clerk of Court
Post Office Box 678
Walhalla, South Carolina 29010

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 DEC 27 P 4:46

IN RE: Temple v. State of South Carolina, et al
Case No. 2023-CP-37-00517

Dear Ms. Burton:

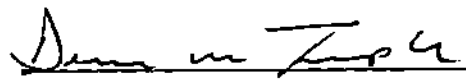
On December 4, 2023 you filed a copy of my Notice of Motion, Motion for Entry of default and default judgment, Affidavit of default, verified statement and Exhibits A-I with the Oconee County Court, however, you did not clock-in or filed the order Entering Default Judgment.

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As you know, you must enter the default on the record before the judge can enter the default judgment in this case.

The court records do not show that you have entered the default. So, I am preparing a Writ of Mandamus to the South Carolina Supreme Court against you and the judge.


Dennis M. Temple, #274802
Tyger River Corr, Inst. Unit 6
200 Prison Road
Enoree, South Carolina 29335

December 13, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
Case No. 2023-CP-37-00517

Dennis Temple, SCDC# 274802

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
2023 DEC -4 P 4:51

petitioner,

v.

AFFIDAVIT OF DEFAULT

State of South Carolina, et al,

Respondents,

T, Dennis Temple, having been duly Sworn, depose and say
the following:

1. I am the petitioner in this case and proceeding pro se in
the above matter.

2. On July 10, 2023 I filed a notice of motion, Motion for
Petition of Writ of Habeas Corpus, Summons and a Verified Complaint
against the respondents- the State of South Carolina; Director,
Bryan Stirling and Warden, Shane Jackson with the Oconee County,
Clerk of Court Melissa C. Burton, A copy of which is attached as
Exhibits A and B.

3. On August 9 and 28, 2023 the Notice of Motion, Motion
for Petition of Writ of Habeas Corpus, Summons and Verified
Complaint was served on the respondents attorney, South Carolina
Attorney General, Alan Wilson by delivering copies to registered
agent Janee McCrea, as evidence by Affidavit of Service by the
Richland County Sheriff's Department and by delivering copies

to registered agent Stephanie Kennedy, as evidence by certified mail and returned receipt of service both are attached as Exhibits E and F.

4. On August 9, 2023 I filed a Notice of Motion and Motion for Leave to Amend Verified Complaint with the Oconee County, Clerk of Court Melissa C. Burton and served a copy upon the respondents attorney, A Copy of which is attached as Exhibit H.

5. In addition, on October 6, 2023 I filed another Notice of Motion and Motion for Leave to Amend Verified Complaint with the Oconee County, Clerk of Court Melissa C. Burton and served a copy on respondents attorney, A copy of which is attached as Exhibit I.

6. As of now, more than 30 days have elapsed since service of the above-mentioned pleadings and no Notice of Appearance, answer responsive pleading, or request for an extension of time to answer has been made.

7. The respondents are not a minor, incompetent, or members of the military service.

8. The respondents are the State of South Carolina, and State employees, but are not above the laws of the State of South Carolina. These respondents are now in default.

9. The cost of litigation the petitioner has paid and charged to his E.H. Cooper Trust Fund Account, medical Co-pay fees, medicine legal supplies and as set forth in and calculated from the Verified statement of account attached as Exhibit G is \$ 6,200.00 and the requested relief in the verified complaint to release the petitioner from prison.

Sworn to and Subscribed

before me this 22 day of

Nov. 2023

Paul Dennis Temple
Notary Public of South Carolina

Dec. 19, 2024

My Commission Expires

Dennis M. Temple

Dennis M. Temple, SCDC# 274802

Tyger river Corr. Inst. Unit 6

200 Prison Road

Enoree, South Carolina 29335

November 22, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

IN THE COURT OF COMMON PLEA
TENTH JUDICIAL CIRCUIT
Case No. 2023SCP-37-00517

Dennis Temple, SCDC# 27480

2023 DEC -4 P 4:51

petitioner,

v.

CERTIFICATE OF SERVICE

State of South Carolina, et al.

Respondents,

I, Dennis Temple certify that on this day below. I served a copy of the petitioner's Notice of Motion; Motion for Entry of Default and for Default Judgment; Affidavit of Default; Verified Statement; and Order Entering Default Judgment by mailing it to the Respondents Attorney, Alan wilson at his office address by depositing it in the United States mail in an envelope with sufficient postage affixed addressed as follows:

State of south carolina
Attorney General, Alan Wilson
Post Office Box 11549
1000 Assembly Street
Columbia, South Carolina 29211

Also, Exhibits A,B,C,E,F,G,H and I:
are attached as well.

Sincerely Yours,

Dennis M. Temple

Dennis M. Temple, SCDC# 27480
Tyger River Corr, Inst Unit 6
200 Prison Road
Enoree, South Carolina 29335

November 27, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Dennis Temple, SCDC # 274802

petitioner

v.

State of South Carolina, et al.

Respondents,

IN THE COURT OF COMMON PLEAS

FILED OCONEE COUNTY, SC
JUDICIAL CIRCUIT
MELISSA C. BURTON
CLERK OF COURT

Case No. 2023-CP-37-00517

2023 DEC -4 P 4:51

NOTICE OF MOTION

TO: State of South Carolina, et al,

YOU WILL PLEASE TAKE NOTICE, that the undersigned petitioner will move before the Oconee County Court of Common pleas pursuant to Rule 55(a) and 55(b)(1) of the South Carolina Rules of Civil Procedure for Entry of default and Judgment by default against the respondents as stated in the following Motion for Entry of default and for Default Judgment and Affidavit of Default as follows:

November 27, 2023

Dennis M. Temple

Dennis M. Temple, SCDC3 274802
Tyger River Corr. Inst Unit 6
200 Prison Road
Enoree, South Carolina 29335

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Case No. 2023-CP-37-00517

Dennis Temple, SCDC# 274802

2023 DEC -4 P 4:51

Petitioner,

v.

State of South Carolina, et al;

Respondents,

MOTION FOR ENTRY OF DEFAULT
AND FOR
DEFAULT JUDGMENT

The Petitioner, Dennis Temple, moves the court, pursuant to Rules 55(a) and 55(b)(1) of the South Carolina Rules of Civil Procedure, for entry of default and Judgment by default in the above-captioned case. In support of the motion, the petitioner shows the following to the court:

1. On July 10, 2023 the petitioner's Notice of Motion; Motion for petition of Writ of Habeas Corpus; Summons and Verified Complaint was filed with the Oconee County, Clerk of Court Melissa C. Burton which is attached as Exhibits A and B; and was served upon the the respondents on August 9 and 28, 2023 as evidenced by the Affidavit of Service and certified mail with return receipt of service attached as Exhibits E and F. The specifics of service and relief requested are set forth in the affidavit of default, attached as Exhibit C.

2. The Summones, included a statement informing the respondents that a default would be sought against them for the relief sought in the verified Complaint unless the respondents answered or respond within 30 days.

3. On August 9, 2023 petitioner filed a Notice and Motion for Leave to Amend Verified Complaint with the Court and served a copy on the respondents.

4. On October 6, 2023 petitioner filed a second Notice of Motion and Motion for Leave to Amend Verified Complaint with the court and served it upon the respondents as well.

5. As of now, more than 30 days have elapsed since the service of the Notice of Motion, Motion for Petition of Writ of Habeas Corpus, Summones and Verified Complaint and more than 15 days passed as of serving the first and Second Motion for leave to Amend Verified Complaint.

6. The respondents has not answered, otherwise pled, or requested an extension of the time in which to answer.

7. The clerk of Court entered a default against the respondents on _____ as evidenced by the entry of default, attached as Exhibit D, the amount of \$ 6,200.00 and release of petitioner from Prison and cost in this proceeding and other related to this conviction.

WHEREFORE, the petitioner moves the court for an order entering default and judgment by default against the respondents for the requested relief and further relief in favor of the petitioner as the court deems just and appropriate.

Dennis M. Temple

Dennis M. Temple, SCDC# 274802
Tyger River Corr. Inst Unit 6
200 Prison Road
Enoree, South Carolina 29335

November 27, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

2023 DEC -4 P. 4: 51

CASE NO. 2023-CP-37-00517

Dennis Temple

Plaintiff,

vs.

State of south Carolina, et al,

Defendant.

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: Dennis M. Temple
Tyger River Corr. Inst. Unit 6
Address: 200 Prison Road
Enoree, South Carolina 29335

Defendant's Attorney: Alan Wilson
S.C. Attorney General
Post Office Box 11549
1000 Assembly Street
Columbia, South Carolina 29211

- ☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Entry of default and Judgment by default

Estimated Time Needed: 2 hrs

Court Reporter Needed: ☒ YES ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Dennis M. Temple

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

November 27, 2023

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$

☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☒ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED - AMOUNT DUE: \$ _____

Melissa C. Burton, Clerk of Court
Oconee County
Post Office Box 678
Walhalla, South Carolina 29691

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 OCT 18 P 3:10

Re: Temple v. State of South Carolina, et al;
Case No. 2023-CP-37-00517

Dear Ms. Burton:

Enclosed please find an original and two copies of the following:

1. A motion for entry of default and default Judgment;
2. An affidavit of default;
3. An order entering default judgment;
4. Notice of Motion;
5. Verified Statement; and Exhibits

Please file the enclosed, enter the default, and forward the documents to the judge for entry of the default judgment.

I would appreciate your returning to me one filed-stamped copies of the motion and affidavit, as well as your entry of default in the enclosed self-addressed, stamped envelope. Furthermore, I would appreciate you sending me a copy of the Order of Default and Judgment stamped "filed" when the judge returns it to you.

Thank you!

Dennis M. Temple
Dennis M. Temple, # 274802
Tyger River Corr.Inst. Unit 6
200 Prison Road
Enoree, South Carolina 29335

October 16, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE COUNTY, SOUTH CAROLINA
MELISSA C. BURTON
CLERK OF COURT

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
Case No. 2023ECP-37-00517

Dennis Temple, SCDC# 27480

2023 OCT 18 P 3:10

petitioner,

v.

CERTIFICATE OF SERVICE

State of South Carolina, et al.

Respondents,

I, Dennis Temple certify that on this day below. I served a copy of the petitioner's Notice of Motion; Motion for Entry of Default and for Default Judgment; Affidavit of Default; Verified Statement; and Order Entering Default Judgment by mailing it to the Respondents Attorney, Alan Wilson at his office address by depositing it in the United States mail in an envelope with sufficient postage affixed addressed as follows:

State of south carolina
Attorney General, Alan Wilson
Post Office Box 11549
1000 Assembly Street
Columbia, South Carolina 29211

Also, Exhibits A,B,C,E,F and G
are attached as well.

Sincerely Yours,

Dennis M. Temple

Dennis M. Temple, SCDC# 27480
Tyger River Corr, Inst Unit 6
200 Prison Road
Enoree, South Carolina 29335

October 16, 2023

Copies to:

Atty (P) ☒ (D) _____
DSS _____ other _____
Mailed ☒ Boxed _____ handed _____

ENTERED
FILED
COMPUTER

STATE OF SOUTH CAROLINA

COUNTY OF _____

Dennis Temple, SCDC# 274802

Plaintiff,

vs.

State of South Carolina, et al,

Defendant.

IN THE COURT OF COMMON PLEAS
Tenth JUDICIAL CIRCUIT

CASE NO. 2023_CP_37-00517

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:

Dennis M. Temple, SCDC# 274802
Address: Tyger River Corr. Inst Unit 6
200 Prison Road
Enoree, South Carolina 29335

Defendant's Attorney:

Attorney General, Alan Wilson
State of South Carolina
Post Office Box 11549
1000 Assembly Street
Columbia, South Carolina 29211

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: default & Judgment

Estimated Time Needed: 1 hour

Court Reporter Needed: ☒ YES ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Dennis M. Temple

Signature of Attorney for ☒ Plaintiff ☐ Defendant

October 16, 2023
Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$

☒ EXEMPT.

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☒ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other.

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other:

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED - AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

Copies to:

Atty (P) ☒ (D) _____

DSS _____ other _____

Mailed ☒ Boxed _____ handed _____

ENTERED
COMPUTER

2023 OCT 18 P 3:18

FILED OCONEE COUNTY, SC
MELISSA G. BURTON
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Dennis Temple, SCDC# 274802

petitioner,

v.

State of South Carolina, et al;

Respondents,

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
Case No. 2023-CP-37-00517

NOTICE OF MOTION

TO: State of South Carolina, Et al.

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
2023 OCT 18 P 3:10

YOU WILL PLEASE TAKE NOTICE that the under signed petitioner will move before the Oconee County Court of Common Pleas Pursuant to Rule 55 of the South Carolina Rules of Civil Procedures for a default and Judgment in this case against the respondents for the following reasons stated in the Affidavit of Default as follows:

October 16, 2023

Dennis M. Temple
Dennis M. Temple, # 274802
Tyger River Corr. Inst Unit 6
200 Prison Road
Enoree, South Carolina 29335

Copies to:
Atty (P) ☒ (D)
DSS other
Mailed ☒ Boxed handed

ENTERED
cc
COMPUTER

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
SOUTH JUDICIAL CIRCUIT
CLERK OF COURT
Case No. 2023-CP-37-00517

Dennis Temple, SCDC# 274802

2023 OCT 18 P 3:10

petitioner,

v.

State of South Carolina, et al.

Respondents,

MOTION FOR ENTRY OF DEFAULT

AND FOR

DEFAULT JUDGMENT

The Petitioner, Dennis Temple, moves the court, pursuant to Rules 55(a) and 55(b)(1) of the South Carolina Rules Of Civil Procedure, for a judgment of default in the above-Captioned case. In support of the motion, the petitioner shows the following to the court:

1. The notice of Motion, Motion for Petition of Writ Of Habeas Corpus, summones and a Verified Complaint was served on the respondents on August 9 and 28, 2023, as evidenced by the Affidavit of service from the Richland County Sheriff's Department and Certified mail, with returned receipt of service attached as Exhibits E and F. The specifics of the service and the relief requested are set forth in an affidavit of default, attached as exhibit C.

2. The summones included a statement informing the respondents that a default would be sought against them for the relief sought in the verified complaint unless the respondents answered or respond within 30 days.

Copies to:

Atty (P) ☒ (D) ☐
DSS ☐ other ☐
Mailed ☒ Boxed ☐ handed ☐

1.

ENTERED
COMPUTER

3. As of now, more than 30 days have elapsed since the service of the summons and verified Complaint.

4. The respondents has not answered, otherwise pled, or requested an extension of the time in which to answer.

5. The Clerk of Court entered a default against the respondent on _____ as evidenced by the entry of default attached as exhibit D, the amount of \$ 6,200.00 and release of petitioner from prison and sustain this proceeding and relating to this conviction.

WHEREFORE, the petitioner moves the court for an order entering a Default Judgment against the respondents and for such other and further relief in favor of the petitioner as the court deems just and appropriate.

Respectfully Submitted,

Dennis M. Temple

Dennis M. Temple, # 274802
Tyger River Corr, Inst. Unit 6
200 Prison Road
Enoree, South Carolina 29335

October 16, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE COUNTY, SOUTH JUDICIAL CIRCUIT
MELISSA C. BURTON
CLERK OF COURT
Case No. 2023-CP-37-00517

Dennis Temple, SCDC# 274802

2023 OCT 18 P 3:11

petitioner,

v.

AFFIDAVIT OF DEFAULT

State of South Carolina, et al.

Respondents,

I, Dennis Temple, having been duly Sworn, depose and say the following:

1. I am the petitioner in this case and proceeding pro se in the above matter.

2. On August 9 and 28, 2023 the Notice of Motion, Motion for petition of Writ of Habeas Corpus, Summones and a Verified Complaint in this action, a copy of which is attached as exhibit A and B, was served on the respondents the State of South Carolina; Bryan Stirling and Shane Jackson, attorney Alan Wilson by delivering a copies to registered agent Stephanie Kennedy, as evidence by certified mail and returned receipt of service and by delivering a copies to another registered agent Janee McCrea, as evidence by Affidavit of service by the Richland County Sheriff's Department both are attached as exhibit E and F.

3. As of now, more than thirty (30) days have elapsed since service of the above- mentioned pleadings and no notice of appearance, answer, responsive pleading, or request for an extension of

1.

Copies to:

Atty (P) ☒ (D) ☐

DSS ☐ other ☐

Mailed ☒ Boxed ☐ handed ☐

ENTERED
aw
COMPUTER

time to answer has been made,

4. The respondents are not a minor, incompetent, or members of the military service.

5. The respondents are the State of South Carolina and state employees, but are not above the laws of the State of South Carolina. These respondents are now in default.

6. The cost of litigation charged to the petitioner's E.H. Cooper Trust Fund Account, Medical Co-pay fees, Medicine, legal supplies and as set forth in and calculated from the Verified Statement of account attached as exhibit G is \$ 6,200.00 and the requested relief in the verified Complaint to release the petitioner from prison.

Sworn to and subscribed

before me this 10 day of
October 2023.

Paul Leroy Coker

Notary Public

Dec. 10, 2024

My Commission Expires

Respectfully Submitted,

Dennis M. Temple
Dennis M. Temple, SCDC# 274802

Tyger River Corr. Inst. Unit 6

200 Prison Road

Enoree, South Carolina 29335

October 10, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Dennis Temple, SCDC # 274802

petitioner,

v.

State of South Carolina, et al.

Respondents,

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
Case No. 2023-CP-37-00517

VERIFIED STATEMENT

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
2023 OCT 18 P 3:11

1. My name is Dennis Temple, I am the petitioner in this above-captioned case. I am a inmate in the South Carolina Department of Corrections. (SCDC)

2. In 2010, I was wrongfully convicted in a jury trial in Oconee County General sessions Court. Trial judge sentenced me to 100 years in prison, A order of commitment was submitted for me to serve the sentences in the South Carolina Department of Corrections.

3. I have been in the SCDC prison since December 16, 2010. I have been on direct appeal; 2 Post-Conviction relief action; writ of Certiorari; 2 Federal Habeas Corpus.

4. In addition, I have filed many state and Federal lawsuits regarding my conviction and sentences and condition and restriction of rights in prison.

1.

Copies to:
Atty (P) ☒ (D) _____
DSS _____ other _____
Mailed ☒ Boxed _____ handed _____

ENTERED
COMPLETED

My prison E.H. Cooper account has been debited for medical co-pay fees, medicine and for legal supplies such as paper, pens, envelopes and postage for over 13 years now.

As of now, my prison E.H. Cooper trust Fund account states that I owe \$ 6,200.00.

VERIFICATION

I have read the foregoing statement and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and as to those. I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Respectfully Submitted,

Dennis M. Temple

Dennis M. Temple, # 274802
Tyger River Corr. Inst Unit 6
200 Prison Road
Enoree, South Carolina 29335

October 16, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEA

TENTH JUDICIAL CIRCUIT

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

Case No. 2023CP3700517

Dennis Temple, # 274802

2023 JUL 10 PM 4:08

Petitioner,

v.

NOTICE OF MOTION

State of South Carolina; Director
Bryan Stirling; Warden, Shane
Jackson.

Respondents,

TO:

YOU WILL PLEASE TAKE NOTICE, that the petitioner,
Dennis Temple will move the Court pursuant to Rule 65(f)(1) of
the South Carolina Rules of Civil Procedures for a Petition of
Writ of Habeas Corpus as follows:

Dennis M. Temple

Dennis M. Temple, # 274802

Lee Correctional Inst. F2A-2113

990 Wisacky Highway

Bishopville, South Carolina 29010

July 5, 2023

Exhibits

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Dennis Temple, # 274802

Petitioner,

v.

State of South Carolina; Director
Bryan Stirling; Warden Shane
Jackson.

Respondents,

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Case No. 2023CP3700517

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
2023 JUL 10 P 4:08

MOTION FOR PETITION

OF

WRIT OF HABEAS CORPUS

The Petitioner, Dennis Temple, moves the court pursuant to Rule 65(f)(1) of the South Carolina Rules of Civil Procedures for a Writ of Habeas Corpus against the State of South Carolina Director, Bryan Stirling and Warden Shane Jackson for placing and holding him incarcerated in prison in violation of petitioner 4th, 5th, 6th, 8th and 14th Amendments rights of the United State Constitution and South Carolina Constitution Article 1, sections 3, 12, 14, & 15, and S.C. Codes of laws.

Petitioner seeks to take advantage of the deprivation of Constitutional principles recognized after his trial, appeal and exhaustion of state Post-Conviction relief proceedings.

Petitioner was bereave of substantial and procedural Constitutional rights and in the setting, constitute a denial of fundamental fairness shocking to the Universal sense of Justice and a miscarriage of Justice as follows:

GROUND 1.

Petitioner was arrested and detained upon affiant, sergeant Scott Arnold arrest warrants affidavit that was not supported substantial probable cause, contained false information and was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in affidavit were conclusory statements.

GROUND 2.

Petitioner DNA seizure from him pursuant to S.C. Code of Laws section 16-3-740 and without probable cause.

GROUND 3.

Petitioner Bond Reduction attorney Robert Mills Ariail Jr; misrepresented the facts and lied to (his client) petitioner in order to get him to go on the record and decline the Bond Reduction consideration.

GROUND 4.

Respondents held a preliminary hearing in this case on July 16 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

GROUND 5.

Petitioner was denied by the trial Judge to call witnesses in his defense during a Jury trial.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years and 10 years in prison to run consecutive by the trial Judge.

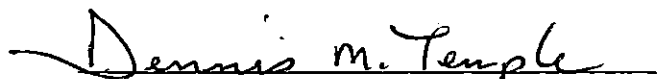
Ground 7.

Petitioner's decision to proceed pro se during a jury trial was not knowing, intelligent and voluntary.

8. A summons and a verified complaint is attached as Exhibits A and B, in support of the Writ Of Habeas Corpus.

9. The petitioner certifies that consultation with the opposing party about this matter would serve no useful purpose.

WHEREFORE, the petitioner moves the court for a writ of Habeas Corpus for an order directing the State of South Carolina, Director Bryan Stirling and Warden Shane Jackson to provide the petitioner with a new trial, a new preliminary hearing and/or release him from prison or/and such other and further relief in favor of the petitioner as the Court deems just and appropriate.



Dennis M. Temple, # 274802
Lee Correctional Inst. F2d-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

July 5, 2023

STATE OF SOUTH CAROLINA,

COUNTY OF OCONEE

Dennis Temple

petitioner,

vs.

state of South Carolina, Director,

Bryan Stirling; Warden, Shane

Jackson.

Respondents)

FILED OCONEE COUNTY, SC

MELISSA L. BURTON

CLERK OF COURT

IN THE COURT OF COMMON PLEAS

TENTH JUDICIAL CIRCUIT

2023 JUL 10 P 4: 08

SUMMONS

FILE NO. 2023CP3700S17

TO THE RESPONDANT ABOVE-NAMED: Shane Jackson

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

, South Carolina

Dated: July 5, 2023

Dennis M. Temple

Plaintiff/Attorney for petitioner

Address: Dennis M. Temple, scdc# 274802
Lee Correctional Inst, F2d-2113,
990 Wisacky Highway
Bishopville, South Carolina 29010

STATE OF SOUTH CAROLINA,

COUNTY OF OCONEE

Dennis Temple

~~FILED OCONEE COUNTY, SC~~
~~MELISSA C. BURTON~~
~~CLERK OF COURT~~

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

SUMMONS

~~Petitioner, 07-07~~

vs.

State of South Carolina; Director,
Bryan Stirling; Warden Shane
Jackson.

FILE NO.

2023CP3700517

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
2023 JUL 10 P 4:08

TO THE RESPONDANT ABOVE-NAMED: Bryan Stirling

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

, South Carolina

Dennis M. Temple

Plaintiff/Attorney for petitioner

Dated: July 5, 2023

Address: Dennis M. Temple, scdc# 274802
Lee Correctional Inst. F2d-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

STATE OF SOUTH CAROLINA,

COUNTY OF OCONEE

Dennis Temple

petitioner,

vs.

state of South Carolina, Director,

Bryan Stirling; Warden, Shane

Jackson.

Respondents)

2023 JUL 10 P 4:08

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

SUMMONS

FILE NO. 2023CP3700517

TO THE RESPONDANT ABOVE-NAMED: State of South Carolina

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

, South Carolina

Dated: July 5, 2023

Dennis M. Temple

Plaintiff/Attorney for petitioner

Address: Dennis M. Temple, scdc# 274802
Lee Correctional Inst. F2d-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
Case No. 2023CP3700517

Dennis Temple, # 274802 2023 JUL 10 PM 4:09

Petitioner,

v.

VERIFIED COMPLAINT

State of South Carolina, Director
Bryan Stirling, Warden, shape
Jackson.

Respondents,

STATEMENT OF THE CASE

1. This is a complaint filed by a state prisoner, Dennis Temple (herein as petitioner) pursuant to Rule 65(f)(1) of the South Carolina Rules of Civil Procedures in support of the Petition for Writ of Habeas Corpus against the respondents regarding the petitioner's Actual Innocence claim, Ineffective Assistance of Preliminary Hearing Counsels claim, illegal sentences claim and others. In violation of the South Carolina Common laws; statutory Codes of Laws; Article 1, sections 3, 12, 14 & 15 of the South Carolina Constitution and the 4th, 5th, 6th, 8th, & 14th Amendments of the United States Constitution. Petitioner is seeking a vacator of the conviction and sentences and/or remand this case for a new trial or release petitioner from prison.

JURISDICTION AND VENUE

2. This court has jurisdiction over this action under Rule 65(f)(1) of the South Carolina Rules of Civil Procedures and the South Carolina Constitution, article V, section 5 and Venue pursuant to Rule 82 of the SCRCF.

PETITIONER

3. The petitioner, Dennis Temple was at all times herein, a citizen of the United States of America and resident in South Carolina. However, he is currently incarcerated at Lee Correctional Institution of the South Carolina Department of Corrections.

RESPONDENTS

4. The respondents was at all times herein were responsible for petitioner's placement in prison. The State of South Carolina, Director of the South Carolina Department of Corrections and the Warden, Shane Jackson of Lee Correctional Institution.

FACTUAL AND PROCEDURAL HISTORY

5. Petitioner, Dennis Temple a 37 year-old blackmale from Seneca, South Carolina. In 2009, petitioner began a small business buying products at low prices and reselling them at a higher price. Petitioner business began to do good, but he needed a place to store the products. He researched different storage facilities. Petitioner selected the All Safe Storage in Seneca South Carolina because of it's security features it advertised. On March 22, 2010 petitioner went into the All Safe Storage paid a fee signed a contract to rent a storage Unit.

6. On May 2010, [REDACTED] a 19 year-old white female Clemson University student rented a storage unit at the All Safe Storage in Seneca, South Carolina. On May 10, 2010, [REDACTED] [REDACTED] alleged in her seven (7) page sworn written statement to police at the Oconee Medical Center, (paraphrased) as follows;

" On May 9, 2010 i arrived at my storage unit in seneca, south carolina at 4:30 p.m. When i noticed a black man between the age 20 to 40 walking on site without a car I became nervous and he tried to sell me some shoes, but i did not want to buy. He then beat me up, dragged me into his storage unit where he raped me, cleaned me with a blue cloth and left me inside his storage unit tied up. Ultimately, i freed myself and found a cell phone inside the storage unit. I then called 911 and a Oconee County Sheriff Officer rescued me from the storage unit Afterwards, i was taken to the Oconee Medical Center.

NOTE: [REDACTED] sworn written statement to police at the Oconee Medical Center which, (1) never mention petitioner's name Dennis Temple, (2) victim statement never alleged she identified petitioner in a six man photo lineup, (3) the alleged victim's statement never connected storage unit# 193 to any criminal activity (4) the victim's statement never connected petitioner to any criminal activity; (5) the alleged victim statement was the only source of sergeant, Scott Arnold information and belief provided in the arrest warrants affidavit, which was signed by Magistrate Judge Blake Norton on May 10, 2010, in support of the arrest warrants, (6) conclusionary statements was used as probable cause to arrest petitioner (7) there was no determination of the credibility and reliability of the witness (8) and the reckless disregard for the truth.

7. Later that day, On May 10, 2010 a Oconee County Sheriff's Officer named Sergeant, Scott Arnold went before Magistrate Judge Blake Norton requesting the issuance of three (3) arrest warrants for petitioner's arrest for committing the crimes of Grand Larceny more than \$5,000; kidnapping and Criminal Sexual Conduct, 1st degree at the All Safe Storage in Seneca, South Carolina.

GRAND LARCENY ARREST WARRANT

8. On May 10, 2010 Sgt. Scott Arnold swore in his arrest warrant affidavit for Grand Larceny as following:

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:

" THE DEFENDANT DID, ON 05-09-10, WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER, TAKE AND CARRY AWAY A HONDA ACCORD, WEST VIRGINIA TAG #NL3593, VALUED AT MORE THAN \$5,000, WHICH BELONGED TO [REDACTED] [REDACTED] THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC, IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS ON FILE. CASE # 1012105.

KIDNAPPING ARREST WARRANT

9. On May 10, 2010 Sgt. Scott Arnold swore in his arrest warrant affidavit for Kidnapping as following:

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:

THE DEFENDANT DID, ON 05-09-10, UNLAWFULLY AND WITHOUT AUTHORITY TO DO SO, ABDUCT, CONFINE AND INVEIGLE THE VICTIM, [REDACTED] [REDACTED] AGAINST HER WILL WHILE ACCOMPANIED BY AGGRAVATED CIRCUMSTANCES. THIS DEFENDANT DID FORCE THE VICTIM FROM HER STORAGE UNIT, UNIT 177, TO HIS PERSONAL STORAGE UNIT, UNIT 193 WHERE HE COMMITTED THE CRIME OF CRIMINAL SEXUAL CONDUCT AGAINST THE VICTIM. THE VICTIM WAS TIED UP AND LEFT INSIDE THE DEFENDANT'S STORAGE UNIT. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENT ARE ON FILE. CASE # 1012105.

CRIMINAL SEXUAL CONDUCT ARREST WARRANT

10. On May 10, 2010 Sgt. Scott Arnold swore in his arrest warrant affidavit for Criminal Sexual Conduct, 1st degree as following:

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:

THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING ENGAGE IN SEXUAL BATTERY UPON THE VICTIM [REDACTED] BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM AGAINST HER WILL. THE DEFENDANT, DID, WHILE AT UNIT 193. A11 SAFE STORAGE, 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY FORCE SEXUAL INTERCOURS WITH THE VICTIM, VICTIM WAS TRANSPORTED TO OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. (A. WRITTEN REPORT, PHOTOGRAPH AND STATEMENT ARE ON FILE. CASE # 1012105.

11. Sgt. Scott Arnold affidavits stated his information and belief was a written report, Photograph and a statement. We searched the trial files received from Solicitor Christina Adams and Assistant Solicitor, Lindsey S. Simmons the documents disclosure, pursuant to petitioner's Rule 5, discovery request. The only written report photograph and statement on file before and on the day of petitioner arrest. On May 11, 2010 was a seven page sworn written statement by [REDACTED] a photograph of six (6) black males. There was no supplemental oral testimony or written report on file before or on the day of petitioner's arrest by Lieutenant Greg Reed on May 11, 2010.

IN VIOLATION OF THE FOURTH AMENDMENT, U.S. CONST.

12. On May 10, 2010 Magistrate judge Blake Norton issued the three (3) arrest warrants for petitioner's arrest for committing the crimes of Grand Larceny, more than \$5,000; kidnapping and Criminal Sexual Conduct, 1st degree; arrest warrant numbers; N-136668, N-136669 & N-136670 at the All Safe Storage in Seneca South Carolina.

13. On May 11, 2010, petitioner was arrested by the Oconee County Sheriff's Officer Lieutenant Greg Reed for allegedly committing the crimes of Grand Larceny, more than \$5,000; kidnapping and Criminal sexual Conduct, 1st degree at the All Safe Storage in Seneca, South Carolina. Where he was detained in the Oconee County Detention Center.

BOND HEARING

14. On May 12, 2010 petitioner was taken before Magistrate Judge Blake Norton issued a \$200,000 bond against petitioner to gain his freedom on the Grand Larceny, more than \$5,000; Kidnapping and Criminal Sexual conduct, 1st degree charges.

15. Petitioner was unable to post bail on the \$200,000 bond and remained detained in the Oconee County Detention Center, However, petitioner made arraignment for a friend named, Millie Forrester to pay over \$1,000 to Robert Mills Ariail Jr. to get him a bond Reduction on the \$200,000 bond.

IN VIOLATION OF THE FOURTH AMENDMENT, U.S. CONST.

16. On May 20, 2010 a hearing was held before judge R. Lawton McIntosh. Lindsey Simmons represented the State, and petitioner appeared pro se. [Upon personal knowledge, the transcript contains a scrivener's error: this hearing was held May 20, 2010 not May 20, 2012]. The purpose of the hearing was to test petitioner for sexual transmitted diseases under S.C. Code Ann. § 16-3-740. Petitioner indicated that he chose to represent himself based upon "Prior experience with attorneys from Oconee County." Judge McIntosh found that petitioner freely, voluntarily, and knowingly waived his right to an attorney in the limited context of the hearing. Pursuant to the statute, a finding of probable cause was necessary before testing could be completed. Therefore, the State offered the testimony of sergeant, Scott Arnold, who claimed that the alleged victim, C.M. identified petitioner out of a six-picture photo lineup. Judge McIntosh's findings were as follows:

" First, I'm going to find that the victim did make a request for these tests under statute, there's probable cause to believe that [defendant] committed this offense, and further, there's probable cause to find that there were body fluids transmitted and that [defendant] received proper notice of this petition as well as waived his right to have an attorney represent him in this matter. I am going to grant the motion and sign the order as we speak.

ATTORNEY ROBERT MILLS ARIAIL JR.

17. In May 2010, petitioner was called out of the cell at ... the Oconee County Detention Center to talk with attorney Robert Mills Ariail Jr. That's when Ariail Jr. told petitioner that he had scheduled for a bond reduction hearing that month, but due to the media coverage of the case on the news. Ariail Jr. rescheduled the hearing for June 2010.

18. On or about June 7, 2010 petitioner filed a motion for Discovery and Inspection as well as Brady Material under Rule 6 with the Oconee County, clerk of Court regarding State v. Temple, arrest warrants #N-136668, Grand Larceny, more than \$5,000 N-136669, kidnapping; and N-136670, Criminal Sexual Conduct, 1st degree.

IN VIOLATION OF THE SIXTH AMENDMENT, U.S. CONST.

19. On June 30, 2010 petitioner appeared before General Session court in Oconee County for the Bond Reduction Hearing regarding the Grand Larceny, more than \$5,000; kidnapping and Criminal Sexual Conduct, 1st degree charges before Judge Alexander Macaulay. Solicitor, Christina Adams and Assistant Solicitor, Lindsey Simmons appeared on behalf of the State, and Robert Mills Ariail Jr. represented petitioner. At that hearing petitioner was brought into the court room. Robert Mills Ariail Jr. took petitioner into a jointing room in the court and told petitioner that the judge was going to take his current \$200,000 bond. That petitioner must go on the record before the judge and say he withdraw his bond reconsideration. However, Robert Mills Ariail Jr. reviewed the alleged victims [REDACTED] statement that never stated she identified petitioner in a photo lineup, (1) never stated petitioner's storage Unit# 193 was involved in any criminal activity; (2) never stated that petitioner (Dennis Temple) was identified as the assailant in a six man photograph lineup, (3) the victim's statement never connected petitioner to any of the criminal activity related to the offenses. (4) but petitioner was arrested and detained and received a \$200,000 bond to gain his freedom for allegedly committing the crimes. Robert did not inform his client or petitioner about [REDACTED] statement to police and

misrepresented the facts and misled petitioner. Solicitor, Christina Adams and Assistant Solicitor, Lindsey Simmons had not disclosed the alleged victim's statement to the petitioner pursuant to discovery yet. Judge Macaulay waived the application for the Public Defender's office and ordered Wilson Burr to meet with petitioner to start his representation. That same day, petitioner wrote Robert Mills Ariail Jr. a letter requesting his Bond Reduction money back for failing to get him a Bond Reduction. Later, Robert wrote petitioner back, stating that he had filled his agreement with Millie Forrester regarding petitioner's bond reduction.

ATTORNEY'S SARAH DRAWDY AND KEITH DENNY

20. In July 2010, Wilson Burr and Sarah Drawdy came to the Oconee County Detention Center to visit the petitioner. Wilson Burr informed petitioner that he was appointing Sarah Drawdy as attorney to represent him on the charges and was including another attorney since this was a high profile case.

21. Sometime, in July 2010 petitioner received from the Solicitor, Christina Adams many documents regarding his discovery request, which included, but not limited to a seven (7) page sworn written statement by the alleged victim [REDACTED] [REDACTED] a photo lineup of six black males and a Fox Carolina News report.

22. That next week, in July 2010 petitioner's attorney Sarah Drawdy came back to the Oconee County Detention Center with attorney Keith Denny to discuss the case with him. Petitioner told Ms. Drawdy and Mr. Denny that this case is receiving a lot of media attention in the newspaper and on television. As a result, petitioner would like for them to file a Motion for a Change in Venue with the

court in the case. Petitioner made it clear to Ms. Drawdy and Mr. Denny, that if any motion is filed on his behalf and regarding the state case against him. Then they must inform him first and provide him with a copy of the motion as well. Ms. Drawdy informed the petitioner that his case was scheduled for a preliminary hearing on July 16, 2010. Petitioner told Ms. Drawdy and Mr. Denny that on May 10, 2010. That the alleged victim, [REDACTED] wrote a seven (7) page sworn written statement to police at the Oconee Medical Center, detailing the incident that happened to her and that she did not allege he was involved in the crimes against her. Petitioner showed his attorneys Sarah Drawdy and Keith Denny the alleged victim's statement and told them that the victim's statement did not ever mention his name and; did not state she identified him in a photo lineup and did not involve him or his storage unit in any criminal activity. Ms. Drawdy and Mr. Denny did not say anything.

PRELIMINARY HEARING

23. On July 16, 2010 a preliminary hearing was held at the Magistrate court house in Oconee before Magistrate Judge William Derrick regarding the arrest warrants that were issued by magistrate Judge Blake Norton. Solicitor, Christina Adams and Assistant Solicitor Lindsey Simmons represented the State. Attorney, Sarah Drawdy and Keith Denny appeared on petitioner's behalf. The petitioner was present as well. Solicitor Adams and Simmons called sergeant Scott Arnold to the stand, which he testified that the alleged victim identified petitioner in a six-man photo lineup on May 10, 2010. Moreover, Petitioner attorney, Sarah Drawdy and Keith Denny did not raise a fourth Amendment claim regarding the Criminal Sexual Conduct, 1st degree, kidnapping and Grand Larceny charges that were

lodged against their client, nor did they put up any argument regarding a lack of probable cause for the arrest warrants and seizure of his DNA pursuant to a search warrant. The preliminary hearing was not recorded in writing or audio, which prevented the appellate court from reviewing the determination of probable cause and not having a complete record for appellate review, denying petitioner his right to a appeal.

MOTION TO RELIEVE ATTORNEYS SARAH DRAWDY AND KEITH DENNY

24. On July 29, 2010 another hearing was held before Judge J. Cordell Maddox Jr. Lindsey Simmons appeared on the behalf of the State, and Sarah Drawdy represented petitioner. Petitioner had moved to relieve his counsel, Sarah Drawdy and Keith Denny because (1) he previously asked them a question and they told petitioner a lie and; (2) they failed to raise a fourth Amendment claim based on a lack of probable cause to arrest him on the arrest warrants in the preliminary hearing.

The State also had a motion that petitioner to obtain counsel within thirty days of the date of the hearing. According to the State, Wilson" sent the case out of his office to Ms. Drawdy and Mr. Denny. Petitioner indicated that he had not authorized the court to appoint an attorney. Judge Maddox advised petitioner against proceeding pro se. Judge Maddox granted both parties motions.

INDICTMENTS

25. On September 7, 2010 petitioner was indicted by the Grand Jury on Count One-Criminal Sexual Conduct, 1st degree, Count Two-Criminal Sexual Conduct, 1st degree, Kidnapping and Grand Larceny charges.

26, On September 14, 2010 another hearing was held before Judge J. Cordell Maddox Jr. Lindsey Simmons appeared on behalf of the State, and petitioner appeared pro se. At the start of the hearing, the following occurred:

The Court: All right. Yes, Ma'am?

Ms. Simmons: Thank you, Your Honor. We are here today in state of South Carolina vs. Dennis Temple. It's an Oconee County case. He has four indictments on 2010-GS-37 00886 through 889. It's two counts of criminal sexual Conduct in the first degree, Kidnapping and Grand Larceny.

On May the 14th of 2010 we filed a motion pursuant to 16-3-740 and served notice on Mr. Temple. That is under the S-T-D testing statute. Judge McIntosh subsequently granted that order and ordered testing on May the 20th of 2010. Mr. Temple has appealed the order and asked that Judge McIntosh reconsider that

Subsequently to that, Mr. Temple was appointed counsel and had a Preliminary hearing. He was represented by Ms. Drawdy in that matter, and that was on July 16th of 2010.

We filed a Schmerber motion out of an abundance of caution on July 19th 2010 and served that on his attorneys at the time. The Defendant appeared before your Honor on July 29, of 2010 for the scheduled Schmerber hearing and to address the issue of representation.

At this time Your Honor relieved Ms. Drawdy and Mr. Denny as his Counsel and gave the defendant 30 days to appear your Honor with an attorney and the Schmerber issue is still out-standing.

In addition, the state claimed that it received a fax from petitioner requesting a speedy trial and indicating that he was going to proceed pro se. Judge Maddox told petitioner that he had a right to represent himself. At this hearing, petitioner contested the validity of the indictments under the South Carolina Rules of Criminal Procedure. Regarding petitioner's representation status Judge Maddox stated:

Well, see, the option I got is I can let you go forward and sit at the table and represent yourself or I can appoint what's basically in my mind a shadow counsel. In other words, I'll appoint a lawyer to sit there with you. He doesn't represent you. If you are dead set on going and representing yourself then I'm going to appoint somebody to sit with you so that you can answer questions-- you can ask questions, they can answer questions. That's only-- that's what I'm comfortable with.

Petitioner agreed that it would be unwise to represent himself but claimed that past hardship with attorneys who did not act as zealous advocates on his behalf prevented him from proceeding with their representation. Judge Maddox appointed petitioner another attorney.

Well, let me just tell you generic, generic. I'm not talking about your case. If I appointed you Johnny Cochran and he was still alive and he sat down with you and told you that, take this road, and you were going to [take] the other road that's something you got to work out with your attorney. So every time you got to work out with your attorney. So every time you have a dispute with an attorney you can't come back and ask for another one.

In fact, what I'm going to do is I'm going to appoint you a lawyer. There's a list of lawyers who have agreed to be appointed. They are outside the public defender's office. I don't know who is next on that list but I'm going to appoint them with the caveat that this case is going to be tried December 13th.

Judge Maddox appointed Kurt Tavernier to represent petitioner.

SCHMERBER HEARING

27. On September 22, 2010, a Schmerber hearing was held before the Honorable Alexander S. Macaulay. Christina Adams and Lindsey Simmons appeared on behalf of the State, and Kurt Tavernier represented petitioner. Counsel for petitioner stated that blood, buccal, swabs, and hair samples were requested. Counsel indicated that petitioner refused to consent and would not consent to the issuance of the Schmerber order. However, counsel for petitioner also sought to suppress any and all DNA which was taken in accordance with a May 13, 2010 search warrant. Based on the premise that those were taken illegally, counsel requested that all of those samples be suppressed and that the search warrant be quashed. The State claimed that those samples were never taken to SLED and would not be used.

Judge Macaulay granted petitioner's Motion, to quash the the search warrant, and suppressed anything obtained. Counsel renewed petitioner's motion that the indictments be quashed, based upon Rule 3(c), SCRCrimp. Judge Macaulay denied the motion. Petitioner's attorney, Kurt Tavernier failed to raise a fourth Amendment claim on a lack of probable cause on the arrest warrant which (probable cause) was a requirement for the issuance and seizure of petitioner's DNA pursuant to a Schmerber order,

28. Another hearing was held on October 21, 2010 before Judge J. Cordell Maddox, Jr. with Christina Adams appearing on behalf of the State and Tavernier representing petitioner, to "deal with [petitioner's] representations concerns and issues." Petitioner indicated that when Mr. Tavernier was appointed by the court, the

court did not" have [petitioner's] best interest[s] at stake.'
Petitioner alleged that Mr. Tavernier threatened his family if he did not plead guilty and also refused to file a motion on his behalf. The following conversation took place between Judge Maddox and petitioner:

The Court: Well, what job have you done that was your best?
Where did you work that you thought you were most a
to do well?

petitioner: I have done weldind. I have done plumbing. I've done
structures.

The Court: Okay. Let me tell you a problem I've got. I don't
know anything about welding. And if you were out working
welding and I came out and showed you--and had no idea
how to weld and started telling you how to weld, you'd
think I was an idiot. And I would be an idiot. What I'm
telling you is that, you know, this would be -

petitioner: Are you saying, Your Honor, that I don't have experience
in the law? I have fifteen years' experience in the law.

Counsel indicated that petitioner filed a grievance which claimed
that he threatened to kill him and his family. When asked whether
he wanted to represent himself or hire an attorney, petitioner stated:

Well, Your Honor, according to the Constitution, the Unit
States Constitution, I am entitled to a defense. Just because
the Court, appointed me an attorney and he has skills in the
law, that doesn't mean he's using those skills to defend me,
So I still to this day have not been able to defend myself
because you refuse to give me a lawyer to defend me, myself
Refuse. I have had no lawyer to defend me yet to this day.

Judge Maddox order Mr. Tavernier to stay on the case as standby counsel, petitioner's objections notwithstanding. Judge Maddox told petitioner "the biggest mistake you can make is to show up on December 13th representing yourself."

29. On December 7, 2010 a pretrial hearing was held before Judge J. Cordell Maddox, Jr. Christina Adams and Lindsey Simmons appeared on behalf of the State, and Kurt Tavernier appeared as standby counsel for petitioner. At this hearing, State moved for an order to prohibit petitioner from offering any evidence of the victims prior sexual conduct and third-party guilt. In addition, petitioner moved to suppress the photographic lineup, search warrant, arrest warrants, DNA testing conducted pursuant to Schmerber order for lack of probable cause Motion to Dismiss the indictments, Motion to Compel Discovery and request an injunction and declaration judgment against the jail.

The State offered the testimony of Lieutenant Greg Reed, and petitioner questioned him on cross examination. [REDACTED] also testified and was questioned by petitioner. At the conclusion of the hearing, judge Maddox discussed with petitioner his right to counsel:

The second to the last thing before I talk about what we're going to do on Monday, Mr. Temple, I've gone over exhaustively your right to counsel. I know you and I don't agree on some of these issues. And that's fine. Unfortunately, the law does basically say that we may not agree, but what I say is final. Mr. Tavernier, who has sat here very quietly all day deserves to know for his preparation if you have changed your mind about whether or not he's going to represent you or whether you intend on Monday of next week to represent yourself?

Petitioner spoke with Mr. Tavernier, and the latter spoke to the court regarding his representation. Judge Maddox ruled that petitioner was to proceed pro se with Mr. Tavernier to serve as advisory counsel.

IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS, U.S. CONST.

30. On December 13, 2010 Judge J. Cordell Maddox Jr. coerced petitioner to proceed pro se in a jury trial. Solicitor, Christina Adams and Assistant Solicitor, Lindsey Simmons represented the State, and with Kurt Tavernier serving as standby counsel.

At trial, [REDACTED] testified that around 4:30 p.m. on the afternoon on May 9, 2010, she was putting her dormitory items in her storage unit at All Safe Storage located in Seneca, South Carolina, and then began walking to her car when she encountered a black male (whom she identified as petitioner at trial and after viewing a photograph layout after the incident) who wanted her to purchase shoes he was selling at that time. The State presented over fourteen witnesses in its case against petitioner during the trial. Then the state rested its case against petitioner.

Petitioner called upon the court to present two witnesses in his defense [REDACTED] and nurse Chapman, Judge Maddox denied petitioner to call these witnesses in his defense and conducted closing arguments, gave the jury instruction and the charge and told jury to deliberate. A jury of 11 whites and 1 black found petitioner guilty on all counts as indicted within 15 minutes of deliberation. Tr. p.604 1.1- p.656.

Then Judge Maddox sentenced petitioner to thirty years' imprisonment on Count One- Criminal sexual Conduct 1st degree; thirty years imprisonment on Count Two- Criminal Sexual Conduct 1st degree; thirty years imprisonment on the Kidnapping charge and ten years imprisonment on the Grand Larceny, more than \$5,000 charge- with the sentences to run consecutive .

THE DIRECT APPEAL

31. On December of 2010, petitioner timely filed a Notice of Appeal of his conviction and sentences with all parties including the South Carolina Court of Appeals. On September 28, 2012 Wanda Carter, Deputy Chief of Appellate Defense of the South Carolina Commission on Indigent Defense filed an Anders Brief pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967). on behalf of petitioner. On November 1, 2012 the petitioner filed a Pro Se Response to the Anders Brief. However, in the Anders Brief, petitioner raised the following issue to the South Carolina Court of Appeals:

The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived his right to counsel prior to trial; ultimately, he rescinded the waiver after the jury was selected and re-asserted his right to counsel by requesting representation of appointed counsel for his trial.

By way of unpublished opinion dated September 11, 2013, the court of Appeals dismissed petitioner's appeal. Unpublished Opinion granted appellate counsel's request to withdraw. State v. Dennis Temple, Unpublished No. 2013-UP-350 (ct.App. filed September 11, 2013). The Opinion reads as follows:

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to Anders v. California, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted. [We decide this case without oral argument pursuant to Rule 215, SCACR].

APPEAL DISMISSED.

SHORT, WILLIAMS, and THOMAS, jj., concur.

FIRST POST-CONVICTION RELIEF ACTION

32. On October 15, 2013 petitioner then filed his first application for Post-Conviction Relief Action (PCR) in the Oconee County Courthouse (Temple v. State, Civil Action No, 2013-CP-37-729). Petitioner's PCR application contained allegations of various Constitutional defects surrounding his trial as well as allegations of ineffective assistance of appellate counsel.

On July 8, 2014 the State filed its responsive pleading. An evidentiary hearing into the matter was convened on July 28, 2014 at the Oconee County Courthouse before Judge Edger W. Dickson, Circuit Court Judge (the PCR Court). Petitioner was represented at the hearing by Hugh Welborn, Esquire. The State was represented at the hearing by Walt Whitmire, Esquire, of the South Carolina attorney General Office.

FIRST FEDERAL HABEAS CORPUS

33. On August 26, 2014, petitioner filed a petition for Writ of Habeas Corpus pursuant to 28 U.S.C. section 2254 in the United States District Court for the District of South Carolina.

Temple v. Mcfadden, Civil Action No. 8:14-3499-JFA-JDA. The Magistrate Judge Jacquelyn D. Austin, subsequently issued a report and recommendation that petitioner's petition be dismissed without prejudice for failure to exhaust state remedies on September 9, 2014. Petitioner did not file timely objections to the R&R. On September 30, 2014, Judge Joseph F. Anderson, Jr., United States District Judge, issued an order dismissing the petition without prejudice in accordance with the R&R and denying a certificate of appealability. Temple v. Mcfadden, Civil action No. 8:14-3499-JFA-JDA (D.S.C.). Sept. 30 2014). Petitioner did not appeal.

ORDER OF DISMISSAL OF FIRST POST-CONVICTION

34. On October 24, 2016, the PCR Court, Judge Edger W. Dickson issued an order of Dismissal denying and dismissing petitioner's first Post-Conviction Relief Action with prejudice. However, Judge Dickson failed to issue findings of facts and conclusion of laws regarding petitioner's ineffective assistance of counsel claim and Schmerber hearing claim. The Order was filed with the Oconee County, Clerk of Court's Office on October 31, 2016.

THE APPEAL FROM THE DENIAL OF PCR

35. In 2016, petitioner's attorney Hugh Welborn, Esquire timely filed a Notice of Appeal of the order of dismissal of the PCR action on petitioner's behalf, but failed to file a 59(e) Motion regarding petitioner claims that Judge Dickson failed to rule on in the Order of Dismissal. In 2017, Taylor Gilliam, Esquire of the South Carolina Commission on Indigent Defense was appointed to represent petitioner on appeal of denial of PCR action. Petitioner appealed from the denial by way of a Johnson, petition

for Writ of Certiorari. On August 2, 2017 petitioner's filed the JOHNSON petition for Writ of Certiorari.

The petition was transferred to the South Carolina Court of Appeals by the South Carolina Supreme Court. On October 16, 2018 allegedly after careful consideration of the entire record as required by Johnson v. State, 294 S.C.310,364 S.E.2d 201 (1988) the South Carolina Court of Appeals denied Certiorari and granted counsel's request to be relieved. The Remittitur was issued on November 9, 2018 and November 13, 2018.

SECOND FEDERAL HABEAS CORPUS

36. On November 29, 2018, petitioner filed a federal Habeas Corpus in the United states District Court Temple v. Warden Lewis Civil action No. 8:18-cv-3258-JFA-JDA. The Attorney General Office Alan Wilson was represented by J. Anthony Mabry. Petitioner stated the following issues:-

Ground One: The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived his right to counsel prior to trial Ultimately, he rescinded that waiver after the jury was selected and re-asserted his right to counsel by requesting the representation of appointed counsel his trial.

Ground Two: The PCR Court erred in granting summary judgment to the state on the issue of ineffective assistance of appellate counsel, where there was a genuine issue of material facts as to whether probable cause was established at a pre-trial hearing and where the transcript from that hearing was not included in the record on appeal.

Ground Three: Did the General Session Court have Jurisdiction to hear appellant's criminal case when the Magistrate Judge never established it had probable cause to detain appellant on the arrest warrants.

On April 1, 2019 the Attorney General Office, J. Anthony Mabry filed a motion for Summary Judgment and a Return and Memorandum of law in Support of Motion for Summary Judgment, On June 20, 2019 magistrate Judge Jacquelyn D. Austin filed a Report and Recommendation, recommending to grant J. Anthony Mabry's Motion for Summary Judgment and dismissing petitioner's Federal Habeas Corpus petition.

On October 31, 2019 United States District Judge, Joseph F. Anderson issued an order adopting Magistrate Judge Report and Recommendation granting the Summary Judgment Motion and dismissing petitioner's Habeas Corpus with prejudice.

SECOND POST CONVICTION RELIEF ACTION

37. On September 18, 2020 petitioner filed his Second Post-Conviction Relief Action in the Oconee County Courthouse.

Temple v. State, Civil Action No. 2020-CP-37-695. He raised three (3) issues: Ineffective Assistance of Counsels claims on his preliminary hearing counsels Sarah Drawdy and Keith Denny, the PCR Court failed to rule on his Schmerber hearing claim as well and petitioner moved the court for a new trial based on the fact that the state notified petitioner 1 year and 10 months after direct appeal that his preliminary hearing transcript does not exist, which prevented the appellate court from conducting a meaningful and complete appellate review.

Petitioner requested that the conviction and 100 years sentences to be vacated and requested a new trial.

On September 14, 2021 the State of South Carolina made a late return, represented by the Attorney General Office, requesting the action to be Summary Dismissed because it was filed after the 1 year statutory of limitation had expired; it is successive to petitioner's prior PCR action; it is barred by res judicata; for failing to state a cognizable claim under the PCR Act, and because continued litigation by petitioner frustrates the need for final of litigation.

The PCR Court, Chief Administrative judge R. Lawton McIntosh issued a conditional order of dismissal signed on September 21, 2021 and filed on September 23, 2021, provisionally denying and dismissing this action. While giving petitioner twenty days from the date of service of said order in which to show why the dismissal should not become final.

On October 4, 2021, petitioner filed a motion requesting a thirty-day extension of time in which to file a response to the conditional order of dismissal. Petitioner subsequently filed a response on October 27, 2021. The State filed a proposed Final order. Petitioner filed objections to the State's proposed final order of dismissal. On November 17, 2021 the Chief Administrative Judge R. Lawton McIntosh issued a Final Order of Dismissal.

On December 17, 2021 petitioner filed a Notice of Appeal and a Explanation Brief on the South Carolina supreme Court pursuant to Rule 203. The Supreme Court of South Carolina issued an order on December 22, 2021 dismissing petitioner's appeal.

HABEAS CORPUS CLAIMS

Ground 1.

Petitioner was arrested and detained upon affiant's Sergeant Scott Arnold arrest warrants affidavit that was not supported probable cause, but contained false information that was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in the affidavits were just conclusory statements.

In violation of the petitioner's 4th and 14th Amendment rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10 and S.C. Code of laws § 22-3-710 Petitioner alleges Actual Innocence; Ineffective Assistance of Counsels, which resulted in a miscarriage of Justice and shocking to the Universal Sense of Justice.

Ground 2.

Petitioner's D.N.A. was seized from him pursuant to S.C. Code of laws section 16-3-740 and without probable cause.

In violation of the petitioner's 4th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10.

Ground 3.

Petitioner's Bond Reduction attorney Robert Mills ariail jr; misrepresented the facts and lied to (his client) petitioner in order to get him to go on the record and decline the Bond Reduction consideration.

In violation of the petitioner's 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 15; which in the setting, constitutes a denial of fundamental fairness shocking to the Universal sense of Justice.

Ground 4.

Respondents held a Preliminary hearing in this case on July 16, 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

In violation of the petitioner's 5th, 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2 and 14, and S.C. Code of laws § 22-5-320.

Ground 5.

Petitioner was denied by the trial Judge to call witnesses in his defense during a Jury trial.

In violation of the petitioner's 5th, 6th, 8th and 14th Amendment of the United States constitution and South Carolina Constitution Article 1, sections 2, 3, 14 and 15 and S.C. Codes of laws §§ 17-23-60 and 19-7-60.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years, and 10 years in prison to run consecutive by the trial Judge.

In violation of the petitioner's 5th, 6th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3, 8, 12 and 15; and S.C. Codes of Laws §§§§ 17-25-50; 16-13-30; 16-3-652 and 16-3-910 illegal sentences.

Ground 7.

Petitioner's decision to proceed pro se during a jury trial was not knowing, intelligent and voluntary.

In violation of the petitioner's 6th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2, 3 and 14; Which in the setting, constitutes a denial of fundamental fairness shocking to the Universal sense of Justice.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully pray that this court
Enter a judgment in his favor:

38. Granting petitioner Temple relief in this case by setting
or vacating the conviction and sentences.

39. Petitioner's also seeks separate relief on all grounds
raised herein, including release from prison.

40. Petitioner also seeks recovery of his costs in this
proceeding and other related to the conviction.

41. Any additional relief this court deems just, proper, and
equitable.

VERIFICATION

I have read the fore going complaint and hereby verify that
the matters alleged therein are true, except as to matters alleged
on information and belief, and as to those, I believe them to be
true, I certify under penalty that the foregoing is true and correct.

Dennis M. Temple

Dennis M. Temple, # 274802
Lee Correctional Inst. F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

July 5, 2023

USPS TRACKING#

COLUMBIA, SC 290

28 AUG 2023 PM 4 L



9590 9402 8347 3094 7819 94

First-Class Mail
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United States
Postal Service

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Dennis Temple #274802
200 PRISON RD
COLUMBIA, SC 29335



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ALAN WILSON
1000 Assembly Street
Columbia, SC 29211



9590 9402 8347 3094 7819 94

2. Article Number (Transfer from service label)

7020 2450 0000 8707 4295

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Stephanie Kennedy* ☐ Agent
☒ Addressee

B. Received by (Printed Name)

Stephanie Kennedy

C. Date of Delivery

8/28/23

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes☐ No

3. Service Type

☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®

☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Insured Mail☐ Insured Mail Restricted Delivery (over \$500)☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

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U.S. Postal Service™

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☐ Return Receipt (hardcopy) \$☒ Return Receipt (electronic) \$ 3.35☐ Certified Mail Restricted Delivery \$☐ Adult Signature Required \$☐ Adult Signature Restricted Delivery \$

Postage \$ 9.55

Total Postage and Fees \$ 17.05

Sent To

ALAN WILSON

Street and Apt. No., or P.O. Box No.

1000 Assembly Street

City, State, ZIP+4®

Columbia, SC 29211

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

2023 SEP 12 P 2:37

FILED OCOONE COUNTY SC
MELISSA C. BURTON
CLERK OF COURT



Richland County Sheriff's Department

AUG 04 2023

AFFIDAVIT OF SERVICE or NON-SERVICE

Date Entered: 08/03/2023
File Number: C202305522
DSS Number: 0
Foreign Case #: 2023CP3700517

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Date _____

Plaintiff

Dennis M. Temple, #274802 Lee Corr. Inst. F2A-2113 990 Wisacky Highway Bishopville, SC 29010

Defendant(s)

Attorney General Alan Wilson 1000 Assembly St. Columbia, SC 29210

PERSONALLY APPEARED Before Me _____, duty sworn says that he/she served, or attempt to serve, the following civil paper(s):

P. Wilkes

Summons & Complaint
Summons & Petition
Motion
Notice

1
1
1
1
2023 SEP 14 P 2:42

FILED OCONEE COUNTY, SC
MELISSA C BURTON
CLERK OF COURT

on the defendant, *Attorney General Alan Wilson*, as follows:

() By personally handing the process to the defendant at _____, SC on _____, (Date/Time)

() By handing the process to _____ at _____, SC on _____, a person of suitable age and discretion then residing in the defendant's usual place of abode.

() By handing the process to *JANEE MCCREAN - Admin Asst*, the registered corporate agent or officer of the company at *1000 Assembly St. Columbia*, SC on *08/09/23 - 11:22 AM* and leaving him/her a copy.

() WAS UNABLE to locate and serve the above process on the defendant, after diligent efforts by checking the City/Telephone Directory, and going to the address given for the defendant, and by questioning persons in the vicinity of the address. THE PROCESS IS RETURNED UNEXECUTED.

() COMMENTS: _____

Deponent knows the person served to be the defendant and Deponent is not a party to the action.
SWORN TO Before me this

9 day of *AUGUST*, *2023*
[Signature]

Deputy Sheriff, Richland County

P. WILKES
S# 1195

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES _____
P.O. Box 143 Columbia, SC 29202

Matthew S. Aul
Notary Public, State of South Carolina
My Commission Expires July 11, 2032

melissa C. Burton, Clerk of Court
Oconee County
Post office Box 678
Walhalla, South Carolina 29691

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 OCT -6 A 11:43

IN RE: Temple v. State of South Carolina, et al.

Civil Action No. 2023-CP-37-00517

Dear Ms. Burton:

Enclosed please find a copy of the Plaintiff's
Notice of motion, motion for leave to Amend verified
complaint and certificate of service. You have notified
me of a needed signature, which was previously
photo copied signature.

Please clock-in these documents and return a
copy to me for my files.

Dennis M Temple

Dennis M. Temple # 274802
Tyser River Corr. Inst. Unit 6-27B
200 Prison Road
Enoree, South Carolina 29335

October 3, 2023

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

IN THE COURT OF COMMON PLEAS
10th JUDICIAL CIRCUIT

CASE NO. 2023-CP-37-00517

Dennis Temple

2023 OCT 16 A 11:16
Plaintiff,

vs.

State of South Carolina, et al,

Defendant.

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:
Dennis Temple, SCDC # 274802

Address:
Tyger River Corr. Inst. Unit 6
200 Prison Road

Enoree, South Carolina 29335

Defendant's Attorney:
Alan Wilson, Attorney General
1000 Assembly Street
Columbia, South Carolina 29211

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion: Amend verified Complaint

Estimated Time Needed: 1 hour

Court Reporter Needed: ☒ **YES** ☐ **NO**

SECTION II: Motion/Order Type

☒ **Written motion attached**

☐ **Form Motion/Order**

I hereby move for relief or action by the court as set forth in the attached proposed order.

Dennis M. Temple
Signature of Attorney for ☒ **Plaintiff** ☐ **Defendant**

10/8/23
Date submitted

SECTION III: Motion Fee

☒ **PAID - AMOUNT: \$**

☒ **EXEMPT**

(check reason)

☐ **Rule to Show Cause in Child or Spousal Support**

☐ **Domestic Abuse or Abuse and Neglect**

☒ **Indigent Status** ☐ **State Agency v. Indigent Party**

☐ **Sexually Violent Predator Act** ☐ **Post-Conviction Relief**

☐ **Motion for Stay in Bankruptcy**

☐ **Motion for Publication** ☐ **Motion for Execution (Rule 69, SCRPC)**

☐ **Proposed order submitted at request of the court; or,**
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ **Other:** _____

JUDGE'S SECTION

☐ **Motion Fee to be paid upon filing of the attached order.**

☐ **Other:** _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ **MOTION FEE COLLECTED: \$** _____

☐ **CONTESTED - AMOUNT DUE: \$** _____

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF OCONEE

FILED OCONEE COUNTY, SC

TENTH JUDICIAL CIRCUIT

MELISSA C. BURTON

2023-CP-37-00517

CLERK OF COURT

Dennis Temple, # 274802

2023 OCT -6 A 11:46

COPY

Petitioner,

Vs.

NOTICE OF MOTION

State of South Carolina;
Director, Bryan Stirling;
and Warden, Shane Jackson.

Respondents,

TO: State of South Carolina; Director, Bryan Stirling and Warden
Shane Jackson.

YOU WILL PLEASE TAKE NOTICE that the petitioner will move
this court pursuant to Rule 15(a) of the South Carolina Rules of
Civil Procedures for an Order granting his Motion for Leave to
Amend Verified Complaint to correct some errors as follows:

Dennis M. Temple

Dennis M. Temple, SCDC# 274802

Lee Correctional Inst. F2A-2113

990 Wisacky Highway

Bishopville, South Carolina 29010

September 20, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
TENTH JUDICIAL CIRCUIT
2023-CP-37-00517

Dennis Temple, #274802
2023 OCT -6 A 11:46

COPY

Petitioner,

Vs.

State of South Carolina;
Director, Bryan Stirling;
and Warden Shane Jackson.

Respondents,

MOTION FOR LEAVE

TO AMEND

VERIFIED COMPLAINT

Petitioner, Dennis Temple moves the Oconee County Court of Common pleas pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedures for Leave to Amend his Verified Complaint correcting some errors.

A. The petitioner in his (verified) complaint stated in the " HABEAS CORPUS CLAIMS" Grounds 1,4,5, and 6 as follows:

HABEAS CORPUS CLAIMS

Ground 1.

Petitioner was arrested and detained upon affiant's Sergeant Scott Arnold arrest warrants affidavit that was not supported probable cause, but contained false information that was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in the affidavit were just conclusory statements.

In violation of the petitioner's 4th and 14th Amendment rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10 and S.C. Code of Laws § 22-3-710 Petitioner alleges Actual Innocence; Ineffective Assistance of Counsels, which resulted in a miscarriage of Justice and shocking to the universal Sense of Justice.

Ground 4.

Respondents held a preliminary hearing in this case on July 16, 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

In violation of the petitioner's 5th, 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2 and 14, and S.C. Code of Laws § 22-5-320.

Ground 5.

Petitioner was denied by the trial Judge to call witnesses in his defense during a Jury Trial.

In violation of the petitioner's 5th, 6th, 8th and 14th Amendment of the United States Constitution and South Carolina Constitution Article 1, sections 2, 3, 14 and 15 and S.C. Codes of Laws §§ 17-23-60 and 19-7-60.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years, and 10 years in prison to run consecutive by the trial Judge.

In violation of the petitioner's 5th, 6th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3, 8, 12 and 15; and S.C. Codes of Laws §§§§ 17-25-50; 16-13-30; 16-3-652 and 16-3-910 illegal sentences.

B. Since the filing of the (Verified) Complaint petitioner has determined that the " HABEAS CORPUS CLAIMS " contained some errors. As a result, petitioner Amend it for corrections as follows:

HABEAS CORPUS CLAIMS

38. Petitioner re-alleges and incorporate by reference paragraphs 1-37.

Ground 1.

Petitioner was arrested and detained upon affiant's Sergeant Scott Arnold arrest warrants affidavit that was not supported by probable cause, but contained false information that was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in the affidavits were just conclusionary statements.

In violation of the petitioner's 4th and 14th Amendment's rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10 and S.C. Code of Laws § 22-3-710. Petitioner alleges Actual Innocence; Ineffective Assistance of Counsel, which resulted in a miscarriage of Justice and which in it's setting constitute a denial of fundamental fairness shocking to the Universal Sense of Justice.

Ground 4.

Respondents held a preliminary hearing in this case on July 16, 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

In violation of the petitioner's 5th, 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2 and 14 and S.C. Code of laws § 22-5-320,

which in it's setting constitute a denial of fundamental fairness shocking to the Universal sense of Justice.

Ground 5.

Petitioner was denied by the trial judge to call witnesses in his defense during a jury trial.

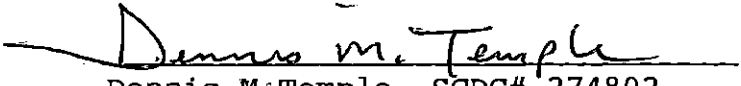
In violation of the petitioner's 5th, 6th, 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2, 3, 14 and 15 and S.C. Codes of Laws §§ 17-23-60 and 19-7-60, which in it's setting constitute a denial of fundamental fairness shocking to the Universal Sense of Justice.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years and 10 years in prison to run consecutive by the trial judge, totaling 100 years.

In violation of the petitioner's 5th, 6th, and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3, 8, 12 and 15; and S.C. Codes of Laws §§§§§ 17-25-50; 16-33-30; 16-3-652 and 16-3-910 illegal sentences, which in it's setting constitute a denial of fundamental fairness shocking to the Universal Sense of justice.

C. This Court should grant leave freely to amend a complaint see. Patton v. Miller, 420 S.C. 471, 804 S.E.2d 252 (S.C. 2017).
Foman v. Davis, 371, 178, 182, 83 S.Ct. 227 (1962).


Dennis M. Temple, SCDC# 274802
Lee Correctional Inst, F2A-2113
990 Wisacky highway
Bishopville, South Carolina 29010

September 20, 2023

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Dennis Temple, # 274802

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

IN THE COURT OF COMMON PLEAS

TENTH JUDICIAL CIRCUIT

2023-CP-37-00517

2023 OCT -6 A 11:46

Petitioner,

Vs.

State of South Carolina;
Director, Bryan Stirling; and
Warden, Shane Jackson.

Respondents,

COPY

CERTIFICATE OF SERVICE

I, Dennis Temple hereby certify that on this day below. I have served a copy of the fore going Motion to Amend Verified Complaint upon the respondents above by depositing a copy to their attorney, Alan Wilson in the United States mail postage prepaid at Lee Correctional Institution addressed as follows:

Alan Wilson
Attorney General Office
P.O. Box 11549
1000 Assembly Street
Columbia, South Carolina 29211

Respectfully Submitted,

Dennis M. Temple
Dennis M. Temple, SCDC# 274802
Lee Correctional Inst. F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

September 20, 2023

Circuit Court
(864) 638-4280

Melissa C Burton
Clerk of Court
P.O. Box 678
Walhalla, SC 29691
Fax (864) 638-4282
E-mail: lbarton@oconeesc.com

Family Court
(864) 638-4280



FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
2023 SEP 25 P 2:29

September 25, 2023

Dennis M Temple #274802
Tyger River Correctional Institute Unit 6
200 Prison Road
Enoree, SC 29335

Mr. Temple:

The Oconee Clerk's Office has received your letter and filings dated 9/20/2023. We are unable to process the Notice of Motion, Motion for Leave to Amend Verified Complaint, and Certificate of Service filings. These filings are being returned to you for your original signature. Both copies you have provided have photocopied signatures, please sign and return for filing.

Respectfully,

COPY

Amanda Watkins
Chief Deputy Clerk of Common Pleas
Oconee County Clerk's Office



LEON L. LOTT, JR.
Sheriff

Richland County Sheriff's Department

Dennis M. Temple, #274802
Lee Corr. Inst.
F2A-2113
990 Wisacky Highway
Bishopville, SC 29010

2023CP3700517

2023 SEP 14 P 2:41

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

August 9, 2023

Re: Attorney General Alan Wilson

Dear Sir/Madam:

On 8/3/2023, this department received a civil paper from your office. Please find the enclosed Affidavit of Service/Non Service for the above reference case.

I am pleased to be of service and if my Department can assist you in the future, please call upon my Civil Process Division at (803) 576-3151.

Sincerely,

Leon Lott
Richland County Sheriff

Copies to:

Atty (P) ✓ (D)

DSS other

Mailed ✓ Boxed handed

P.O. Box 143, Columbia, SC 29202
Office: (803) 576-3151 Fax: (803) 576-1898

ENTERED
COMPUTER



Richland County Sheriff's Department

AUG 04 2023

AFFIDAVIT OF SERVICE or NON-SERVICE

Date Entered: 08/03/2023
File Number: C202305522
DSS Number: 0
Foreign Case #: 2023CP3700517

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Date _____

Plaintiff Dennis M. Temple, #274802 Lee Corr. Inst. F2A-2113 990 Wisacky Highway Bishopville, SC 29010

Defendant(s) Attorney General Alan Wilson 1000 Assembly St. Columbia, SC 29210

PERSONALLY APPEARED Before Me P. Wilkes, duty sworn says that he/she served, or attempts to serve, the following civil paper(s):

Summons & Complaint
Summons & Petition
Motion
Notice

on the defendant. Attorney General Alan Wilson as follows:

() By personally handing the process to the defendant at _____, SC
(Street) _____
on _____
(Date/Time)

() By handing the process to _____ at _____, SC on _____, a person of suitable age and discretion then residing in
(Name of Person Served/Relationship) (Street) (City) (Date/Time)
the defendant's usual place of abode.

() By handing the process to Jane McCrea, the registered corporate agent or officer of the company at
(Name of Person Served/Company Name) 1000 Assembly St. Columbia, SC on 08/09/23-1122 AM and leaving him/her a copy.
(Street) (City) (Date/Time)

() WAS UNABLE to locate and serve the above process on the defendant, after diligent efforts by checking the City/Telephone Directory, and going to the address given for the defendant, and by questioning persons in the vicinity of the address.
THE PROCESS IS RETURNED UNEXECUTED.

() COMMENTS: _____

Deponent knows the person served to be the defendant and Deponent is not a party to the action.
SWORN TO Before me this

9 day of AUGUST, 2023.
[Signature]

Deputy Sheriff, Richland County

P. WILKES
S# 1195

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES _____
P.O. Box 143 Columbia, SC 29202

Matthew S. Aul
Notary Public, State of South Carolina
My Commission Expires July 11, 2032

Richland County Sheriff's Office
Civil Division
Sheriff Leon Lott
5623 Two Notch Road
Columbia, South Carolina 29223

RECEIVED

2023 AUG -2 AM 10:44

RCSD

In Re: Temple v. State of South Carolina, et al.
Civil Action No. 2023-CB-37-00517

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
2023 SEP 14 P 2:42

Dear Sheriff Leon Lott:

My name is Dennis Temple. I am a inmate at Lee Correctional Institution of the South Carolina Department of Corrections (SCDC). Also, I am the petitioner in this case above.

Please find enclosed (3) Notice of Motion; (3) Motion for Petition for Writ of Habeas Corpus (3) Verified Complaints and (3) Summons. So, I am requesting your office... Civil Division to serve (2) copies on SCDC General Counsel in Columbia, SC against Director Bryan Stirling and Warden Shane Jackson along with (2) summons

In addition, I request upon you to serve (1) copy of the Notice of Motion; Motion for Petition for Writ of Habeas Corpus; Verified Complaint and a summons upon the Attorney Generals, Alan Wilson Office, at 1000 Assembly Street, Columbia, South Carolina.

When service is completed please send me a copy of the affidavit of Service on the attorney General and SCDC General Counsel.


Dennis M. Temple, # 274802
Lee Correctional Insty F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

July 18, 2023

Melissa C. Burton, Clerk of Court
Oconee County
Post office Box 678
Walhalla, South Carolina 29691

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 SEP 14 P 2:41

RE: Temple v. State of South Carolina, et al
Civil Action No: 2023-CP-37-00517

Dear Ms. Burton :

Enclosed please find a original Affidavit of service,
of summon and verified complaint, my cover sheet
and the Richland county Sheriff's Department cover
sheet regarding this case above.

Please clock-in these documents and return the
copy to me for my files.

Sincerely Yours,

Dennis M. Temple

Dennis M. Temple, # 274802
Tyger River Corr. Inst. Unit 6-26
200 Prison Road
Enoree, South Carolina 29335

September 11, 2023

Melissa C. Burton, clerk of Court
Oconee County
Post office Box 678
Walthalla, South Carolina 29691

RE: Temple v. State of South Carolina, et al

Case NO: 2023-CP-37-00517

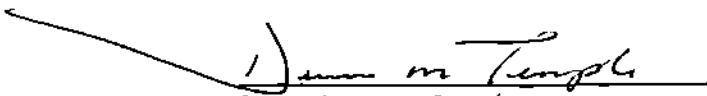
FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
2023 SEP 12 P 2:37

Dear Ms. Burton:

Enclosed please find the original U.S. Postal Service certified mail receipt and the return receipt (green card) which was mail on August 23, 2023. Petitioner file the first certified mail receipt in July 2023, but the green card never return to petitioner. So, out of the abundance caution we filed a second certified mail on Attorney General, Alan Wilson that contained the (3) summons and verified complaint in this case.

Please clock-in these documents and return and copy to me for my files.

Sincerely yours


Dennis M. Temple

Dennis M. Temple # 274802
Tyger River Corr. Inst Unit 9-226
200 Prison Road
Enoree South Carolina 29335

September 6, 2023

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ <i>Stephanie Kennedy</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: <i>ALAN Wilson</i> <i>1000 Assembly Street</i> <i>Columbia, SC 29211</i>		B. Received by (Printed Name) <i>Stephanie Kennedy</i> C. Date of Delivery <i>8/28/23</i>	
2. Article Number (Transfer from service label) <i>7010 2450 0000 870 742 90</i>		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
9590 9402 8347 3094 7819 94		3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)	
		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt			

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee \$ <i>4.15</i> Extra Services & Fees (check box, add fee as appropriate) ☐ Return Receipt (hardcopy) ☒ Return Receipt (electronic) \$ <i>3.25</i> ☐ Certified Mail Restricted Delivery ☐ Adult Signature Required ☐ Adult Signature Restricted Delivery Postage \$ <i>9.55</i> Total Postage and Fees \$ <i>17.05</i>	<i>27480 2</i> Postmark Here <i>Druid's Temple</i>
Sent To <i>ALAN Wilson</i> Street and Apt. No., or PO Box No. <i>1000 Assembly Street</i> City, State, ZIP+4® <i>Columbia, SC 29211</i>	
PS Form 3800, April 2015 PSN 7530-02-000-8047 See Reverse for Instructions	

Melissa C. Burton, clerk of court
Oconee County
Post office Box 678
Walhalla, South Carolina 29691

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 AUG 25 P 12:24

IN RE: Temple v. State of South Carolina, et al
Civil Action No. 2023-CP-37-00517

Dear Ms. Burton:

Enclosed please find the original certified mail
receipt ~~and a copy of summons and verified complaints.~~
-Not included - (aw)

Please clock-in the documents and return the
copy to me for my files in this case.

Please send my mail to my new address!

Sincerely Yours,

Dennis M. Temple

Dennis M. Temple, # 274802
Tyger River Correctional Inst. Unit 9
200 Prison Road
Enoree, South Carolina 29335

August 18, 2023

Copies to:
Atty (P) ☒ (D) _____
DSS _____ other _____
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SC Atty. General - Alan Wilson

Street and Apt. No. or P.O. Box No.
1000 Assembly St.

City, State, ZIP+4®
Columbia, SC 29211

JUL 23 2023

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MELISSA C. BURTON
CLERK OF COURT

2023 AUG 25 P 12: 24

ET02 4820 1000 0560 1202

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PS Form 3800, April 2015 PSN 7530-02-000-9047- See Reverse for Instructions	

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Dennis Temple, # 274802

Petitioner,

Vs.

State of South Carolina;
Director, Bryan Stirling;
and Warden, Shane Jackson.

Respondents,

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
2023-CP-37-00517

NOTICE OF MOTION

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 AUG -9 P 1:41

TO: State of South Carolina; Director, Bryan Stirling and Warden
Shane Jackson.

YOU WILL PLEASE TAKE NOTICE that the petitioner will move
this court pursuant to Rule 15(a) of the South Carolina Rules of
Civil Procedures for an Order granting his Motion for Leave to
Amend Verified Complaint to correct some errors as follows:

Dennis M. Temple

Dennis M. Temple, SCDC# 274802
Lee Correctional Inst. F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

August 7, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Dennis Temple, #274802

Petitioner,

Vs.

State of South Carolina;
Director, Bryan Stirling;
and Warden Shane Jackson.

Respondents,

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
2023-CP-37-00517

MOTION FOR LEAVE

TO AMEND

VERIFIED COMPLAINT

FILED OCONEE COUNTY-SC
MELISSA C. BURTON
CLERK OF COURT
2023 AUG -9 P 1:41

Petitioner, Dennis Temple moves the Oconee County Court of Common pleas pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedures for Leave to Amend his Verified Complaint correcting some errors.

A. The petitioner in his (verified) complaint stated in the " HABEAS CORPUS CLAIMS"" Grounds 1,4,5,and 6 as follows:

HABEAS CORPUS CLAIMS

Ground 1.

Petitioner was arrested and detained upon affiant's Sergeant Scott Arnold arrest warrants affidavit that was not supported probable cause, but contained false information that was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in the affidavit were just conclusory statements.

In violation of the petitioner's 4th and 14th Amendment rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10 and S.C. Code of Laws § 22-3-710 Petitioner alleges Actual Innocence; Ineffective Assistance of Counsels, which resulted in a miscarriage of Justice and shocking to the universal Sense of Justice.

Ground 4.

Respondents held a preliminary hearing in this case on July 16, 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

In violation of the petitioner's 5th, 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2 and 14, and S.C. Code of Laws § 22-5-320.

Ground 5.

Petitioner was denied by the trial Judge to call witnesses in his defense during a Jury Trial.

In violation of the petitioner's 5th, 6th, 8th and 14th Amendment of the United States Constitution and South Carolina Constitution Article 1, sections 2, 3, 14 and 15 and S.C. Codes of Laws §§ 17-23-60 and 19-7-60.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years, and 10 years in prison to run consecutive by the trial Judge.

In violation of the petitioner's 5th, 6th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3, 8, 12 and 15; and S.C. Codes of Laws §§§§ 17-25-50; 16-13-30; 16-3-652 and 16-3-910 illegal sentences.

B. Since the filing of the (Verified) Complaint petitioner has determined that the " HABEAS CORPUS CLAIMS " contained some errors. As a result, petitioner Amend it for corrections as follows:

HABEAS CORPUS CLAIMS

38. Petitioner re-alleges and incorporate by reference paragraphs 1-37.

Ground 1.

Petitioner was arrested and detained upon affiant's Sergeant Scott Arnold arrest warrants affidavit that was not supported by probable cause, but contained false information that was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in the affidavits were just conclusionary statements.

In violation of the petitioner's 4th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10 and S.C. Code of Laws § 22-3-710. Petitioner alleges Actual Innocence; Ineffective Assistance of Counsel, which resulted in a miscarriage of Justice and which in it's setting constitute a denial of fundamental fairness shocking to the Universal Sense of Justice.

Ground 4.

Respondents held a preliminary hearing in this case on July 16, 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

In violation of the petitioner's 5th, 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2 and 14 and S.C. Code of laws § 22-5-320,

which in it's setting constitute a denial of fundamental fairness shocking to the Universal sense of Justice.

Ground 5.

Petitioner was denied by the trial judge to call witnesses in his defense during a jury trial.

In violation of the petitioner's 5th,6th,8th and 14th Amendments rights of the united states Constitution and south Carolina Constitution Article 1, sections 2,3,14 and 15 and S.C. Codes of Laws §§ 17-23-60 and 19-7-60, which in it's setting constitute a denial of fundamental fairness shocking to the Universal Sense of Justice.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years and 10 years in prison to run consecutive by the trial judge, totaling 100 years.

In violation of the petitioner's 5th,6th, and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3,8,12 and 15; and S.C. Codes of Laws §§§§ 17-25-50; 16-3-30; 16-3-652 and 16-3-910 illegal sentences, which in it's setting constitute a denial of fundamental fairness shocking to the Universal Sense of justice.

C. This Court should grant leave freely to amend a complaint see. Patton v. Miller, 420 S.C. 471, 804 S.E.2d 252 (S.C. 2017).
Foman v. Davis, 371, 178, 182, 83 S.Ct. 227 (1962).

Dennis M. Temple
Dennis M. Temple, SCDC# 274802
Lee Correctional Inst, F2A-2113
990 Wisacky highway
Bishopville, South Carolina 29010

August 7, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Dennis Temple, # 274802

Petitioner,

Vs.

State of South Carolina;
Director, Bryan Stirling; and
Warden, Shane Jackson.

Respondents,

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
2023-CP-37-00517

CERTIFICATE OF SERVICE

FILED OCONEE COUNTY, SC
MELISSA C. BORTON
CLERK OF COURT
2023 AUG -9 P 1:41

I, Dennis Temple hereby certify that on this day below. I have served a copy of the fore going Motion to Amend Verified Complaint upon the respondents above by depositing a copy to their attorney, Alan Wilson in the United States mail postage prepaid at Lee Correctional Institution addressed as follows:

Alan Wilson
Attorney General Office
P.O. Box 11549
1000 Assembly Street
Columbia, South Carolina 29211

Respectfully Submitted,

Dennis M. Temple

Dennis M. Temple, SCDC# 274802
Lee Correctional Inst. F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

August 7, 2023

August 7, 2023

Dear, Clerk of Court:

Enclosed please find a motion and order information form and coversheet. We left it out of the big envelope that contains the notice of motion; motion for leave to amend verified complaint, along with the certificate of service.

Please attach it to the motion for leave to amend verified complaint.

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT
2023 AUG -9 P 1:39

Thank you,

Dennis M. Temple

Melissa C. Burton
Oconee County, Clerk of Court
Post Office Box 678
Walhalla, South Carolina 29691

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 AUG -9 P 1:40

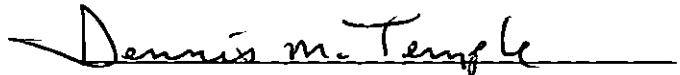
IN RE: Temple v. State of South Carolina, ET AL,
Civil Action No. 2023-CP-37-00517

Dear Ms. Burton:

Enclosed please find two copies of petitioner's Notice of Motion, Motion for Leave to Amend Verified Complaint and our certificate of Service regarding this case above.

Please clock-in these documents and return a copy to me as soon as possible for my files.

Sincerely Yours,



Dennis M. Temple, SCDC# 274802
Lee Correctional Inst. F2d-2113
990 Wisacky Highway
Bishopville, South Carolina 2901

August 7, 2023

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
TH JUDICIAL CIRCUITCOUNTY OF GREENVILLE FILED OCONEE COUNTY, SC
MELISSA C. BURTON)
CLERK OF COURT)

CASE NO.: 2023-CP-37-00517

Dennis Temple)

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

2023 AUG - 9 Plaintiff: 39

vs.)

State of South Carolina, ET Al)

Defendant.)

Plaintiff's Attorney: Dennis M. Temple, 274802
_____, Bar No. Lee Corr, Inst F2d-2113
Address: 990 Wisacky highway
Bishopville, SC 29010
Phone: _____ Fax _____
E-mail: _____ Other: _____Defendant's Attorney: Alan Wilson
_____, Bar No. _____ Attorney General
Address: P.O. Box 11549
1000 Assembly Street
Columbia, SC 29211
Phone: _____ Fax _____
E-mail: _____ Other: _____

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: _____

Estimated Time Needed: _____

Court Reporter Needed: ☐ YES/☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Dennis M. TempleSignature of Attorney for ☒ Plaintiff / ☐ Defendant8/7/2023
Date submitted

SECTION III: Motion Fee

- ☐ PAID - AMOUNT: \$ _____
☒ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☒ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCPP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____☐ CONTESTED - AMOUNT DUE: \$ _____

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Atty _____ (P) ☒ (D) _____

DSS _____ other _____

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STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Dennis Temple

Petitioner,

vs.

State of South Carolina;
Director, Bryan Stirling;
& Warden, Shane Jackson.

Respondents

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
2023-CP-37-00517

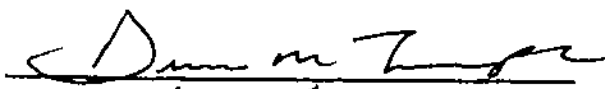
CERTIFICATE OF SERVICE

FILED OCONEE COUNTY, SC
JULISSA C. BURTON
CLERK OF COURT
2023 JUL 24 P 1:29

I certify that on this date, I served a copy of the Petitioner's Status Report in this action, dated July 20, 2023 by mailing it to the Respondents Attorney, the Attorney General, Alan Wilson at his office address by depositing it in the U.S. mail, in an envelope with sufficient postage affixed, addressed as follows:

Attorney General, Alan Wilson
Office of the Attorney General
Post Office Box 11549
1000 Assembly Street
Columbia, South Carolina 29211

July 20, 2023


Dennis M. Temple, # 274802
Lee Correctional Inst F2A-2113
990 WISACKY Highway
Bishopville SC 29010

ENTERED
JUL 24 2023
TER

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Dennis Temple

Petitioner,

VS.

STATE OF SOUTH CAROLINA,
Director, Bryan Shirlins &
Warden, Shane Jackson.

Respondents,

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
2023-CP-37-00517

STATUS REPORT

FILED OCONEE COUNTY, SC
HELISSA C. BURTON
CLERK OF COURT
2023 JUL 24 P 1:29

STATEMENT OF THE CASE

1. Petitioner, Dennis Temple is a indigent inmate at Lee Correctional Institution (Lee) of the South Carolina Department of Corrections.

2. In July 2023, petitioner prepared a notice of motion; motion for Petition for writ of Habeas Corpus; summons and a verified Complaint alleging constitution violation relating to his conviction and sentences.

3. ON July 10, 2023 Petitioner filed a Notice of motion; Motion for Petition for writ of Habeas Corpus; (3) summons and verified Complaint with the Oconee County, Clerk of Court.

Copies to:
Att. (P) ☒ (D) ☐
ECS ☐ other ☐
mailed ☒ Boxed ☐ handed ☐

ENTERED
An
COMPUTER

4. On July 14, 2023 Petitioner received a copy of the notice of motion; motion for Petition for Writ of Habeas Corpus; summons and the verified Complaint from the Oconee County, Clerk of Court, via of Institutional mail.

5. On July 17, 2023 Petitioner went to the Prison Law Library at Lee Correctional Institution and made (3) photo copies of the notice of motion; motion for Petition for Writ of Habeas Corpus; summons and verified Complaint.

6. On July 17, 2023 Petitioner Placed (3) notice of motion; motion for Petition for Writ of Habeas Corpus; (3) summons and (3) verified Complaints in the Institutional mail box (at Lee addressed to the Richland County Sheriff office requesting service upon the Attorney General, Alan Wilson and SCDL General Counsel.

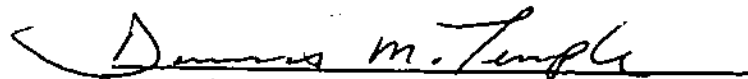
7. On July 18, 2023 Ms. Eastridge the mailroom lady at Lee returned all of the petitioner's notice of motion; motion for Petition for Writ of Habeas Corpus; summons and verified complaints to the petitioner. Ms. Eastridge stated on the SCDL form 10-14, "Sheriff office is privileged mail must have postage on your account or prove they are a party on a current pending case."

IN CONCLUSION

petitioner in this case is being prevented from serving his summons and verified Complaint including the notice of motion; and motion for petition for writ of Habeas Corpus upon the respondents attorneys. Ms. Eastridge the mailroom personal at Lee Correctional Institution is deliberately denying petitioner's postage on his mail that contains the summons, verified Complaint and pertinent documents in this case. Petitioner's mail is addressed to the Richland County Sheriff's office, Civil Division and requesting service of process upon the Attorney General, Alan Wilson and the SCOC General Counsel, pursuant to Rule 4, SCRPC.

WHEREFORE, Petitioner is requesting sanctions against the respondents in this case.

Respectfully submitted,

 Dennis M. Temple

Dennis M. Temple # 274802
Lee Correctional Inst F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

July 20, 2023

Melissa C. Burton
Oconee County, clerk of Court
Post Office Box 678
Walhalla, South Carolina 29691

OCCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 JUL 10 P 4:08

In Re: Temple v. State of South Carolina

Civil action No. Petition for Writ of Writ of Habeas Corpus

Dear Ms. Burton:

Enclosed please find two copies of my Notice of Motion, Motion for Petition of Writ of Habeas Corpus and Verified Complaint, and our Affidavit to Proceed In Forma Pauperis and a inmate trust fund report; and a Motion and order form; and 3 summons forms.

Please clock-in these documents and return a copy to me for my files.

S.C Attorney General's Office
Civil Division

AUG 07 2023

Received by

Reviewed by/Date

Referred to/Date

Notes:

Sincerely Yours,

Dennis M. Temple

Dennis M. Temple, SCDC# 274802
Lee Correctional Inst. F2A-2113
990 wisacky Highway
Bishopville, South Carolina 29010

July 5, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEA
TENTH JUDICIAL CIRCUIT

FILED OCONEE COUNTY, SC
JULIA C. BURTON
CLERK OF COURT

Case No. 2023CP3700517

Dennis Temple, # 274802

2023 JUL 10 P 4:08

Petitioner,

v.

NOTICE OF MOTION

State of South Carolina; Director
Bryan Stirling; Warden, Shane
Jackson.

Respondents,

TO:

YOU WILL PLEASE TAKE NOTICE, that the petitioner,
Dennis Temple will move the Court pursuant to Rule 65(f)(1) of
the South Carolina Rules of Civil Procedures for a Petition of
Writ of Habeas Corpus as follows:

Dennis M. Temple

Dennis M. Temple, # 274802
Lee Correctional Inst. F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

July 5, 2023

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Dennis Temple, # 274802

Petitioner,

v.

State of South Carolina; Director
Bryan Stirling; Warden Shane
Jackson.

Respondents,

IN THE COURT OF COMMON PLEAS

TENTH JUDICIAL CIRCUIT

Case No. _____

2023 JUL 10 P 4:08

MOTION FOR PETITION

OF

WRIT OF HABEAS CORPUS

The Petitioner, Dennis Temple, moves the court pursuant to Rule 65(f)(1) of the South Carolina Rules of Civil Procedures for a Writ of Habeas Corpus against the State of South Carolina Director, Bryan Stirling and Warden Shane Jackson for placing and holding him incarcerated in prison in violation of petitioner 4th, 5th, 6th, 8th and 14th Amendments rights of the United State Constitution and South Carolina Constitution Article 1, sections 3, 12, 14, & 15, and S.C. Codes of laws.

Petitioner seeks to take advantage of the deprivation of Constitutional principles recognized after his trial, appeal and exhaustion of state Post-Conviction relief proceedings.

Petitioner was bereave of substantial and procedural Constitutional rights and in the setting, constitute a denial of fundamental fairness shocking to the Universal sense of Justice and a miscarriage of Justice as follows:

GROUND 1.

Petitioner was arrested and detained upon affiant, sergeant Scott Arnold arrest warrants affidavit that was not supported substantial probable cause, contained false information and was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in affidavit were conclusionary statements.

GROUND 2.

Petitioner DNA seizure from him pursuant to S.C. Code of Laws section 16-3-740 and without probable cause.

GROUND 3.

Petitioner Bond Reduction attorney Robert Mills Ariail Jr; misrepresented the facts and lied to (his client) petitioner in order to get him to go on the record and decline the Bond Reduction consideration.

GROUND 4.

Respondents held a preliminary hearing in this case on July 16 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

GROUND 5.

Petitioner was denied by the trial Judge to call witnesses in his defense during a Jury trial.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years and 10 years in prison to run consecutive by the trial Judge.

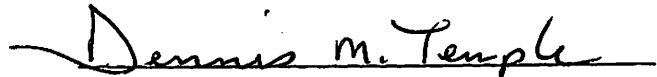
Ground 7.

Petitioner's decision to proceed pro se during a jury trial was not knowing, intelligent and voluntary.

8. A summons and a verified complaint is attached as Exhibits A and B, in support of the Writ Of Habeas Corpus.

9. The petitioner certifies that consultation with the opposing party about this matter would serve no useful purpose.

WHEREFORE, the petitioner moves the court for a writ of Habeas Corpus for a order directing the State of South Carolina, Director Bryan Stirling and Warden Shane Jackson to provide the petitioner with a new trial, a new preliminary hearing and/or release him from prison or/and such other and further relief in favor of the petitioner as the Court deems just and appropriate.



Dennis M. Temple, # 274802
Lee Correctional Inst. F2d-2113
990 wisacky Highway
Bishopville, South Carolina 29010

July 5, 2023

STATE OF SOUTH CAROLINA,

COUNTY OF OCONEE

Dennis Temple

Petitioner, 2023 JUL 10 P 4:07

vs.

State of South Carolina; Director,
Bryan Stirling; Warden Shane
Jackson.

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

SUMMONS

FILE NO.

2023CP3700517

FILED OCONEE COUNTY, SC
JUL 10 P 4:08
CLERK C. BURTON

TO THE RESPONDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

, South Carolina

Dennis M. Temple

Plaintiff/Attorney for petitioner

Dated: July 5, 2023

Address: Dennis M. Temple, scdc# 274802
Lee Correctional Inst. F2d-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
Case No. 2023CP3700517

Dennis Temple, # 274802 2023 JUL 10 P 4:09

Petitioner,

v.

VERIFIED COMPLAINT

State of South Carolina, Director
Bryan Stirling, Warden, shape
Jackson.

Respondents,

STATEMENT OF THE CASE

1. This is a complaint filed by a state prisoner, Dennis Temple (herein as petitioner) pursuant to Rule 65(f)(1) of the South Carolina Rules of Civil Procedures in support of the Petition for Writ of Habeas Corpus against the respondents regarding the petitioner's Actual Innocence claim, Ineffective Assistance of Preliminary Hearing Counsels claim, illegal sentences claim and others. In violation of the South Carolina Common laws; statutory Codes of Laws; Article 1, sections 3, 12, 14 & 15 of the South Carolina Constitution and the 4th, 5th, 6th, 8th, & 14th Amendments of the United States Constitution. Petitioner is seeking a vacator of the conviction and sentences and/or remand this case for a new trial or release petitioner from prison.

JURISDICTION AND VENUE

2. This court has jurisdiction over this action under Rule 65(f)(1) of the South Carolina Rules of Civil Procedures and the South Carolina Constitution, article V, section 5 and Venue pursuant to Rule 82 of the SCRCP.

PETITIONER

3. The petitioner, Dennis Temple was at all times herein, a citizen of the United States of America and resident in South Carolina. However, he is currently incarcerated at Lee Correctional Institution of the South Carolina Department of Corrections.

RESPONDENTS

4. The respondents was at all times herein were responsible for petitioner's placement in prison. The State of South Carolina, Director of the South Carolina Department of Corrections and the Warden, Shane Jackson of Lee Correctional Institution.

FACTUAL AND PROCEDURAL HISTORY

5. Petitioner, Dennis Temple a 37 year-old blackmale from Seneca, South Carolina. In 2009, petitioner began a small business buying products at low prices and reselling them at a higher price. Petitioner business began to do good, but he needed a place to store the products. He researched different storage facilities. Petitioner selected the All Safe Storage in Seneca South Carolina because of it's security features it advertised. On March 22, 2010 petitioner went into the All Safe Storage paid a fee signed a contract to rent a storage unit.

6. On May 2010, [REDACTED] a 19 year-old white female Clemson University student rented a storage unit at the All Safe Storage in Seneca, South Carolina. On May 10, 2010, [REDACTED] [REDACTED] alleged in her seven (7) page sworn written statement to police at the Oconee Medical Center, (paraphrased) as follows;

" On May 9, 2010 i arrived at my storage unit in seneca, south carolina at 4:30 p.m. When i noticed a black man between the age 20 to 40 walking on site without a car I became nervous and he tried to sell me some shoes, but i did not want to buy. He then beat me up, dragged me into his storage unit where he raped me, cleaned me with a blue cloth and left me inside his storage unit tied up. Ultimately, i freed myself and found a cell phone inside the storage unit. I then called 911 and a Oconee County Sheriff Officer rescued me from the storage unit Afterwards, i was taken to the Oconee Medical Center.

NOTE: [REDACTED] [REDACTED] sworn written statement to police at the Oconee Medical Center which, (1) never mention petitioner's name Dennis Temple, (2) victim statement never alleged she identified petitioner in a six man photo lineup, (3) the alleged victim's statement never connected storage unit# 193 to any criminal activity (4) the victim's statement never connected petitioner to any criminal activity; (5) the alleged victim statement was the only source of sergeant, Scott Arnold information and belief provided in the arrest warrants affidavit, which was signed by Magistrate Judge Blake Norton on May 10, 2010, in support of the arrest warrants, (6) conclusionary statements was used as probable cause to arrest petitioner. (7) there was no determination of the credibility and reliability of the witness (8) and the reckless disregard for the truth.

7. Later that day, On May 10, 2010 a Oconee County Sheriff's Officer named Sergeant, Scott Arnold went before Magistrate Judge Blake Norton requesting the issuance of three (3) arrest warrants for petitioner's arrest for committing the crimes of Grand Larceny more than \$5,000; kidnapping and Criminal Sexual Conduct, 1st degree at the All Safe Storage in Seneca, South Carolina.

GRAND LARCENY ARREST WARRANT

8. On May 10, 2010 Sgt. Scott Arnold swore in his arrest warrant affidavit for Grand Larceny as following:

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:

" THE DEFENDANT DID, ON 05-09-10, WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER, TAKE AND CARRY AWAY A HONDA ACCORD, WEST VIRGINIA TAG #NL3593, VALUED AT MORE THAN \$5,000, WHICH BELONGED TO [REDACTED] THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC, IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS ON FILE. CASE # 1012105.

KIDNAPPING ARREST WARRANT

9. On May 10, 2010 Sgt. Scott Arnold swore in his arrest warrant affidavit for Kidnapping as following:

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:

THE DEFENDANT DID, ON 05-09-10, UNLAWFULLY AND WITHOUT AUTHORITY TO DO SO, ABDUCT, CONFINED AND INVEIGLED THE VICTIM, [REDACTED] AGAINST HER WILL WHILE ACCOMPANIED BY AGGRAVATED CIRCUMSTANCES. THIS DEFENDANT DID FORCE THE VICTIM FROM HER STORAGE UNIT, UNIT 177, TO HIS PERSONAL STORAGE UNIT, UNIT 193 WHERE HE COMMITTED THE CRIME OF CRIMINAL SEXUAL CONDUCT AGAINST THE VICTIM. THE VICTIM WAS TIED UP AND LEFT INSIDE THE DEFENDANT'S STORAGE UNIT. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENT ARE ON FILE. CASE # 1012105.

CRIMINAL SEXUAL CONDUCT ARREST WARRANT

10. On May 10, 2010 Sgt. Scott Arnold swore in his arrest warrant affidavit for Criminal Sexual Conduct, 1st degree as following:

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:

THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING ENGAGE IN SEXUAL BATTERY UPON THE VICTIM [REDACTED] BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM AGAINST HER WILL. THE DEFENDANT, DID, WHILE AT UNIT 193. A11 SAFE STORAGE, 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY FORCE SEXUAL INTERCOURSE WITH THE VICTIM, VICTIM WAS TRANSPORTED TO OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. (A WRITTEN REPORT, PHOTOGRAPH AND STATEMENT ARE ON FILE. CASE # 1012105.

11. Sgt. Scott Arnold affidavits stated his information and belief was a written report, Photograph and a statement. We searched the trial files received from Solicitor Christina Adams and Assistant Solicitor, Lindsey S. Simmons the documents disclosure, pursuant to petitioner's Rule 5, discovery request. The only written report photograph and statement on file before and on the day of petitioner's arrest. On May 11, 2010 was a seven page sworn written statement by [REDACTED] a photograph of six (6) black males. There was no supplemental oral testimony or written report on file before or on the day of petitioner's arrest by Lieutenant Greg Reed on May 11, 2010.

IN VIOLATION OF THE FOURTH AMENDMENT, U.S. CONST.

12. On May 10, 2010 Magistrate judge Blake Norton issued the three (3) arrest warrants for petitioner's arrest for committing the crimes of Grand Larceny, more than \$5,000; kidnapping and Criminal Sexual Conduct, 1st degree; arrest warrant numbers; N-136668, N-136669 & N-136670 at the All Safe Storage in Seneca South Carolina.

13. On May 11, 2010, petitioner was arrested by the Oconee County Sheriff's Officer Lieutenant Greg Reed for allegedly committing the crimes of Grand Larceny, more than \$5,000; kidnapping and Criminal sexual Conduct, 1st degree at the All Safe Storage in Seneca, South Carolina. Where he was detained in the Oconee County Detention Center.

BOND HEARING

14. On May 12, 2010 petitioner was taken before Magistrate Judge Blake Norton issued a \$200,000 bond against petitioner to gain his freedom on the Grand Larceny, more than \$5,000; Kidnapping and Criminal Sexual conduct, 1st degree charges.

15. Petitioner was unable to post bail on the \$200,000 bond and remained detained in the Oconee County Detention Center, However, petitioner made arraignment for a friend named, Millie Forrester to pay over \$1,000 to Robert Mills Ariail Jr. to get him a bond Reduction on the \$200,000 bond.

IN VIOLATION OF THE FOURTH AMENDMENT, U.S. CONST.

16. On May 20, 2010 a hearing was held before judge R. Lawton McIntosh. Lindsey Simmons represented the State, and petitioner appeared pro se. [Upon personal knowledge, the transcript contains a scrivener's error: this hearing was held May 20, 2010 not May 20, 2012]. The purpose of the hearing was to test petitioner for sexual transmitted diseases under S.C. Code Ann. § 16-3-740. Petitioner indicated that he chose to represent himself based upon "Prior experience with attorneys from Oconee County." Judge McIntosh found that petitioner freely, voluntarily, and knowingly waived his right to an attorney in the limited context of the hearing. Pursuant to the statute, a finding of probable cause was necessary before testing could be completed. Therefore, the State offered the testimony of sergeant, Scott Arnold, who claimed that the alleged victim, C.M. identified petitioner out of a six-picture photo lineup. Judge McIntosh's findings were as follows:

" First, I'm going to find that the victim did make a request for these tests under statute, there's probable cause to believe that [defendant] committed this offense, and further, there's probable cause to find that there were body fluids transmitted and that [defendant] received proper notice of this petition as well as waived his right to have an attorney represent him in this matter. I am going to grant the motion and sign the order as we speak.

ATTORNEY ROBERT MILLS ARIAIL JR.

17. In May 2010, petitioner was called out of the cell at ...
..... the Oconee County Detention Center to talk with attorney Robert Mills Ariail Jr. That's when Ariail Jr. told petitioner that he had scheduled for a bond reduction hearing that month, but due to the media coverage of the case on the news. Ariail Jr. rescheduled the hearing for June 2010.

18. On or about June 7, 2010 petitioner filed a motion for Discovery and Inspection as well as Brady Material under Rule 6 with the Oconee County, clerk of Court regarding State v. Temple, arrest warrants #N-136668, Grand Larceny, more than \$5,000 N-136669, kidnapping; and N-136670, Criminal Sexual Conduct, 1st degree.

IN VIOLATION OF THE SIXTH AMENDMENT, U.S. CONST.

19. On June 30, 2010 petitioner appeared before General Session court in Oconee County for the Bond Reduction Hearing regarding the Grand Larceny, more than \$5,000; kidnapping and Criminal Sexual Conduct, 1st degree charges before Judge Alexander Macaulay. Solicitor, Christina Adams and Assistant Solicitor, Lindsey Simmons appeared on behalf of the State, and Robert Mills Ariail Jr. represented petitioner. At that hearing petitioner was brought into the court room. Robert Mills Ariail Jr. took petitioner into a jointing room in the court and told petitioner that the judge was going to take his current \$200,000 bond. That petitioner must go on the record before the judge and say he withdraw his bond reconsideration. However, Robert Mills Ariail Jr. reviewed the alleged victims [REDACTED] statement that never stated she identified petitioner in a photo lineup, (1) never stated petitioner's storage Unit# 193 was involved in any criminal activity; (2) never stated that petitioner (Dennis Temple) was identified as the assailant in a six man photograph lineup, (3) the victim's statement never connected petitioner to any of the criminal activity related to the offenses. (4) but petitioner was arrested and detained and received a \$200,000 bond to gain his freedom for allegedly committing the crimes. Robert did not inform his client or petitioner about [REDACTED] statement to police and

misrepresented the facts and misled petitioner. Solicitor, Christina Adams and Assistant Solicitor, Lindsey Simmons had not disclosed the alleged victim's statement to the petitioner pursuant to discovery yet. Judge Macaulay waived the application for the Public Defender's office and ordered Wilson Burr to meet with petitioner to start his representation. That same day, petitioner wrote Robert Mills Ariail Jr. a letter requesting his Bond Reduction money back for failing to get him a Bond Reduction. Later, Robert wrote petitioner back, stating that he had filled his agreement with Millie Forrester regarding petitioner's bond reduction.

ATTORNEY'S SARAH DRAWDY AND KEITH DENNY

20. In July 2010, Wilson Burr and Sarah Drawdy came to the Oconee County Detention Center to visit the petitioner. Wilson Burr informed petitioner that he was appointing Sarah Drawdy as attorney to represent him on the charges and was including another attorney since this was a high profile case.

21. Sometime, in July 2010 petitioner received from the Solicitor, Christina Adams many documents regarding his discovery request, which included, but not limited to a seven (7) page sworn written statement by the alleged victim [REDACTED] a photo lineup of six black males and a Fox Carolina News report.

22. That next week, in July 2010 petitioner's attorney Sarah Drawdy came back to the Oconee County Detention Center with attorney Keith Denny to discuss the case with him. Petitioner told Ms. Drawdy and Mr. Denny that this case is receiving a lot of media attention in the newspaper and on television. As a result, petitioner would like for them to file a Motion for a Change in Venue with the

court in the case. Petitioner made it clear to Ms. Drawdy and Mr. Denny, that if any motion is filed on his behalf and regarding the state case against him. Then they must inform him first and provide him with a copy of the motion as well. Ms. Drawdy informed the petitioner that his case was scheduled for a preliminary hearing on July 16, 2010. Petitioner told Ms. Drawdy and Mr. Denny that on May 10, 2010. That the alleged victim, [REDACTED] [REDACTED] wrote a seven (7) page sworn written statement to police at the Oconee Medical Center, detailing the incident that happened to her and that she did not allege she was involved in the crimes against her. Petitioner showed his attorneys Sarah Drawdy and Keith Denny the alleged victim's statement and told them that the victim's statement did not ever mention his name and; did not state she identified him in a photo lineup and did not involve him or his storage unit in any criminal activity. Ms. Drawdy and Mr. Denny did not say anything.

PRELIMINARY HEARING

23. On July 16, 2010 a preliminary hearing was held at the Magistrate court house in Oconee before Magistrate Judge William Derrick regarding the arrest warrants that were issued by Magistrate Judge Blake Norton. Solicitor, Christina Adams and Assistant Solicitor Lindsey Simmons represented the State. Attorney, Sarah Drawdy and Keith Denny appeared on petitioner's behalf. The petitioner was present as well. Solicitor Adams and Simmons called Sergeant Scott Arnold to the stand, which he testified that the alleged victim identified petitioner in a six-man photo lineup on May 10, 2010. Moreover, Petitioner's attorney, Sarah Drawdy and Keith Denny did not raise a fourth Amendment claim regarding the Criminal Sexual Conduct, 1st degree, kidnapping and Grand Larceny charges that were

lodged against their client, nor did they put up any argument regarding a lack of probable cause for the arrest warrants and seizure of his DNA pursuant to a search warrant. The preliminary hearing was not recorded in writing or audio, which prevented the appellate court from reviewing the determination of probable cause and not having a complete record for appellate review, denying petitioner his right to a appeal.

MOTION TO RELIEVE ATTORNEYS SARAH DRAWDY AND KEITH DENNY

24. On July 29, 2010 another hearing was held before Judge J. Cordell Maddox Jr. Lindsey Simmons appeared on the behalf of the State, and Sarah Drawdy represented petitioner. Petitioner had moved to relieve his counsel, Sarah Drawdy and Keith Denny because (1) he previously asked them a question and they told petitioner a lie and; (2) they failed to raise a fourth Amendment claim based on a lack of probable cause to arrest him on the arrest warrants in the preliminary hearing.

The State also had a motion that petitioner to obtain counsel within thirty days of the date of the hearing. According to the State, Wilson sent the case out of his office to Ms. Drawdy and Mr. Denny. Petitioner indicated that he had not authorized the court to appoint an attorney. Judge Maddox advised petitioner against proceeding pro se. Judge Maddox granted both parties motions.

INDICTMENTS

25. On September 7, 2010 petitioner was indicted by the Grand Jury on Count One-Criminal Sexual Conduct, 1st degree, Count Two-Criminal Sexual Conduct, 1st degree, Kidnapping and Grand Larceny charges.

26, On September 14, 2010 another hearing was held before Judge J. Cordell Maddox Jr. Lindsey Simmons appeared on behalf of the State, and petitioner appeared pro se. At the start of the hearing, the following occurred:

The Court: All right. Yes, Ma'am?

Ms. Simmons: Thank you, Your Honor. We are here today in state of South Carolina vs. Dennis Temple. It's an Oconee County case. He has four indictments on 2010-GS-37 00886 through 889. It's two counts of criminal sexual Conduct in the first degree, Kidnapping and Grand Larceny.

On May the 14th of 2010 we filed a motion pursuant to 16-3-740 and served notice on Mr. Temple. That is under the S-T-D testing statute. Judge McIntosh subsequently granted that order and ordered testing on May the 20th of 2010. Mr. Temple has appealed the order and asked that Judge McIntosh reconsider that

Subsequently to that, Mr. Temple was appointed counsel and had a Preliminary hearing. He was represented by Ms. Drawdy in that matter, and that was on July 16th of 2010.

We filed a Schmerber motion out of an abundance of caution on July 19th 2010 and served that on his attorneys at the time. The Defendant appeared before your Honor on July 29, of 2010 for the scheduled Schmerber hearing and to address the issue of representation.

At this time Your Honor relieved Ms. Drawdy and Mr. Denny as his Counsel and gave the defendant 30 days to appear your Honor with an attorney and the Schmerber issue is still out-standing.

In addition, the state claimed that it received a fax from petitioner requesting a speedy trial and indicating that he was going to proceed pro se. Judge Maddox told petitioner that he had a right to represent himself. At this hearing, petitioner contested the validity of the indictments under the South Carolina Rules of Criminal Procedure. Regarding petitioner's representation status Judge Maddox stated:

Well, see, the option I got is I can let you go forward and sit at the table and represent yourself or I can appoint what's basically in my mind a shadow counsel. In other words, I'll appoint a lawyer to sit there with you. He doesn't represent you. If you are dead set on going and representing yourself then I'm going to appoint somebody to sit with you so that you can answer questions-- you can ask questions, they can answer questions. That's only-- that's what I'm comfortable with.

Petitioner agreed that it would be unwise to represent himself but claimed that past hardship with attorneys who did not act as zealous advocates on his behalf prevented him from proceeding with their representation. Judge Maddox appointed petitioner another attorney.

Well, let me just tell you generic, generic. I'm not talking about your case. If I appointed you Johnny Cochran and he was still alive and he sat down with you and told you that, take this road, and you were going to [take] the other road that's something you got to work out with your attorney. So every time you got to work out with your attorney. So every time you have a dispute with an attorney you can't come back and ask for another one.

In fact, what I'm going to do is I'm going to appoint you a lawyer. There's a list of lawyers who have agreed to be appointed. They are outside the public defender's office. I don't know who is next on that list but I'm going to appoint them with the caveat that this case is going to be tried December 13th.

Judge Maddox appointed Kurt Tavernier to represent petitioner.

SCHMERBER HEARING

27. On September 22, 2010, a Schmerber hearing was held before the Honorable Alexander S. Macaulay. Christina Adams and Lindsey Simmons appeared on behalf of the State, and Kurt Tavernier represented petitioner. Counsel for petitioner stated that blood, buccal, swabs, and hair samples were requested. Counsel indicated that petitioner refused to consent and would not consent to the issuance of the Schmerber order. However, counsel for petitioner also sought to suppress any and all DNA which was taken in accordance with a May 13, 2010 search warrant. Based on the premise that those were taken illegally, counsel requested that all of those samples be suppressed and that the search warrant be quashed. The State claimed that those samples were never taken to SLED and would not be used.

Judge Macaulay granted petitioner's Motion, to quash the the search warrant, and suppressed anything obtained. Counsel renewed petitioner's motion that the indictments be quashed, based upon Rule 3(c), SCRCrimp. Judge Macaulay denied the motion. Petitioner's attorney, Kurt Tavernier failed to raise a fourth Amendment claim on a lack of probable cause on the arrest warrant which (probable cause) was a requirement for the issuance and seizure of petitioner's DNA pursuant to a Schmerber order,

28. Another hearing was held on October 21, 2010 before Judge J. Cordell Maddox, Jr. with Christina Adams appearing on behalf of the State and Tavernier representing petitioner, to "deal with [petitioner's] representations concerns and issues." Petitioner indicated that when Mr. Tavernier was appointed by the court, the

court did not" have [petitioner's] best interest[s] at stake.'
Petitioner alleged that Mr. Tavernier threatened his family if he did not plead guilty and also refused to file a motion on his behalf. The following conversation took place between Judge Maddox and petitioner:

The Court: Well, what job have you done that was your best?
Where did you work that you thought you were most a
to do well?

petitioner: I have done weldind. I have done plumbing. I've done
structures.

The Court: Okay. Let me tell you a problem I've got. I don't
know anything about welding. And if you were out working
welding and I came out and showed you--and had no idea
how to weld and started telling you how to weld, you'd
think I was an idiot. And I would be an idiot. What I'm
telling you is that, you know, this would be-

petitioner: Are you saying, Your Honor, that I don't have experience
in the law? I have fifteen years' experience in the law.

Counsel indicated that petitioner filed a grievance which claimed
that he threatened to kill him and his family. When asked whether
he wanted to represent himself or hire an attorney, petitioner stated:

Well, Your Honor, according to the Constitution, the Unit
States Constitution, I am entitled to a defense. Just because
the Court, appointed me an attorney and he has skills in the
law, that doesn't mean he's using those skills to defend me.
So I still to this day have not been able to defend myself
because you refuse to give me a lawyer to defend me, myself
Refuse. I have had no lawyer to defend me yet to this day.

Judge Maddox order Mr. Tavernier to stay on the case as standby counsel, petitioner's objections notwithstanding. Judge Maddox told petitioner "the biggest mistake you can make is to show up on December 13th representing yourself."

29. On December 7, 2010 a pretrial hearing was held before Judge J. Cordell Maddox, Jr. Christina Adams and Lindsey Simmons appeared on behalf of the State, and Kurt Tavernier appeared as standby counsel for petitioner. At this hearing, State moved for an order to prohibit petitioner from offering any evidence of the victims prior sexual conduct and third-party guilt. In addition, petitioner moved to suppress the photographic lineup, search warrant, arrest warrants, DNA testing conducted pursuant to Schmerber order for lack of probable cause Motion to Dismiss the indictments, Motion to Compel Discovery and request an injunction and declaration judgment against the jail.

The State offered the testimony of Lieutenant Greg Reed, and petitioner questioned him on cross examination. [REDACTED] also testified and was questioned by petitioner. At the conclusion of the hearing, judge Maddox discussed with petitioner his right to counsel:

The second to the last thing before I talk about what we're going to do on Monday, Mr. Temple, I've gone over exhaustively your right to counsel. I know you and I don't agree on some of these issues. And that's fine. Unfortunately, the law does basically say that we may not agree, but what I say is final. Mr. Tavernier, who has sat here very quietly all day deserves to know for his preparation if you have changed your mind about whether or not he's going to represent you or whether you intend on Monday of next week to represent yourself?

Petitioner spoke with Mr. Tavernier, and the latter spoke to the court regarding his representation. Judge Maddox ruled that petitioner was to proceed pro se with Mr. Tavernier to serve as advisory counsel.

IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS, U.S. CONST.

30. On December 13, 2010 Judge J. Cordell Maddox Jr. coerced petitioner to proceed pro se in a jury trial. Solicitor, Christina Adams and Assistant Solicitor, Lindsey Simmons represented the State, and with Kurt Tavernier serving as standby counsel.

At trial, [REDACTED] testified that around 4:30 p.m. on the afternoon on May 9, 2010, she was putting her dormitory items in her storage unit at All Safe Storage located in Seneca, South Carolina, and then began walking to her car when she encountered a black male (whom she identified as petitioner at trial and after viewing a photograph layout after the incident) who wanted her to purchase shoes he was selling at that time. The State presented over fourteen witnesses in its case against petitioner during the trial. Then the state rested its case against petitioner.

Petitioner called upon the court to present two witnesses in his defense [REDACTED] and nurse Chapman, Judge Maddox denied petitioner to call these witnesses in his defense and conducted closing arguments, gave the jury instruction and the charge and told jury to deliberate. A jury of 11 whites and 1 black found petitioner guilty on all counts as indicted within 15 minutes of deliberation. Tr. p.604 l.1- p.656.

Then Judge Maddox sentenced petitioner to thirty years imprisonment on Count One- Criminal sexual Conduct 1st degree; thirty years imprisonment on Count Two- Criminal Sexual Conduct 1st degree; thirty years imprisonment on the Kidnapping charge and ten years imprisonment on the Grand Larceny, more than \$5,000 charge- with the sentences to run consecutive .

THE DIRECT APPEAL

31. On December of 2010, petitioner timely filed a Notice of Appeal of his conviction and sentences with all parties including the South Carolina Court of Appeals. On september 28, 2012 Wanda Carter, Deputy Chief of Appellate Defense of the South Carolina Commission on Indigent Defense filed an Anders Brief pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967). on behalf of petitioner. On November 1, 2012 the petitioner filed a Pro Se Response to the Anders Brief. However, in the Anders Brief, petitioner raised the following issue to the South Carolina Court of Appeals:

The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived his right to counsel prior to trial; ultimately, he rescinded the waiver after the jury was selected and re-asserted his right to counsel by requesting representation of appointed counsel for his trial.

By way of unpublished opinion dated September 11, 2013, the court of Appeals dismissed petitioner's appeal. Unpublished Opinion granted appellate counsel's request to withdraw. State v. Dennis Temple, Unpublished No. 2013-UP-350 (ct.App. filed September 11, 2013). The Opinion reads as follows:

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to Anders v. California, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted. [We decide this case without oral argument pursuant to Rule 215, SCACR].

APPEAL DISMISSED.

SHORT, WILLIAMS, and THOMAS, jj., concur.

FIRST POST-CONVICTION RELIEF ACTION

32. On October 15, 2013 petitioner then filed his first application for Post-Conviction Relief Action (PCR) in the Oconee County Courthouse (Temple v. State, Civil Action No, 2013-CP-37-729). Petitioner's PCR application contained allegations of various Constitutional defects surrounding his trial as well as allegations of ineffective assistance of appellate counsel.

On July 8, 2014 the State filed its responsive pleading. An evidentiary hearing into the matter was convened on July 28, 2014 at the Oconee County Courthouse before Judge Edger W. Dickson, Circuit Court Judge (the PCR Court). Petitioner was represented at the hearing by Hugh Welborn, Esquire. The State was represented at the hearing by Walt Whitmire, Esquire, of the South Carolina attorney General Office.

FIRST FEDERAL HABEAS CORPUS

33. On August 26, 2014, petitioner filed a petition for Writ of Habeas Corpus pursuant to 28 U.S.C. section 2254 in the United States District Court for the District of South Carolina.

Temple v. Mcfadden, Civil Action No. 8:14-3499-JFA-JDA. The Magistrate Judge Jacquelyn D. Austin, subsequently issued a report and recommendation that petitioner's petition be dismissed without prejudice for failure to exhaust state remedies on September 9, 2014. Petitioner did not file timely objections to the R&R. On September 30, 2014, Judge Joseph F. Anderson, Jr., United States District Judge, issued an order dismissing the petition without prejudice in accordance with the R&R and denying a certificate of appealability. Temple v. Mcfadden, Civil action No. 8:14-3499-JFA-JDA (D.S.C.). Sept. 30 2014). Petitioner did not appeal.

ORDER OF DISMISSAL OF FIRST POST-CONVICTION

34. On October 24, 2016, the PCR Court, Judge Edger W. Dickson issued an order of Dismissal denying and dismissing petitioner's first Post-Conviction Relief Action with prejudice. However, Judge Dickson failed to issue findings of facts and conclusion of laws regarding petitioner's ineffective assistance of counsel claim and Schmerber hearing claim. The Order was filed with the Oconee County, Clerk of Court's Office on October 31, 2016.

THE APPEAL FROM THE DENIAL OF PCR

35. In 2016, petitioner's attorney Hugh Welborn, Esquire timely filed a Notice of Appeal of the order of dismissal of the PCR action on petitioner's behalf, but failed to file a 59(e) Motion regarding petitioner claims that Judge Dickson failed to rule on in the Order of Dismissal. In 2017, Taylor Gilliam, Esquire of the South Carolina Commission on Indigent Defense was appointed to represent petitioner on appeal of denial of PCR action. Petitioner appealed from the denial by way of a Johnson, petition

for Writ of Certiorari. On August 2, 2017 petitioner's filed the JOHNSON petition for Writ of Certiorari.

The petition was transferred to the South Carolina Court of Appeals by the South Carolina Supreme Court. On October 16, 2018 allegedly after careful consideration of the entire record as required by Johnson v. State, 294 S.C.310,364 S.E.2d 201 (1988) the South Carolina Court of Appeals denied Certiorari and granted counsel's request to be relieved. The Remittitur was issued on November 9, 2018 and November 13, 2018.

SECOND FEDERAL HABEAS CORPUS

36. On November 29, 2018, petitioner filed a federal Habeas Corpus in the United states District Court Temple v. Warden Lewis Civil action No. 8:18-cv-3258-JFA-JDA. The Attorney General Office Alan Wilson was represented by J. Anthony Mabry. Petitioner stated the following issues:

Ground One: The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived his right to counsel prior to trial Ultimately, he rescinded that waiver after the jury was selected and re-asserted his right to counsel by requesting the representation of appointed counsel his trial.

Ground Two: The PCR Court erred in granting summary judgment to the state on the issue of ineffective assistance of appellate counsel, where there was a genuine issue of material facts as to whether probable cause was established at a pre-trial hearing and where the transcript from that hearing was not included in the record on appeal.

Ground Three: Did the General Session Court have Jurisdiction to hear appellant's criminal case when the Magistrate Judge never established it had probable cause to detain appellant on the arrest warrants.

On April 1, 2019 the Attorney General Office, J. Anthony Mabry filed a motion for Summary Judgment and a Return and Memorandum of law in Support of Motion for Summary Judgment, On June 20, 2019 magistrate Judge Jacquelyn D. Austin filed a Report and Recommendation, recommending to grant J. Anthony Mabry's Motion for Summary Judgment and dismissing petitioner's Federal Habeas Corpus petition.

On October 31, 2019 United States District Judge, Joseph F. Anderson issued an order adopting Magistrate Judge Report and Recommendation granting the Summary Judgment Motion and dismissing petitioner's Habeas Corpus with prejudice.

SECOND POST CONVICTION RELIEF ACTION

37. On September 18, 2020 petitioner filed his Second Post-Conviction Relief Action in the Oconee County Courthouse.

Temple v. State, Civil Action No. 2020-CP-37-695. He raised three (3) issues: Ineffective Assistance of Counsels claims on his preliminary hearing counsels Sarah Drawdy and Keith Denny, the PCR Court failed to rule on his Schmerber hearing claim as well and petitioner moved the court for a new trial based on the fact that the state notified petitioner 1 year and 10 months after direct appeal that his preliminary hearing transcript does not exist, which prevented the appellate court from conducting a meaningful and complete appellate review.

Petitioner requested that the conviction and 100 years sentences to be vacated and requested a new trial.

On September 14, 2021 the State of South Carolina made a late return, represented by the Attorney General Office, requesting the action to be Summary Dismissed because it was filed after the 1 year statutory of limitation had expired; it is successive to petitioner's prior PCR action; it is barred by res judicata; for failing to state a cognizable claim under the PCR Act, and because continued litigation by petitioner frustrates the need for final of litigation.

The PCR Court, Chief Administrative judge R. Lawton McIntosh issued a conditional order of dismissal signed on September 21, 2021 and filed on September 23, 2021, provisionally denying and dismissing this action. While giving petitioner twenty days from the date of service of said order in which to show why the dismissal should not become final.

On October 4, 2021, petitioner filed a motion requesting a thirty-day extension of time in which to file a response to the conditional order of dismissal. Petitioner subsequently filed a response on October 27, 2021, The State filed a proposed Final order. Petitioner filed objections to the State's proposed final order of dismissal. On November 17, 2021 the Chief Administrative Judge R. Lawton McIntosh issued a Final Order of Dismissal.

On December 17, 2021 petitioner filed a Notice of Appeal and a Explanation Brief on the South Carolina supreme Court pursuant to Rule 203. The Supreme Court of South Carolina issued an order on December 22, 2021 dismissing petitioner's appeal.

HABEAS CORPUS CLAIMS

Ground 1.

Petitioner was arrested and detained upon affiant's Sergeant Scott Arnold arrest warrants affidavit that was not supported probable cause, but contained false information that was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in the affidavits were just conclusionary statements.

In violation of the petitioner's 4th and 14th Amendment rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10 and S.C. Code of laws § 22-3-710 Petitioner alleges Actual Innocence; Ineffective Assistance of Counsels, which resulted in a miscarriage of Justice and shocking to the Universal Sense of Justice.

Ground 2.

Petitioner's D.N.A. was seized from him pursuant to S.C. Code of laws section 16-3-740 and without probable cause.

In violation of the petitioner's 4th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10.

Ground 3.

Petitioner's Bond Reduction attorney Robert Mills ariail jr; misrepresented the facts and lied to (his client) petitioner in order to get him to go on the record and decline the Bond Reduction consideration.

In violation of the petitioner's 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 15; which in the setting, constitutes a denial of fundamental fairness shocking to the Universal sense of Justice.

Ground 4.

Respondents held a Preliminary hearing in this case on July 16, 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

In violation of the petitioner's 5th, 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2 and 14, and S.C. Code of laws § 22-5-320.

Ground 5.

Petitioner was denied by the trial Judge to call witnesses in his defense during a Jury trial.

In violation of the petitioner's 5th, 6th, 8th and 14th Amendment of the United States constitution and south Carolina Constitution Article 1, sections 2, 3, 14 and 15 and S.C. Codes of laws §§ 17-23-60 and 19-7-60.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years, and 10 years in prison to run consecutive by the trial Judge.

In violation of the petitioner's 5th, 6th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3, 8, 12 and 15, and S.C. Codes of Laws §§§§ 17-25-50; 16-13-30; 16-3-652 and 16-3-910 illegal sentences.

Ground 7.

Petitioner's decision to proceed pro se during a jury trial was not knowing, intelligent and voluntary.

In violation of the petitioner's 6th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2, 3 and 14; Which in the setting, constitutes a denial of fundamental fairness shocking to the Universal sense of Justice.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully pray that this court
Enter a judgment in his favor:

38. Granting petitioner Temple relief in this case by setting
or vacating the conviction and sentences.

39. Petitioner's also seeks separate relief on all grounds
raised herein, including release from prison.

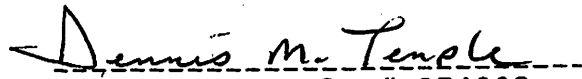
40. Petitioner also seeks recovery of his costs in this
proceeding and other related to the conviction.

41 Any additional relief this court deems just, proper, and
equitable.

VERIFICATION

I have read the fore going complaint and hereby verify that
the matters alleged therein are true, except as to matters alleged
on information and belief, and as to those, I believe them to be
true, I certify under penalty that the foregoing is true and correct.

July 5, 2023


Dennis M. Temple, # 274802
Lee Correctional Inst. F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

Melissa C. Burton
Oconee County, clerk of Court
Post Office Box 678
Walhalla, South Carolina 29691

FILED OCONEE COUNTY, SC
MELISSA C. BURTON
CLERK OF COURT

2023 JUL 10 P 4:08

In Re: Temple v. State of South Carolina

Civil action No. Petition for Writ of Writ of Habeas Corpus

Dear Ms. Burton:

Enclosed please find two copies of my Notice of Motion, Motion for Petition of Writ of Habeas Corpus and Verified Complaint, and our Affidavit to Proceed In Forma Pauperis and a inmate trust fund report; and a Motion and order form; and 3 summons forms.

Please clock-in these documents and return a copy to me for my files.

Sincerely Yours,

Dennis M. Temple

Dennis M. Temple, SCDC# 274802
Lee Correctional Inst. F2A-2113
990 wisacky Highway
Bishopville, South Carolina 29010

July 5, 2023

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEA

TENTH JUDICIAL CIRCUIT

FILED OCONEE COUNTY, SC
JULIA C. BURTON
CLERK OF COURT

Case No. 2023CP3700517

Dennis Temple, # 274802

2023 JUL 10 P 4:08

Petitioner,

v.

NOTICE OF MOTION

State of South Carolina; Director
Bryan Stirling; Warden, Shane
Jackson.

Respondents,

TO:

YOU WILL PLEASE TAKE NOTICE, that the petitioner,
Dennis Temple will move the Court pursuant to Rule 65(f)(1) of
the South Carolina Rules of Civil Procedures for a Petition of
Writ of Habeas Corpus as follows:

Dennis M. Temple

Dennis M. Temple, # 274802
Lee Correctional Inst. F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

July 5, 2023

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Dennis Temple, # 274802

Petitioner,

v.

State of South Carolina; Director
Bryan Stirling; Warden Shane
Jackson.

Respondents,

IN THE COURT OF COMMON PLEAS

TENTH JUDICIAL CIRCUIT

Case No. _____

2023 JUL 10 P 4:08

MOTION FOR PETITION

OF

WRIT OF HABEAS CORPUS

The Petitioner, Dennis Temple, moves the court pursuant to Rule 65(f)(1) of the South Carolina Rules of Civil Procedures for a Writ of Habeas Corpus against the State of South Carolina Director, Bryan Stirling and Warden Shane Jackson for placing and holding him incarcerated in prison in violation of petitioner 4th, 5th, 6th, 8th and 14th Amendments rights of the United State Constitution and South Carolina Constitution Article 1, sections 3, 12, 14, & 15, and S.C. Codes of laws.

Petitioner seeks to take advantage of the deprivation of Constitutional principles recognized after his trial, appeal and exhaustion of state Post-Conviction relief proceedings.

Petitioner was bereave of substantial and procedural Constitutional rights and in the setting, constitute a denial of fundamental fairness shocking to the Universal sense of Justice and a miscarriage of Justice as follows:

GROUND 1.

Petitioner was arrested and detained upon affiant, sergeant Scott Arnold arrest warrants affidavit that was not supported substantial probable cause, contained false information and was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in affidavit were conclusory statements.

GROUND 2.

Petitioner DNA seizure from him pursuant to S.C. Code of Laws section 16-3-740 and without probable cause.

GROUND 3.

Petitioner Bond Reduction attorney Robert Mills Ariail Jr; misrepresented the facts and lied to (his client) petitioner in order to get him to go on the record and decline the Bond Reduction consideration.

GROUND 4.

Respondents held a preliminary hearing in this case on July 16 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

GROUND 5.

Petitioner was denied by the trial Judge to call witnesses in his defense during a Jury trial.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years and 10 years in prison to run consecutive by the trial Judge.

Ground 7.

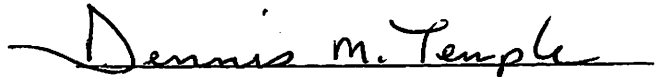
Petitioner's decision to proceed pro se during a jury trial was not knowing, intelligent and voluntary.

8. A summons and a verified complaint is attached as Exhibits A and B, in support of the Writ Of Habeas Corpus.

9. The petitioner certifies that consultation with the opposing party about this matter would serve no useful purpose.

WHEREFORE, the petitioner moves the court for a writ of Habeas Corpus for a order directing the State of South Carolina, Director Bryan Stirling and Warden Shane Jackson to provide the petitioner with a new trial, a new preliminary hearing and/or release him from prison or/and such other and further relief in favor of the petitioner as the Court deems just and appropriate.

July 5, 2023



Dennis M. Temple, # 274802
Lee Correctional Inst. F2d-2113
990 wisacky Highway
Bishopville, South Carolina 29010

STATE OF SOUTH CAROLINA,

COUNTY OF OCONEE

Dennis Temple

petitioner,

vs.

state of South Carolina, Director,

Bryan Stirling; Warden, Shane

Jackson.

Respondents)

FILED OCONEE COUNTY, SC

HEUSSA L. BURTON

IN THE COURT OF COMMON PLEAS

TENTH JUDICIAL CIRCUIT

2023 JUL 10 P 4: 08

SUMMONS

FILE NO. 2023CP3700517

TO THE RESPONDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

, South Carolina

Dated: July 5, 2023

Dennis M. Temple

Plaintiff/Attorney for petitioner

Address: Dennis M. Temple, scdc# 274802
Lee Correctional Inst. F2d-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Case No. 2023CP3700517

Dennis Temple, # 274802 2023 JUL 10 P 4:09

Petitioner,

v.

VERIFIED COMPLAINT

State of South Carolina, Director
Bryan Stirling, Warden, shape
Jackson.

Respondents,

STATEMENT OF THE CASE

1. This is a complaint filed by a state prisoner, Dennis Temple (herein as petitioner) pursuant to Rule 65(f)(1) of the South Carolina Rules of Civil Procedures in support of the Petition for Writ of Habeas Corpus against the respondents regarding the petitioner's Actual Innocence claim, Ineffective Assistance of Preliminary Hearing Counsels claim, illegal sentences claim and others. In violation of the South Carolina Common laws; statutory Codes of Laws; Article 1, sections 3, 12, 14 & 15 of the South Carolina Constitution and the 4th, 5th, 6th, 8th, & 14th Amendments of the United States Constitution. Petitioner is seeking a vacator of the conviction and sentences and/or remand this case for a new trial or release petitioner from prison.

JURISDICTION AND VENUE

2. This court has jurisdiction over this action under Rule 65(f)(1) of the South Carolina Rules of Civil Procedures and the South Carolina Constitution, article V, section 5 and Venue pursuant to Rule 82 of the SCRCF.

PETITIONER

3. The petitioner, Dennis Temple was at all times herein, a citizen of the United States of America and resident in South Carolina. However, he is currently incarcerated at Lee Correctional Institution of the South Carolina Department of Corrections.

RESPONDENTS

4. The respondents was at all times herein were responsible for petitioner's placement in prison. The State of South Carolina, Director of the South Carolina Department of Corrections and the Warden, Shane Jackson of Lee Correctional Institution.

FACTUAL AND PROCEDURAL HISTORY

5. Petitioner, Dennis Temple a 37 year-old blackmale from Seneca, South Carolina. In 2009, petitioner began a small business buying products at low prices and reselling them at a higher price. Petitioner business began to do good, but he needed a place to store the products. He researched different storage facilities. Retitioner selected the All Safe Storage in Seneca South Carolina because of it's security features it advertised. On March 22, 2010 petitioner went into the All Safe Storage paid a fee signed a contract to rent a storage Unit.

6. On May 2010, [REDACTED] a 19 year-old white female Clemson University student rented a storage unit at the All Safe Storage in Seneca, South Carolina. On May 10, 2010, [REDACTED] [REDACTED] alleged in her seven (7) page sworn written statement to police at the Oconee Medical Center, (paraphrased) as follows;

" On May 9, 2010 i arrived at my storage unit in seneca, south carolina at 4:30 p.m. When i noticed a black man between the age 20 to 40 walking on site without a car I became nervous and he tried to sell me some shoes, but i did not want to buy. He then beat me up, dragged me into his storage unit where he raped me, cleaned me with a blue cloth and left me inside his storage unit tied up. Ultimately, i freed myself and found a cell phone inside the storage unit. I then called 911 and a Oconee County Sheriff Officer rescued me from the storage unit Afterwards, i was taken to the Oconee Medical Center.

NOTE: [REDACTED] [REDACTED] sworn written statement to police at the Oconee Medical Center which, (1) never mention petitioner's name Dennis Temple, (2) victim statement never alleged she identified petitioner in a six man photo lineup, (3) the alleged victim's statement never connected storage unit# 193 to any criminal activity (4) the victim's statement never connected petitioner to any criminal activity; (5) the alleged victim statement was the only source of sergeant, Scott Arnold information and belief provided in the arrest warrants affidavit, which was signed by Magistrate Judge Blake Norton on May 10, 2010, in support of the arrest warrants, (6) conclusionary statements was used as probable cause to arrest petitioner. (7) there was no determination of the credibility and reliability of the witness (8) and the reckless disregard for the truth.

7. Later that day, On May 10, 2010 a Oconee County Sheriff's Officer named Sergeant, Scott Arnold went before Magistrate Judge Blake Norton requesting the issuance of three (3) arrest warrants for petitioner's arrest for committing the crimes of Grand Larceny more than \$5,000; kidnapping and Criminal Sexual Conduct, 1st degree at the All Safe Storage in Seneca, South Carolina.

GRAND LARCENY ARREST WARRANT

8. On May 10, 2010 Sgt. Scott Arnold swore in his arrest warrant affidavit for Grand Larceny as following:

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:

" THE DEFENDANT DID, ON 05-09-10, WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER, TAKE AND CARRY AWAY A HONDA ACCORD, WEST VIRGINIA TAG #NL3593, VALUED AT MORE THAN \$5,000, WHICH BELONGED TO [REDACTED] THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC, IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS ON FILE. CASE # 1012105.

KIDNAPPING ARREST WARRANT

9. On May 10, 2010 Sgt. Scott Arnold swore in his arrest warrant affidavit for Kidnapping as following:

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:

THE DEFENDANT DID, ON 05-09-10, UNLAWFULLY AND WITHOUT AUTHORITY TO DO SO, ABDUCT, CONFINED AND INVEIGLED THE VICTIM, [REDACTED] AGAINST HER WILL WHILE ACCOMPANIED BY AGGRAVATED CIRCUMSTANCES. THIS DEFENDANT DID FORCE THE VICTIM FROM HER STORAGE UNIT, UNIT 177, TO HIS PERSONAL STORAGE UNIT, UNIT 193 WHERE HE COMMITTED THE CRIME OF CRIMINAL SEXUAL CONDUCT AGAINST THE VICTIM. THE VICTIM WAS TIED UP AND LEFT INSIDE THE DEFENDANT'S STORAGE UNIT. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENT ARE ON FILE. CASE # 1012105.

CRIMINAL SEXUAL CONDUCT ARREST WARRANT

10. On May 10, 2010 Sgt. Scott Arnold swore in his arrest warrant affidavit for Criminal Sexual Conduct, 1st degree as following:

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:

THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING ENGAGE IN SEXUAL BATTERY UPON THE VICTIM [REDACTED] BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM AGAINST HER WILL. THE DEFENDANT, DID, WHILE AT UNIT 193. ALL SAFE STORAGE, 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY FORCE SEXUAL INTERCOURSE WITH THE VICTIM, VICTIM WAS TRANSPORTED TO OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. (A WRITTEN REPORT, PHOTOGRAPH AND STATEMENT ARE ON FILE. CASE # 1012105.

11. Sgt. Scott Arnold affidavits stated his information and belief was a written report, Photograph and a statement. We searched the trial files received from Solicitor Christina Adams and Assistant Solicitor, Lindsey S. Simmons the documents disclosure, pursuant to petitioner's Rule 5, discovery request. The only written report photograph and statement on file before and on the day of petitioner's arrest. On May 11, 2010 was a seven page sworn written statement by [REDACTED] a photograph of six (6) black males. There was no supplemental oral testimony or written report on file before or on the day of petitioner's arrest by Lieutenant Greg Reed on May 11, 2010.

IN VIOLATION OF THE FOURTH AMENDMENT, U.S. CONST.

12. On May 10, 2010 Magistrate judge Blake Norton issued the three (3) arrest warrants for petitioner's arrest for committing the crimes of Grand Larceny, more than \$5,000; kidnapping and Criminal Sexual Conduct, 1st degree; arrest warrant numbers; N-136668, N-136669 & N-136670 at the All Safe Storage in Seneca South Carolina.

13. On May 11, 2010, petitioner was arrested by the Oconee County Sheriff's Officer Lieutenant Greg Reed for allegedly committing the crimes of Grand Larceny, more than \$5,000; kidnapping and Criminal sexual Conduct, 1st degree at the All Safe Storage in Seneca, South Carolina. Where he was detained in the Oconee County Detention Center.

BOND HEARING

14. On May 12, 2010 petitioner was taken before Magistrate Judge Blake Norton issued a \$200,000 bond against petitioner to gain his freedom on the Grand Larceny, more than \$5,000; Kidnapping and Criminal Sexual conduct, 1st degree charges.

15. Petitioner was unable to post bail on the \$200,000 bond and remained detained in the Oconee County Detention Center, However, petitioner made arraignment for a friend named, Millie Forrester to pay over \$1,000 to Robert Mills Ariail Jr. to get him a bond Reduction on the \$200,000 bond.

IN VIOLATION OF THE FOURTH AMENDMENT, U.S. CONST.

16. On May 20, 2010 a hearing was held before judge R. Lawton McIntosh. Lindsey Simmons represented the State, and petitioner appeared pro se. [Upon personal knowledge, the transcript contains a scrivener's error: this hearing was held May 20, 2010 not May 20, 2012]. The purpose of the hearing was to test petitioner for sexual transmitted diseases under S.C. Code Ann. § 16-3-740. Petitioner indicated that he chose to represent himself based upon "Prior experience with attorneys from Oconee County." Judge McIntosh found that petitioner freely, voluntarily, and knowingly waived his right to an attorney in the limited context of the hearing. Pursuant to the statute, a finding of probable cause was necessary before testing could be completed. Therefore, the State offered the testimony of sergeant, Scott Arnold, who claimed that the alleged victim, C.M. identified petitioner out of a six-picture photo lineup. Judge McIntosh's findings were as follows:

" First, I'm going to find that the victim did make a request for these tests under statute, there's probable cause to believe that [defendant] committed this offense, and further, there's probable cause to find that there were body fluids transmitted and that [defendant] received proper notice of this petition as well as waived his right to have an attorney represent him in this matter. I am going to grant the motion and sign the order as we speak.

ATTORNEY ROBERT MILLS ARIAIL JR.

17. In May 2010, petitioner was called out of the cell at ... the Oconee County Detention Center to talk with attorney Robert Mills Ariail Jr. That's when Ariail Jr. told petitioner that he had scheduled for a bond reduction hearing that month, but due to the media coverage of the case on the news. Ariail Jr. rescheduled the hearing for June 2010.

18. On or about June 7, 2010 petitioner filed a motion for Discovery and Inspection as well as Brady Material under Rule 6 with the Oconee County, clerk of Court regarding State v. Temple, arrest warrants #N-136668, Grand Larceny, more than \$5,000 N-136669, kidnapping; and N-136670, Criminal Sexual Conduct, 1st degree.

IN VIOLATION OF THE SIXTH AMENDMENT, U.S. CONST.

19. On June 30, 2010 petitioner appeared before General Session court in Oconee County for the Bond Reduction Hearing regarding the Grand Larceny, more than \$5,000; kidnapping and Criminal Sexual Conduct, 1st degree charges before Judge Alexander Macaulay. Solicitor, Christina Adams and Assistant Solicitor, Lindsey Simmons appeared on behalf of the State, and Robert Mills Ariail Jr. represented petitioner. At that hearing petitioner was brought into the court room. Robert Mills Ariail Jr. took petitioner into a jointing room in the court and told petitioner that the judge was going to take his current \$200,000 bond. That petitioner must go on the record before the judge and say he withdraw his bond reconsideration. However, Robert Mills Ariail Jr. reviewed the alleged victims [REDACTED] statement that never stated she identified petitioner in a photo lineup, (1) never stated petitioner's storage Unit# 193 was involved in any criminal activity; (2) never stated that petitioner (Dennis Temple) was identified as the assailant in a six man photograph lineup, (3) the victim's statement never connected petitioner to any of the criminal activity related to the offenses. (4) but petitioner was arrested and detained and received a \$200,000 bond to gain his freedom for allegedly committing the crimes. Robert did not inform his client or petitioner about [REDACTED] statement to police and

misrepresented the facts and misled petitioner. Solicitor, Christina Adams and Assistant Solicitor, Lindsey Simmons had not disclosed the alleged victim's statement to the petitioner pursuant to discovery yet. Judge Macaulay waived the application for the Public Defender's office and ordered Wilson Burr to meet with petitioner to start his representation. That same day, petitioner wrote Robert Mills Ariail Jr. a letter requesting his Bond Reduction money back for failing to get him a Bond Reduction. Later, Robert wrote petitioner back, stating that he four-filled his agreement with Millie Forrester regarding petitioner's bond reduction.

ATTORNEY'S SARAH DRAWDY AND KEITH DENNY

20. In July 2010, Wilson Burr and Sarah Drawdy came to the Oconee County Detention Center to visit the petitioner. Wilson Burr informed petitioner that he was appointing Sarah Drawdy as attorney to represent him on the charges and was including another attorney since this was a high profile case.

21. Sometime, in July 2010 petitioner received from the Solicitor, Christina Adams many documents regarding his discovery request, which included, but not limited to a seven (7) page sworn written statement by the alleged victim [REDACTED] [REDACTED] a photo lineup of six black males and a Fox Carolina News report.

22. That next week, in July 2010 petitioner's attorney Sarah Drawdy came back to the Oconee County Detention Center with attorney Keith Denny to discuss the case with him. Petitioner told Ms. Drawdy and Mr. Denny that this case is receiving a lot of media attention in the newspaper and on television. As a result, petitioner would like for them to file a Motion for a Change in Venue with the

court in the case. Petitioner made it clear to Ms. Drawdy and Mr. Denny, that if any motion is filed on his behalf and regarding the state case against him. Then they must inform him first and provide him with a copy of the motion as well. Ms. Drawdy informed the petitioner that his case was scheduled for a preliminary hearing on July 16, 2010. Petitioner told Ms. Drawdy and Mr. Denny that on May 10, 2010. That the alleged victim, [REDACTED] [REDACTED] wrote a seven (7) page sworn written statement to police at the Oconee Medical Center, detailing the incident that happened to her and that she did not allege she was involved in the crimes against her. Petitioner showed his attorneys Sarah Drawdy and Keith Denny the alleged victim's statement and told them that the victim's statement did not ever mention his name and; did not state she identified him in a photo lineup and did not involve him or his storage unit in any criminal activity. Ms. Drawdy and Mr. Denny did not say anything.

PRELIMINARY HEARING

23. On July 16, 2010 a preliminary hearing was held at the Magistrate court house in Oconee before Magistrate Judge William Derrick regarding the arrest warrants that were issued by Magistrate Judge Blake Norton. Solicitor, Christina Adams and Assistant Solicitor Lindsey Simmons represented the State. Attorney, Sarah Drawdy and Keith Denny appeared on petitioner's behalf. The petitioner was present as well. Solicitor Adams and Simmons called Sergeant Scott Arnold to the stand, which he testified that the alleged victim identified petitioner in a six-man photo lineup on May 10, 2010. Moreover, Petitioner's attorney, Sarah Drawdy and Keith Denny did not raise a fourth Amendment claim regarding the Criminal Sexual Conduct, 1st degree, kidnapping and Grand Larceny charges that were

lodged against their client, nor did they put up any argument regarding a lack of probable cause for the arrest warrants and seizure of his DNA pursuant to a search warrant. The preliminary hearing was not recorded in writing or audio, which prevented the appellate court from reviewing the determination of probable cause and not having a complete record for appellate review, denying petitioner his right to a appeal.

MOTION TO RELIEVE ATTORNEYS SARAH DRAWDY AND KEITH DENNY

24. On July 29, 2010 another hearing was held before Judge J. Cordell Maddox Jr. Lindsey Simmons appeared on the behalf of the State, and Sarah Drawdy represented petitioner. Petitioner had moved to relieve his counsel, Sarah Drawdy and Keith Denny because (1) he previously asked them a question and they told petitioner a lie and; (2) they failed to raise a fourth Amendment claim based on a lack of probable cause to arrest him on the arrest warrants in the preliminary hearing.

The State also had a motion that petitioner to obtain counsel within thirty days of the date of the hearing. According to the State, Wilson" sent the case out of his office to Ms. Drawdy and Mr. Denny. Petitioner indicated that he had not authorized the court to appoint an attorney. Judge Maddox advised petitioner against proceeding pro se. Judge Maddox granted both parties motions.

INDICTMENTS

25. On September 7, 2010 petitioner was indicted by the Grand Jury on Count One-Criminal Sexual Conduct, 1st degree, Count Two-Criminal Sexual Conduct, 1st degree, Kidnapping and Grand Larceny charges.

26, On September 14, 2010 another hearing was held before Judge J. Cordell Maddox Jr. Lindsey Simmons appeared on behalf of the State, and petitioner appeared pro se. At the start of the hearing, the following occurred:

The Court: All right. Yes, Ma'am?

Ms. Simmons: Thank you, Your Honor. We are here today in state of South Carolina vs. Dennis Temple. It's an Oconee County case. He has four indictments on 2010-GS-37 00886 through 889. It's two counts of criminal sexual Conduct in the first degree, Kidnapping and Grand Larceny.

On May the 14th of 2010 we filed a motion pursuant to 16-3-740 and served notice on Mr. Temple. That is under the S-T-D testing statute. Judge McIntosh subsequently granted that order and ordered testing on May the 20th of 2010. Mr. Temple has appealed the order and asked that Judge McIntosh reconsider that

Subsequently to that, Mr. Temple was appointed counsel and had a Preliminary hearing. He was represented by Ms. Drawdy in that matter, and that was on July 16th of 2010.

We filed a Schmerber motion out of an abundance of caution on July 19th 2010 and served that on his attorneys at the time. The Defendant appeared before your Honor on July 29, of 2010 for the scheduled Schmerber hearing and to address the issue of representation.

At this time Your Honor relieved Ms. Drawdy and Mr. Denny as his Counsel and gave the defendant 30 days to appear your Honor with an attorney and the Schmerber issue is still out-standing.

In addition, the state claimed that it received a fax from petitioner requesting a speedy trial and indicating that he was going to proceed pro se. Judge Maddox told petitioner that he had a right to represent himself. At this hearing, petitioner contested the validity of the indictments under the South Carolina Rules of Criminal Procedure. Regarding petitioner's representation status Judge Maddox stated:

Well, see, the option I got is I can let you go forward and sit at the table and represent yourself or I can appoint what's basically in my mind a shadow counsel. In other words, I'll appoint a lawyer to sit there with you. He doesn't represent you. If you are dead set on going and representing yourself then I'm going to appoint somebody to sit with you so that you can answer questions-- you can ask questions, they can answer questions. That's only-- that's what I'm comfortable with.

Petitioner agreed that it would be unwise to represent himself but claimed that past hardship with attorneys who did not act as zealous advocates on his behalf prevented him from proceeding with their representation. Judge Maddox appointed petitioner another attorney.

Well, let me just tell you generic, generic. I'm not talking about your case. If I appointed you Johnny Cochran and he was still alive and he sat down with you and told you that, take this road, and you were going to [take] the other road that's something you got to work out with your attorney. So every time you got to work out with your attorney. So every time you have a dispute with an attorney you can't come back and ask for another one.

In fact, what I'm going to do is I'm going to appoint you a lawyer. There's a list of lawyers who have agreed to be appointed. They are outside the public defender's office.

I don't know who is next on that list but I'm going to appoint them with the caveat that this case is going to be tried December 13th.

Judge Maddox appointed Kurt Tavernier to represent petitioner.

SCHMERBER HEARING

27. On September 22, 2010, a Schmerber hearing was held before the Honorable Alexander S. Macaulay. Christina Adams and Lindsey Simmons appeared on behalf of the State, and Kurt Tavernier represented petitioner. Counsel for petitioner stated that blood, buccal, swabs, and hair samples were requested. Counsel indicated that petitioner refused to consent and would not consent to the issuance of the Schmerber order. However, counsel for petitioner also sought to suppress any and all DNA which was taken in accordance with a May 13, 2010 search warrant. Based on the premise that those were taken illegally, counsel requested that all of those samples be suppressed and that the search warrant be quashed. The State claimed that those samples were never taken to SLED and would not be used.

Judge Macaulay granted petitioner's Motion, to quash the the search warrant, and suppressed anything obtained. Counsel renewed petitioner's motion that the indictments be quashed, based upon Rule 3(c), SCRCrimp. Judge Macaulay denied the motion. Petitioner's attorney, Kurt Tavernier failed to raise a fourth Amendment claim on a lack of probable cause on the arrest warrant which (probable cause) was a requirement for the issuance and seizure of petitioner's DNA pursuant to a Schmerber order,

28. Another hearing was held on October 21, 2010 before Judge J. Cordell Maddox, Jr. with Christina Adams appearing on behalf of the State and Tavernier representing petitioner, to "deal with [petitioner's] representations concerns and issues." Petitioner indicated that when Mr. Tavernier was appointed by the court, the

court did not" have [petitioner's] best interest[s] at stake.'
Petitioner alleged that Mr. Tavernier threatened his family if he did not plead guilty and also refused to file a motion on his behalf. The following conversation took place between Judge Maddox and petitioner:

The Court: Well, what job have you done that was your best?
Where did you work that you thought you were most a
to do well?

petitioner: I have done weldind. I have done plumbing. I've done
structures.

The Court: Okay. Let me tell you a problem I've got. I don't
know anything about welding. And if you were out working
welding and I came out and showed you--and had no idea
how to weld and started telling you how to weld, you'd
think I was an idiot. And I would be an idiot. What I'm
telling you is that, you know, this would be-

petitioner: Are you saying, Your Honor, that I don't have experience
in the law? I have fifteen years' experience in the law.

Counsel indicated that petitioner filed a grievance which claimed
that he threatened to kill him and his family. When asked whether
he wanted to represent himself or hire an attorney, petitioner stated:

Well, Your Honor, according to the Constitution, the Unit
States Constitution, I am entitled to a defense. Just because
the Court, appointed me an attorney and he has skills in the
law, that doesn't mean he's using those skills to defend me,
So I still to this day have not been able to defend myself
because you refuse to give me a lawyer to defend me, myself
Refuse. I have had no lawyer to defend me yet to this day.

Judge Maddox order Mr. Tavernier to stay on the case as standby counsel, petitioner's objections notwithstanding. Judge Maddox told petitioner "the biggest mistake you can make is to show up on December 13th representing yourself."

29. On December 7, 2010 a pretrial hearing was held before Judge J. Cordell Maddox, Jr. Christina Adams and Lindsey Simmons appeared on behalf of the State, and Kurt Tavernier appeared as standby counsel for petitioner. At this hearing, State moved for an order to prohibit petitioner from offering any evidence of the victims prior sexual conduct and third-party guilt. In addition, petitioner moved to suppress the photographic lineup, search warrant, arrest warrants, DNA testing conducted pursuant to Schmerber order for lack of probable cause Motion to Dismiss the indictments, Motion to Compel Discovery and request an injunction and declaration judgment against the jail.

The State offered the testimony of Lieutenant Greg Reed, and petitioner questioned him on cross examination. [REDACTED] [REDACTED] also testified and was questioned by petitioner. At the conclusion of the hearing, judge Maddox discussed with petitioner his right to counsel:

The second to the last thing before I talk about what we're going to do on Monday, Mr. Temple, I've gone over exhaustively your right to counsel. I know you and I don't agree on some of these issues. And that's fine. Unfortunately, the law does basically say that we may not agree, but what I say is final. Mr. Tavernier, who has sat here very quietly all day deserves to know for his preparation if you have changed your mind about whether or not he's going to represent you or whether you intend on Monday of next week to represent yourself?

Petitioner spoke with Mr. Tavernier, and the latter spoke to the court regarding his representation. Judge Maddox ruled that petitioner was to proceed pro se with Mr. Tavernier to serve as advisory counsel.

IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS, U.S. CONST.

30. On December 13, 2010 Judge J. Cordell Maddox Jr. coerced petitioner to proceed pro se in a jury trial. Solicitor, Christina Adams and Assistant Solicitor, Lindsey Simmons represented the State, and with Kurt Tavernier serving as standby counsel.

At trial, [REDACTED] testified that around 4:30 p.m. on the afternoon on May 9, 2010, she was putting her dormitory items in her storage unit at All Safe Storage located in Seneca, South Carolina, and then began walking to her car when she encountered a black male (whom she identified as petitioner at trial and after viewing a photograph layout after the incident) who wanted her to purchase shoes he was selling at that time. The State presented over fourteen witnesses in its case against petitioner during the trial. Then the state rested its case against petitioner.

Petitioner called upon the court to present two witnesses in his defense [REDACTED] and nurse Chapman, Judge Maddox denied petitioner to call these witnesses in his defense and conducted closing arguments, gave the jury instruction and the charge and told jury to deliberate. A jury of 11 whites and 1 black found petitioner guilty on all counts as indicted within 15 minutes of deliberation. Tr. p.604 1.1- p.656.

Then Judge Maddox sentenced petitioner to thirty years imprisonment on Count One- Criminal sexual Conduct 1st degree; thirty years imprisonment on Count Two- Criminal Sexual Conduct 1st degree; thirty years imprisonment on the Kidnapping charge and ten years imprisonment on the Grand Larceny, more than \$5,000 charge- with the sentences to run consecutive .

THE DIRECT APPEAL

31. On December of 2010, petitioner timely filed a Notice of Appeal of his conviction and sentences with all parties including the South Carolina Court of Appeals. On september 28, 2012 Wanda Carter, Deputy Chief of Appellate Defense of the South Carolina Commission on Indigent Defense filed an Anders Brief pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967). on behalf of petitioner. On November 1, 2012 the petitioner filed a Pro Se Response to the Anders Brief. However, in the Anders Brief, petitioner raised the following issue to the South Carolina Court of Appeals:

The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived his right to counsel prior to trial; ultimately, he rescinded the waiver after the jury was selected and re-asserted his right to counsel by requesting representation of appointed counsel for his trial.

By way of unpublished opinion dated September 11, 2013, the court of Appeals dismissed petitioner's appeal. Unpublished Opinion granted appellate counsel's request to withdraw. State v. Dennis Temple, Unpublished No. 2013-UP-350 (ct.App. filed September 11, 2013). The Opinion reads as follows:

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to Anders v. California, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted. [We decide this case without oral argument pursuant to Rule 215, SCACR].

APPEAL DISMISSED.

SHORT, WILLIAMS, and THOMAS, jj., concur.

FIRST POST-CONVICTION RELIEF ACTION

32. On October 15, 2013 petitioner then filed his first application for Post-Conviction Relief Action (PCR) in the Oconee County Courthouse (Temple v. State, Civil Action No, 2013-CP-37-729). Petitioner's PCR application contained allegations of various Constitutional defects surrounding his trial as well as allegations of ineffective assistance of appellate counsel.

On July 8, 2014 the State filed its responsive pleading. An evidentiary hearing into the matter was convened on July 28, 2014 at the Oconee County Courthouse before Judge Edger W. Dickson, Circuit Court Judge (the PCR Court). Petitioner was represented at the hearing by Hugh Welborn, Esquire. The State was represented at the hearing by Walt Whitmire, Esquire, of the South Carolina attorney General Office.

FIRST FEDERAL HABEAS CORPUS

33. On August 26, 2014, petitioner filed a petition for Writ of Habeas Corpus pursuant to 28 U.S.C. section 2254 in the United States District Court for the District of South Carolina.

Temple v. Mcfadden, Civil Action No. 8:14-3499-JFA-JDA. The Magistrate Judge Jacquelyn D. Austin, subsequently issued a report and recommendation that petitioner's petition be dismissed without prejudice for failure to exhaust state remedies on September 9, 2014. Petitioner did not file timely objections to the R&R. On September 30, 2014, Judge Joseph F. Anderson, Jr., United States District Judge, issued an order dismissing the petition without prejudice in accordance with the R&R and denying a certificate of appealability. Temple v. Mcfadden, Civil action No. 8:14-3499-JFA-JDA (D.S.C). Sept. 30 2014). Petitioner did not appeal.

ORDER OF DISMISSAL OF FIRST POST-CONVICTION

34. On October 24, 2016, the PCR Court, Judge Edger W. Dickson issued an order of Dismissal denying and dismissing petitioner's first Post-Conviction Relief Action with prejudice. However, Judge Dickson failed to issue findings of facts and conclusion of laws regarding petitioner's ineffective assistance of counsel claim and Schmerber hearing claim. The Order was filed with the Oconee County, Clerk of Court's Office on October 31, 2016.

THE APPEAL FROM THE DENIAL OF PCR

35. In 2016, petitioner's attorney Hugh Welborn, Esquire timely filed a Notice of Appeal of the order of dismissal of the PCR action on petitioner's behalf, but failed to file a 59(e) Motion regarding petitioner claims that Judge Dickson failed to rule on in the Order of Dismissal. In 2017, Taylor Gilliam, Esquire of the South Carolina Commission on Indigent Defense was appointed to represent petitioner on appeal of denial of PCR action. Petitioner appealed from the denial by way of a Johnson, petition

for Writ of Certiorari. On August 2, 2017 petitioner's filed the JOHNSON petition for Writ of Certiorari.

The petition was transferred to the South Carolina Court of Appeals by the South Carolina Supreme Court. On October 16, 2018 allegedly after careful consideration of the entire record as requited by Johnson v. State, 294 S.C.310,364 S.E.2d 201 (1988) the South Carolina Court of Appeals denied Certiorari and granted counsel's request to be relieved. The Remittitur was issued on November 9, 2018 and November 13, 2018.

SECOND FEDERAL HABEAS CORPUS

36. On November 29, 2018, petitioner filed a federal Habeas Corpus in the United states District Court Temple v. Warden Lewis Civil action No. 8:18-cv-3258-JFA-JDA. The Attorney General Office Alan Wilson was represented by J. Anthony Mabry. Petitioner stated the following issues:

Ground One: The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived his right to counsel prior to trial Ultimately, he rescinded that waiver after the jury was selected and re-asserted his right to counsel by requesting the representation of appointed counsel his trial.

Ground Two: The PCR Court erred in granting summary judgment to the state on the issue of ineffective assistance of appellate counsel, where there was a genuine issue of material facts as to whether probable cause was established at a pre-trial hearing and where the transcript from that hearing was not included in the record on appeal.

Ground Three: Did the General Session Court have Jurisdiction to hear appellant's criminal case when the Magistrate Judge never established it had probable cause to detain appellant on the arrest warrants.

On April 1, 2019 the Attorney General Office, J. Anthony Mabry filed a motion for Summary Judgment and a Return and Memorandum of law in Support of Motion for Summary Judgment, On June 20, 2019 magistrate Judge Jacquelyn D. Austin filed a Report and Recommendation, recommending to grant J. Anthony Mabry's Motion for Summary Judgment and dismissing petitioner's Federal Habeas Corpus petition.

On October 31, 2019 United States District Judge, Joseph F. Anderson issued an order adopting Magistrate Judge Report and Recommendation granting the Summary Judgment Motion and dismissing petitioner's Habeas Corpus with prejudice.

SECOND POST CONVICTION RELIEF ACTION

37. On September 18, 2020 petitioner filed his Second Post-Conviction Relief Action in the Oconee County Courthouse.

Temple v. State, Civil Action No. 2020-CP-37-695. He raised three (3) issues: Ineffective Assistance of Counsels claims on his preliminary hearing counsels Sarah Drawdy and Keith Denny, the PCR Court failed to rule on his Schmerber hearing claim as well and petitioner moved the court for a new trial based on the fact that the state notified petitioner 1 year and 10 months after direct appeal that his preliminary hearing transcript does not exist, which prevented the appellate court from conducting a meaningful and complete appellate review.

Petitioner requested that the conviction and 100 years sentences to be vacated and requested a new trial.

On September 14, 2021 the State of South Carolina made a late return, represented by the Attorney General Office, requesting the action to be Summary Dismissed because it was filed after the 1 year statutory of limitation had expired; it is successive to petitioner's prior PCR action; it is barred by res judicata; for failing to state a cognizable claim under the PCR Act, and because continued litigation by petitioner frustrates the need for final of litigation.

The PCR Court, Chief Administrative judge R. Lawton McIntosh issued a conditional order of dismissal signed on September 21, 2021 and filed on September 23, 2021, provisionally denying and dismissing this action. While giving petitioner twenty days from the date of service of said order in which to show why the dismissal should not become final.

On October 4, 2021, petitioner filed a motion requesting a thirty-day extension of time in which to file a response to the conditional order of dismissal. Petitioner subsequently filed a response on October 27, 2021. The State filed a proposed Final order. Petitioner filed objections to the State's proposed final order of dismissal. On November 17, 2021 the Chief Administrative Judge R. Lawton McIntosh issued a Final Order of Dismissal.

On December 17, 2021 petitioner filed a Notice of Appeal and a Explanation Brief on the South Carolina supreme Court pursuant to Rule 203. The Supreme Court of South Carolina issued an order on December 22, 2021 dismissing petitioner's appeal.

HABEAS CORPUS CLAIMS

Ground 1.

Petitioner was arrested and detained upon affiant's Sergeant Scott Arnold arrest warrants affidavit that was not supported probable cause, but contained false information that was a reckless disregard for the truth; there was no determination of the credibility and reliability of the person supplying the information and the information provided in the affidavits were just conclusionary statements.

In violation of the petitioner's 4th and 14th Amendment rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10 and S.C. Code of laws § 22-3-710 Petitioner alleges Actual Innocence; Ineffective Assistance of Counsels, which resulted in a miscarriage of Justice and shocking to the Universal Sense of Justice.

Ground 2.

Petitioner's D.N.A. was seized from him pursuant to S.C. Code of laws section 16-3-740 and without probable cause.

In violation of the petitioner's 4th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 10.

Ground 3.

Petitioner's Bond Reduction attorney Robert Mills ariail jr; misrepresented the facts and lied to (his client) petitioner in order to get him to go on the record and decline the Bond Reduction consideration.

In violation of the petitioner's 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 3 and 15; which in the setting, constitutes a denial of fundamental fairness shocking to the Universal sense of Justice.

Ground 4.

Respondents held a Preliminary hearing in this case on July 16, 2010 regarding probable cause to arrest petitioner; however, they intentionally failed to record and provide the petitioner with a copy of the transcript for appellate review.

In violation of the petitioner's 5th, 8th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2 and 14, and S.C. Code of laws § 22-5-320.

Ground 5.

Petitioner was denied by the trial Judge to call witnesses in his defense during a Jury trial.

In violation of the petitioner's 5th, 6th, 8th and 14th Amendment of the United States constitution and south Carolina Constitution Article 1, sections 2, 3, 14 and 15 and S.C. Codes of laws §§ 17-23-60 and 19-7-60.

Ground 6.

Petitioner was sentenced to 30 years, 30 years, 30 years, and 10 years in prison to run consecutive by the trial Judge.

In violation of the petitioner's 5th, 6th and 14th Amendments rights of the united states Constitution and South Carolina Constitution Article 1, sections 3, 8, 12 and 15; and S.C. Codes of Laws §§§§ 17-25-50; 16-13-30; 16-3-652 and 16-3-910 illegal sentences.

Ground 7.

Petitioner's decision to proceed pro se during a jury trial was not knowing, intelligent and voluntary.

In violation of the petitioner's 6th and 14th Amendments rights of the United States Constitution and South Carolina Constitution Article 1, sections 2, 3 and 14; Which in the setting, constitutes a denial of fundamental fairness shocking to the Universal sense of Justice.

RECEIVED

AUG 07 2023

Referred to C. Davis

Answered _____

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully pray that this court
Enter a judgment in his favor:

38. Granting petitioner Temple relief in this case by setting
or vacating the conviction and sentences.

39. Petitioner's also seeks separate relief on all grounds
raised herein, including release from prison.

40. Petitioner also seeks recovery of his costs in this
proceeding and other related to the conviction.

41 Any additional relief this court deems just, proper, and
equitable.

VERIFICATION

I have read the fore going complaint and hereby verify that
the matters alleged therein are true, except as to matters alleged
on information and belief, and as to those, I believe them to be
true, I certify under penalty that the foregoing is true and correct.

July 5, 2023


Dennis M. Temple, # 274802
Lee Correctional Inst. F2A-2113
990 Wisacky Highway
Bishopville, South Carolina 29010

Dennis M. Temple, SCDC # 274802
Lee Correctional Institution F2A-2113
990 WISACKY Highway
Bishopville, South Carolina 29010

LEE CI INMATE MAIL



US POSTAGE[®] PITNEY BOWES



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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL[®]



7021 0950 0001 0784 2013

RECEIVED

AUG 07 2023

Referred to C. Davis / CIV. I
Answered _____

Attorney General, Alan Wilson
Office of the South Carolina Attorney General
1000 Assembly Street
Columbia, South Carolina 29211

LEGAL MAIL ONLY

[illegible]

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 03/07/24

C052462

TEMPLE, DENNIS M. FBI # 259341PA2 SID# SC00837907 SCDC # 274802

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ...: TYGER RIVER CORR INST

SECURITY/CUST.: ME GENERAL POPULATION

CURR INCARC SENT...: 100 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: YES SEPREQ

SOCIAL SECURITY #...: [REDACTED]

DORM.....: 6B0027B

RACE....: B SEX...: M

PROJ MAXOUT DATE: 10/15/2091

PROJ PAROLE DATE: 10/21/2086

EWC JOB...: WARDKEEPER

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 2F5 EEC LEVEL:

ASSIGNMENT...: BLDG DETAIL

CURRENT PROGRAM...: NO CURRENT PROGRAM

AGE...: 51 DATE OF BIRTH...: [REDACTED]

PREVIOUS NUMBERS:

00220775

00194655

Y00220775

CURRENT OFFENSES	SENTENCE				SENTENCE		
	YRS	MOS	DYS	COUNTY	START	V/NV	CATEGORY
GRAND LARCENY	10	0	0	OCONEE	5/11/2010	N	2
KIDNAPPING	30	0	0	OCONEE	5/11/2010	V	5
CRIMINAL SEX CNDCT 1ST DE	60	0	0	OCONEE	5/11/2010	V	5

PREVIOUS SCDC OFFENSES (COMPLETE)	SENTENCE				SENTENCE		
	YRS	MOS	DYS	COUNTY	START	V/NV	CATEGORY
DRIVING UNDER SUSPENSION	0	0	60	OCONEE	2/22/20	1 N	1
RESISTING OFFICER	1	0	0	OCONEE	5/ 3/20	0 N	3
FAIL TO STOP FOR OFFICER	3	0	0	OCONEE	5/ 3/20	0 N	2
HABITUAL TRAFFIC OFFENSE	5	0	0	OCONEE	5/ 3/20	0 N	2
POSSESS STOLEN PROPERTY	10	0	0	OCONEE	5/ 3/20	0 N	2
COMMON LAW ROBBERY	10	0	0	OCONEE	5/ 3/20	0 N	3

PRIOR COMMITMENTS OVER 90 DAYS:

NO PRIOR COMMITMENTS OVER 90 DAYS

DETAINERS (HOLD, WANTED, NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

7/ 4/14 POSSESSION OF A WEAPON CONVICTED MAJOR WEAPON

12/17/ 1 STRIKING AN EMPLOYEE WIT NOT GUILTY MAJOR STAFF

NON-ASSAULTIVE DISCIPLINARIES:

9/ 5/18 OUT OF PLACE DROPPED ADMIN

9/14/17 POSSESSION OF CONTRABAND OTHER

7/28/17 FIGHTING WITHOUT A WEAPON DROPPED CHARG

6/16/13 DISRESPECT CONVICTED MAJOR

6/16/13 REFUSING OR FAILING OBEY CONVICTED MAJOR

5/ 5/11 THREATENING TO INFLICT H CONVICTED MAJOR

2/18/11 THREATENING TO INFLICT H CONVICTED MAJOR

1/ 2/ 4 POSSESSION OF CONTRABAND CONVICTED MINOR

1/ 2/ 4 POSSESSION OF CONTRABAND OTHER

3/ 4/ 3 VIOLATIONS WRITE/POST IN CONVICTED MINOR

7/ 8/ 2 SOLICIT EMPLOYEE, I/M, VIO CONVICTED MAJOR

10/13/98 CREATING UNNECESSARY NOI CONVICTED MINOR

7/13/98 ABUSE OF PRIVILEGES CONVICTED MINOR

9/21/97 REFUSING OR FAILING OBEY CONVICTED MAJOR

9/21/97 THREATENING TO INFLICT H CONVICTED MAJOR

9/21/97 REFUSING OR FAILING OBEY CONVICTED MINOR

9/21/97 USE OBSCENE, VULGAR, PROFA CONVICTED MINOR

00220775

Y00220775

Y00220775

Y00220775

Y00220775

Y00220775

HISTORY OF MOVEMENTS:

TEMPLE, DENNIS M.		FBI # 259341PA2	SID# SC00837907	SCDC # 274802 (CONTINUED)
11/ 1/23	TYGER RIVER	INCARCERATED		RETURN FROM COURT
11/ 1/23	GREENVILLE CO	AUTH ABSENCE (AWL)		TO COURT
8/ 8/23	TYGER RIVER	INCARCERATED		ADMINISTRATIVE
11/17/22	LEE	INCARCERATED		RETURN FROM COURT
11/17/22	GREENVILLE CO	AUTH ABSENCE (AWL)		TO COURT
9/ 8/21	LEE	INCARCERATED		RETURN FROM COURT
9/ 8/21	GREENVILLE CO	AUTH ABSENCE (AWL)		TO COURT
4/15/19	LEE	INCARCERATED		ADMINISTRATIVE
12/19/18	PERRY	INCARCERATED		RETURN FROM COURT
12/19/18	GREENVILLE CO	AUTH ABSENCE (AWL)		TO COURT
10/31/18	PERRY	INCARCERATED		ADMINISTRATIVE
10/31/18	KIRKLAND	INCARCERATED		MEDICAL
10/ 1/18	PERRY	INCARCERATED		RETURN FROM COURT
10/ 1/18	GREENVILLE CO	AUTH ABSENCE (AWL)		TO COURT
4/10/18	PERRY	INCARCERATED		RETURN FROM COURT
4/10/18	GREENVILLE CO	AUTH ABSENCE (AWL)		TO COURT
1/23/18	PERRY	INCARCERATED		RETURN FROM COURT
1/23/18	GREENVILLE CO	AUTH ABSENCE (AWL)		TO COURT
12/ 2/16	PERRY	INCARCERATED		MEDICAL
12/ 2/16	RICHLAND CO	AUTH ABSENCE (AWL)		MEDICAL
11/29/16	PERRY	INCARCERATED		ADMINISTRATIVE
11/29/16	KIRKLAND	INCARCERATED		MEDICAL
9/12/16	PERRY	INCARCERATED		ADMINISTRATIVE
9/12/16	KIRKLAND	INCARCERATED		MEDICAL
6/ 6/16	PERRY	INCARCERATED		ADMINISTRATIVE
6/ 6/16	KIRKLAND	INCARCERATED		MEDICAL
2/12/16	PERRY	INCARCERATED		RETURN FROM COURT
2/12/16	GREENVILLE CO	AUTH ABSENCE (AWL)		TO COURT
4/ 9/15	PERRY	INCARCERATED		ADMINISTRATIVE
4/ 9/15	KIRKLAND	INCARCERATED		MEDICAL
9/25/14	PERRY	INCARCERATED		ADMINISTRATIVE
7/28/14	LIEBER	INCARCERATED		RETURN FROM COURT
7/28/14	OCONEE CO	AUTH ABSENCE (AWL)		TO COURT
5/29/12	LIEBER	INCARCERATED		RETURN FROM COURT
5/29/12	GREENVILLE CO	AUTH ABSENCE (AWL)		TO COURT
3/24/11	LIEBER	INCARCERATED		ADMINISTRATIVE
12/16/10	KIRKLAND	INCARCERATED		NEW ADMISSION
9/ 1/ 5	UNK	RELEASE		EXPIRATION OF SENTENCE
5/11/ 5	CATAWBA WORK RE	INCARCERATED		LABOR CREW
5/ 2/ 5	CATAWBA WORK RE	WORK-RELEASE		WORK PROGRAM
4/29/ 5	YORK CO	AUTH ABSENCE (AWL)		LOCKUP-INVESTIGATION
3/18/ 5	CATAWBA WORK RE	WORK-RELEASE		WORK PROGRAM
12/ 1/ 4	CATAWBA WORK RE	INCARCERATED		LABOR CREW
12/ 1/ 4	KERSHAW	INCARCERATED		COURT/PAROLE HEARING VIA
11/29/ 4	CATAWBA WORK RE	INCARCERATED		ADMINISTRATIVE
11/29/ 4	KERSHAW	INCARCERATED		COURT/PAROLE HEARING VIA
11/ 3/ 4	CATAWBA WORK RE	INCARCERATED		MEDICAL
11/ 3/ 4	KERSHAW	INCARCERATED		MEDICAL
10/27/ 4	CATAWBA WORK RE	INCARCERATED		LABOR CREW
10/27/ 4	KERSHAW	INCARCERATED		MEDICAL
10/20/ 4	CATAWBA WORK RE	INCARCERATED		LABOR CREW
10/20/ 4	KERSHAW	INCARCERATED		MEDICAL
8/25/ 4	CATAWBA WORK RE	INCARCERATED		ADMINISTRATIVE
11/ 4/ 3	LOWER SAVANNAH	INCARCERATED		LABOR CREW
8/ 6/ 3	WATEREE RIVER	INCARCERATED		ADMINISTRATIVE
8/ 6/ 3	LEE	INCARCERATED		COURT/PAROLE HEARING VIA
4/25/ 3	WATEREE RIVER	INCARCERATED		ADMINISTRATIVE
3/27/ 3	LEE	INCARCERATED		DRUG ADDICTION UNIT

2/26/ 3	WATEREE RIVER	INCARCERATED	ADMINISTRATIVE
10/ 2/ 2	LEE	INCARCERATED	DRUG ADDICTION UNIT

TEMPLE, DENNIS M. FBI # 259341PA2 SID# SC00837907 SCDC # 274802 (CONTINUED)

8/ 6/ 2	WATEREE RIVER	INCARCERATED	ADMINISTRATIVE
9/ 4/ 1	TURBEVILLE	INCARCERATED	ADMINISTRATIVE
6/ 4/ 1	TYGER RIVER	INCARCERATED	ADMINISTRATIVE
5/ 3/ 1	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER	11/14/23	0/ 0/ 0		2F5
MACHINE OPERATOR	10/06/23	11/13/23	LATERAL TRANSFER	2F5
WARDKEEPER	08/09/23	10/ 5/23	INMATE REQUEST	2F5
MATERIAL HANDLING EQ	02/18/20	8/ 8/23	INSTIT TRANSFER	2F5
MATERIAL HANDLING EQ	10/17/19	2/17/20	POLICY CHANGE 2020	3F5
GENERAL WORKER	05/29/19	10/16/19	INMATE REQUEST	3F5
WASH RACK ATTENDANT	09/07/17	4/ 2/19	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER ASSISTANT	08/24/17	9/ 6/17	LATERAL TRANSFER	3F5
WARDKEEPER ASSISTANT	02/25/16	7/28/17	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER ASSISTANT	09/30/15	2/24/16	CUSTODY REVIEW	5F5
WARDKEEPER ASSISTANT	09/30/14	9/29/15	LATERAL TRANSFER	5P5
WARDKEEPER ASSISTANT	05/07/13	7/ 5/14	PLACED IN ST/SP CUSTODY	3F5
FOOD SERVICE AIDE	04/21/11	2/17/12	LATERAL TRANSFER	3F5
LABOR CREW/WORK PROG	05/07/05	9/ 1/ 5	RELEASED/PAROLED	2F5
LABOR CREW/WORK PROG	04/30/05	5/ 6/ 5	DEMOTION	2F5
LABOR CREW/WORK PROG	08/26/04	4/29/ 5	DISCIPLINARY/LOCK-UP	2F5
LABOR CREW/WORK PROG	11/05/03	8/25/ 4	INSTIT TRANSFER	2F5
LITTER CONTROL PROGR	05/09/03	11/ 4/ 3	INSTIT TRANSFER	2F5
WARDKEEPER ASSISTANT	04/28/03	5/ 8/ 3	LATERAL TRANSFER	2F5
GENERAL WORKER	04/11/03	4/25/ 3	INSTIT TRANSFER	2F5
GENERAL WORKER	03/28/03	4/10/ 3	MI ELIGIBLE FOR LEVEL 2	3F5
GENERAL WORKER	01/10/03	2/26/ 3	INSTIT TRANSFER	2F5
GENERAL WORKER	10/03/02	1/ 9/ 3	MI ELIGIBLE FOR LEVEL 2	3F5
SENIOR CUSTODIAN	04/04/02	7/ 8/ 2	PLACED IN ST/SP CUSTODY	2F5
CANTEEN OPERATOR	10/25/01	4/ 3/ 2	INMATE REQUEST	2F5
FOOD SERVICE AIDE	09/06/01	10/24/ 1	INMATE REQUEST	2F5
FOOD SERVICE AIDE	06/26/01	9/ 4/ 1	INSTIT TRANSFER	2F5
SR TRAY LINE OPERATO	06/08/01	6/11/ 1	PLACED IN ST/SP CUSTODY	2F5
SR TRAY LINE OPERATO	06/05/01	6/ 7/ 1	MI ELIGIBLE FOR LEVEL 2	3F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 15 OR MORE	02/07/18	4/ 2/19	PLACED IN ST/SP CUSTODY
BONUS 15 OR MORE	01/13/17	7/28/17	PLACED IN ST/SP CUSTODY
LVL 3 - FULL TIME(NO EWC)	02/18/12	12/ 7/12	INMATE REQUEST
BONUS 4-7 HRS/WK	05/06/04	8/25/ 4	INSTIT TRANSFER
BONUS 15 OR MORE	03/28/03	4/25/ 3	INSTIT TRANSFER
BONUS 4-7 HRS/WK	11/07/02	2/26/ 3	INSTIT TRANSFER
BONUS 4-7 HRS/WK	11/16/01	7/ 8/ 2	PLACED IN ST/SP CUSTODY
BONUS 15 OR MORE	07/16/01	9/ 4/ 1	INSTIT TRANSFER

***** END OF REPORT *****

STATE OF SOUTH CAROLINA
COUNTY OF Oconee
STATE

VS.

Mr. Dennis Maurice Temple

AKA:

Race: B Sex: M Age: 38

DOB: SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Larceny / Grand Larceny, value \$5,000 or more

In violation of § 16-13-0030(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0479

☒ 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.

ATTES:

[Signature] 70224
Solicitor SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, SC Bar #

for a determinate term of 10 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: 12/15/10

☒ 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. 5/10/10

☐ The Defendant is to be placed on 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: \$ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$
§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	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$
§14-1-213 (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	\$
§44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/Deputy Clerk *[Signature]*

Court Reporter: *[Signature]*
SCCA217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700886

AW#: N136668

Date of Offense: 5/9/2010

S.C. Code §: 16-13-0030(B)(2)

CDR Code #: 0479

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

(CSC w/minor 1st or Lewd Act)

(def.'s initials)

Recommendation by the State.

Attorney for Defendant

SC Bar #

County Detention Center,

years

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.

12/15/10

to be calculated and applied by the State

Department of Corrections. 5/10/10

S.C. Code §17-25-135.

Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

Ordered

PTUP

plus 20% fee: \$

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: _____

Conditional Discharge, §44-53-450(C) requires

\$350 be paid to the Clerk prior to case disposition

Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge *[Signature]*

Judge Code: 131

Sentence Date 12/15/2010

STATE OF SOUTH CAROLINA
COUNTY OF Oconee
STATE

VS.

Mr. Dennis Maurice Temple

KA: Race: B Sex: M Age: 38

DOB: SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Kidnapping / Kidnapping

In violation of S. 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS

The charge is: ☒ As indicted, ☐ Lesser Included Offense,

The plea is: ☐ Without Negotiations or Recommendation,

ATTES: [Signature]

Solicitor SC Bar # 70224

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections

for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed

and/or to pay a fine of \$ [REDACTED]; provided that upon the service of

of \$ [REDACTED]; 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: 12/14/10

☐ 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 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: \$ [REDACTED] plus 20% fee: \$ [REDACTED]

Payment Terms: [REDACTED]

☐ Set by SCDPPPS

Recipient: [REDACTED]

*Fine: \$ [REDACTED]

\$14-1-206 (Assessments 107.5%) \$ [REDACTED]

\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ [REDACTED]

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ [REDACTED]

\$56-5-2995 (DUI Assessment) \$12 \$ [REDACTED]

\$56-1-286 (DUI Breath Test) \$25 \$ [REDACTED]

Proviso 47.9 (Public Def/Prob) \$500 \$ [REDACTED]

\$14-1-212 (Law Enforce. Funding) \$25 \$ [REDACTED]

\$14-1-213 (Drug Court Surcharge) \$150 \$ [REDACTED]

\$50-21-114 (BUI Breath Test Fee) \$50 \$ [REDACTED]

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ [REDACTED]

Proviso 90.5 (SCCA Surcharge) \$5 \$ [REDACTED]

\$44-53-450(C) (Conditional Discharge) \$350 \$ [REDACTED]

3% to County (if paid in installments) \$ [REDACTED]

TOTAL \$ [REDACTED]

Clerk of Court/Deputy Clerk: [Signature]

Court Reporter: [Signature]

SCCA/217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700888

AW#: N136669

Date of Offense: 5/9/2010

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

of the S.C. Code of Laws, bearing CDR Code # 0095

☐ §17-25-45

☐ Mandatory GPS

(CSC w/minor 1st or Lewd Act)

☐ Defendant Waives Presentment to Grand Jury.

☐ Negotiated Sentence, ☐ Recommendation by the State.

(def.'s initials)

Attorney for Defendant SC Bar #

☐ County Detention Center,

years

days/months/years and or payment

of \$ [REDACTED]; 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.

☒ CONSECUTIVE to sentence on: 12/14/10

☐ 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 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: \$ [REDACTED] plus 20% fee: \$ [REDACTED]

Payment Terms: [REDACTED]

☐ Set by SCDPPPS

Recipient: [REDACTED]

*Fine: \$ [REDACTED]

\$14-1-206 (Assessments 107.5%) \$ [REDACTED]

\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ [REDACTED]

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ [REDACTED]

\$56-5-2995 (DUI Assessment) \$12 \$ [REDACTED]

\$56-1-286 (DUI Breath Test) \$25 \$ [REDACTED]

Proviso 47.9 (Public Def/Prob) \$500 \$ [REDACTED]

\$14-1-212 (Law Enforce. Funding) \$25 \$ [REDACTED]

\$14-1-213 (Drug Court Surcharge) \$150 \$ [REDACTED]

\$50-21-114 (BUI Breath Test Fee) \$50 \$ [REDACTED]

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ [REDACTED]

Proviso 90.5 (SCCA Surcharge) \$5 \$ [REDACTED]

\$44-53-450(C) (Conditional Discharge) \$350 \$ [REDACTED]

3% to County (if paid in installments) \$ [REDACTED]

TOTAL \$ [REDACTED]

Clerk of Court/Deputy Clerk: [Signature]

Court Reporter: [Signature]

SCCA/217 (06/2010)

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 \$ [REDACTED] Beginning

\$ [REDACTED] Paid to Public Defender Fund

Other: [REDACTED]

☐ Conditional Discharge, §44-53-450(C) requires

\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge

Judge Code: 138

Sentence Date

12/15/2010

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)
STATE)
VS.)
Mr. Dennis Maurice Temple)
AKA:)
Race: B Sex: M Age: 38)
DOB: [REDACTED] SS#: [REDACTED])
Address:)
City, State, Zip:)
DL# [REDACTED] SID# [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700888
AW#: N136669
Date of Offense: 5/9/2010
S.C. Code §: 16-03-0910
CDR Code #: 0095

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: Kidnapping / Kidnapping
In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45
(CSC w/minor 1st or Lawd Act)
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.

ATTES: Blummons 70224
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 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: 12/15/10 sentence
☐ 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. 5/11/10
☐ The Defendant is to be placed on 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: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____
*Fine: \$ _____
§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 \$ _____
Proviso 47.9 (Public Def/Prob) \$500 \$ _____
§14-1-212 (Law Enforce. Funding) \$25 \$ _____
§14-1-213 (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 \$ _____
§44-53-450(C) (Conditional Discharge) \$350 \$ _____
3% to County (if paid in installments) \$ _____
TOTAL \$ _____

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: _____

☐ Conditional Discharge, §44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition
☐ Appointed PD or appointed other counsel,
§47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/Deputy Clerk: Renee Whitford

Court Reporter: Rohi Dild
SCCA/217 (06/2010)

Presiding Judge: J. A. ...

Judge Code: 131

Sentence Date: 12/15/2010

STATE OF SOUTH CAROLINA
COUNTY OF Oconee
STATE

VS.

Mr. Dennis Maurice Temple

AKA:

Race: B Sex: M Age: 38

DOB: SS#:

Address:

City, State, Zip:

DL# SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Sex / Criminal sexual conduct - First degree

In violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160

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

(CSC w/minor 1st or Lewd Act)

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:

[Signature] 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 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: 80 12/15/10 sentence

☒ 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. 5/14/10

☐ The Defendant is to be placed on 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: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient:

*Fine: \$ _____

§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 \$ _____

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

§14-1-212 (Law Enforce. Funding) \$25 \$ _____

§14-1-213 (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 \$ _____

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

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

TOTAL \$ _____

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA217 (06/2010)

IN THE JRT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700889

AW#: N136670

Date of Offense: 5/9/2010

S.C. Code §: 16-03-0652

CDR Code #: 0160

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

(CSC w/minor 1st or Lewd Act)

(def.'s initials)

☐ Defendant Waives Presentment to Grand Jury.

☐ Negotiated Sentence, ☐ Recommendation by the State.

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:

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

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

Presiding Judge

Judge Code: 131

Sentence Date

12/15/2010

STATE OF SOUTH CAROLINA
COUNTY OF Oconee
STATE

VS.
Dennis Maurice Temple

AKA:
Race: B Sex: M Age: 38
DOB: SS#:
Address:
City, State, Zip:
DL# SID# SC01934217

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Sex / Criminal sexual conduct - First degree

In violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160

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

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:

Shimmon 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 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: 12/15/10 sentence

☒ 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. 5/11/10

☐ The Defendant is to be placed on 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: \$ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§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 \$ _____

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

§14-1-212 (Law Enforce. Funding) \$25 \$ _____

§14-1-213 (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 \$ _____

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

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

TOTAL \$ _____

Clerk of Court/Deputy Clerk *Buffy Whitford*

Court Reporter: *Loni Child*

SCCA/217 (06/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700887

AW#: 2010GS3700887

Date of Offense: 5/9/2010

S.C. Code §: 16-03-0652

CDR Code #: 0160

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

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: _____

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

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

Presiding Judge *J. Man*

Judge Code: 131

Sentence Date 12/15/2010

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

ARREST WARRANT NUMBER

N136668

ACTION OF GRAND JURY

Chris Cobb

True Bill

Foreperson of Grand Jury

Date: *9-7-10*

VERDICT

Guilty

Darrell Ector 12/15/10

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS37 *00886*

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

GRAND LARCENY, VALUE OF \$5,000 OR MORE

SC Code: 16-13-0030(B)(2)

CDR Code: 0479

FILED OCONEE, SC
DEPT. OF CORRECTIONS
CLERK OF COURT

2010-09-07 P 3:11

ENTERED
JB
COMPLETED

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

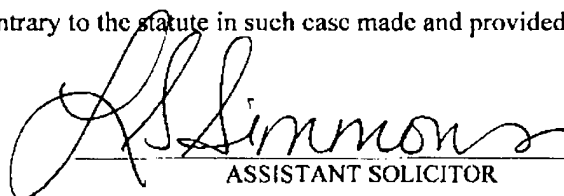
INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010 the Grand Jurors of Oconee County present upon their oath:

GRAND LARCENY, VALUE OF \$5,000 OR MORE

That **Dennis Maurice Temple** did in Oconee County, on or about **May 9, 2010**, feloniously take and carry away the personal property of C.M. (09/28/1990), valued at more than \$5000, described as follows: [REDACTED] Honda Accord, with intent to deprive the owner permanently of such property. This is in violation of §16-13-30(B)(2) of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR

ARREST WARRANT

N-136668

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE
against

1012105

Dennis Maurice Temple

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 198

DL State: SC DL #: [REDACTED]

JOB: [REDACTED] Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Larceny / Grand Larceny, value \$5,000 or more

Offense Code: 0479

Code/Ordinance Sec: 16-13-0030(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Dennis Templeon 5-11-10Kevin Davis 5790

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Wathalla Magistrate
208 Booker Drive
Wathalla, SC 29691

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

who

being duly sworn deposes and says that defendant Dennis Maurice Templedid within this county and state on or about 05/09/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Oconee

in the following particulars:

DESCRIPTION OF OFFENSE Larceny / Grand Larceny, value \$5,000 or more

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:

THE DEFENDANT DID, ON 05-09-10, WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER, TAKE AND CARRY AWAY A [REDACTED] HONDA ACCORD, WEST VIRGINIA TAG # [REDACTED] VALUED AT MORE THAN \$5000.00, WHICH BELONGED TO [REDACTED] THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC, IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church StreetWathalla, SC 29691-Affiant's Telephone (864)638-4111

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 5/9/2010 defendant Dennis Maurice Temple

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

☒ County/ ☐ Municipality of Oconee

) as set forth below:

DESCRIPTION OF OFFENSE: Larceny / Grand Larceny, value \$5,000 or more

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 05/10/2010

Signature of Issuing Judge

Blake A. Norton

Judge Code: 5033Judge's Address 208 Booker DriveWathalla, SC 29691-2278Judge's Telephone (864)638-4125Issuing Court: ☒ Magistrate ☐ Municipal

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

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

COMPUTER

BAIL set at

Judge

on

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

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

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS

200 MAY 17 P 3:33

FILED
DEVELOPMENTAL
COURT

STATE OF SOUTH CAROLINA
COUNTY OF Oconee
STATE

IN THE COURT OF GENERAL SESSIONS

VS.
Mr. Dennis Maurice Temple

INDICTMENT/CASE#: 2010GS3700886

AKA:
Race: B Sex: M Age: 38
DOB: SS#:
Address:
City, State, Zip:
DL# SID#

AW#: N136668
Date of Offense: 5/9/2010
S.C. Code §: 16-13-0030(B)(2)
CDR Code #: 0479

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: Larceny / Grand Larceny, value \$5,000 or more

In violation of § 16-13-0030(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0479

☒ 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:

R. Simmons 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

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

for a determinate term of 10 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: 12/15/10 sentence

☒ 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. 5/11/10

☐ The Defendant is to be placed on 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: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

*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 47.9 (Public Def/Prob) \$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 \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
§44-53-450(C) (Conditional Discharge) \$350 \$
3% to County (if paid in installments) \$ 3.90
TOTAL \$ 133.90

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:

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

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

Clerk of Court/Deputy Clerk

Presiding Judge

Judge Code: 131

Court Reporter:

Sentence Date 12/15/2010

SCCA217 (06/2010)

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

ARREST WARRANT NUMBER

DIAN136670

ACTION OF GRAND JURY

Chris Webb

True Bill

Foreperson of Grand Jury

Date: *9-7-10*

VERDICT

Guilty

Darrell East

Foreperson of Petit Jury

Date:

12/15/10

DOCKET NO. 2010GS37 *00887*

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

VS.

Dennis Maurice Temple

LSS

Indictment for

Criminal Sexual Conduct - First Degree

SC Code: 16-03-0652

CDR Code: 0160

FILED OCONEE, SC
SEP 07 2010
CLERK OF COURT

2010-07 P 3:11

FILED
00887

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

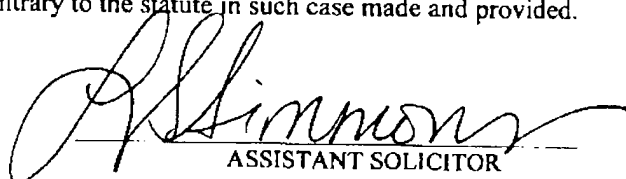
INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010, the Grand Jurors of Oconee County present upon their oath:

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That **Dennis Maurice Temple** did in Oconee, on or about **May 9, 2010**, engage in sexual battery with [REDACTED] accompanied by the following circumstance(s): the Defendant did penetrate the victim's vagina with an object (plastic bottle) and he did use aggravated force to accomplish the sexual battery and/or the victim submitted to sexual battery under circumstances where she was also the victim of forcible confinement or kidnapping, or any other similar offense or act. This is in violation of 16-3-652 of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Oconee
STATE

VS.

Dennis Maurice Temple

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700887

AW#: 2010GS3700887

Date of Offense: 5/9/2010

S.C. Code §: 16-03-0652

CDR Code #: 0160

AKA:

Race: B Sex: M Age: 38

DOB: SS#

Address:

City, State, Zip:

DL# SID# SC01934217

*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: Sex / Criminal sexual conduct - First degree

In violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45The 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:

Simmons 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections ☐ County Detention Center,for a determinate term of 30 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: 12/15/10 sentence☒ 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. 5/10/10☐ The Defendant is to be placed on 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: \$ days/hours Public Service Employment

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 47.9 (Public Def/Prob)	\$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	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
\$44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA217 (06/2010)

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:

☐ Conditional Discharge, \$44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 131

Sentence Date

12/15/2010

DOCKET NO. 2010GS37 **00888**

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

The State of South Carolina

County of Oconee

FILED OCONEE, SC
02
CLERK OF COURT
JULY 2010

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

2010-07-03 11

ARREST WARRANT NUMBER

N136669

THE STATE

vs.

Dennis Maurice Temple

ACTION OF GRAND JURY

Christa O'Neil

True Bill

Foreperson of Grand Jury

Date: *9-7-10*

LSS

Indictment for

VERDICT

Guilty

KIDNAPPING

SC Code: 16-03-0910

CDR Code: 0095

Danell Galt

Foreperson of Petit Jury

Date: *12/15/10*

ENTERED
JUL 15 2010
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010 the Grand Jurors of Oconee County present upon their oath:

KIDNAPPING

That **Dennis Maurice Temple** did in Oconee County, on or about **May 9, 2010**, unlawfully seize, abduct, confine, inveigle, decoy, kidnap, abduct, or carry away [REDACTED] without the authority of law. This is in violation of §16-3-0910 of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR

ORIGINAL

BAIL set by

Judge BTH
on 5-12-10
Type and Amount: 75000 B. & F.
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

2010 MAY 17 P 3:33

CLERK OF COURT
CLEVELAND COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF Oconee

STATE

VS.

Mr. Dennis Maurice Temple

AKA:

Race: B Sex: M Age: 38

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL# [REDACTED] SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Kidnapping / Kidnapping

In violation of § 16-03-0910

of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The 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:

L. Simmons 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 30 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

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: *12/15/10*☐ 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☐ The Defendant is to be placed on 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: \$ _____ days/hours Public Service Employment

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 47.9 (Public Def/Prob)	\$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	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
\$44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA217 (08/2010)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS3700888

AAW#: N136669

Date of Offense: 5/9/2010

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS(CSC w/minor 1st or Lewd Act)

Defendant Waives Presentment to Grand Jury.

Negotiated Sentence, Recommendation by the State.

Attorney for Defendant

SC Bar #

County Detention Center,

under the Youthful Offender Act not to exceed _____ years

days/months/years and or payment

the balance is suspended with probation for

subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are

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

The Defendant is to be placed on 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: \$ 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:

☐ Conditional Discharge, §44-53-450(C) requires

\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge

Judge Code: 134

Sentence Date

12/15/2010

DOCKET NO. 2010GS37 00889

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

SEP 07 2010

Term

THE STATE

vs.

Dennis Maurice Temple

LSS

Indictment for

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

SC Code: 16-03-0652
CDR Code: 0160

WITNESSES

ARONLD, SCOTT, Oconee Co Sheriff's Dept.

Justin Ward

ARREST WARRANT NUMBER

N136670

ACTION OF GRAND JURY

Chari O'Leary

True Bill

Foreperson of Grand Jury

Date: 9-7-10

VERDICT

Guilty

David E. Smith

Foreperson of Petit Jury

Date:

12/15/10

4:03 pm

FILED OCONEE, SC
SEP 07 2010
CLERK OF COURT

2010-12-15 3:11



STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

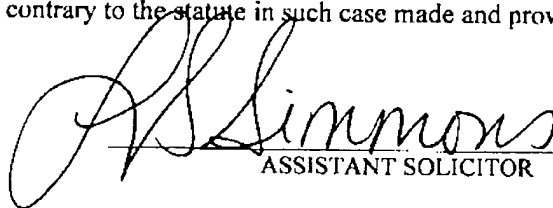
INDICTMENT

At a Court of General Sessions, convened on SEP 07 2010, the Grand Jurors of Oconee County present upon their oath:

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That **Dennis Maurice Temple** did in Oconee, on or about **May 9, 2010**, engage in a sexual battery with [REDACTED] accompanied by the following circumstance(s): the Defendant did vaginally penetrate the victim with his penis and he did use aggravated force to accomplish the sexual battery and/or the victim submitted to sexual battery under circumstances where she was also the victim of forcible confinement or kidnapping, or any other similar offense of act. This is in violation of 16-3-652 of the South Carolina Code of Laws (1976) as amended.

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


ASSISTANT SOLICITOR

ARREST WARRANT

N-136670

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 198

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Sex / Criminal sexual conduct - First degree

Offense Code: 0160

Code/Ordinance Sec: 16-03-0652

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Dennis Templeon 5-4-10Kevin Davis 5790

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2000
SCCA 518Personally appeared before me the affiant Scott Arnold whobeing duly sworn deposes and says that defendant Dennis Maurice Templedid within this county and state on or about 05/09/2010 violate the criminal laws of theState of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct - First degree

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

THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING, ENGAGE IN SEXUAL BATTERY UPON THE VICTIM, [REDACTED] BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM AGAINST HER WILL. THE DEFENDANT DID, WHILE AT UNIT [REDACTED] ALL SAFE STORAGE, 600 SHILOH RD., SENECA, SC IN OCONEE COUNTY, FORCE SEXUAL INTERCOURSE WITH THE VICTIM. VICTIM WAS TRANSPORTED TO OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS ARE ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church StreetWalhalla, SC 29691-Affiant's Telephone (864)638-4111

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 5/9/2010 defendant Dennis Maurice Temple

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

☒ County/ ☐ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - First degree

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 05/10/2010Judge's Address 208 Booker DriveWalhalla, SC 29691-2278Judge's Telephone (864)638-4125Issuing Court: ☒ Magistrate ☐ MunicipalSignature of Issuing Judge Blake A. NortonJudge Code: 5033

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge 101A
on 5-12-10
Type and Amount: 75000.00
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

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Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

CLERK OF COURT
JAMES H. FIELD
CLERK OF COURT

270 MAY 17 P 3:33

STATE OF SOUTH CAROLINA

COUNTY OF Oconee

STATE

VS.

Mr. Dennis Maurice Temple

AKA:

Race: B Sex: M Age: 38

DOB: SS#:

Address:

City, State, Zip:

DL# SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Sex / Criminal sexual conduct - First degree

In violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentation to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Simmons 70224
Solicitor SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 30 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: 80 12/15/10☒ 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 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: \$ _____

days/hours Public Service Employment

Payment Terms: _____

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: _____

☐ Conditional Discharge, §44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, \$47.12 requires \$500 be paid to Clerk during probation.Presiding Judge *P. Alden*

Judge Code: 131

Sentence Date 12/15/2010

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 47.9 (Public Def/Prob) \$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 \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

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

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

TOTAL \$ 133.90

Clerk of Court/Deputy Clerk *Brenda Whitehead*Court Reporter: *Loni Held*

SCCA217 (08/2010)



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
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www.sccourts.org

September 27, 2013

The Honorable Beverly H. Whitfield
PO Box 678
Walhalla SC 29691-0678

REMITTITUR

Re: The State v. Temple, Dennis
Lower Court Case No. 2010GS3700887, 2010GS3700889,
2010GS3700888, 2010GS3700886
Appellate Case No. 2011-182806

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

The exhibit being returned is: State's Exhibit #54 - 911 conversation (Disc).
Please sign attached copy of this letter and return to acknowledgement receipt of this item.

Very truly yours,


CLERK

cc: Salley W. Elliott
Wanda H. Carter

Receipt Acknowledgement:

Name: _____ Date: _____

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

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

The State, Respondent,

v.

Dennis Temple, Appellant.

Appellate Case No. 2011-182806

Appeal From Oconee County
J. Cordell Maddox, Jr., Circuit Court Judge

Unpublished Opinion No. 2013-UP-350
Submitted August 1, 2013 – Filed September 11, 2013

APPEAL DISMISSED

Appellate Defender Wanda H. Carter, of Columbia; and
Dennis Temple, pro se, for Appellant.

Attorney General Alan McCrory Wilson and Senior
Assistant Deputy Attorney General Salley W. Elliott,
both of Columbia, for Respondent.

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.¹

APPEAL DISMISSED.

SHORT, WILLIAMS, and THOMAS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA

IN the Court of Appeal

Appeal from Oconee County

J. Cordell Maddox Jr. Circuit Court Judge

THE STATE,

Respondent,

v.

DENNIS Temple,

APPELLANT,

Appellate Case NO. 2011 - 182806

PRO SE brief

RECEIVED

NOV 1 2012

SC Court of Appeals

Dennis Temple
Appellant

Lieber Corr. Inst., EB-35
P.O. Box 205
Ridgeville, S.C. 29472

Allan Wilson
Attorney General

Salley W. ELLIOT
Senior Assistant Deputy Att. Gen
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3727

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STATEment of issue on Appeal

Did the judge err when he failed to suppress the evidence obtained from the arrest warrants that was issued upon a supporting affidavit that did not link Appellant to the criminal activity or storage unit # 193, and failed to link the storage unit #193 to appellant.

Did the state commit perjury upon the court when it contented that this case was fast-tracked due to appellant's speedy trial motion.

STATEMENT of the case

Appellant, Dennis Temple was convicted by jury trial of two counts of first degree criminal sexual conduct, grand larceny, and Kidnapping during the December 2010 term of the Oconee County General Sessions Court before Judge J. Cordell Maddox, Appellant appeared pro se at trial. Kurt Travernier appeared as stand-by counsel at trial. Appellant was sentenced to imprisonment for a period of one-hundred (100) years.

Appellant appealed, This pro se brief follows.

ARGUMENT

Did the Judge err when he failed to suppress
the evidence obtained from the arrest
warrants that was issued upon a supporting
affidavit that did not link Appellant to the
criminal activity or storage unit # 193, and
failed to link the storage Unit # 193 to
Appellant.

See. Dec 7, 2010. Tr. 24.1.19 - p 25.1.
1-3; Tr. 26.1.9-25; Tr. 28.1.5-13.

on may 10, 2010 a 19 year old white female clemson student named Catherine mcgough stated to Oconee County police officer s in a voluntary Sworn statement the following:

" On May 9th 2010 at 4:30 pm I drove to All - safe Storage facility in Seneca Sc in my 2008 Honda Accord (two-door and gray). upon entering the gate I saw the assailant walking out of the entrance. He was a black man somewhere between the age 20 -

and 40 wearing a gray sweat-suit. I proceeded to my storage unit, unit 177, parked my car, left it unlocked, and left the windows rolled down. I unlocked my storage unit, lifted the door, left the lock on the door, and set my keys on the trunk of the car after I popped the trunk. I had unloaded about half of my load, so there was a square basket container a wire pineapple garden decoration (3ft tall) and a few other miscellaneous objects, when the assailant walked towards me. He was wearing the same clothing and was carrying two types of tennis shoes in either hand. I noted that behind him was a open storage unit which I later found out was in fact his). All I could see inside was a mattress propped up on its long skinny side, creating a horizontal barrier in the doorway. As he approach, he asked what my shoe size was (he was about 20ft away from me at this point). I replied "7"

as I stepped away from my storage unit. He asked me once he got about 12 ft away from me, if I was interested in either of these shoes. They were both nike running shoes one was pink with a dollar bill pattern printed on it. The other was orange. I told him I was saving up for a trip and that I shouldn't splurge. He asked where I was going at this point I was a little uncomfortable so I was looking for my keys so that I could finish up. I had forgotten I had placed them on the trunk. I responded "Ireland". He asked if that was where I was from. I responded vaguely with "sort of". He walked away. I was still looking for my keys when he walked back towards me (I saw that he had gone into the open storage unit). This time he had one shoe and a belt slung over his right shoulder. I was quite uncomfortable and flustered at this point, so I may have acted flustered. He asked if I was alright. I responded that I had had a busy morning. I crossed -

the trunk. He asked if I would help him move something. I asked what it was. He hesitated and said a dresser sort of thing "(There is no dresser anything in his unit). I said that I didnt mean to be rude but that I had to get going. I had walked to the drivers side and was at the door when he pointed out that I had left the storage unit open and unlocked. As much as I wanted to leave I decided to closed the unit. I closed the door but it got caught on another square basket. He was next to me at point he helped me move the box. Then as I was standing up he pushed me forward into the unit. At the time there was a clear isle in the middle of the unit that was about 1 to 2 feet wide that I fell into. I landed on my stomach, but quickly flipped over to my back. I still had my wallet in my right hand, my wallet is a black 6 inch wallet with the keys to my car, my dorm room and storage unit attached. I also still had my Prescription glasses on. After I flipped I started screaming "get the fuck off of me" and "help" as loud as I could while -

detering him by kicking. In the process I lost my shoes. I was wearing sparry boat shoes, a pair of NAVY shorts, black panties, a nude bra and a white scoop-neck T-shirt. I took my car key and jabbed it into the left side of his neck. At this, he punched me square in the nose so hard that I lost my grip on the keys and it broke my glasses. I continued screaming, but he then strangled me with his hands - etc... etc.

See. Sworn written statement by the alleged victim Catherine McGough or See Exhibit A, 1-7.

On May 10, 2010 Oconee County Sheriff's Department issued (3) three arrest warrants for the Appellant's (Dennis Temple) arrest for kidnapping, Criminal Sexual Conduct, 1st degree, and Grand Larceny based upon the above Sworn statement of Catherine McGough. See Exhibit B, C, D

Note: This Sworn Statement by Catherine McGough never mention Appellant's name or storage unit # 193.

LEGAL DISCUSSION STANDARD OF REVIEW

The United States Constitution

Amendment 4 - Search and Seizure

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Fourth Amendment requires "a nexus ... between the item to be seized and criminal behavior. (see, Hayden, 387 U.S. at 307; See also Steagald, 451 U.S. 213; See, eg. U.S. v. Lalor, 996 F.2d 1578, 1582 (4th cir 1993); warrant invalid because supporting affidavit lacked basis from which the Magistrate could infer that evidence of drug activity would be found at defendant's address; U.S. v. Schultz, 14 F.3d 1093, 1097-98 (6th cir 1994) warrant invalid because supporting affidavit lacked evidence of nexus between contraband and place to be searched, see. Greenstreet v. County of San Bernardino, 41 F.3d 1306, 1309 (9th. cir 1994) warrant invalid because supporting affidavit's statement that police saw known drug offender at location of drug activity and at target of search warrant insufficient nexus between contraband and place to be searched.

Moreover, the Court stated that a determination of good-faith reliance, like a-

a determination of probable cause, must be bound by the four corners of the affidavit whether an objectively reasonable officer would have recognized that an affidavit was so lacking in indicia of probable cause as to preclude good faith reliance on the warrant's issuance can be measured only by what is in that affidavit. This conclusion is dictated not only by logic, but by our own precedent. See U.S. v. Laughton, 409 F.3d 744 (6th cir 2005).

ARGUMENT

Did the State commit Perjury upon the Court when it contented that this case was fast-tracked due to appellant's speedy trial motion.

On December 13, 2010 the actual trial date and minutes after the jury was selected appellant requested the full assistance of appointed Counsel (Presumably Travernier) to represent him at trial, which was in effect appellant's plea to neither proceed pro se nor receive stand-by legal assistance, but rather to receive the full assistance of appointed Counsel in the case. Travernier advised the trial Judge that appellant was requesting "a continuance or that in same way or form that he might be able to represent him in the trial." Tr. 60 l. 7-10.

The state argued that this case was fast-tracked due to appellant's speedy trial motion and that a reversal of appellant's waiver of his right to counsel would place an undue burden on the Prosecution. Tr. 61, l. 10-P. 62, l. 10.

However, On July 29, 2010 in a motion hearing held at the Oconee County Courthouse, in Walhalla, South Carolina in front of the presiding Judge J. Cordell Maddox Jr. The solicitor or state argued that she was shooting to try this case in December. Tr. 7, 1.5-8

In addition, On September 14, 2010 a hearing was held at the Anderson County Courthouse regarding the State's Schmerber motion in front of the same Judge J. Cordell Maddox Jr. The state contented that it received a fax from the Appellant (or defendant) requesting a speed trial and indicating that he was proceeding pro se. Tr. 4, 1.9-10

The record clearly shows that the state intended to take this case to trial in December 2010, prior to defendant or Appellant's filing a motion for a fast and speedy trial in the month of August, 2010.

The 4th Amendment of the U.S. Constitution clearly states, "Quote"

That right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. U.S.C.A. 4th Amend.

The South Carolina Constitution Article 1. Section 10. Search and Seizure has a higher standard for the magistrate to issue warrants. Warrants must be issued upon a sworn written statement. S.C. Code 1976, § 17-13-140. In both, United States Constitution and South Carolina Constitution mandate the oath, affirmation or sworn statement to be particularly or put another way, "state specifically the name of the place or person they are going to search and seize. See State v. McKnight, 291 S.C. 110, 352 S.E. 2d 471 (1987).

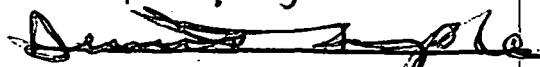
The failure to suppress the evidence from the unconstitutional arrest warrants deprived the defendant of fundamental rights to be secure in his persons has been violated and the good faith exception to the exclusionary Rule is inapplicable because the arrest warrants were issued upon a supporting affidavit that was lacking in indica of Probable Cause and a objectively reasonable officer would have recognized it. The good faith reliance on the warrant's issuance can be measured only by what is in that affidavit. See U.S. v. Laughton, 409 f.3d 744 (6th cir. 2005); also See Illinois v. Gates, 462 U.S. 213, 239, 103 S.ct. 2317, 76 L.Ed. 2d 527 (1983) See. Leon, 468 U.S. at 913-14, 104 S.ct. at 3415-16;

CONCLUSION

Based on the following argument along with the ANDers brief of Appellant's, Appellant requests that his convictions and sentences be vacated and to be immediately released from Prison.

October 29, 2016

Respectfully submitted



Dennis Temple, 274802
Lieber Corr. Inst. EB-35
P.O. Box 205
Ridgeville, SC 29472

STATE of SOUTH CAROLINA
IN the court of appeal

Appeal from Oconee County
J. Cordell Maddox Jr. circuit court Judge

THE STATE,

Respondent,

v.

DENNIS Temple

Appellant,

Affidavit of Dennis Temple

RECEIVED

NOV 1 2012

SC Court of Appeals

I, Dennis Temple being duly sworn
depose and state as follows:

1. On May 11, 2010 I was arrested
and detained at the Oconee County Detention
center for allegedly committing the crimes
of criminal Sexual Conduct, 1st degree,
kidnapping, and Grand Larceny attached
here to as Exhibit B, C, and D.

2. The magistrate Judge Blake Nerton issued the arrest warrants based on a sworn written statement by Catherine McGough, which never connected me — to the crime and the alleged Victim never mentioned in her sworn statement that she took part in a photo-display, it is attached hereto as Exhibit A.

3. Based upon the affidavit that was used to support the arrest warrants there was no probable cause to arrest me.

FURTHER THE DEPONENT SAYETH NOT.

Dennis Temple
Dennis Temple

Sworn to and subscribed before me
this 29th day of October, 2012

Sylvia Jones
Notary public for South Carolina

My commission Expires: 1/24/2018

Appeal from Oconee County
J. Cordell Maddox Jr. Circuit Court Judge

Respondent,

V.

DENNIS Temple,

APPEAL RECEIVED

NOV 1 2012

SC Court of Appeals

~~Dennis Temple~~
Dennis Temple
Appellant

Notary Public for South Carolina (L.S.)

mail room lady
Refuse to sign
notary spot
Mrs. Jones

VOLUNTARY STATEMENT

A+1

DATE 5-10-10 PLACE Dennis Medical Center TIME STARTED 6:30 A.M.
 I, the undersigned, Catherine [REDACTED], am 19 years of age, my date and place of
 birth being [REDACTED]
 I now live at [REDACTED]
 Before answering any questions or making any statements, _____

a person who identified himself as _____
 duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any
 statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter
 made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may
 request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop
 answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more
 statements, whether or not I have already answered some questions or made some statements.
 I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the
 aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or
 making any more statements, if I choose to do so.
 I declare that the following voluntary statement is made by my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of
 favor, without leniency or offer of leniency, by any person or persons whatsoever.

On my 9th 2010 at 4:30pm I drove to All-Safe Storage
 Facility in Seneca SC in my 2008 Honda Accord (two-door,
 and gray). Upon entering the gate I saw the assailant
 walking out of the entrance. He was a black man
 somewhere between the ages 20 and 40^{cm} wearing a gray
 sweat-suit. I proceeded to my storage unit, unit 177, parked
 my car, left it unlocked, and left the windows rolled down.
 I unlocked my storage unit, lifted the door, left the
 lock on the door, and set my keys on the trunk of the car
 after I popped the trunk. I had unloaded about half of
 my load, so there was a square basket contained, a wire
 pineapple garden decoration (3 ft tall) and a few other ^{cm} ~~miscellaneous~~
 miscellaneous objects, when the assailant walked towards me.
 He was wearing the same clothing and was carrying two types
 of tennis shoes in either hand. I noted that behind him
 was a ^{open} storage unit (which I later found out was in fact
 his). All I could see inside was a mattress propped up on ^{on} ~~the~~
 its long skinny side, creating a horizontal barrier in the
 doorway. As he approach, he asked what my shoe size was
 (he was about 20 ft away from me at this point). I replied
 "7" as I stepped away from my storage unit. He asked me once
 he got about 10 ft away from me, if I was interested in
 either of these shoes. They were both Nike running shoes one

certify I have received a copy of this statement _____
 have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, hear my initials, and I certify that the facts contained
 are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished
 I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.
 This statement was completed at 10:05 A.M. on the 10th day of May, 20 10.
Valerie M. Soltan
 Notary Public for S.C.
 My Commission Expires 8-7-2018
 WITNESS: [REDACTED]
 WITNESS: [REDACTED]
 Signature of person giving voluntary statement _____

EXHIBIT A

VOLUNTARY STATEMENT
USED FOR ADDITIONAL PAGES ONLY

PAGE # 2

was pink with a dollar bill pattern printed on it. The other was orange. I told him that I was saving up for a trip and that I shouldn't spurge. He asked where I was going. At this point I was a little uncomfortable so I was looking for my keys so that I could finish up. I had forgotten I had placed them on the trunk. I responded "Ireland". He asked if that was where I was from. I responded vaguely with "Sort of". He walked away. I was still looking for my keys when he walked back towards me (I saw that he had gone into the open storage unit). This time he had one ~~piece~~sm shoe and a belt slung over his right shoulder. I was quite uncomfortable and flustered at this point, so I may have acted flustered. He asked if I was alright. I responded that I had had a busy morning. I closed the trunk. He asked if I would help him move something. I asked what it was. He hesitated and said a "dresser sort of thing". (There is no dresser anything in his unit). I said that I didn't mean to be rude but that I had to get going. I had walked to the driver's side and was at the door when he pointed out that I had left the storage unit open and unlocked. As much as I wanted to leave I decided to close the unit. I closed the door but it got caught on another square basket. He was next to me at this point. He helped me move the box. Then as I was standing up he pushed me forward into the unit. At the time there was a clear aisle in the middle of the unit that was about 1 to 2 feet wide that I fell into. I landed on my stomach, but quickly flipped over to my back. I still had my wallet ~~with~~^{cm} in my right hand. My wallet is a black ~~cm~~^{cm} inch wallet with the keys to my car, my dorm room, and my

I certify I have received a copy of this statement 

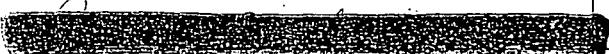
I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A M. on the 10th day of May, 2010

Dalio M. Roth
Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: CAS Coms, RA

WITNESS: 

Signature of person giving voluntary statement

VOLUNTARY STATEMENT
USED FOR ADDITIONAL PAGES ONLY

PAGE # 3

storage unit attached. I also still had my ^{prescription} glasses on. After I flipped over I started screaming "get the fuck off of me" and "help" as loud as I could while deterring him by kicking. In the process I lost my shoes. I was wearing spiky boat shoes, a pair of navy shorts, black panties, a nude bra, and a white v-neck t-shirt. I took my car key and jabbed it into the left side of his neck. At this, he punched me square in the nose forward that I lost my grip on the keys and it broke my glasses. I continued screaming, but he then strangled me with his hands. I could still breathe but barely. We were both on the ground at this point; he was over top of me. He let loose the stranger and I continued to scream. This time he strangle me so that I could not breathe at all and my vision was darkening. When he let loose this time I didn't scream. He had put a two inch leather belt around my neck, and had led me to the doorway of my storage unit. No one was in sight, it was still broad daylight. It was probably about 4:45pm at this point. He said that when he said so, we were going to run. I misunderstood and thought that he was letting me run away; I quickly realized my misinterpretation when he started pulling me towards the open storage unit. His storage unit was diagonally to the right from my storage unit. I never saw the number due to my lack of glasses. I started screaming again. I somehow ended up on the ground with him strangling me with the belt. This part is blurry because I passed out from him strangling me. I awoke to him standing over me, saying things that I didn't register. He half drug me to the storage unit. We stayed close to the ^{back of the} storage units that were located in the middle of the rectangular area. The ground

I certify I have received a copy of this statement [redacted]
I have read each page of this statement consisting of page(s); each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A .M. on the 10th day of May, 2010

Dulcie M. Adkins

Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: [redacted]

WITNESS:

[redacted]
Signature of person giving voluntary statement

PAGE # 4

VOLUNTARY STATEMENT

PAGE # 5

alarm go off although I'm not sure in which order. He came back to his storage unit and asked me questions while he fumbled around with something from the pile on the right wall. I couldn't see what it was. I was still on my stomach with my head facing the standing mattresses. He asked how much money was ~~in~~ⁱⁿ my account. I told him three thousand. He muttered repetitively about "rich white girl". He rolled me over and I then saw that he was undressed. He said "I am going to rape you, now" he asked if I would like that I said "no" and he asked for me to repeat it several times. Then he asked if I wanted to die. I again said "no". He told me that I had better stay quiet, then. He said that he'd slit my throat. That it would take anyone too long to get in to help me and that he didn't care about getting caught. His reason he said was, "because, you see this shithole? This is where I live, it's all I have". He had cut my bonds with something, I'm not sure what it was, but it seemed to be a small knife. He ~~cut~~^{cut} pulled off my shorts, then my underwear. He commented about me "pissing on my clothes". Apparently I had urinated which I had passed out. He pulled up my skirt and bra and inserted himself into my vagina. I stayed quiet. And he said "I'm sorry baby, baby I'm so sorry" and kissed me on my ~~cheek~~^{cheek} left cheek twice. That is the only contact I ever had with his mouth. After a minute or so, he stood up, cursing himself for what he had done. I assume that means ~~cumming~~^{cum} cumming inside of me, because he then proceeded to wash me out. He took a blue cleaning rag and dunked it into a liquid. He rubbed the rag around my crotch and inserted it. He used his finger and then picked up the power aid bottle and filled it with the same liquid that the rag was dipped in. He put the power aid a centimeter or so into me and squeezed the liquid out into me. He dressed. I urinated

I certify I have received a copy of this statement. I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A M. on the 10th day of May, 2016.

Notary Public for S.C.

My Commission Expires

WITNESS: AS [Signature]

WITNESS:

Signature of person giving voluntary statement

VOLUNTARY STATEMENT
USED FOR ADDITIONAL PAGES ONLY

PAGE # 6

on the already soaked bed. He tied me up, asked what my bin number was. I still was gagged, but I used my hand to tell him the four digits. He asked which card and which room. I told him the visa and BB&T. He finished tying me. This time, instead of tying my hands and feet to each other, he tied a binding around my neck and to my legs... so that I could drop neither my head or legs. This is where I sustained most of my neck injuries I believe. I struggled quite a bit because the ~~rope~~ ^{rope} was painful. He again threw the blanket over me, but before that he had used electrical tape to tie my gag this time. He said that he was leaving to go to the store down the street. About 30 minutes he returned, with the car parked outside of the unit playing 93.1 loudly. He came back in quickly and zipped something up. I was still not able to see what was going on. I moaned and he came over and pulled the tape gag down some so that I could speak. I said that I couldn't breathe and he said that I could breathe fine ^{now}. He pushed the gag back in and piled more blankets over my head. He left the unit, closed and locked the door. I could hear the car move. I found that I could get one arm loose, but stayed in the other bindings in case he got back. After about 2 hours, I saw that it was dark outside (I had rolled the blankets off of my head earlier). I untied all of my bounds and used a head lamp flashlight to look around the unit. I tried the door, and it was indeed locked. I couldn't find anything to open it with. I looked around for any weapons. I found holes in all of the mattresses. Inside the hole in the box spring. I stuffed the belt that had still been around my neck, a broken coat hanger, and the electrical tape that he had used to tie my second gag with. I saw the poweraid bottle floating in a tan bucket that was knee height and about a foot in diameter. It smelled like some kind of cleaning

I certify I have received a copy of this statement.

I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 10:05 A .M. on the 10th day of May, 2010

William M. Botkin

Notary Public for S.C.

My Commission Expires 8-7-2018

WITNESS: [Signature]

WITNESS: _____

Signature of person giving foregoing statement

PAGE # 7

74

ARREST WARRANT

N-136669

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: 250-31-9730

Sex: M Race: B Height: 5 11 Weight: 193

DL State: SC DL #: 004434239

DOB: 11/12/1972 Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Kidnapping / Kidnapping

Offense Code: 0095

Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee

in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / Kidnapping

AFFIDAVIT

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

who

violate the criminal laws of the

Exhibit B

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:THE DEFENDANT DID, ON 05-09-10, UNLAWFULLY AND WITHOUT AUTHORITY TO DO SO, ABDUCT, CONFIN
AND INVEIGLE THE VICTIM, CATHERINE MCGOUGH, AGAINST HER WILL WHILE ACCOMPANIED BY
AGGRAVATED CIRCUMSTANCES. THIS DEFENDANT DID FORCE THE VICTIM FROM HER STORAGE UNIT, UNIT
177, TO HIS PERSONAL STORAGE UNIT, UNIT 193, WHERE HE COMMITTED THE CRIME OF CRIMINAL SEXUAL
CONDUCT AGAINST THE VICTIM. THE VICTIM WAS TIED UP AND LEFT INSIDE THE DEFENDANT'S STORAGE
UNIT. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY AND WAS
INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS ARE ON FILE. CASE
#1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

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 5/9/2010 defendant Dennis Maurice Temple

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

☒ County/ ☐ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

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 05/10/2010

Signature of Issuing Judge (L.S.)

Blake A. Norton

Judge Code: 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

ARREST WARRANT

N-136670

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: 250-31-9730

Sex: M Race: B Height: 5 11 Weight: 198

DL State: SC DL #: 004434239

DOB: 11/12/1972 Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Sex / Criminal sexual conduct - First degree

Offense Code: 0160

Code/Ordinance Sec: 16-03-0652

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate

208 Booker Drive

Walhalla, SC 29691

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct - First degree

EXHIBIT C

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:

THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING, ENGAGE IN SEXUAL
BATTERY UPON THE VICTIM, CATHERINE MCGOUGH, BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM
AGAINST HER WILL. THE DEFENDANT DID, WHILE AT UNIT 193, ALL SAFE STORAGE, 600 SHILOH RD., SENECA,
SC IN OCONEE COUNTY, FORCE SEXUAL INTERCOURSE WITH THE VICTIM. VICTIM WAS TRANSPORTED TO
OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS
ARE ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

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 5/9/2010 defendant Dennis Maurice Temple

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

☒ County/ ☐ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - First degree

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 05/10/2010

Signature of Issuing Judge

Blake A. Norton

Judge Code: 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

DEFENDANT
COPYForm Approved by
S.C. Attorney General
April 21, 2003
SCCA 51R

N-136668

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: 250-31-9730

Sex: M Race: B Height: 5 11 Weight: 193

DL State: SC DL #: 004434239

DOB: 11/12/1972 Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Larceny / Grand Larceny, value \$5,000 or more

Offense Code: 0479

Code/Ordinance Sec: 16-13-0030(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

who

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)

in the following particulars:

DESCRIPTION OF OFFENSE Larceny / Grand Larceny, value \$5,000 or more

Exhibit D

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:

THE DEFENDANT DID, ON 05-09-10, WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER, TAKE AND CARRY AWAY A 2008 HONDA ACCORD, WEST VIRGINIA TAG #NL3593, VALUED AT MORE THAN \$5000.00, WHICH BELONGED TO CATHERINE MCGOUGH. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC, IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

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 5/9/2010 defendant Dennis Maurice Temple

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

☒ County/ ☐ Municipality of Oconee

) as set forth below:

DESCRIPTION OF OFFENSE: Larceny / Grand Larceny, value \$5,000 or more

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 05/10/2010

Signature of Issuing Judge

Blake A. Jorton

Judge Cod 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

ARREST WARRANT

N-136669

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: _____ SSN: 250-31-9730

Sex: M Race: B Height: 5 11 Weight: 193DL State: SC DL #: 004434239DOB: 11/12/1972 Agency ORI #: SC0370000Prosecuting Agency: Oconee County SheriffProsecuting Officer: Scott Arnold - 1011Offense: Kidnapping / KidnappingOffense Code: 0095Code/Ordinance Sec: 16-03-0910This warrant is **CERTIFIED FOR SERVICE** in the☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date: _____

RETURN

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

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

who

being duly sworn deposes and says that defendant Dennis Maurice Templedid within this county and state on or about 05/09/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)

in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / Kidnapping

Exhibit B

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:

THE DEFENDANT DID, ON 05-09-10, UNLAWFULLY AND WITHOUT AUTHORITY TO DO SO, ABDUCT, CONFINED AND INVEIGLE THE VICTIM, CATHERINE MCGOUGH, AGAINST HER WILL WHILE ACCOMPANIED BY AGGRAVATED CIRCUMSTANCES. THIS DEFENDANT DID FORCE THE VICTIM FROM HER STORAGE UNIT, UNIT 177, TO HIS PERSONAL STORAGE UNIT, UNIT 193, WHERE HE COMMITTED THE CRIME OF CRIMINAL SEXUAL CONDUCT AGAINST THE VICTIM. THE VICTIM WAS TIED UP AND LEFT INSIDE THE DEFENDANT'S STORAGE UNIT. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC IN OCONEE COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS ARE ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church StreetWalhalla, SC 29691-Affiant's Telephone (864)638-4111

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 5/9/2010 defendant Dennis Maurice Temple

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

☒ County/ ☐ Municipality of Oconee) as set forth below:DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

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 05/10/2010

Signature of Issuing Judge

Blake A. Norton

Judge Code: 5033Judge's Address 208 Booker DriveWalhalla, SC 29691-2278Judge's Telephone (864)638-4125Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

BAIL set by

Judge _____
on _____
Type and Amount: _____
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

ARREST WARRANT

N-136670

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: 250-31-9730

Sex: M Race: B Height: 5 11 Weight: 198

DL State: SC DL #: 004434239

DOB: 11/12/1972 Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Sex / Criminal sexual conduct - First degree

Offense Code: 0160

Code/Ordinance Sec: 16-03-0652

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

who

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)

in the following particulars:

DESCRIPTION OF OFFENSE Sex / Criminal sexual conduct - First degree

Exhibit C

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:THE DEFENDANT DID, ON 05-09-10, WHILE COMMITTING THE CRIME OF KIDNAPPING, ENGAGE IN SEXUAL
BATTERY UPON THE VICTIM, CATHERINE MCGOUGH, BY PERFORMING SEXUAL INTERCOURSE ON THE VICTIM
AGAINST HER WILL. THE DEFENDANT DID, WHILE AT UNIT 193, ALL SAFE STORAGE, 600 SHILOH RD., SENECA,
SC IN OCONEE COUNTY, FORCE SEXUAL INTERCOURSE WITH THE VICTIM. VICTIM WAS TRANSPORTED TO
OMC FOR EXAMINATIONS. INVESTIGATED BY OCSO. A WRITTEN REPORT, PHOTOGRAPHS AND STATEMENTS
ARE ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

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 5/9/2010 defendant Dennis Maurice Temple

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

☒ County/ ☐ Municipality of Oconee) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Criminal sexual conduct - First degree

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 05/10/2010

Signature of Issuing Judge
Blake A. Norton

Judge Code: 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

ARREST WARRANT

N-136668

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

THE STATE

1012105

against

Dennis Maurice Temple

Address:

Seneca, SC 29678-

Phone: SSN: 250-31-9730

Sex: M Race: B Height: 5 11 Weight: 193

DL State: SC DL #: 004434239

DOB: 11/12/1972 Agency ORI #: SC0370000

Prosecuting Agency: Oconee County Sheriff

Prosecuting Officer: Scott Arnold - 1011

Offense: Larceny / Grand Larceny, value \$5,000 or more

Offense Code: 0479

Code/Ordinance Sec: 16-13-0030(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Walhalla Magistrate
208 Booker Drive
Walhalla, SC 29691

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Personally appeared before me the affiant Scott Arnold

who

being duly sworn deposes and says that defendant Dennis Maurice Temple

did within this county and state on or about 05/09/2010

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Oconee)

in the following particulars:

DESCRIPTION OF OFFENSE Larceny / Grand Larceny, value \$5,000 or more

Exhibit D

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:THE DEFENDANT DID, ON 05-09-10, WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER, TAKE AND
CARRY AWAY A 2008 HONDA ACCORD, WEST VIRGINIA TAG #NL3593, VALUED AT MORE THAN \$5000.00, WHICH
BELONGED TO CATHERINE MCGOUGH. THIS INCIDENT OCCURRED AT 600 SHILOH RD, SENECA, SC, IN OCONEE
COUNTY AND WAS INVESTIGATED BY OCSO. A WRITTEN REPORT IS ON FILE. CASE #1012105.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Oconee

Affiant's Address 300 S Church Street

Walhalla, SC 29691-

Affiant's Telephone (864)638-4111

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 5/9/2010 defendant Dennis Maurice Temple

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

☒ County/ ☐ Municipality of Oconee

) as set forth below:

DESCRIPTION OF OFFENSE: Larceny / Grand Larceny, value \$5,000 or more

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 05/10/2010

Signature of Issuing Judge

Blake A. Jorton

Judge Cod 5033

Judge's Address 208 Booker Drive

Walhalla, SC 29691-2278

Judge's Telephone (864)638-4125

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Oconee County

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DENNIS TEMPLE,

APPELLANT

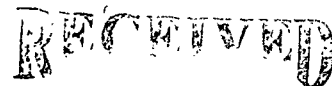
Appellate Case No. 2011-182806

ANDERS BRIEF OF APPELLANT

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SEP 28 2012

SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived his right to counsel prior to trial; ultimately, he rescinded that waiver after the jury was selected and re-asserted his right to counsel by requesting the representation of appointed counsel for his trial.

STATEMENT OF THE CASE

Appellant Dennis Temple was convicted per jury trial of two counts of first degree criminal sexual conduct, grand larceny, and kidnapping during the December 2010 term of the Oconee County General Sessions Court before Judge J. Cordell Maddox. **Appellant appeared pro se at trial.** Kurt Travernier appeared as stand-by counsel at trial. Appellant was sentenced to imprisonment for a period of one-hundred (100) years.

Appellant appealed. This brief follows.

ARGUMENT

The trial judge erred by what was in effect coercing appellant to appear pro se at trial because although appellant waived the right to counsel prior to trial; ultimately, he rescinded that waiver after the jury was selected and re-asserted his right to counsel by requesting the representation of appointed counsel for his trial.

At trial, Catherine McGough testified that around 4:30 pm on the afternoon of May 9, 2010, she was putting her dormitory items in her storage unit at All Safe Storage located in Seneca, South Carolina, and then began walking to her car when she encountered a black male (whom she identified as appellant at trial and after viewing a photograph layout after the incident)¹ who wanted her to purchase shoes he was selling at that time. McGough stated that she showed no interest, and entered her car and began to leave until she realized that she left open the door to her storage unit. McGough explained that when she went back to close the door, appellant pushed her down in the unit and managed to place a belt around her neck. Thereafter, appellant managed to guide her to another storage unit whereinafter he placed his penis and a bottle of solution into her vagina, and then kept her tied up inside the storage room while he fled in her vehicle. McGough stated that she managed to call 911 from a cell phone and waited for police to arrive. Tr. 84, l. 5-p. 124, l. 7.

Oconee Officer Neill Burkett testified that he was dispatched to the crime scene soon after the 911 call came in at 1:04 a.m. on May 10, 2010. Tr. 158, l. 7 – p. 162, l. 6. Officer Brian Danielson transported McGough from the incident location to the local hospital. Tr. 214, l. 18 – p. 215, l. 21. Subsequently, Officer Greg Reed created a photographic lay-out, which he showed to McGough, who in turn identified the picture of appellant as the perpetrator. Tr. 259, l. 6 – p. 267, l. 21; Tr. 277, l. 23 – p. 278, l. 1.

¹ Tr. 259, l. 6 – p. 267, l. 21; Tr. 227, l. 23 – p. 278, l. 1.

From the outset of the case, appellant expressed his unhappiness with all three of his court appointed attorneys assigned to represent him in the case. At the pretrial hearing dated June 30, 2010, Judge Alexander S. MacCaulay appointed Wilson Burr to represent appellant. Tr. 5, l. 5 – p. 6, l. 14. Later, the case was sent out of Burr's office and assigned to trial counsels Sarah Drawdy and Keith Denny. During another pretrial hearing held before Judge Maddox on July 29, 2010, appellant requested that counsels Drawdy and Denny be removed from his case and asked for time in which to obtain private counsel to represent him. Both of appellant's requests were granted by Judge Maddox. Tr. 4, l. 3 – p. 10, l. 4. On another pretrial hearing held on September 14, 2010, Judge Maddox learned that appellant had not retained private counsel and went on to appoint Kurt Tavernier to represent appellant the case. Tr. 4, l. 6 – p. 6, l. 3; Tr. 9, l. 22 – p. 12, l. 20; Tr. 17, l. 6 – p. 19, l. 7. See Order of Appointment of Counsel dated September 27, 2010. Tr. 78. Then later, during a hearing held on October 21, 2010, Judge Maddox accepted appellant's voiced displeasure with Kurt Tavernier and his apparent decision to represent himself at trial by default, and then appointed Kurt Tavernier as stand-by counsel for trial. Tr. 3 l. 22 – p. 23, l. 11. See Order of Appointment of Stand-by Counsel dated November 8, 2010. Tr. 111-118. On December 7, 2010, Judge Maddox accepted appellant's apparent pro se status for trial and again reiterated that Kurt Tavernier would remain seated as stand-by counsel at trial. Tr. 79, l. 18 – p. 87, l. 18.

Next, on the actual trial date and minutes after the jury was selected appellant requested the full assistance of appointed of counsel (presumably Tavernier) to represent him at trial, which was in effect appellant's plea to neither proceed pro se nor receive stand-by legal assistance, but rather to receive the full assistance of appointed counsel in the case. Tavernier advised the trial judge that appellant was requesting "a continuance or that in same way or form that I might be able to

represent him in the trial.” Tr. 60 l. 7-10. The state argued that this case was fast-tracked due to appellant’s speedy trial motion and that a reversal of appellant’s waiver of his right to counsel would place an undue burden on the prosecution. Tr. 61, l. 10-p. 62, l. 10. The Court ruled as follows:

The Court: I understand your motion. And like I said, one of the main things I want to do is protect your rights, as we talked about last week in answer for an appeal. At this late date, after all the questioning that I’ve done, I’m gonna deny your motion for a continuance....I understand at this point—I’ve been concerned all along that we would get up here and you might be overwhelmed with the legal proceedings, but I’m gonna continue to order that Mr. Tavernier sit with you and respond to your questions. Tr. 66, lines 12 – 22.

It is well established that per Faretta v. California, 422 U.S. 806 (1975), that an accused may waive his Sixth Amendment right to counsel and proceed pro se at trial. State v. Roberts, 369 SC 580, 632 S.E. 2d 871 (2007), State v. Thompson, 355 SC 255, 584 S.E. 2d 131 (2003), State v. Boykin, 324 SC 552, 478 S.E. 2d 689 (1996). To effectuate a valid waiver of the right to counsel, the two-pronged Faretta test requires that the accused be advised of his right to counsel and adequately waived of the dangers of self-representation. State v. Thompson, supra. Although appellant was advised under the Faretta requirements; nonetheless, immediately after the jury selection, appellant put forth a waiver of his prior waiver of the right to trial counsel’s assistance at trial, but the trial judge failed to grant the waiver of his counsel waiver.

A waiver is the intentional relinquishment of a known right. Johnson v. Zerbst, 304 U.S. 458 (1938). Therefore, inasmuch as appellant had a right to waive counsel and appear pro se, he also had a right to waive his right to appear pro se and then re-assert his right to counsel de novo. It is apparent from the record that his second waiver was a valid waiver because appellant stated that he indeed wanted the continuance to consult with Tavernier so that he (Tavernier) could represent

him; however, he “got tied up” on other motions (venue changes and pretrial publicity) and forgot to ask, but he was asking for Travernier to represent him at trial. Tr.60, l. 24 – p. 61, l. 7; Tr. 62, l. 12 – p. 63, l. 10. Therefore, since appellant validly waived the known right to self representation, which really occurred by default prior to trial, and then chose to re-assert his Sixth Amendment right to counsel, this second waiver (of self representation) should have been received and the full appointment of counsel re-instated as opposed to a summary dismissal of the second waiver.

Furthermore, it appeared as though appellant’s request for counsel was dismissed in part due to the fact that appellant was displeased with all assigned attorneys, which led to the assumption that the counsel issue was being used as a dilatory tactic to delay his trial. However, in cases where it is believed that intentional delay is suspected when a client makes motions regarding counsel’s assistance, the trial judge is required to inquire as to the reason for a request regarding counsel and ascertain whether there is good cause for the request. See United States v. Goldberg, 67 F3d 1092 (3rd Cir. 1995). Here, it appears that appellant had good cause for re-asserting his right to counsel to the extent that his pre-occupation with his pre-trial motions rendered him with the inability to approach the court again about his pro se waiver and the re-assertion of his right to the full assistance of counsel in the case.

At best, due process requires a hearing on “the record,” especially in waiver of counsel questions “to be sure, the....record is competent” regarding the matter in keeping with Johnson v. Zerbst, *supra*, see Superintendent of the Powhatan Correction Center v. Barnes, 221 Va. 780, 273 S.E. 2d 558 (1981), and United States v. Goldberg, *supra*. As it stood, appellant did not receive his required Faretta warnings **again prior to trial** that he had a right to counsel and that there were dangers and disadvantages associated with self representation.

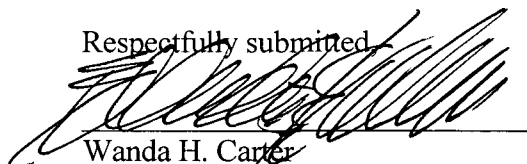
The Sixth Amendment clearly states that in all criminal cases, the accused shall have the assistance of counsel for his defense and if indigent, the accused shall have appointed counsel. Gideon v. Wain Wright, 372 U.S. 335 (1963). The erroneous deprivation of a defendant's fundamental right to the assistance of counsel is per se reversible error and never harmless error. Chapman v. California, 386 U.S. 18 (1967).

The trial judge erred in allowing appellant to be tried without the assistance of counsel because although appellant waived the right to counsel prior to trial, he rescinded that waiver after the jury was selected and re-asserted his right to the assistance of appointed counsel to represent him at trial. This error violated appellant's Sixth Amendment right to counsel, which is also guaranteed under article 1, §14 of the South Carolina State Constitution.

CONCLUSION

Based on the following argument, appellant requests that his convictions and sentences be vacated and his case remanded for a new trial complete with the appointment of counsel.

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 28th day of September, 2012.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Oconee County

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DENNIS TEMPLE,

APPELLANT

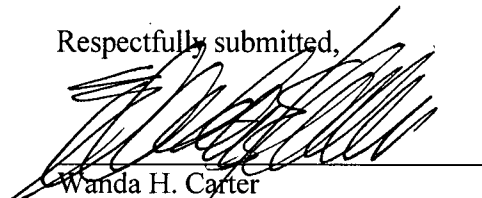
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Dennis Temple states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge J. Cordell Maddox, Jr., which was held on December 15, 2010, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Dennis Temple.

Respectfully submitted,


Wanda H. Carter
Deputy Chief Appellate Defender

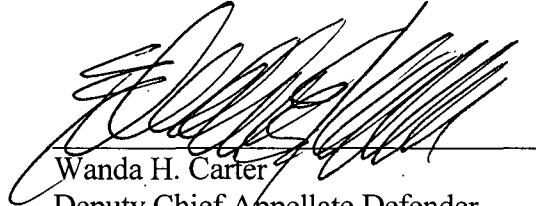
ATTORNEY FOR APPELLANT

This 28th day of September, 2012.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and 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."

September 28th, 2012



Wanda H. Carter
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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Oconee County

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

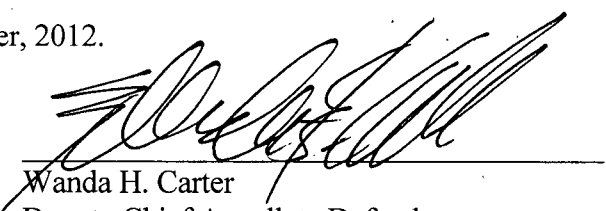
V.

DENNIS TEMPLE,

APPELLANT

CERTIFICATE OF SERVICE

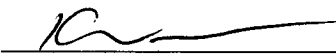
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and record on appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at P.O. Box 50666, Columbia, SC; and on Dennis Temple, #274802 at Lieber Correctional Institution, this 28th day of September, 2012.


Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 28th day of September, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 2, 2013.

Volume I of II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM OCONEE COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DENNIS TEMPLE,

APPELLANT

Appellate Case No. 2011-182806

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)

VERSUS

DENNIS MAURICE TEMPLE,)
)
 DEFENDANT.)

DATE: May 20, 2012
ANDERSON, SOUTH CAROLINA
(FOR OCONEE COUNTY)

MOTION TO TEST FOR SEXUALLY TRANSMITTED DISEASES

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH

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

LINDSEY SIMMONS, ATTORNEY AT LAW
ATTORNEY FOR THE STATE

DENNIS TEMPLE
PRO SE DEFENDANT

PROVIDED FOR: SCCID

FOR COPIES CONTACT: JO RICE
JRICE@SCCOURTS.ORG
OFFICIAL COURT REPORTER
SOUTH CAROLINA JUDICIAL DEPARTMENT

1 THE COURT: Okay, ma'am.

2 MS. SIMMONS: Good morning, Judge. This is Dennis
3 Maurice Temple. He is currently in the Oconee County
4 Detention Center on M-136668 through M-136670 for criminal
5 sexual conduct in the first degree, kidnapping and grand
6 larceny.

7 We filed notice on May 14, 2010, and served Mr. Temple
8 that we would be seeking to test him for sexually
9 transmitted diseases, including HIV and AIDS, in accordance
10 with S.C. Code §16-3-740. He was personally served with
11 notice on May 14th. That notice, which I will be glad to
12 pass up to Your Honor included the notice that he had a
13 right to counsel for this hearing and instructed him on how
14 he could apply for a public defender. He chose to ---

15 THE COURT: When was he served that notice?

16 MS. SIMMONS: May 14th, Your Honor.

17 THE COURT: May 14th. Mr. Temple, why haven't you
18 availed yourself of the right to obtain an attorney?

19 MR. TEMPLE: Prior experience with attorneys from
20 Oconee County.

21 THE COURT: So, you are appearing by yourself, pro se,
22 freely and voluntarily?

23 MR. TEMPLE: Yes, sir.

24 THE COURT: Okay. You chose to voluntarily not seek
25 the services of an attorney for the purposes of this

THE STATE OF SOUTH CAROLINA VERSUS DENNIS M. TEMPLE

1 motion?

2 MR. TEMPLE: Particularly, I ---

3 THE COURT: Answer the question, please, sir. Have
4 you voluntarily chosen not to seek an attorney for the
5 purposes of this motion?

6 MR. TEMPLE: Yes, sir.

7 THE COURT: Okay. Is it your intention and desire to
8 represent yourself in this matter, as far as this motion
9 goes?

10 MR. TEMPLE: Yes.

11 THE COURT: It is?

12 MR. TEMPLE: Yes.

13 THE COURT: Okay. Thank you. I find that Mr. Temple
14 freely, voluntarily, knowingly waived his right to an
15 attorney as far as just this hearing and for no other
16 purposes in this case. I would encourage you, Mr. Temple,
17 to avail yourself of the opportunity to have
18 representation. Apparently, you have some very serious
19 charges pending.

20 MS. SIMMONS: Judge, may I approach?

21 THE COURT: Yes, ma'am.

22 MS. SIMMONS: Under that statute I mentioned
23 previously, it requires the victim to request or a parent
24 of the victim to request this hearing. There is a letter
25 addressed to you from the victim in this case requesting

1 that the defendant be tested for sexually transmitted
2 diseases. I've included that, as well as the motion and
3 the affidavit of service on Mr. Temple.

4 THE COURT: And the request has been provided to Mr.
5 Temple, as well?

6 MS. TEMPLE: I have not provided the actual written
7 request to Mr. Temple.

8 THE COURT: I don't think you have to, actually, under
9 the statute. Looking at S.C. Code §16-3-740, you have to
10 have a request from the victim or victim's legal guardian,
11 probable cause that the offender committed the offense,
12 there was a risk of body fluids exchanged, and he received
13 notice of the petition and notice of the right to counsel
14 at the hearing. Okay?

15 MS. SIMMONS: Yes, Your Honor.

16 THE COURT: And so far, I've heard the victim's
17 request and I want to hear about the probable cause,
18 please.

19 MS. SIMMONS: Sergeant Scott Arnold is here from
20 Oconee County Sheriff's Office to offer sworn testimony.

21 THE COURT: Thank you very much.

22 (After being duly sworn by the Clerk of Court, Deputy
23 Scott Arnold testified as follows:)

24 DIRECT EXAMINATION OF DEPUTY SCOTT ARNOLD BY MS. SIMMONS

25 Q Sergeant Arnold, where are you employed?

 THE STATE OF SOUTH CAROLINA VERSUS DENNIS M. TEMPLE

1 A The Oconee County Sheriff's Office.

2 Q And what division are you assigned to?

3 A The Investigation division.

4 Q Did you have an occasion to investigate a criminal
5 sexual conduct, kidnapping, and grand larceny that
6 occurred in Oconee County on May 9, 2010?

7 A Yes, I did.

8 Q After your thorough investigation of the facts, could
9 you tell us the events giving rise to your probable
10 cause to believe that this defendant did indeed commit
11 the crimes that he is charged with and that body
12 fluids were exchanged during the commission of these
13 crimes.

14 A Your Honor, on May 10, 2010, of this year, we received
15 a 911 call from a female stating that she had been
16 tied up and raped. Deputies were dispatched to the
17 All-Safe Storage Units in Seneca, South Carolina.
18 They broke down the door, which was Unit 193, they
19 broke down the door and spoke with a female and she
20 stated that she had been tied up and raped. EMS
21 transported her to the Oconee County Hospital where a
22 rape kit was done on her and body fluids were
23 detected.

24 THE COURT: Okay, sir. All right.

25 Q Sergeant Arnold, did the victim make any

1 identification of this defendant?

2 A Yes. She picked him out of a six-picture photo
3 line-up.

4 Q And who's storage unit, or the unit number that you
5 identified, who was that unit registered to?

6 A Unit [REDACTED] was leased to the defendant, Dennis Temple.

7 MS. SIMMONS: I have nothing further.

8 THE COURT: Mr. Temple, do you have any questions of
9 this officer?

10 MR. TEMPLE: Yes.

11 CROSS EXAMINATION OF DEPUTY SCOTT ARNOLD BY MR. TEMPLE

12 Q You say body fluids were extracted from the victim.
13 Was it her body fluids or someone else's?

14 A Body fluids were detected and they are still under
15 investigation.

16 Q But there's no ---

17 A They are going to be sent off for analysis.

18 Q So. All right.

19 THE COURT: Any further questions?

20 MR. TEMPLE: No, sir.

21 THE COURT: Okay. Thank you. You may step down.

22 Anything further, Ms. Simmons?

23 MS. SIMMONS: Judge, we'd just ask that you accept the
24 proposed order that has been passed up to the Court and
25 order this defendant to be tested for the sexually

1 transmitted diseases, HIV and AIDS.

2 THE COURT: All right. First, I'm going to find that
3 the victim did make a request for these tests under
4 statute, there's probable cause to believe that Mr. Temple
5 committed this offense, and further, there's probable cause
6 to find that there were body fluids transmitted and that
7 Mr. Temple received proper notice of this petition as well
8 as waived his right to have an attorney represent him in
9 this matter. I am going to grant the motion and sign the
10 order as we speak.

11 MS. SIMMONS: Thank you very much, Your Honor.

12 THE COURT: Mr. Temple, I strongly urge to you obtain
13 counsel to represent you in this matter.

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

CERTIFICATE

BE IT KNOWN THAT I, THE UNDERSIGNED JO RICE, OFFICIAL COURT REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT REPRESENTS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE HEARING IN THE CAPTIONED CASE, RELATIVE TO APPEAL, BEFORE THE CIRCUIT COURT FOR ANDERSON COUNTY, SOUTH CAROLINA, SO GIVEN ON MAY 20, 2010 TO THE BEST OF MY SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

IN WITNESS WHEREOF I HAVE HERE UNTO SET MY HAND AND SEAL THIS 17TH DAY OF AUGUST, 2012.



JO RICE
OFFICIAL COURT REPORTER

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF OCONEE)

STATE OF SOUTH CAROLINA) N136668 - N136670
VS.) ORDER FOR TESTING
DENNIS MAURICE TEMPLE,)
DEFENDANT.)

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2010 MAY 20 P 2:03

This matter comes before me on motion of Lindsey S. Simmons, Assistant Solicitor for the Tenth Judicial Circuit, for an Order requiring that the above-mentioned Defendant be tested for Hepatitis B and all sexually transmitted diseases, including Human Immunodeficiency Virus (HIV), the virus that causes Acquired Immunodeficiency Syndrome (AIDS), in accordance with S.C. Code Section 16-3-740 (Supp. 1995).

It appears that the Defendant has been charged with the crime of criminal sexual conduct first degree, kidnapping, and grand larceny and that his alleged conduct resulted in the possible exposure of the victim, C.M., to blood or vaginal, seminal or other bodily fluids of the Defendant.

It further appears that the State has demonstrated the following requirements of S.C. Code Section 16-3-740:

1. that the victim or the victim's legal guardian requested the tests;
2. that there is probable cause that the offender committed the offense;
3. that there is probable cause that during the commission of the offense there was a risk that body fluids were transmitted from one person to another; and
4. that the Defendant has received notice of the petition and notice of his right to have counsel represent him at a hearing.

I find that the tests requested by the State are reasonable, in that they are promulgated by the above-mentioned statute; that they will not threaten the Defendant's safety or health; and that they pose only a minor intrusion upon the Defendant's dignitary interests in personal privacy and bodily integrity and, therefore, will not constitute a violation of his Fourth Amendment rights.

I find that, pursuant to statutory requirements, the tests shall be paid for by the State, although the Defendant, unless indigent, shall reimburse the State if he is convicted. The tests shall be administered by the Department of Health and Environmental Control (DHEC) through the local county health department or the medical professional at the detention facility where the Defendant is imprisoned or detained.

I find that the results of the tests shall be kept confidential and disclosed only to the Solicitor who requested the tests, who will notify the following persons and/or agencies of the tests results:

*Cur Copied & handed
to Sol. Simmons
JLB*

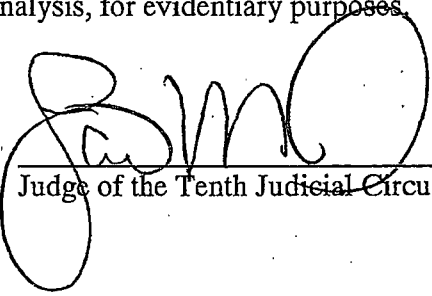
1. the victim or the legal guardian of a victim who is a minor or is mentally retarded or mentally incapacitated;
2. the victim's attorney;
3. the offender and a juvenile offender's parent or guardian; and
4. the offender's attorney.

I find that if the results of tests indicate that the Defendant is infected with HIV, other sexually transmitted disease, and/or Hepatitis B, the solicitor shall also notify the correctional facility where the Defendant is incarcerated or detained and the Department of Health and Environmental Control (DHEC).

This court reserves the right, at the request of the victim or the victim's legal guardian, to order a follow-up HIV test and counseling for the offender six weeks, three months, and six months following the initial HIV test if it is negative.

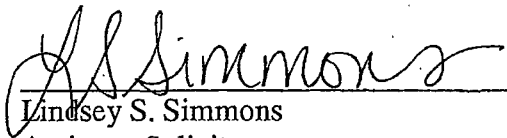
I further find that, as the State has shown probable cause that the Defendant committed a crime, the Defendant shall submit to the collection of additional samples, including blood, saliva, head or pubic hair so that the State may conduct scientific testing, including DNA analysis. The results of the scientific testing, including DNA analysis, may be used for evidentiary purposes in any court proceeding.

THEREFORE, IT IS ORDERED under the authority of S.C. Code Section 16-3-740 (Supp. 1995), that the Defendant be tested for Hepatitis B and all sexually transmitted diseases, including Human Immunodeficiency Virus (HIV), and that he submit to the contemporaneous collection of additional samples, including blood, saliva, head or pubic hair so that the State may conduct scientific testing, including DNA analysis, for evidentiary purposes.

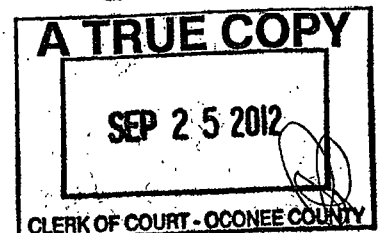

Judge of the Tenth Judicial Circuit

Anderson, South Carolina
May 20, 2010

ISO MOVE:


Lindsey S. Simmons
Assistant Solicitor
SC Bar Number 70224
Tenth Judicial Circuit

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BEVERLY H. WHITFIELD
CLERK OF COURT
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State of South Carolina) In the Court of General
) Sessions
)
) Warrants Nos: N 136668,
) N 136669, and N 136670
) Indictments Nos:
 County of Oconee) 2010-GS-37-886, '887, '888,
) and '889

State of South Carolina)
)
)
 Plaintiff,) Transcript of Record
) Hearing
 -vs-)
)
 Dennis Temple,)
)
 Defendant.)

June 30, 2010
 Walhalla, South Carolina

B E F O R E:

The Honorable Alexander S. Macaulay, Judge.

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

Lindsey S. Simmons, Esq.
 10th Circuit Assistant Solicitor
 Attorney for the State

Robert Mills Ariail, Esq.
 Attorney for the Defendant

Robin Sue Hild, FCRR, RPR
 Circuit Court Reporter

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No Witnesses were called.

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No Exhibits were introduced.

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1 ** Start of Requested Certified Transcript of Record **

2 (Whereupon, the hearing commenced, with all parties
3 being present, on the 30th day of June, 2010, in
4 the Court of General Sessions for Oconee County,
5 before the Honorable Alexander S. Macaulay, at
6 approximately 10:18 a.m.)

7 MS. SIMMONS: Thank you, Your Honor, may it please
8 the Court. This is Dennis M. Temple. He is currently
9 incarcerated at the Oconee County Detention Center on
10 N 136668 for grand larceny and N 136669 for kidnapping,
11 and N 136670 for criminal sexual conduct in the first
12 degree.

13 He appeared before the Magistrate after his arrest.
14 A \$200,000 total bond was set, that would be cash or
15 surety, with special conditions of no contact with the
16 victim if he posted the \$200,000 bond and GPS electronic
17 monitoring.

18 THE COURT: You say he posted his bond?

19 MS. SIMMONS: If he had posted the bond, those
20 conditions would be in place.

21 He is here with his attorney who has been retained
22 for the purposes of bond, Mills Ariail.

23 THE COURT: All right. Mr. Ariail?

24 MR. ARIAIL: I have spoken to the Defendant with
25 regard to the bond reconsideration and we have discussed

State v. Dennis Temple -- June 30, 2010

1 in detail some of the evidence that is against him at
2 this time. He wishes to withdraw that motion for bond
3 reconsideration and not proceed at this time.

4 THE COURT: All right. Mr. Temple, if you would
5 please raise your right hand.

6 THE DEFENDANT: (Complies.)

7 THE COURT: Do you solemnly swear or affirm the
8 testimony you are about to give is the truth, the whole
9 truth, and nothing but the truth?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Very good. You have heard your
12 attorney -- and I do understand Mr. Ariail has only been
13 retained for this bond hearing?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. But he advised the Court
16 that you wish to withdraw your reconsideration, or
17 motion for reconsideration or reduction of the bond; is
18 that correct?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. So the bond will stay in
21 effect with the same provisions.

22 Now let me ask you, does the bond also have a
23 provision about obtaining counsel?

24 MS. SIMMONS: No, Your Honor. That is an issue I
25 would like for you to address today. He had filed a

1 motion with my office that he wished to proceed *pro se*
2 in this matter, and I would like for the Court to inform
3 Mr. Temple of the dangers of self-representation as he
4 has a preliminary hearing coming.

5 THE COURT: Well, I am going to advise Mr. Temple
6 that he's not going to represent himself; he will have
7 an appointed attorney or retain his own attorney.

8 Do you understand that, Mr. Temple?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you have the ability to hire an
11 attorney, retain an attorney?

12 THE DEFENDANT: Not at this time.

13 THE COURT: All right. Then that's what I mean. I
14 want somebody representing him now. I'm gonna waive the
15 application for the Public Defender, waive the fee and
16 have the Public Defender contact you.

17 Is Mr. Burr here?

18 MR. BURR: Yes, Your Honor.

19 THE COURT: I want you to see Mr. Temple at your
20 earliest convenience to start your representation. Now,
21 I understand the Solicitor has provided Mr. Temple with
22 some discovery, as you say?

23 MS. SIMMONS: Yes, Your Honor.

24 THE COURT: All right. So, but be sure you have
25 everything that Mr. Temple has but also anything the

1 Solicitor might have.

2 All right. Is there any question? The thing is
3 that you are entitled to representation, but also,
4 inasmuch as the charges are as serious as they are, from
5 what the Solicitor says, the Court also needs to be
6 assured that you are properly represented. And because
7 of that I'm gonna see that you do have representation.

8 Now, I might note that once he does -- and I'm
9 appointing Mr. Wilson Burr as his attorney -- that once
10 he has retained or at least has counsel representing
11 him, then he's no longer entitled to *pro se* filings.

12 In other words, you don't have two filings. The
13 thing is you and Mr. Burr consult on what you think is
14 appropriate. All right?

15 THE DEFENDANT: Yes, sir.

16 MR. ARIAIL: Your Honor, one item I addressed with
17 him back there and he asked me to make sure we do. He's
18 got some legal research and books that he has currently
19 that he is utilizing I think while he's being detained.
20 He wanted to be able to keep those to be able to
21 research and do what he needs to do. And I don't know
22 the information he's got, but he understands ---

23 THE COURT: Is this done at the Detention Center?

24 THE DEFENDANT: No, sir. It's rare. It's not,
25 it's not -- it's against policy to have legal books in

1 Oconee County Detention Center.

2 THE COURT: Well, let's do this. You and your
3 attorney, Mr. Burr, consult about things that you think
4 are important and you want researched.

5 THE DEFENDANT: I have, Your Honor, civil matters
6 that are in effect now.

7 THE COURT: Civil matters?

8 THE DEFENDANT: Yes.

9 MR. ARIAIL: And, Your Honor, I didn't discuss with
10 him the civil matters, I was talking about the criminal
11 matters.

12 THE COURT: The civil matters have to be done with
13 Mr. Wilson [sic] and of course he has access to all that
14 is necessary. But you do, I want to encourage you and
15 in fact I'm going to require you and Mr. Burr to
16 cooperate so that you do have not only full
17 representation but the type of representation that is
18 warranted in this particular case.

19 All right. Now, as far as the civil matter,
20 there's not anything I can do about that. Do you have
21 an attorney?

22 THE DEFENDANT: No, sir. I'm *pro se*. That's what
23 my legal books -- that's why I need my legal books in
24 the Detention Center.

25 THE COURT: Well, I can assure you the civil matter

1 is going to be continued until this matter is taken care
2 of. Have you filed any -- is there an action filed?

3 THE DEFENDANT: Oh, yes, sir. It's been an ongoing
4 situation in prison before I was incarcerated.

5 THE COURT: Was it here in Oconee County?

6 THE DEFENDANT: Uh, it's in the Federal District
7 Court.

8 THE COURT: All right. You will have to take that
9 up with the Federal District Court. I can't speak for
10 them.

11 THE DEFENDANT: Well, what I'm saying, Your Honor,
12 I can't file motions if I can't look up cases and, you
13 know, use the *Black's Law Dictionary* and --

14 THE COURT: Well, I don't think you want me to try
15 to tell a United States District Court judge what he
16 needs to do. I can't help you.

17 THE DEFENDANT: I understand.

18 THE COURT: All right. Anything else?

19 MR. ARIAIL: No, Your Honor.

20 THE COURT: All right. Are there any questions
21 that you have, Mr. Temple?

22 THE DEFENDANT: Um, no, sir, not at this time.

23 THE COURT: All right, very good. All right.

24 Thank you, sir.

25 MR. ARIAIL: Thank you, Your Honor.

1 MS. SIMMONS: Thank you, Judge.

2 THE COURT: All right. The matter is withdrawn and
3 he will be returned to detention.

4 MS. SIMMONS: Thank you.

5 (Whereupon, the hearing was concluded at
6 approximately 10:25 a.m.)

7 ** End of Requested Certified Transcript of Record **

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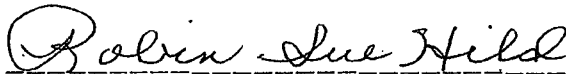
State v. Dennis Temple -- June 30, 2010

Certificate of Court Reporter

I, the undersigned, Robin Sue Hild, FCRR, RPR, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Oconee County, South Carolina, on the 30th day of June, 2010.

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

August 6, 2012

A handwritten signature in cursive script, reading "Robin Sue Hild", is written over a horizontal line.

Robin Sue Hild, FCRR, RPR
Circuit Court Reporter

State of South	)	In the Court of General
Carolina	)	Sessions
	)	
	)	Warrants Nos: N 136668,
	)	N 136669, and N 136670
	)	Indictments Nos:
County of Oconee	)	2010-GS-37-886, '887, '888,
	)	and '889

State of South	)	
Carolina	)	
	)	
Plaintiff,	)	Transcript of Record
	)	Motions Hearing
-vs-	)	
	)	
Dennis Temple,	)	
	)	
Defendant.	)	

July 29, 2010
Walhalla, South Carolina

B E F O R E:

The Honorable J. Cordell Maddox, Jr., Judge.

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

Lindsey S. Simmons, Esq.
10th Circuit Assistant Solicitor
Attorney for the State

Sarah G. Drawdy, Esq.
Attorney for the Defendant

Robin Sue Hild, FCRR, RPR
Circuit Court Reporter

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5 No Witnesses were called.

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15 Index of Exhibits

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17 No Exhibits were introduced.

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1 ** Start of Requested Certified Transcript of Record **

2 (Whereupon, the Defendant's motion to relieve
3 counsel and the State's motion for the Defendant to
4 obtain counsel within 30 days commenced on July 29,
5 2010, in the Court of General Sessions for Oconee
6 County, before the Honorable J. Cordell Maddox,
7 Jr., with all parties being present, at
8 approximately 5:10 p.m.)

9 THE COURT: What do we have?

10 MS. DRAWDY: Your Honor, may it please the Court,
11 I'll pass up, it's a copy of Mr. Temple, my client's
12 motion to have both myself and co-counsel, Keith Denny,
13 relieved as his attorneys.

14 MS. SIMMONS: And, Judge, I also have a different
15 motion if you would like me to pass it up.

16 THE COURT: Yeah. Yeah. You have a separate one?

17 MS. SIMMONS: Yes, sir. And I can give you a
18 history of this.

19 THE COURT: Yeah, if you would, that would be
20 great.

21 MS. SIMMONS: Mr. Temple has been in custody since
22 May of 2010 for criminal sexual conduct in the first
23 degree and kidnapping and grand larceny. He initially
24 indicated he wanted to represent himself. His family or
25 a friend subsequently hired Mills Ariail for purposes of

1 bond only. Mr. Ariail is obviously no longer on the
2 case.

3 Mr. Temple indicated to Judge Macaulay at some
4 point that he wanted to represent himself. He appointed
5 the Public Defender, Wilson Burr, and Mr. Burr just sent
6 the case out of his office to Ms. Drawdy and Mr. Denny.
7 So, in effect, they are the first attorneys he has had
8 who have actually looked through his case in depth.

9 THE COURT: Okay.

10 And, Mr. Temple, what's your motion here?

11 THE DEFENDANT: Well, actually, Your Honor, I did
12 not, I did not authorize the Court or request for an
13 attorney. The Court, the Court gave me an attorney.

14 THE COURT: Right.

15 THE DEFENDANT: And I do request a dismissal of
16 both of my present counsels because of conflicting,
17 things like breach of trust --

18 THE COURT: Like what do you mean? I'm trying to
19 understand what you mean. What have they done?

20 THE DEFENDANT: Sir?

21 THE COURT: What have they done that makes you want
22 to get rid of them?

23 THE DEFENDANT: Well, I, I, I, I believe that
24 things that are being said between us are being said
25 outside of the conference, you know? Also, misleading

1 me information that I know I asked a question that I
2 know the answer to and I get a different answer from
3 them. So, I mean, it's just how can I have a fair trial
4 if I got counsel that's not gonna, you know, be
5 productive, be misleading?

6 THE COURT: Do you think you can represent
7 yourself?

8 THE DEFENDANT: Uh --

9 THE COURT: That's why the Court appointed them.
10 They appointed them because they are good lawyers and
11 because --

12 THE DEFENDANT: I have no doubt, Your Honor, that
13 they're good lawyers. I mean, I see that they got their
14 skills. But the point is, are they gonna use their
15 skills in my case to defend me? That's the point. I
16 mean, if I can't get them to be productive to defend me,
17 then that's denying me access to the Court.

18 THE COURT: Well, the question is whether I appoint
19 someone else for you or whether you're gonna hire
20 somebody else or whether you're gonna be by yourself.
21 And I'm advising you not to be by yourself on these
22 charges. I know you might think you can represent
23 yourself, but that's a different matter.

24 THE DEFENDANT: Right.

25 THE COURT: So you tell me. What do you want? Do

1 you want another lawyer?

2 THE DEFENDANT: Well, Your Honor, I would like the
3 opportunity to purchase me a lawyer myself.

4 THE COURT: Okay.

5 Yes, ma'am.

6 MS. SIMMONS: Judge, I hate to interrupt. But if
7 he is going to retain counsel, I would ask that you
8 order him to do so within the next 30 days; and if he's
9 not -- obviously I'm sure you will relieve Ms. Drawdy
10 and Mr. Denny.

11 THE COURT: Yeah. I mean, I have to.

12 MS. SIMMONS: But if you give him 30 days to do
13 that, and if he does not, would you let me bring him
14 back in front of Your Honor?

15 THE COURT: Yeah.

16 Do you understand what she's asking me to do?

17 THE DEFENDANT: Yes. Your Honor, for this hearing
18 purpose, if the Court would give me three hours in a law
19 library, I will proceed with this hearing within two
20 weeks.

21 THE COURT: Well, I'm gonna proceed today. I mean,
22 I'm gonna let them go. You are telling me that you want
23 them off your case. They're good lawyers. I don't have
24 any reason to think -- but, I mean, you have a right to
25 that. I'm gonna let them, I'm gonna allow them to be

1 discharged from representing you. And what I'll do
2 is --

3 This isn't on the roster, is it? I mean, it's not
4 ready to be tried?

5 MS. SIMMONS: No, Judge. We have an outstanding
6 *Schmerber* order and that hearing is going to
7 significantly impact my trial date, which I was shooting
8 for December.

9 THE COURT: What I'll do is I'll give you 30 days
10 to hire a lawyer.

11 THE DEFENDANT: Okay.

12 THE COURT: And then if you don't --

13 Bring him back up in front of me and we'll figure
14 out where we're going from there.

15 Do you understand what I'm doing? I mean, I'm
16 granting your wish and I'm gonna give you 30 days to
17 make a decision about whether you want to get, to hire a
18 lawyer or have your family hire a lawyer. If you don't,
19 they're gonna bring you back here and I'm going to
20 decide whether to let you go ahead in representing
21 yourself, which I'm telling you would be a mistake.

22 THE DEFENDANT: Okay. But you said today we're
23 gonna proceed with the hearing?

24 THE COURT: Yeah, I'm dismissing them. Well, as to
25 the hearing, now, the *Schmerber* hearing, I'm not gonna

1 do that. No. No, no. No, I'm not going to do that.

2 THE DEFENDANT: Okay. Well, I thank you, Your
3 Honor.

4 THE COURT: Okay. Good luck to you.

5 MS. SIMMONS: Judge, my primary concern is I feel
6 like we're going down a path with regard to attorney
7 shopping.

8 THE COURT: No. This is it.

9 Do you understand, Mr. Temple, what I'm telling
10 you? You can't keep doing this. This is sort of your
11 last time.

12 THE DEFENDANT: Your Honor, I never requested an
13 attorney from the Court --

14 THE COURT: Okay.

15 THE DEFENDANT: -- so why provide me with something
16 that I never asked for?

17 THE COURT: Well, we're ---

18 THE DEFENDANT: It's a way of providing, receiving
19 counsel at the Detention Center, which they simply
20 provide you with a form to fill out, and one will be
21 appointed to you. I never did this. So --

22 THE COURT: Okay. All right. What I would do is
23 go do that. Okay. 30 days.

24 I mean, I know that delays you about 30 days, but
25 that's about all I can do.

1 MS. SIMMONS: And, Judge, for the record, he never
2 filled out the form at the Detention Center. Judge
3 Macaulay brought him up and deemed him indigent and
4 appointed a Public Defender. So he in essence didn't
5 fill out a paper, but he went through the Public
6 Defender system.

7 THE COURT: You understand that you basically got
8 what you would have gotten if you had filled out the
9 paperwork and turned it in? You went through the Public
10 Defender which is what you're gonna do when you fill out
11 the paperwork.

12 THE DEFENDANT: Right.

13 THE COURT: So what you got was Judge Macaulay just
14 skipped you filing the paperwork basically.

15 THE DEFENDANT: And I'm grateful. But, however --
16 Your Honor, I'm grateful, but I never, I never requested
17 one. I filed the motion, like she say, even for a bond
18 reduction? I never really -- if I paid a lawyer for a
19 bond reduction and if I can get a lawyer for free to
20 proceed in another proceeding, I mean, the same form, I
21 could apply the same steps, you know, to --

22 THE COURT: I guess what I'm saying is -- and
23 again, I'm gonna let these two go because you accused
24 them of doing something that, you know, they -- I'm not
25 gonna make them stay on the case and I'm not gonna make

1 you continue to be represented by them. What I'm
2 telling you is if you go back to the jail and now fill
3 out that form and say "I want the lawyer" --

4 THE DEFENDANT: Yes, sir.

5 THE COURT: -- you're going right back through what
6 you just went through. And what I'm telling you is it
7 can't be delayed forever. You got 30 days. All right?

8 MS. DRAWDY: Thank you, Your Honor.

9 THE COURT: Thank you.

10 (Whereupon, the hearing was concluded at
11 approximately 5:15 p.m.)

12 ** End of Requested Certified Transcript of Record **
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Certificate of Court Reporter

I, the undersigned, Robin Sue Hild, FCRR, RPR, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Oconee County, South Carolina, on the 29th day of June, 2010.

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

August 6, 2012


Robin Sue Hild, FCRR, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF OCONEE) TENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,) TRANSCRIPT OF RECORD
V.) 2010-GS-37-886, 887, 888 & 889
DENNIS TEMPLE,)
DEFENDANT.)

SEPTEMBER 14, 2010

ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JR., JUDGE

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

LINDSEY SIMMONS, ASSISTANT SOLICITOR

ATTORNEY FOR THE STATE

DENNIS TEMPLE, PRO SE DEFENDANT

SHARON L. VIZER-HANKS

CIRCUIT COURT REPORTER

I N D E X

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NO EXHIBITS WERE MARKED

1 Tuesday, September 14, 2010

2 THE COURT: All right. Yes, ma'am?

3 MS. SIMMONS: Thank you, Your Honor. We are here
4 today in State of South Carolina vs. Dennis Temple. It's
5 an Oconee County case. He has four indictments on
6 2010-GS-37-886 through 889. It's two counts of criminal
7 sexual conduct in the first degree, kidnapping and grand
8 larceny.

9 On May the 14th of 2010 we filed a motion pursuant
10 to 16-3-740 and served notice on Mr. Temple. That is
11 under the S-T-D testing statute. Judge McIntosh
12 subsequently granted that order and ordered testing on
13 May the 20th of 2010. Mr. Temple has appealed that order
14 and asked that Judge McIntosh reconsider that.

15 Subsequent to that, Mr. Temple was appointed
16 counsel and had a preliminary hearing. He was
17 represented by Ms. Drawdy in that matter, and that was on
18 July 16th of 2010.

19 We filed a Schmerber motion out of an abundance of
20 caution on July 19th, 2010 and served that on his
21 attorneys at the time. The defendant appeared before
22 Your Honor on July 29th of 2010 for the scheduled
23 Schmerber hearing and to address the issue of
24 representation.

25 At this time Your Honor relieved Ms. Drawdy and

1 Mr. Denny as his counsel and gave the defendant 30 days
2 to appear before Your Honor with an attorney. And the
3 Schmerber issue is still outstanding.

4 THE COURT: All right. What's happening, just
5 hadn't been ruled on?

6 MS. SIMMONS: We would like to conduct a Schmerber
7 hearing today, Your Honor, and also like for you to
8 address the issue of Mr. Temple's representation. I
9 received a fax from him on August 20th of 2010 requesting
10 a speedy trial, and indicating that he was proceeding
11 pro se.

12 THE COURT: All right. Let me deal with the
13 attorney matter first because that's what you and I
14 talked about over in Oconee.

15 DEFENDANT TEMPLE: Yes, sir. I have other issues I
16 would like to address, too.

17 THE COURT: Okay. Well, I'll let you address that
18 but I want to address the pro se portion first because
19 that makes a difference in how we proceed.

20 When we were up in Oconee I told you that you had a
21 right to represent yourself but that I wouldn't advise
22 it; you remember that?

23 DEFENDANT TEMPLE: No, sir.

24 THE COURT: Well, let me tell you again. You got a
25 right to represent yourself.

1 DEFENDANT TEMPLE: Right.

2 THE COURT: I mean, you have the right to do that
3 but I wouldn't advise it given the situation. And what
4 we talked about up in Oconee was that I was going to give
5 you 30 days. You talked about wanting to hire somebody
6 else. Have you decided now you don't want to hire
7 another lawyer?

8 DEFENDANT TEMPLE: Well, the thing is, Your Honor,
9 at this time I'm still waiting on some funds to come in
10 so I'm not in receipt of those funds; therefore, I have
11 no attorney, a paid attorney.

12 THE COURT: Okay.

13 DEFENDANT TEMPLE: That was my intention.

14 THE COURT: You think those funds are going to come
15 in?

16 DEFENDANT TEMPLE: Oh, yes, sir.

17 THE COURT: Do you have any idea when?

18 DEFENDANT TEMPLE: What happened is a theft
19 occurred and some money was taken, so we had to go
20 through the proper channels to get the money back.

21 THE COURT: Are you waiting on insurance money?

22 DEFENDANT TEMPLE: No, just a court order to order
23 the accused to pay the money up.

24 THE COURT: Oh, okay. So it's not in -- in other
25 words, the money is not on its way? If you are waiting

1 on the court order to order somebody to pay you back
2 money for a theft I'll be surprised if there's any money
3 coming your way, but that may happen.

4 When are you looking to try this case?

5 MS. SIMMONS: Judge, Your Honor, the defendant
6 himself filed a speedy trial motion and we would ask that
7 pending witness availability and the evidentiary
8 completion from SLED, we'd ask for a date certain of
9 December 13th.

10 The defendant, I believe, is stalling for purposes
11 of delaying this action. Despite the fact that he files
12 a speedy trial motion he then delays getting
13 representation.

14 DEFENDANT TEMPLE: Your Honor?

15 THE COURT: Yes, sir.

16 DEFENDANT TEMPLE: These indictments was issued on
17 September the 7th of 2000. They are new indictments.
18 There was not even an extension of time for -- within the
19 90 day period. There was -- that was in affect by the
20 South Carolina Rules of Criminal Procedures in the first
21 place. Within that 90 days period, according to South
22 Carolina Rules of Criminal Procedure, within that 90 day
23 period the indictments was supposed to be issued, which
24 they never was. Okay.

25 So all of a sudden when I wrote the solicitor and

1 told her that I was going to file a motion to dismiss the
2 charges and file a prosecution misconduct claim against
3 her in the State Bar what happened is I received -- I
4 received a response back from her and she said that -- I
5 wrote a staff request and I told her, I said, Please be
6 advised that the defendant will move for a motion to
7 dismiss the charge at this time. In addition, we will
8 move for a complaint filed against the solicitor for
9 prosecution misconduct.

10 I received a response back that said -- she said,
11 The deadline set by Judge Maddox was for you to retain
12 counsel has passed. Please advise to the status of your
13 representation.

14 I then wrote a fax letter, two more staff requests,
15 and I stated that to her, I said -- I said, We are aware
16 that the deadline has passed for the defendant to retain
17 counsel. It was noted by Judge Maddox on the record that
18 I was supposed to have been brought back to court in 30
19 days if I did not retain counsel.

20 It says, You were notified by the defendant by way
21 of speedy trial action, motion filed before the Court
22 starting in August, which was within 30 days. So it was
23 also set as reminder not to forget me.

24 The next one, Your Honor, I told -- keeping in mind
25 about the indictments within 90 days, I said -- I told

1 the solicitor, I say -- listen, I say, The United States
2 Supreme Court Fifth Amendment provides in relevant part
3 no person shall be held to answer for a capital or
4 otherwise infamous crime unless presented with the
5 indictment by the grand jury, which at that time no
6 indictment had been issued.

7 And I said -- I told her -- I said, There was no
8 indictment issued against this charge. The charges I was
9 in for, State vs. Temple, I say, You were aware of this
10 however you continue to hold me incarcerated.

11 I say, You are liable to be sued under 42 Section
12 1983 for monetary damages. You are not acting within the
13 scope of your official duties. No absolute immunity for
14 you.

15 I said, P-S. I said, You are holding me to answer
16 for a crime that has no indictments but require an
17 indictment for you to hold me.

18 So, Your Honor, this was on August the 31st, so no
19 indictments. So on September the 7th all of a sudden
20 there's indictments. But I checked with the clerk of
21 court and there have been no extension for time on these
22 indictments.

23 THE COURT: Okay. Yes, ma'am?

24 MS. SIMMONS: Judge, the indictments were issued
25 but the grand jury last Tuesday. As you are aware, they

1 meet once a month. The indictments were issued slightly
2 more than a hundred days after Mr. Temple's arrest. In
3 State vs. Culvery, 282 S.C. 38, the South Carolina
4 Supreme Court interpreted the rule requiring solicitors
5 to act on indictments within 90 days as an administrative
6 rule. It is not jurisdictional.

7 The courts further stated a solicitor's delay does
8 not invalidate a warrant or prevent prosecution. These
9 indictments were issued in a timely fashion. They have
10 been served on Mr. Temple.

11 THE COURT: Okay. I understand what you are saying
12 but I believe she's right. That's an administrative
13 rule.

14 DEFENDANT TEMPLE: Oh.

15 THE COURT: To keep them moving. But, you know, at
16 this point I don't think it's a good idea for you to be
17 arguing substantive law. You are arguing -- you're
18 asking me, I think, to quash these indictments because of
19 an administrative rule and I can understand if you read
20 the rules and don't -- and aren't a practicing lawyer how
21 that would be confusing to you.

22 The problem is here you're going to have to either
23 get a lawyer or they are going to go to trial in December
24 and you're going to be representing yourself.

25 DEFENDANT TEMPLE: Okay.

1 THE COURT: Now, at one point -- was a public
2 defender up there? There was some reason why they
3 couldn't handle it?

4 DEFENDANT TEMPLE: Your Honor, I got a conflict of
5 interest with every public -- I have -- basically every
6 time I get a public defender, I mean, they want you to
7 plead guilty. I mean, I'm not guilty of these crimes so
8 why -- you know, I mean, it's a conflict of interest in
9 the past.

10 THE COURT: Well, see, the option I got is I can
11 let you go forward and sit at the table and represent
12 yourself or I can appoint what's basically in my mind a
13 shadow counsel. In other words, I'll appoint a lawyer to
14 sit there with you. He doesn't represent you.

15 If you are dead set on going and representing
16 yourself then I'm going to appoint somebody to sit with
17 you so that you can answer questions -- you can ask
18 questions, they can answer questions. That's only --
19 that's what I'm comfortable with.

20 DEFENDANT TEMPLE: I don't think that it will be
21 wise that I represent myself; however, I would like an
22 attorney who's going to represent me to the best of my
23 interest and not their own interest.

24 MS. SIMMONS: Judge, what concerns me is we've
25 already gone through the public defender process, then he

1 had attorneys which he relieved and made various
2 complaints against. I feel like we are setting this up
3 for every 30 days he's going to have a complaint against
4 some lawyer.

5 THE COURT: No, Well, we're not.

6 DEFENDANT TEMPLE: Well, I mean, if the issue is
7 there then why not address the issue. If my lawyer is
8 breaching a confidentiality in my case to other lawyers
9 and misleading then every time that I find a lawyer or my
10 lawyer to do this I'm going to ask them to be relieved.

11 THE COURT: How many lawyers have you had?

12 DEFENDANT TEMPLE: I had two lawyers.

13 MS. SIMMONS: Three, Your Honor.

14 THE COURT: You had three, I think.

15 DEFENDANT TEMPLE: Two, Your Honor. When I was
16 arrested on May the 11th, 2010 I didn't get an attorney
17 until July 29th, or something like that, Your Honor, but
18 I was like -- I was in the county for like two months,
19 basically, without representation, but I have been filing
20 the motions on my own.

21 THE COURT: So are you telling me now you want a
22 lawyer?

23 DEFENDANT TEMPLE: What I'm saying, I don't think
24 it would be wise to represent myself.

25 THE COURT: I don't either.

1 DEFENDANT TEMPLE: However, if an attorney -- if
2 you appoint me an attorney today I hope and pray that
3 that attorney is here or appointed to me to represent me
4 in my best interest and not his own, or the solicitor's
5 interest.

6 THE COURT: Well, let me just tell you generic,
7 generic. I'm not talking about your case. If I
8 appointed you Johnny Cochran and he was still alive and
9 he sat down with you and told you that, take this road,
10 and you think you were going to talk the other road,
11 's something you got to work out with your attorney.
12 So every time you have a dispute with an attorney you
13 can't come back and ask for another one.

14 In fact, what I'm going to do is I'm going to
15 appoint you a lawyer. There's a list of lawyers who have
16 agreed to be appointed. They are outside the public
17 defender's office. I don't know who is next on that list
18 but I'm going to appoint them, but I'm going to appoint
19 them with the caveat that this case is going to be tried
20 December 13th.

21 MS. SIMMONS: Yes, Your Honor.

22 THE COURT: Because you filed the speedy trial
23 motion and so I don't see any point in pushing it back.

24 Now, that assumes that a lawyer can represent you
25 and feel comfortable doing that, and I'm not going to

1 appoint some lawyer that's sitting in his office right
2 know and doesn't have any idea this is coming and tell
3 him you got to go on the 13th and there's no excuse that
4 you are moving forward. If he comes up with something
5 legitimate then we might delay it.

6 DEFENDANT TEMPLE: Okay.

7 THE COURT: But I don't want to prejudge that. I'm
8 just telling you.

9 So I'm going -- if you'll do an order I'll appoint
10 a lawyer, whoever is next on the list.

11 And I'm not saying I'll handpick them but I'll find
12 somebody with experience, okay.

13 DEFENDANT TEMPLE: Well, okay. Thank you, Your
14 Honor.

15 THE COURT: Now, what about the Schmerber motion?

16 MS. SIMMONS: Judge, it is still outstanding and we
17 are prepared to go forward today; however, with this
18 representation issue I'll leave it within the Court's
19 discretion.

20 DEFENDANT TEMPLE: Your Honor, the State through
21 Ms. Lindsey, the solicitor, has not even abided by the
22 first rules. We never received a copy of the first DNA.
23 Why should she be issued another order to proceed with
24 the DNA? She never complied with the first order.

25 THE COURT: All right. Well, since I've appointed

1 you a lawyer, and I had really been prepared for you to
2 tell me you wanted to go pro se, and then I was going to
3 go ahead and proceed with Schmerber but I'm not going to
4 do that today. I don't want to delay it too much so --

5 MS. SIMMONS: We have Judge Macintosh next week in
6 Oconee.

7 THE COURT: Okay. I'll find out who the lawyer is.
8 and I'm going to talk to them and tell them why I've
9 appointed them and that they need to get real busy
10 because you've got a motion next week in Oconee.

11 My understanding is that you -- you got to roll
12 with the flow a little bit. Quit fighting people, quit
13 fighting with deputies. Just -- I know what you're going
14 to say.

15 DEFENDANT TEMPLE: I just feel, Your Honor, that
16 I'm being taken advantage of and I'm just defending
17 myself.

18 THE COURT: Well --

19 DEFENDANT TEMPLE: I'm not doing nothing out of the
20 ordinary legal wise, you know, I'm just --

21 THE COURT: Well, it's one thing to defend yourself
22 verbally but physically you can't do that.

23 DEFENDANT TEMPLE: No, there's been no physical
24 altercation between nobody. Have you heard that there
25 was something? Is there something in the record that I

1 need to be aware of?

2 THE COURT: I'm just telling you last time we were
3 up there in Oconee I got the feeling you weren't too
4 happy with it, with the conversation we had, and I'm
5 telling you you just need to behave yourself until we get
6 some of this stuff situated, like get you a lawyer, get
7 this Schmerber motion, because this thing is going to
8 move pretty quick from now until December.

9 DEFENDANT TEMPLE: I've been complying since I've
10 been arrested. As a matter of fact, Your Honor, I turned
11 myself in with -- on these charges. I don't have any --

12 THE COURT: Have you had any problems up there be
13 him?

14 MS. SIMMONS: In the jail, Your Honor?

15 THE COURT: Uh-huh.

16 MS. SIMMONS: He's currently being held in
17 isolation.

18 THE COURT: Why are you being held in isolation?

19 DEFENDANT TEMPLE: For having legal books.

20 MS. SIMMONS: Judge, I have been told that he's
21 been a behavioral problem.

22 THE COURT: They are not going to put you in
23 isolation because you have legal books.

24 DEFENDANT TEMPLE: Your Honor, I can prove to you
25 that I'm in isolation for having legal books.

1 Your Honor, there's another thing --

2 (PAUSE)

3 THE COURT: No, go ahead. I was just trying to
4 find out who's next on the list.

5 DEFENDANT TEMPLE: If I could get some kind of
6 injunction against the Oconee County Detention Center,
7 Your Honor, to relief. Like the solicitor said, I'm in
8 isolation. Even if I was in for legal books or for
9 misbehaving, or unable to get along with inmates or --
10 Your Honor, I should have -- well, the law requires that
11 I be afforded a hearing, some type of hearing on
12 administrative segregation or any kind of segregation.

13 THE COURT: Well, that would have been
14 administrative within the jail system.

15 DEFENDANT TEMPLE: Well, Your Honor, what is being
16 done to me, Your Honor, that the Court is not aware of,
17 restraints have been placed upon me.

18 THE COURT: You mean physical restraints?

19 DEFENDANT TEMPLE: Yeah, my movement. I'm unable,
20 they won't let me send out no checks so I can order books
21 to read to -- you know, to know different things of the
22 law. I'm not allowed to have no newspapers, exercise.

23 I haven't had exercise in about -- I had exercise
24 for once the other day in two months. But it's like
25 every -- these restraints, Your Honor, are hindering my

1 mental capacity.

2 THE COURT: Okay. All right. Well, once I get you
3 somebody appointed you need to talk to them and they can
4 deal with it. Let's go off the record just a minute.

5 (PAUSE)

6 THE COURT: All right. Mr. Temple, let me tell you
7 what I've just done. I've just probably lost a friend
8 but Mr. Kurt Tavernier, who's standing right there, I've
9 appointed him on -- there are a couple lawyers that I
10 know that I appoint on cases that are difficult, that are
11 going to be high profile and who I am certain will do a
12 good job.

13 DEFENDANT TEMPLE: Okay.

14 THE COURT: He doesn't have a whole lot of choice
15 but I just called him up here and asked him if he would
16 be willing to represent you. Do you know anything about
17 Kurt Tavernier that would prevent you from being
18 comfortable with him?

19 DEFENDANT TEMPLE: No, sir, I do not. I do not
20 know. I don't know --

21 THE COURT: Look, if I was in your spot I would be
22 comfortable with him representing me. I'm telling you
23 that man to man, honestly, okay?

24 DEFENDANT TEMPLE: Well, I trust you, Judge.

25 THE COURT: All right. Well, you might be the only

1 one that trusts me up here but I'm telling you, you got
2 to have somebody good. These are serious charges.

3 DEFENDANT TEMPLE: Right.

4 THE COURT: And I could go down this list. This
5 list is somewhat random. I don't know who is next on the
6 list but you need somebody that has trial experience.
7 Mr. Tavernier used to be a prosecutor, he was a
8 policeman, he's played football in college. He's
9 basically done it all, and I trust him. So if you are
10 all right with him I'm good with it, but you need to tell
11 me now.

12 DEFENDANT TEMPLE: Yes, sir. Your Honor, I'm
13 willing to give it a try.

14 THE COURT: Okay. All right. I'm going to appoint
15 Kurt Tavernier to represent you.

16 You got a bunch of pleas up here today?

17 MR. TAVERNIER: As far as I know I think I've got
18 about 18 signed up so far, Your Honor.

19 THE COURT: Okay. All right. Why don't we take a
20 break and I'll let you all go back there and introduce
21 yourselves to each other and then we'll figure it out,
22 okay?

23 See, what I'm doing here, Mr. Temple, I'm trying to
24 get you somebody good that would probably cost you about
25 \$25,000 if you were paying for him, okay?

1 DEFENDANT TEMPLE: Okay. Thank you, sir.

2 THE COURT: And then you all set the Schmerber
3 motion for next week.

4 MS. SIMMONS: I'll consult with Mr. Tavernier about
5 his schedule.

6 THE COURT: All right.

7 MS. LINDSEY: Thank you.

8 (WHEREUPON, the hearing was concluded.)

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I do further certify that I am neither of kin, counsel nor have an interest to any party hereto.

Sharon L. Vignier-Hanks

CIRCUIT COURT REPORTER

1
2 State of South) In the Court of General
3 Carolina) Sessions
4 County of Oconee) Indictments Nos:
5) 2010-GS-37-00886-00889

6 State of South)
7 Carolina)
8 Plaintiff,) Transcript of Record
9 -vs-) Schmerber Hearing
10 Dennis Temple,)
11 Defendant.)

12 September 22, 2010
13 Walhalla, South Carolina

14
15 B E F O R E:

16 The Honorable Alexander S. Macaulay, Judge.

17
18
19 A P P E A R A N C E S:

20 Chrissy Adams,
21 10th Circuit Solicitor, and
22 Lindsey S. Simmons,
23 Assistant 10th Circuit Solicitor
24 Attorneys for the State

25 Kurt Tavernier, Esq.
Attorney for the Defendant

Robin Sue Hild, FCRR, RPR
Circuit Court Reporter

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INDEX

WITNESSES

PAGE

No witnesses were called.

Schmerber Motion by State	3
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Certificate of Court Reporter	26

EXHIBITS

NO.	DESCRIPTION	ID.	EV.

No exhibits were introduced.

1 ** Start of Requested Certified Transcript of Record **

2 (Whereupon, the motions hearing commenced on
3 Tuesday, September 22, 2010, with all parties being
4 present, at approximately 9:33 a.m.)

5 THE COURT: Mr. Tavernier.

6 Madam Solicitor, nice to see you.

7 MS. ADAMS: Good morning, Judge. How are you?

8 MR. TAVERNIER: How would you prefer to handle
9 this, Your Honor?

10 THE COURT: Well, let's see. I don't know. We're
11 not going to be taking any real testimony or anything.

12 You can have a seat there, please.

13 THE DEFENDANT: (Complies.)

14 *Schmerber* Motion by the State:

15 THE COURT: Yes, ma'am, Madam Solicitor?

16 MS. ADAMS: Thank you, Your Honor, may it please
17 the Court. Your Honor, we are actually here today on a
18 *Schmerber* motion out of an abundance of caution. For
19 the record and just to kind of refresh you, there's been
20 a long history of why we're here, and I would just like
21 to give you a little background of how this started.

22 This is actually State v. Dennis Temple, and he is
23 charged on Indictments 2010-GS-37-886, '887, '888 and
24 '889, which are two counts of criminal sexual conduct,
25 one count of kidnapping and one count of grand larceny.

1 Basically, Your Honor, on May 14th of this year, we
2 filed a motion pursuant to South Carolina Code 16-3-740,
3 which is for sexually transmitted diseases for the
4 Defendant to be tested. He was served notice of that
5 motion, and during the intervening time frame the Public
6 Defender contacted him and he told them that he was not
7 interested in their representation.

8 On May 20th of this year, Judge McIntosh had a
9 hearing on our motion under 16-3-740, and the Defendant
10 represented himself, he waived his right to counsel
11 several times on the record, and indicated, like I said,
12 Your Honor, that he wanted to represent himself several
13 times.

14 Sergeant Scott Arnold with the Oconee County
15 Sheriff's Department provided testimony basically
16 establishing probable cause that the offense had been
17 committed by the Defendant, and he even exercised his
18 right to cross-examine the officer at that time.

19 Judge McIntosh ordered that the Defendant be tested
20 for sexually transmitted diseases pursuant to the
21 statute and that was done, Your Honor. According to
22 that Statute, under 16-3-740 (F), additional samples can
23 be taken for DNA testing for the criminal prosecution,
24 and that was done as well.

25 Subsequently the Defendant basically stated in a

1 motion dated June 7th that he wanted those results to be
2 dismissed and not admissible into court, saying that his
3 right ---

4 THE COURT: When you say "dismissed," you are
5 talking about suppressed?

6 MS. ADAMS: Suppressed. He stated "dismissed."
7 Yes, Your Honor.

8 -- and his right to counsel had been violated
9 during the hearing, even though he had waived it several
10 times.

11 So then, Your Honor, he appeared before you on June
12 30th of this year. You appointed the Public Defender to
13 represent him. He subsequently fired the Public
14 Defender on July 16th.

15 We filed a *Schmerber* motion on July 19th. It was
16 served on the Defendant and his attorney at that time.
17 The Defendant appeared again then before Judge Maddox on
18 July 29th for that scheduled *Schmerber* hearing. At that
19 time he made a motion to dismiss and to fire again his
20 Public Defenders. He stated he never wanted their
21 representation in the first place.

22 The outstanding *Schmerber* motion was continued and
23 the Defendant was given until August 30th to retain
24 counsel or appear back before the court.

25 On September 14th of this year he appeared before

1 Judge Maddox so we could clarify the issue of
2 representation. Mr. Tavernier was appointed at that
3 time by Judge McIntosh and ---

4 THE COURT: You say he appeared before Judge Maddox
5 or Judge McIntosh?

6 MS. ADAMS: Judge Maddox -- I'm sorry, Your
7 Honor -- on September 14th, and the *Schmerber* was
8 continued again in order to give Mr. Tavernier an
9 opportunity to get up to date on the case. And we are
10 here today, Your Honor, out of an abundance of caution
11 and ask that the *Schmerber* motion be granted.

12 THE COURT: All right. Mr. Tavernier?

13 MR. TAVERNIER: Thank you, Your Honor, may it
14 please the Court. I had discussed the pending *Schmerber*
15 Order or Motion pertaining to drawing of blood and hair
16 samples from Mr. Temple. I spoke with him yesterday ---

17 THE COURT: Are they hair samples or swabs, buccal
18 swabs? They want buccal swabs.

19 MR. TAVERNIER: Blood, buccal swabs, and hair
20 samples.

21 THE COURT: Right.

22 MR. TAVERNIER: And I have spoken with him.
23 Pursuant -- it's kind of form over substance in the fact
24 that pursuant to the statute, they are entitled to get
25 those samples and have them tested and use them for

1 evidentiary purposes anyway. So, as a practical matter,
2 there is no, quite frankly, legal objection or argument
3 that could be made regarding or fighting *Schmerber* since
4 what they already have is available to them pursuant to
5 the Statute under Subsection (F).

6 However, based on all of that, Mr. Temple still
7 refuses to consent and will not consent to the issuance
8 of the *Schmerber* Order.

9 But, having gone through all of that, I am not
10 aware at this time of any legal objection that I can
11 place on the record in order to prevent that from
12 happening.

13 THE COURT: Well, I don't think there is any.

14 MR. TAVERNIER: All right. But in regard to that
15 also, Your Honor, there is a kind of collateral matter
16 that needs to be addressed regarding that.

17 On May 13th a search warrant was issued requesting
18 hair samples and blood samples be taken from the
19 Defendant. That, in fact, was issued and those samples
20 were then taken. It is my understanding, Your Honor,
21 that they have not been utilized for any testing in this
22 investigation.

23 THE COURT: All right. Pursuant to the search
24 warrant of May the 13th?

25 MR. TAVERNIER: That's correct. And I believe ---

1 THE COURT: Samples and hair?

2 MR. TAVERNIER: Yes, Your Honor. It's my
3 understanding those samples were taken. I believe that
4 was an illegal procedure.

5 THE COURT: An illegal?

6 MR. TAVERNIER: Correct, Your Honor, because --

7 THE COURT: Not legal, in other words?

8 MR. TAVERNIER: Not legal, Your Honor. Illegal.
9 Because I think it was issued in error. Because there
10 is no provision, number one, he didn't have a right to
11 counsel at that particular hearing. Number two, I think
12 that goes in through the back door what *Schmerber* wants
13 to address through the front door. So it is my
14 understanding that based on that search warrant those
15 samples were taken. However, it is my understanding
16 from Ms. Simmons that no tests were conducted from those
17 samples and no comparisons were taken from those
18 samples. They have been held in evidence.

19 MS. ADAMS: And, Your Honor, that is correct.
20 Nothing was used ---

21 THE COURT: All right. So you've got them
22 sequestered somewhere?

23 MS. ADAMS: Yes. They were not sent to SLED and
24 they were not used.

25 THE COURT: Not subject to any sort of examination

1 or -- well, disqualification?

2 MR. TAVERNIER: Yes.

3 MS. ADAMS: Your Honor, if I may, just for the
4 record, just so you know, obviously there was a criminal
5 sexual conduct kit collected from the victim, semen was
6 indicated, and she identified the Defendant as the
7 assailant, which is the basis for the *Schmerber*.

8 THE COURT: Go ahead.

9 MR. TAVERNIER: So, in effect, Your Honor, I ask
10 that, number one, just as a practical matter that search
11 warrant be quashed and those samples be destroyed. And
12 then any additional testing that is going to be
13 conducted from the new samples be the test that, if
14 valid, be utilized for evidentiary purposes.

15 THE COURT: All right. Madam Solicitor, what do
16 you say about destruction of the samples?

17 MS. ADAMS: Your Honor, those samples that were
18 collected from the search warrant we have no problem at
19 all. We are gonna use the samples, if you grant our
20 *Schmerber* motion today, for court purposes. We have not
21 used those and aren't going to use them.

22 THE COURT: My problem is, of course, we're not at
23 trial. Motions to quash potential evidence is something
24 like we have a motion *in limine* where I think the trial
25 judge should be able to visit that. I don't think

1 anyone prior to trial can actually destroy any potential
2 evidence, even though it's not going to be used, the
3 fact is it has been collected.

4 But as far as quashing the search warrant, I find
5 no problem tentatively, because again it's a motion *in*
6 *limine*, to quash prior to trial, that I'll grant that
7 motion, that the search warrant of May the 13th --

8 Is that right?

9 MR. TAVERNIER: That's correct, Your Honor.

10 THE COURT: -- May the 13th, 2010, will be quashed
11 and anything obtained as a result thereof will be
12 suppressed. In other words, I'm not going to order the
13 destruction of anything that could be potentially used
14 at trial because we don't know what might be developed
15 for trial.

16 MS. ADAMS: And, Your Honor, I believe that we
17 actually, or SLED is not allowed to actually destroy the
18 evidence pursuant to a statute. We're not gonna use
19 that collected ---

20 THE COURT: You say SLED can destroy evidence?

21 MS. ADAMS: Cannot.

22 THE COURT: Cannot. I wouldn't think so.

23 MS. ADAMS: Right. But we are not going to use
24 the ---

25 THE COURT: I'm just making a ruling on the record

1 for this in response to the motion to quash the search
2 warrant, I'm going to grant the motion and suppress the
3 use of anything that might have been obtained from it.
4 Of course, the matter can be revisited at trial based on
5 what is developed at trial. But I'm definitely not
6 going to order any potential evidence to be destroyed.

7 MR. TAVERNIER: Okay. Thank you, Your Honor.

8 THE COURT: All right.

9 MR. TAVERNIER: And I have three other issues to
10 discuss once you have addressed the *Schmerber*.

11 THE COURT: All right. Anything else from the
12 State?

13 MS. SIMMONS: Judge, we have established probable
14 cause in front of Judge McIntosh at the sexually
15 transmitted disease hearing, so we will be happy to call
16 the officer for his testimony if the Court deems it
17 necessary.

18 THE COURT: Was an Order issued by Judge McIntosh?

19 MS. SIMMONS: Yes, Your Honor.

20 THE COURT: Is it a part of the record? I mean,
21 could I see it, in other words?

22 MS. SIMMONS: Yes, sir. Beg the Court's indulgence
23 for one moment.

24 May I approach, Your Honor?

25 THE COURT: Yes, ma'am.

1 MS. SIMMONS: (Hanging).

2 (There was a pause in the proceedings.)

3 THE COURT: All right. I find that Judge McIntosh
4 did, by Order dated May the 20th, 2010, provide for
5 tests of blood, saliva, hair and pubic hair be taken
6 pursuant, as I say, to Section 16-3-740; that would
7 include also Subsection (F), which would be for the
8 purposes of any court proceeding.

9 The findings having been made of probable cause by
10 Judge Maddox, I also find there is a clear indication
11 that relevant material will, material evidence will be
12 found -- and I might note, obviously, that can also be
13 exculpatory as well as inculpatory, so it is to the,
14 it's something that can be used in defense as well as
15 for prosecution...

16 But provided that the method used is going to be
17 safe and secure. I understand that you have trained
18 individuals who do the receiving of the material?

19 MS. SIMMONS: Yes, Your Honor. The personnel from
20 the Law Enforcement Center and the Detention Center are
21 here today, and it is the State's intention to draw the
22 blood in the presence of Mr. Tavernier immediately after
23 this hearing.

24 THE COURT: All right. Any questions,
25 Mr. Tavernier, about the personnel and the procedure

1 being used?

2 MR. TAVERNIER: None, Your Honor.

3 THE COURT: All right. Very well.

4 All right. So I'll grant the motion and approve
5 that -- let's see. Is it Sergeant Merck and Sergeant
6 Philpott --

7 MS. SIMMONS: Yes, Your Honor. And the ---

8 THE COURT: -- who are to take the samples?

9 MS. SIMMONS: And the licensed nurse from the Law
10 Enforcement Center is here and she will actually be
11 drawing the samples.

12 THE COURT: All right. Now, and what is her name?

13 MS. SIMMONS: I don't know her last name.

14 MS. SHIFLETT: Shiflett.

15 MS. SIMMONS: Christie Shiflett.

16 THE COURT: S-h-i-f-t-l-e-y?

17 MS. SHIFLETT: -l-e-t-t. S-h-i-f- ---

18 THE COURT: All right. If you would please stand
19 so the Court Reporter can see you because I need to have
20 your name, please.

21 MS. SHIFLETT: Okay. Christie Shiflett,
22 S-h-i-f-l-e-t-t.

23 THE COURT: Thank you very much.

24 (There was a pause in the proceedings.)

25 THE COURT: RN?

1 MS. SHIFLETT: LPN.

2 THE COURT: LPN. Very good. Thank you, ma'am.

3 And Sergeant Patrick Merck or Sergeant David
4 Philpott and Christie Shiflett, LPN, with Oconee County
5 Sheriff's Office, will extract buccal and/or blood
6 samples using minimal intrusion and all samples are to
7 be transported to the South Carolina Law Enforcement
8 Division or other licensed laboratory or facility for
9 testing. All right.

10 And I think you said you had some other matters?
11 Defense Motion to Dismiss pursuant to Rule 3:

12 MR. TAVERNIER: I do, Your Honor. Having just been
13 appointed, I'm still trying to catch up regarding this
14 case.. But three things that I have found, one of which
15 I believe has already been addressed, but there was
16 nothing in the file that was provided to me to reflect
17 that it had been addressed.

18 And when I spoke with Mr. Temple yesterday, he
19 asked that I address it again today, and since there is
20 nothing in writing I felt it required mentioning,
21 although I've been informed by Ms. Simmons that it has
22 been addressed by Judge Maddox.

23 And that is there is a pending, or was a pending
24 motion to dismiss the indictments pursuant to Rule 3
25 since the Solicitor had not indicted the charges pending

1 against Mr. Temple within the statutory or the Rule
2 requirement of 90 days. And since the wording in the
3 Rule states that the Solicitor "shall" indict within 90
4 days and there was no extension filed that we can
5 determine from the Clerk of Court, they are in violation
6 of the Rule and, therefore, pursuant to Mr. Temple's
7 motion, those, all of the indictments should be
8 dismissed.

9 It is my understanding Judge Maddox may have
10 addressed that, but there's nothing in writing, and I'll
11 let Ms. Simmons address it and inform the Court as to
12 the status.

13 THE COURT: Very well. So this is a motion to
14 dismiss for failure to indict pursuant to Rule 3 (C)
15 within 90 days after receipt of an arrest warrant from
16 the Clerk of Court?

17 MS. SIMMONS: Yes, Your Honor. And that issue was
18 addressed with Judge Maddox last week. To be quite
19 honest with you, Judge, it was slightly over a hundred
20 days total, including weekends ---

21 THE COURT: Well, did Judge Maddox rule on it?

22 MS. SIMMONS: Yes, Your Honor, but ---

23 THE COURT: Well, then, I can't rule on it. But
24 now, is he going to issue a written order?

25 MS. SIMMONS: Judge, he did not clarify that.

1 Mr. Temple, who was unrepresented at that time, brought
2 this issue up, and I responded with *State v. Culbreath*,
3 under 282 S.C. 38, in which the South Carolina Supreme
4 Court interpreted ---

5 THE COURT: In other words, it's administrative,
6 it's not jurisdictional?

7 MS. SIMMONS: Right. And Judge Maddox indicated he
8 agreed with me.

9 THE COURT: Draw an order for Judge Maddox's
10 signature.

11 MS. SIMMONS: I will take care of that, Judge.

12 THE COURT: Yes, sir.

13 MR. TAVERNIER: You know, I raise it out of
14 caution, Your Honor, because we are addressing
15 matters ---

16 THE COURT: All right. Let me do this. I see what
17 you are doing now, Mr. Tavernier. You are saying that
18 at the time Mr. Temple was not represented on that
19 motion --

20 MR. TAVERNIER: That's correct, Your Honor.

21 THE COURT: -- and did not have representation on
22 the motion.

23 All right. Is there anything other than the 120
24 days or so after the warrant was received that the
25 indictment was not received? In other words, is there

1 any other complaint about the indictment for the basis
2 of your motion?

3 MR. TAVERNIER: As it stands right now, Your Honor,
4 I would have to say that based on my knowledge at this
5 point I have to strictly address it to that because --
6 but before we proceed a whole lot further with the rest
7 of the issues in this case, I felt it needed to be
8 addressed, and in my review of the file I didn't see any
9 written order one way or the other.

10 My client, Mr. Temple, stated to me that it was
11 raised as an issue, but I'm not sure that the motion was
12 addressed.

13 THE COURT: All right. Well, but obviously the
14 Court's reluctance is to rule on a matter that had been
15 heard and ruled on by another judge. But it doesn't
16 appear that, one, that the Defendant was represented at
17 that hearing, and, two, that no order has been issued.
18 So I will treat the motion as being renewed here with
19 representation. And again, I do want to find out if
20 there's anything else other than the requirement within
21 90 days after receipt of an arrest warrant from the
22 Clerk of Court, the Solicitor shall take action on the
23 warrant by preparing an indictment for presentment to
24 the grand jury.

25 As I understand, it was not 90 days but more in

1 excess of it 120 days.

2 MS. SIMMONS: In excess of a hundred, Judge.

3 THE COURT: A hundred days. All right.

4 MS. SIMMONS: Yes, sir.

5 THE COURT: Now, is there anything else other than
6 that as being the basis of the motion?

7 MR. TAVERNIER: Not regarding the indictments, Your
8 Honor.

9 THE COURT: No. I'm just saying under the Rule.

10 MR. TAVERNIER: No, sir.

11 THE COURT: All right. I do find, as the Solicitor
12 has pointed out, that in *State v. Culbreath*, 282 S.C.
13 38, 316 S.E.2d 681, that the Supreme Court interpreted
14 the Rule requiring solicitors to act on a warrant within
15 90 days of its issue. It was the Supreme Court's
16 affirming of the trial court's decision holding that the
17 Rule was administrative and not jurisdictional.

18 I might note that even without a warrant you can
19 have a direct indictment to quash the warrant, that the
20 State would still be entitled to go back and take a
21 direct indictment from the grand jury without -- if the
22 grounds were there to provide for such indictment.

23 So, if you would please draw an order to that
24 effect.

25 MS. SIMMONS: Yes, Your Honor.

1 THE COURT: Next?

2 MR. TAVERNIER: Your Honor, the next issue is,
3 since we are on a quick time line for trial, and I'm
4 still doing a little bit of catch-up, but one of the
5 main things that I wanted to address is it is apparent
6 that Mr. Temple has appeared before I think three
7 judges, and based on that he has been able to converse
8 with them, he has conversed with prior counsel. Nobody
9 has raised an issue of competency.

10 And I have met with him on two occasions now. I
11 don't believe there is any issue of competency as being
12 a problem. He does not believe he needs an evaluation.
13 For the record I wanted to put that, raise that as an
14 issue because of the quick time line we are on. I
15 understand we have a date certain for December 13th.

16 And I believe, based on my conversations with him,
17 he is capable of aiding himself in defense of his case.
18 And having appeared in front of three different judges
19 who have not raised any issue regarding his competence,
20 I think the issue has been more or less taken care of,
21 but I wanted to raise it just so that there is no
22 further delay.

23 THE COURT: All right. Anything from the State?

24 MS. SIMMONS: Judge, having seen Mr. Temple appear
25 on a number of occasions in court, I have not seen

1 anything as an officer of the court that would make me
2 believe he is not competent to stand trial.

3 THE COURT: I think I've heard his bond hearing; is
4 that correct?

5 MS. SIMMONS: Yes, Your Honor. You addressed the
6 issue of a bond hearing and the issue of representation
7 when you relieved Mr. Ariail and appointed Ms. Drawdy
8 and Mr. Denny.

9 THE COURT: The reason I say that, my impression at
10 those proceedings was that the Defendant was
11 knowledgeable, appeared well in control of his
12 faculties. In fact, he has sought to represent himself.
13 And obviously, although that is not something I would
14 permit, it does demonstrate his understanding of what is
15 the seriousness of the charges and what is happening.

16 So, based on the representation of counsel and my
17 own personal observations of the Defendant, I find that
18 the Defendant is knowledgeable, perceptive, and well in
19 control of his faculties and, therefore, competent to
20 stand trial and to assist in the preparation of his
21 defense.

22 All right. Anything else?

23 MR. TAVERNIER: One final issue, Your Honor. And I
24 have -- just a second -- I have become aware this
25 morning that Mr. Temple -- and the reason I raised

1 competency was it has been expressed to me that he
2 wishes or desires to speak to the press. I have advised
3 against that. I don't believe that that is in his best
4 interests. A dear friend and long-time judge informed
5 me that the mouth is the enemy of the neck most of the
6 time, and I have advised that he not do it. However, if
7 he desires to do so, it is at his own peril. And I
8 wanted to put that on the record if he does have any
9 discussions with the, with the press regarding this
10 case.

11 THE COURT: All right. Does the State have
12 anything to say about the Defendant's request to talk to
13 the press or other media?

14 MS. ADAMS: No, sir, Your Honor.

15 THE COURT: I would think not.

16 Mr. Temple, judges are not supposed to have
17 opinions. I've forgotten what the cite is, but it was a
18 learned trial judge who has since been elevated to the
19 Supreme Court that was reversed because he gave a
20 Defendant his opinion as to whether or not his
21 particular course at trial that he was opposed to --
22 excuse me. It's *State v. Owens*. I do remember it
23 because I tried the case the first time. This was on a
24 remand. And so, and as I say, even a much more learned
25 judge than this one was admonished or corrected that

1 we're not supposed to have opinions.

2 However, I do think that under the circumstances --
3 by the way, it's 362 S.C. 175, 607 SE.2d 78, a 2004
4 case -- I do feel that I have a duty and a
5 responsibility under our Constitution to advise you that
6 you have the right to remain silent and the right to say
7 nothing at all. In fact, our Constitution provides that
8 an individual cannot be a witness against himself. And
9 for that reason I would strongly advise that your Fifth
10 Amendment right should be exercised.

11 I'm trying to think of an example where someone has
12 gotten in trouble by saying nothing, but I can think of
13 a multitude of examples where people have gotten in
14 trouble saying anything or something. So I would
15 strongly recommend against not following and exercising
16 your right not to testify, and when I say testify I'm
17 not talking about under oath, I'm talking about anything
18 that you might say.

19 Because, as our Constitution warnings provide, that
20 anything can and will be used -- that you might say, can
21 and will be used against you in a court of law. And
22 once said, it's impossible, it is impossible to unsay
23 it. The bell has been rung. So, therefore, I'm going
24 to admonish you not to -- I'm going to admonish you
25 not -- well, I won't say "not" -- I'm going to admonish

1 you to exercise your right under the Fifth Amendment.

2 All right. Anything else, Mr. Tavernier?

3 And when I say "you," I'm talking about you, Mr.

4 Temple. Do you understand, sir?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. Thank you, sir.

7 MR. TAVERNIER: Nothing further.

8 THE COURT: All right. Anything else?

9 All right. One other thing has come to the Court's
10 attention. As of this morning I've received a letter
11 from Mr. Temple addressed to me personally. I'll
12 deliver that letter to Mr. Tavernier because as far as
13 from now on any filings with this court, not just this
14 judge but this court, or any communications with the
15 Clerk of Court's office will have to be made through
16 your attorney.

17 And I will have -- I'm instructing now the Clerk of
18 Court to return any, or to forward any filings, not to
19 file them, not to enter them into the file or anything
20 else, because again, like I say, once noted on the
21 record of having been filed in the Clerk's Office, then
22 of course they become subject to review by anyone. And
23 if there's something in there that's not to your
24 benefit, it could be damaging.

25 So therefore I'm going to suggest -- not suggest

1 but order, anything received from Dennis M. Temple, the
2 Defendant in this case, addressed to the Court or the
3 Clerk of Court or in any fashion be forwarded to his
4 attorney for his consideration, and if he sees fit and
5 then sees that it's appropriate, then your attorney can
6 file it.

7 THE DEFENDANT: Your Honor?

8 THE COURT: Yes, sir.

9 THE DEFENDANT: Could I say one more thing? My
10 lawyer has a copy of the indictments, Your Honor, so if
11 I could ---

12 THE COURT: I'll give him another copy. I haven't
13 opened it. So I'll give him the copy.

14 THE DEFENDANT: Okay.

15 THE COURT: So he'll have two.

16 I didn't mean to cut you off, but that's what I was
17 going to do. I'm not going to keep it, I'm not going to
18 destroy it, I'm not going to do anything other than to
19 give it to your attorney for his consideration.

20 THE DEFENDANT: I understand.

21 THE COURT: Thank you, sir.

22 All right. Anything else from the State?

23 MS. SIMMONS: No, Your Honor.

24 THE COURT: Anything from the Defense?

25 MR. TAVERNIER: Nothing, Your Honor.

1 THE COURT: All right. Very good. We'll stand in
2 recess.

3 MS. SIMMONS: Thank you, Your Honor.

4 MS. ADAMS: Thank you, Your Honor.

5 (Whereupon, the hearing was concluded at
6 approximately 10:37 a.m.)

7 ** End of Requested Certified Transcript of Record **

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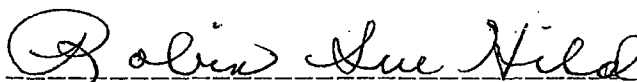
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Certificate of Court Reporter

I, the undersigned, Robin Sue Hild, FCRR, RPR,
Official Court Reporter for the Tenth Judicial Circuit
of the State of South Carolina, do hereby certify that
the foregoing is a true, accurate and complete
Transcript of Record of the proceedings had and the
evidence introduced in the hearing of the captioned
case, relative to appeal, in the Court of General
Sessions for Oconee County, South Carolina, on the 22nd
day of September, 2010.

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

July 16, 2012

A handwritten signature in cursive script that reads "Robin Sue Hild". The signature is written in dark ink and is positioned above a horizontal line.

Robin Sue Hild, FCRR, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA) FILED IN THE COURT OF GENERAL SESSIONS
COUNTY OF OCONEE) BEVERLY S. WATFIELD
CLERK OF COURT

STATE OF SOUTH CAROLINA 2010 SEP 30 P 3:41

ORDER

2010 GS 37-886, 887, 888, 889

DENNIS TEMPLE

Defendant

1. THE DEFENDANT IN THIS MATTER, DENNIS TEMPLE, APPEARED BEFORE THIS COURT ON SEPTEMBER 14, 2010 TO CLARIFY ISSUES REGARDING REPRESENTATION.
2. THE COURT FINDS THAT THE DEFENDANT HAS INDICATED HE DOES NOT WISH TO PROCEED *PRO SE* IN THIS MATTER AND THAT HE DESIRES LEGAL COUNSEL BE APPOINTED BY THIS COURT.
3. KURT TAVERNIER, ESQ., OF THE ANDERSON COUNTY BAR IS HEREBY APPOINTED AS COUNSEL IN THE ABOVE REFERENCED MATTER. THE DEFENDANT IS FURTHER ORDERED TO COOPERATE WITH MR. TAVERNIER IN HIS REPRESENTATION.
4. PENDING WITNESS AVAILABILITY AND COMPLETION OF EVIDENTIARY TESTING, THIS CASE SHALL BE CALLED FOR TRIAL DURING THE DECEMBER 13, 2010 TERM OF COURT IN OCONEE COUNTY, *as set forth*

IT IS SO ORDERED.

Order of this Court. (Signature)

Anderson, South Carolina
September 27, 2010

(Signature)
The Honorable J. Cordell Maddox, Jr.
Judge of the 10th Judicial Circuit

State of South Carolina

In the Court of General Sessions

County of Oconee

State of South Carolina,

Plaintiff,

-VS-

Dennis Maurice Temple,

Defendant.

2010-GS-37-250

2010-GS-37-251

2010-GS-37-252

2010-GS-37-253

October 21, 2010

Transcript of Record

BEFORE:

The Honorable J. Cordell Maddox, Jr., Judge

APPEARANCES:

Christine Adams, Esquire
Solicitor for Tenth Judicial Circuit
Attorney for the State

Kurt Tavernier, Esquire
Attorney for the Defendant

Renee H. Tollison
Circuit Court Reporter

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EXHIBITS

No

DESCRIPTION

ID EV

No Exhibits Were Presented During the Hearing

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1 (WHEREUPON, court convened with all parties present
2 and the following proceedings were had commencing at
3 approximately 3:02 p.m.)

4 THE COURT: Okay. We're on the record in the
5 State versus Temple; is that correct?

6 MR. TAVERNIER: Come on around, Mr. Temple.

7 THE COURT: Okay. What do we have before -- I
8 know we have a couple of issues we've got to deal with.

9 How are you doing, Mr. Temple?

10 MS. ADAMS: Your Honor, just for the record,
11 Mr. Temple, as you know, has been indicted on 2010-886
12 grand larceny, 887 criminal sexual conduct first degree,
13 888 kidnaping and 889 a second count of criminal sexual
14 conduct first degree. And we are mainly here, Your
15 Honor, to deal with Mr. Temple's representation concerns
16 and issues.

17 THE COURT: All right. Mr. Temple, do you
18 remember when you were here -- you were down here with me
19 before?

20 THE DEFENDANT: September the 14th, that's
21 right.

22 THE COURT: Right. And I appointed Mr.
23 Tavernier. What's going on now?

24 THE DEFENDANT: Well, as you know, Your Honor,
25 the record shows -- I mean, I feel that when y'all

1 appointed this attorney y'all didn't have my best
2 interest at stake when I came here September the 14th
3 because all the issues that I brought forth were denied.
4 And then you turned around and appoint Mr. Tavernier to
5 me on my case. Mr. Tavernier has made threats against
6 his people killing my family and me if I don't plead
7 guilty. He said also that -- what else -- for me not to
8 say nothing about vindictive prosecution claims that I
9 had against the Solicitor or a speedy trial. Anyway, he
10 refused to file my motion ---

11 THE COURT: What motion?

12 THE DEFENDANT: --- and defend me in reference
13 to the DNA.

14 THE COURT: What did you want done with DNA?

15 THE DEFENDANT: Well, first of all, I mean, I
16 am accused of crimes I have been -- since the beginning I
17 have been declaring my innocence of these charges. And
18 since the beginning also, I have been refused or denied
19 defense by my previous lawyer and this attorney here as
20 well.

21 THE COURT: What do you want him to do that he
22 hasn't done?

23 THE DEFENDANT: I want defense.

24 THE COURT: And what do you want him to do?

25 THE DEFENDANT: I gave Mr. Tavernier a copy of

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1 my motion to dismiss the indictments which was based on
2 vindictive prosecution. He completely ignored it. I
3 sent a fax to him, as a matter of fact, before he even
4 come to see me on the 21st of September telling him what I
5 wanted done. He still refused -- he issued -- well, he
6 asked to dismiss my -- the indictments based on his point
7 which was not in the best of my defense.

8 THE COURT: What did you do for a living?
9 What's been your profession?

10 THE DEFENDANT: I do whatever it takes, Your
11 Honor. Well, not necessarily anything.

12 THE COURT: What job are you best at?

13 THE DEFENDANT: I do a variety of things. I'm
14 unlimited. I don't limit myself.

15 THE COURT: Well, what job have you done that
16 was your best? Where did you work that you thought you
17 were most able to do well?

18 THE DEFENDANT: I have done welding. I have
19 done plumbing. I've done structure.

20 THE COURT: Okay. Let me tell you a problem
21 I've got. I don't know anything about welding. And if
22 you were out working welding and I came out and showed
23 you -- and had no idea how to weld and started telling
24 you how to weld, you'd think I was an idiot. And I would
25 be an idiot. What I'm telling you is that, you know,

1 this would be ---

2 THE DEFENDANT: Are you saying, Your Honor,
3 that I don't have experience in the law? I have fifteen
4 years experience in the law.

5 THE COURT: How many times have you been in a
6 courtroom?

7 THE DEFENDANT: How many times?

8 THE COURT: When you weren't a defendant?

9 THE DEFENDANT: In front of a defendant?

10 THE COURT: When you weren't a defendant. How
11 many times have you been representing someone in a
12 courtroom?

13 THE DEFENDANT: Well, I have -- I don't have
14 certain training in the field of law. I don't have
15 experience in the courtroom and experience in dealing
16 with a lot of strategies and stuff like that. However, I
17 do know the basics especially when it comes to the
18 warrant requirements and, you know, the process of the
19 rules of criminal procedures and such, Your Honor. And I
20 know as I research my case, this case has no proper
21 cause. I've been illegally arrested.

22 THE COURT: Okay. And you're telling me that
23 Mr. Tavernier threatened to kill you and your family?

24 THE DEFENDANT: Yes. If I did not be quiet and
25 don't say nothing about the vindictive prosecution and

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1 the other matters and refused to file my motions that I
2 told him previously to file.

3 THE COURT: And he said what?

4 THE DEFENDANT: Your Honor, he just stated when
5 he said it that he -- before I came in the courtroom, he
6 was like, don't say nothing about no vindictive
7 prosecution, no fast or speedy trial and no sixty --
8 which is my -- my motion to dismiss my indictments was
9 based on vindictive prosecution and these other three
10 claims, but he didn't -- he failed to mention anything
11 about them.

12 THE COURT: All right.

13 MR. TAVERNIER: Your Honor, Mr. Temple filed a
14 grievance with the Supreme Court which I received a copy
15 of Tuesday indicating that I had threatened to kill -- or
16 my people had threatened to kill him and his family. I
17 have never been alone with Mr. Temple. I was accompanied
18 by Kendra Gurley who is my investigator out at the Public
19 Defender's office. Not my private practice, but at the
20 P.D. office. She accompanied me when I went to speak
21 with Mr. Temple at the Oconee Detention Center. I have
22 never been alone with Mr. Temple. I have never conveyed
23 that I would kill him or that my people would kill him.
24 Whether he pleads guilty, I don't care.

25 Pertaining to the issue of vindictive prosecution,

1 he wanted to raise that as an issue to have the
2 indictments dismissed. He had no basis and legal
3 argument to make that accusation because he had no
4 factual background at that particular time to raise the
5 issue. All he said was he wanted to raise the issue, but
6 he had no background. I said, it's not appropriate to
7 raise it at this particular time to dismiss your
8 indictments.

9 What I did tell him -- and I'm not going to go into
10 a whole lot regarding privilege.

11 THE COURT: No.

12 MR. TAVERNIER: But that at that particular
13 time, dismissal of the indictments would not be based or
14 predicated upon vindictive prosecution. And that the
15 judge would make a determination upon that at a later
16 date when he had a factual basis to back it up.

17 THE DEFENDANT: No, that's not ---

18 MR. TAVERNIER: He had no factual basis.

19 THE DEFENDANT: That's a lie. You never even
20 stated nothing to that effect. Nothing.

21 THE COURT: Okay. All right. Well, here's the
22 deal. When is this case set for trial?

23 MS. ADAMS: Your Honor, we have it scheduled
24 for December the 13th.

25 THE COURT: What do you want to do?

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1 THE DEFENDANT: I want to go on trial. However

2 ---

3 THE COURT: Well, listen to me. You're going
4 to trial.

5 THE DEFENDANT: Okay. That's what I'm here
6 for, a trial.

7 THE COURT: December 13th. The question is do
8 you want to represent yourself, or do you want to get a
9 lawyer? I've now appointed ---

10 THE DEFENDANT: Well, according to ---

11 THE COURT: Wait a minute. Wait a minute.
12 I've appointed -- you've had how many lawyers?

13 MS. ADAMS: Mr. Tavernier is his fourth lawyer,
14 Your Honor.

15 THE COURT: You've had four lawyers, all
16 appointed.

17 THE DEFENDANT: My fourth lawyer? I can only
18 recall me asking for one which is this one.

19 THE COURT: Who's ---

20 THE DEFENDANT: But ---

21 THE COURT: Hold on a minute.

22 Who's been appointed?

23 MS. ADAMS: Mills Airial represented him.
24 Sarah Drawdy, Keith Denny and now Mr. Tavernier.

25 THE DEFENDANT: Mr. Mills Airial was a paid-for

1 attorney which was -- he was paid for to do a bond
2 reduction and not defend me on these charges.

3 THE COURT: Okay. All right. So take him out;
4 then you've got three. What do you want to do? You want
5 to defend yourself or you want to hire a lawyer?

6 THE DEFENDANT: Well, Your Honor, according to
7 the Constitution, the United States Constitution, I am
8 entitled to a defense attorney. Just because the Court
9 appoint me an attorney and he has skills in the law, that
10 doesn't mean that he's using those skills to defend me.
11 So I still to this day have not been able to defend
12 myself because you refuse to give me a lawyer to defend
13 me, myself. Refuse. I have had no lawyer to defend me
14 yet to this day.

15 THE COURT: Well, let me just tell you, that's
16 not right. But I'm not going to argue with you. That's
17 not my job. Here's the deal. I've appointed Mr.
18 Tavernier. I have all the confidence in the world in Mr.
19 Tavernier.

20 THE DEFENDANT: Yeah.

21 THE COURT: Wait a minute.

22 THE DEFENDANT: That's you, Your Honor.

23 THE COURT: Wait a minute.

24 THE DEFENDANT: That's you.

25 THE COURT: Wait a minute.

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1 THE DEFENDANT: But I know personally ---

2 THE COURT: Wait a minute.

3 THE DEFENDANT: --- what he doing.

4 THE COURT: Wait a minute. Don't say another
5 word. My job is to give you representation. Later on
6 down the line, no matter what happens in this case, if
7 you feel like Mr. Tavernier has done something incorrect
8 or has not defended you in some way, there are avenues
9 that you have. But I can't keep appointing lawyers for
10 you. In fact, I'm not going to do that. You know,
11 you're welcome to hire a lawyer or you're welcome to
12 represent yourself, or you could have Mr. Tavernier who
13 I've appointed for you. Those are your three options.
14 And you don't have to make the decision now.

15 THE DEFENDANT: I want Mr. Tavernier off my
16 case because he has no interest, no best interest --
17 there's no best -- he don't have my best interest at
18 stake. I am furious with his defense. I cannot work
19 with somebody who's not -- have the best interest of my
20 defense.

21 THE COURT: All right.

22 What's the State's position?

23 MS. ADAMS: Your Honor, if I may, Mr. Temple
24 did go down on this past Monday, October 18th, down to
25 Columbia and spoke to Dr. Friarson in regards to his

1 competence evaluation. Mr. Friarson has not been able to
2 do a written report. He actually went out of town the
3 day after he did the evaluation. But he did speak to Ms.
4 Simmons in my office, and we have shared this with Mr.
5 Tavernier. He feels that he is very competent to stand
6 trial, first of all.

7 And they also discussed, according to Dr. Friarson,
8 that Mr. Temple's claims that Mr. Tavernier threatened to
9 kill him -- Mr. Friarson believes that there's no basis
10 in the attorney threatening to kill him and that Mr.
11 Temple knows that it is not true. That Dr. Friarson
12 believes that it is simply a tactic to get a new attorney
13 and delay the trial.

14 THE DEFENDANT: Well, Your Honor ---

15 MS. ADAMS: And Your Honor ---

16 THE COURT: Hold on. Don't interrupt.

17 MS. ADAMS: And based on his prior history with
18 the other two court-appointed lawyers, he constantly
19 wants to fire his attorneys. And just for the Court to
20 know as well, Your Honor, he has given and sent us
21 numerous motions and letters even after our hearing which
22 was held September 22nd in front of Judge Macaulay when
23 Judge Macaulay specifically told him to direct all
24 motions through his attorney. They dealt with his desire
25 to speak to the media. As soon as that hearing was over,

1 he contacted the media. He is very much aware, I
2 believe, of what's going on and that it's simply a delay
3 tactic.

4 In the -- a search warrant was served obviously
5 where this incident occurred in his storage shed unit.
6 Just for the Court, Your Honor, I'd like to make these
7 Court's exhibits if we can. We've showed them to Mr.
8 Tavernier. These are the motions that he has filed.
9 They're extremely logical if you want to look through
10 them. Very organized thoughts.

11 THE COURT: Extremely logical?

12 MS. ADAMS: Yes, very organized which goes to
13 his competency. And he had in the storage shed unit a
14 book checked out of the Oconee County Library, *How and*
15 *When to Be Your Own Lawyer*, the *Georgetown Law Journal*
16 about the annual review of criminal procedure. He had a
17 book -- a page open where he had made his own notes
18 regarding certain case law. And then a *Jailhouse*
19 *Lawyer's Manual*. This was all in his storage shed where
20 he was living where the incident occurred. So I think
21 that's what he's referring to when he says he has fifteen
22 years experience with the law.

23 THE DEFENDANT: Well ...

24 MS. ADAMS: And I can mark these, Your Honor

25

1 THE COURT: Okay. Yeah, mark them as exhibits.

2 MS. ADAMS: ... as Court's exhibits.

3 THE COURT: Just as one.

4 (WHEREUPON, Court's Exhibit Number 1 was marked for
5 identification only.)

6 THE COURT: Yes, sir?

7 THE DEFENDANT: Well, the psychologist, he's
8 entitled to his own opinion. However, I find him
9 incredible because he had a -- some type of problem with
10 me from when I stepped in there. I mean, he detested me
11 when I came in there, so I deem his assumptions of me
12 incorrect and, you know, it's obvious -- and then by the
13 way, the delay tactic. You have not even served me the
14 motions of discovery in this case, so how is I'm
15 delaying?

16 THE COURT: You need ---

17 THE DEFENDANT: And I ask you ---

18 THE COURT: Here's one of the things.

19 THE DEFENDANT: And also ---

20 THE COURT: Wait a minute. Wait a minute.

21 Wait, wait. Two things you need to learn. And it
22 doesn't matter if you like it. If I start talking,
23 you've got to stop. That's what the lawyers do. If I
24 start talking, they stop. If they don't, I yell at them.
25 You've got to do the same thing. The second thing is --

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1 that you need to understand -- you've got to talk to me,
2 not to her.

3 So what's your issue with discovery?

4 THE DEFENDANT: Well, I apologize to the Court.

5 THE COURT: That's all right.

6 THE DEFENDANT: But I am extremely emotional
7 right now because I know that I am not being defended and
8 the Solicitor is using the excuses to make it seem as if
9 I'm delaying this trial when I have not received no
10 discovery yet in this case. I receive a half of
11 discovery. Before trial -- discovery is required before
12 trial, not during trial or after trial. Also, I have not
13 seen none of the evidence that the State is intending to
14 use against me during trial. So how am I delaying trial?

15 THE COURT: Well, the trial is going to take
16 place. And before the trial ---

17 THE DEFENDANT: I'm not ---

18 THE COURT: --- takes place -- before the trial
19 takes place, you'll get the information. That's just the
20 way it is. If they don't give it to you, we don't go to
21 trial.

22 THE DEFENDANT: But if it's a delay tactic,
23 then ...

24 THE COURT: I think the problem is, Mr. Temple
25 -- I mean, man-to-man the problem is there's a feeling

1 that you keep getting rid of these lawyers because you
2 think that's going to push the trial back. And that
3 ain't going to happen.

4 THE DEFENDANT: Your Honor, we all have our
5 feelings. Our feelings are not absolute.

6 THE COURT: You're correct about that.

7 THE DEFENDANT: They're not absolute.

8 THE COURT: All right. Well, are you going to
9 hire a lawyer, or are you going to represent yourself, or
10 do you want to think about it? Because I'm leaving Mr.
11 Tavernier on the case, but not as your lawyer. I'm going
12 to order him -- and I'll do an order -- to sit at the
13 table and to be available for you to ask him questions
14 during the course of the trial unless you hire another
15 lawyer.

16 THE DEFENDANT: To do that, Your Honor, you
17 would continue to hinder my case.

18 THE COURT: I don't know how.

19 THE DEFENDANT: Because if he's not in the best
20 of my interest before trial, how would he be in the best
21 interest during trial?

22 THE COURT: You'd be representing yourself.
23 That's what I'm telling you. You've got until the day of
24 trial to either hire a lawyer or represent yourself. And
25 if you represent yourself, Mr. Tavernier will be

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1 available. He won't say a word to you unless you have a
2 question for him. I don't know what else to do. I can
3 appoint another lawyer. The first lawyers that were
4 appointed, I assume were with the Public Defender.

5 The Public Defender is not involved in this right?

6 MS. ADAMS: Not anymore, no, sir.

7 THE COURT: And they can't be; is that correct?

8 MS. ADAMS: (Nodded head up and down in the
9 affirmative)

10 THE COURT: You're shaking your head yes; is
11 that right?

12 MS. ADAMS: They have a conflict.

13 THE COURT: Because they have a conflict. So I
14 can't do that.

15 You had Ms. Drawdy. You asked me to remove her. I
16 did. Then I appointed Mr. Tavernier. Trust me. Mr.
17 Tavernier wasn't interested in doing this, but I
18 appointed him. Now you're telling me you want to get rid
19 of him. I can't do that anymore.

20 THE DEFENDANT: Your Honor?

21 THE COURT: Yeah.

22 THE DEFENDANT: He had -- September the 14th, I
23 come in here. He didn't have my best interest at stake
24 nor you.

25 THE COURT: I didn't?

1 THE DEFENDANT: No, you didn't. I'm being
2 honest here. I feel that you didn't have my best
3 interest because you denied everything that I asked for.
4 You denied -- and it was according to the law. It wasn't
5 according to what I wanted.

6 THE COURT: What did you ask me for?

7 THE DEFENDANT: It's not my wants.

8 THE COURT: What did you ask me for?

9 THE DEFENDANT: I asked you -- I told you
10 simply that those indictments, they was based upon
11 vindictive prosecution. Well, at the time -- and I
12 requested that they be dismissed in accordance to South
13 Carolina Rules of Criminal Procedure Rule 3 because they
14 was untimely.

15 THE COURT: The indictments were untimely?

16 THE DEFENDANT: Those indictments that the
17 Solicitor issued on me September the 7th were untimely
18 according to the South Carolina Rules of Criminal
19 Procedure, not according to me.

20 THE COURT: How were they untimely?

21 THE DEFENDANT: They was not served within
22 ninety days.

23 MS. ADAMS: Your Honor, what he's referring to
24 is that it took a little longer than ninety days for the
25 charges to be indicted. It was roughly a hundred and

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1 some odd days versus date of arrest until the Grand Jury
2 actually indicted them. And he's referring to the rule
3 that says the charges must be indicted within ninety
4 days. But you dealt with this, and I do believe Judge
5 Macaulay dealt with this. And basically, according to
6 case law, that's administrative.

7 THE COURT: Yeah, do you understand that?

8 THE DEFENDANT: Okay. Let's say if for
9 administration. Well, aren't the same -- ain't the
10 discovery issued to me on my attorney based upon these
11 same rules? Is that true or not?

12 THE COURT: That's true.

13 THE DEFENDANT: Okay. So if the discovery is
14 issued to me in accordance with these rules, then why
15 can't these indictments be dismissed to the same rules?
16 I mean, they the same rules.

17 THE COURT: All right.

18 THE DEFENDANT: They apply.

19 THE COURT: This is my wedding story again.
20 But I'm not going to go over it again.

21 THE DEFENDANT: Okay. I understand what you're
22 saying.

23 THE COURT: You want to make that motion now
24 for me to dismiss them based upon timeliness?

25 THE DEFENDANT: Your Honor, I don't want you to

1 do me no favors. I'm not here for favors.

2 THE COURT: I understand.

3 THE DEFENDANT: I'm here ---

4 THE COURT: I'm saying, do you want to make
5 that motion now?

6 THE DEFENDANT: I'm here to be judged according
7 to the law. I hope and pray that ---

8 THE COURT: That's what's going to happen.

9 THE DEFENDANT: --- you or any judge would do.

10 THE COURT: It's going to be me, and that's
11 what's going to happen. And I'm going to do the best I
12 can to protect your rights, protect the victim's rights
13 and to make sure that justice is done. What I'm not
14 going to do is be delayed. I'm not going to have
15 somebody talk over me, and I'm not going to have a
16 circus. Now -- and it ain't going to happen. Now, do
17 you want to make those motions to dismiss again, now, for
18 untimely indictments under Rule 3? Is that correct? Is
19 it Rule 3?

20 THE DEFENDANT: Your Honor, if I do that --
21 Your Honor, at this point, I don't have no faith in you.

22 THE COURT: Okay. Well, you don't have to have
23 faith in me.

24 THE DEFENDANT: So I'm not going to make that
25 motion.

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1 THE COURT: Okay. All right.

2 THE DEFENDANT: I have no faith in ---

3 THE COURT: So is that motion withdrawn?

4 THE DEFENDANT: So I'm not going to make no
5 motions here today.

6 THE COURT: All right.

7 THE DEFENDANT: I'll make it later on.

8 THE COURT: Okay.

9 THE DEFENDANT: Whatever.

10 THE COURT: It's going to be in front of me.

11 THE DEFENDANT: Well, I'm just saying I'm
12 speaking earnestly. I don't have no faith in you period.

13 THE COURT: Okay. Well, I'm speaking honestly
14 to you too. It doesn't matter.

15 THE DEFENDANT: I'm not trying to get in your
16 feelings or nothing.

17 THE COURT: Listen, after the week I've had,
18 don't worry about it. All right. Here's the deal.

19 The trial is set for December what, 13th?

20 MS. ADAMS: December 13th, yes, sir.

21 THE COURT: You've got to make a decision. I'm
22 not going to tell you what to do. If you hire a lawyer,
23 they'll represent you. If you don't hire a lawyer and
24 you don't like Mr. Tavernier -- and just so this is real
25 clear -- and believe it or not, I'm trying to protect

1 you. I am refusing to appoint another attorney so that
2 if the Court of Appeals or the Supreme Court says that I
3 should have appointed a fifth attorney, then I was wrong.
4 So I'm refusing to do that, but I am ordering Mr.
5 Tavernier to sit as standby counsel at the table. You
6 can go through -- if you represent yourself, you can go
7 through the whole trial and never speak to him. He's not
8 going to speak to you. But if you have any questions for
9 legal issues, then, you know, we'll deal with it.

10 Now, I need, Ms. Adams, for you to do an order to
11 that effect. And make sure that it's clear, again, to
12 protect his right, that I am denying the appointment of a
13 new counsel. You got that?

14 THE DEFENDANT: So you're saying ---

15 THE COURT: Hold on a minute. I need to make
16 sure she's got it.

17 Okay. Yeah?

18 MS. ADAMS: May we approach real quickly?

19 (WHEREUPON, a bench conference was held off the
20 record.)

21 THE COURT: Let me just -- what she's asking me
22 is, I mean, there's a question about whether or not I
23 should appoint you another attorney. What I'm saying is
24 that you've had four. I've appointed Mr. Tavernier.
25 You've told me that Mr. Tavernier said that his people

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1 were going to kill you and your family. I don't believe
2 that. I am not going to appoint another lawyer to put
3 him in the same position, so based upon what you've told
4 me here today and based upon my experience from the last
5 hearing -- I was doing you a favor last time -- I'm not
6 going to do it again. So you have every right in the
7 world to hire a lawyer or to get another lawyer to
8 represent you. It doesn't matter to me. I hope you do.
9 Or you can represent yourself. But if you represent
10 yourself, I'm appointing Mr. Tavernier as standby
11 counsel.

12 MS. ADAMS: And Your Honor, my only concern is
13 if his family or if he does hire a lawyer, as long as
14 they are very clear that if they take that case it is
15 still going to trial December 13th.

16 THE COURT: Yeah. Just do me an order.

17 MS. ADAMS: And not another ---

18 THE COURT: That's why I say ---

19 MS. ADAMS: --- delay.

20 THE COURT: Do an order it's set for the 13th.
21 Do an order that I denied his motion to appoint a new
22 lawyer. And I want that in writing so that if I'm wrong,
23 I'm wrong. And that's based upon the fact that he's had
24 four and that his accusations against Mr. Tavernier don't
25 carry any weight with me at this point -- is probably the

1 best way to put it -- and that he can represent himself
2 that week. If he does, Mr. Tavernier is going to be the
3 standby attorney. And I'll do the order for standby
4 because I've got that.

5 MS. ADAMS: Okay.

6 THE COURT: And then what's the deal with
7 discovery? Have y'all got everything ready?

8 MS. ADAMS: Yes, sir. We actually served him
9 personally on June the 22nd of this year with discovery,
10 and there have been several supplemental discovery served
11 on his attorney.

12 THE COURT: Did you get all that information
13 that they say they sent you?

14 THE DEFENDANT: I have got no discovery, no
15 supplements, no nothing.

16 THE COURT: They didn't send you something on
17 June 22nd?

18 THE DEFENDANT: I've got a half of discovery.

19 THE COURT: You've got what they sent you on
20 the 22nd; is that right? That's the stuff they handed you
21 yourself at the jail probably.

22 THE DEFENDANT: Right.

23 THE COURT: Okay. Well, I hate to run your
24 copiers up. But how about re-serving individually up at
25 the jail with his discovery.

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1 THE DEFENDANT: And also ---

2 THE COURT: I'm going to make sure you get it
3 all. Yes, sir?

4 THE DEFENDANT: Also, Your Honor, could you
5 tell her to let me see the evidence that's going to be
6 used against me?

7 THE COURT: That's what I'm telling her. I'm
8 telling her to give you all the discovery even though she
9 says that it may have been sent. Just to make sure,
10 she's going to redo it and give it to you in one packet.

11 MS. ADAMS: Yes, sir.

12 THE COURT: Now, what about DNA testing? Has
13 the been done?

14 MS. ADAMS: There's still some left, Your
15 Honor. But we have spoken to them, and it should be back
16 very shortly. It will not delay anything.

17 THE COURT: All right. The minute that comes
18 back ---

19 MS. ADAMS: He will have it.

20 THE COURT: --- you get it.

21 THE DEFENDANT: In addition, Your Honor, to
22 that, I would like to say that Mr. Tavernier here, like
23 I've been speaking of, was not in the best interest of
24 me. So the motions that he has made previous were not in
25 the best of my defense, and I ask -- well, maybe I'd

1 better not ask today. But in the future ---

2 THE COURT: What motions are you talking about?

3 THE DEFENDANT: I'm going to request to dismiss
4 anything that he's done on this case because ---

5 THE COURT: Well, what's he done?

6 THE DEFENDANT: --- it's not been done to the
7 best of my interest.

8 THE COURT: What have you done?

9 MR. TAVERNIER: Your Honor, to the best of my
10 recollection, we discussed the *Schmerber* order that was
11 issued by Judge Macaulay.

12 THE COURT: Right.

13 MR. TAVERNIER: And which based on my research
14 and view of the file, there was no basis in fact to
15 object to it. It was going to be ordered, and there was
16 no basis -- legal argument that we could generate to do
17 that. We were successful in quashing the search warrant
18 in which they obtained samples off of him. He seems to
19 forget that.

20 THE DEFENDANT: Well ---

21 THE COURT: Hold on. Let him finish.

22 MR. TAVERNIER: But that was probably other
23 than the timeliness of the indictments were the three
24 things that were addressed other than my caution
25 regarding his contact of the press and his waiver of his

1 right to remain silent.

2 THE DEFENDANT: Mr. Tavernier, those search
3 warrants was squashed not based upon what you did. And
4 also -- because I previously already filed a motion to
5 dismiss the DNA because it was done illegally. I never
6 received a copy no DNA order or the results of any test.

7 THE COURT: Well, they're not back yet. When
8 they come back -- it takes a little while. When they
9 come back, she'll tell you.

10 THE DEFENDANT: Okay, Your Honor. But what I'm
11 saying and what I'm getting at is my attorney, Kurt
12 Tavernier, failed to put up a defense in reference to the
13 new test they was taking which the defense was the case
14 is not based upon proper cause. And also, the Solicitor
15 didn't even abide by the first order, so how could he let
16 her get another order for DNA? That was the defense.

17 THE COURT: All right. Well, you understand
18 the order. You've got to either represent yourself,
19 you've got to hire a lawyer. If you represent yourself,
20 Mr. Tavernier is going to be standby counsel sitting
21 there. The case will be tried the 13th of December. I
22 think it's now been switched so that I'm doing it for
23 scheduling purposes.

24 I guess it will be done in Oconee?

25 MS. ADAMS: Yes, sir.

1 THE COURT: Is there anything else that you can
2 think of that you need now, I mean, while you're here?

3 THE DEFENDANT: Your Honor, I'm going to make
4 my -- I don't know, Your Honor. I'm scared. Really I'm
5 fearful that my motion is going to be denied. But I'm
6 asking you -- I think that they should be granted in
7 regards to the situation that I'm in, especially when it
8 comes to these searches and seizures.

9 THE COURT: Right.

10 THE DEFENDANT: Suppression hearing. I would
11 like a suppression hearing based upon these charges
12 that's being lodged against me.

13 THE COURT: Well, let me tell you -- and I'll
14 hear all your motions. And I'm just going to tell you
15 the way I look at this. You don't actually have to have
16 any confidence in me, and you don't have to have any ---
17 well, you actually do have to have some respect for the
18 job. You don't have to have it for me personally. I'm
19 going to do everything I can the right way. I'm going to
20 -- I believe in the Constitution. You are not guilty as
21 you stand here. That is exactly what I'll tell a jury.
22 You're not -- he's not guilty. And so I treat you as not
23 guilty. And therefore, I'm going to listen to all your
24 motions, and I will rule based upon the law. What I'm
25 telling you is you'd better get a lawyer or you'd better

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1 get right with Mr. Tavernier. That's the biggest mistake
2 you can make is to show up on December 13th representing
3 yourself. I've been a judge for ten years. I wouldn't
4 represent myself. I wouldn't do it. But it's up to you.
5 I've had people to do it, you know.

6 THE DEFENDANT: Your Honor, I've heard of
7 pitfalls. But y'all -- can't beat everybody. I mean, I
8 can't beat -- there's no defense here. I mean, I have no
9 other choice.

10 THE COURT: Okay. And neither do I.

11 THE DEFENDANT: Especially if you're not going
12 to appoint another lawyer.

13 THE COURT: I'm not appointing another one.
14 I've appointed four.

15 Yes, sir?

16 MR. TAVERNIER: Your Honor, based on your last
17 comment, do I prepare for trial ---

18 THE COURT: No.

19 MR. TAVERNIER: -- or if he decides and changes
20 his mind that he gets right with me? Or do I prepare for
21 trial or do I ---

22 THE COURT: If he gets right with you, it's
23 still going forward on the 13th. So you've got to do what
24 you -- if you -- if he decides on the 11th that now he
25 wants you as his lawyer and you say -- no, I'm not going

1 to do that to you. But I'm not going to continue this
2 case without legitimate legal cause. I mean, I'm not
3 going to say I'm not going to continue it. I mean, I'm
4 not going to do that. But it's going to have to be
5 something pretty dadgum important.

6 MR. TAVERNIER: Okay.

7 THE COURT: Okay.

8 MS. ADAMS: And Your Honor, just a housekeeping
9 matter. One of the indictments, 2010-887 which is a
10 criminal sexual conduct first-degree was actually a
11 direct indictment. And we have served him in the jail
12 with this, so he is aware of this indictment and has a
13 copy. But we'd like to do an official arraignment just
14 for the record ---

15 THE COURT: Okay.

16 MS. ADAMS: --- if that's okay.

17 THE COURT: Yeah.

18 All right. Do you understand what they're doing?
19 They have a direct indictment which charges you with
20 criminal sexual conduct in the first degree. And I'm
21 assuming you plead not guilty to that; is that correct?

22 THE DEFENDANT: That's right.

23 THE COURT: All right. So you're pleading not
24 guilty. Do you need me to explain anything about this
25 indictment to you? Have you seen a copy of it?

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1 THE DEFENDANT: Yes, I have.

2 THE COURT: Do you have any questions about it
3 now?

4 THE DEFENDANT: Pretty much -- no, sir, no
5 questions about it now.

6 THE COURT: Okay. All right. So we'll take
7 that as a not guilty plea, and it will be set for trial.

8 MS. ADAMS: Thank you, Your Honor.

9 THE COURT: Okay. All right. Thanks.

10 MR. TAVERNIER: Thank you, Your Honor.

11 (WHEREUPON, the hearing ended at approximately 3:34
12 p.m.)

13 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

1 CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court
3 Reporter for the Tenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate, and complete transcript of record of all
6 the proceedings had and evidence introduced in the
7 trial/hearing of the captioned case, relative to appeal,
8 in the Circuit Court for Oconee County, South Carolina,
9 on the 21st day of October 2010.

10 This transcript may contain quoted material. Such
11 material is reproduced as read by the speaker.

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

14 July 26, 2012

15

16

17

Renee H. Tollison

Circuit Court Reporter

Tavernier

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

State of South Carolina

vs.

Dennis M. Temple

IN THE COURT OF GENERAL SESSIONS

2010-GS-37-886 through 889

AMENDED ORDER APPOINTING STANDBY COUNSEL

PUBLIC COUNSEL, SC
BEVERLY R. WHITFIELD
CLERK OF COURT

2010 NOV 15 P 4:38

FACTS

This matter was before the Court on October 21, 2010, pursuant to the Defendant's Motion to Relieve Counsel in the above-referenced matter. The court has already appointed three attorneys to represent the Defendant, Mills Arlall, Sarah Drawdy, and Keith Denny. Mr. Tavernier was the fourth attorney to be appointed. At the hearing, the Defendant requested that the court remove Mr. Tavernier and appoint a fifth attorney to represent him at his upcoming trial. The Defendant's Motion for a new attorney was denied, and Mr. Tavernier was relieved as counsel. The Defendant now wishes to proceed *pro se*. Although the Defendant has performed much of the legal research in the case and has filed his own motions, the court hereby orders that an advisor with legal training assist him in preparation for and at trial. This court appoints Kurt Tavernier to serve in that capacity. At Mr. Tavernier's request, the court will clarify his role in this case.

LAW

A. The Sixth Amendment Right to Assistance of Counsel

The 6th Amendment to the U.S. Constitution guarantees a criminal defendant the right to "assistance of counsel." Two aspects of this right are fundamental. First, courts have long required effective, competent representation pursuant to the 6th Amendment, thereby acknowledging that some qualitative threshold of performance must be met. Ineffective participation by counsel is no less a violation of the right than no representation at all. Accordingly, in South Carolina collateral review of counsel's performance is available through the Post-Conviction Relief Statute, S.C. Code §17-27-10 et

seq. Second, the guarantee of the 6th Amendment is of the *right* to assistance of counsel, not to the assistance itself. Therefore, like the right to a jury trial or to confront witnesses, a defendant may choose not to exercise the right to assistance of counsel. In Faretta v. California, 422 U.S. 806 (1975), the U.S. Supreme Court recognized that the right to the assistance of counsel may be waived and the defendant himself may step forward and serve as his own advocate.

B. The Right to Appear *Pro Se*

Faretta and subsequent cases leave no doubt that the right to represent oneself in a criminal case is fundamental and must be respected by courts subject only to narrowly drawn exceptions.¹ The right to represent oneself may not be used merely to delay trial, and a trial court may refuse to permit a defendant to proceed *pro se* if the assertion of the right is untimely and causes undo delay. See e.g., United States v. Singleton, 107 F.3d 1091 (4th Cir. 1997), United States v. Jones, 938 F.2d 737 (7th Cir. 1991). Most importantly, the right to appear *pro se* must be understood as it relates to the right to assistance of counsel. As logic suggests, the two are mutually exclusive. United States v. Lawrence, 161 F.3d 2e 509, 253 (4th Cir. 1995) ("The Sixth Amendment does not require a court to grant advisory counsel to a criminal defendant who chooses to exercise his right to self-representation..."); United States v. LaChance, 817 F.2d 1491, 149\ (11th Cir. 1987) ("It is the law of this circuit that the right to counsel and the right to proceed *pro se* exist in the alternative and the decision to permit a defendant to proceed in a hybrid fashion rests in the sound discretion of the trial court."); United States v. Halbert, 640 F.2d 1000, 1009 (9th Cir. 1981) ("The defendant, however, does not have a constitutional right to hybrid representation.... That is, the defendant cannot demand the right to act as co-counsel...

McKaskie v. Wiggins, 465 U.S. 168 (1984), sets out the conditions under which counsel may be appointed to assist over a *pro se* defendant's objections. Counsel must not undermine the appearance to the jury that the defendant is in control of the case and all strategic conflicts between counsel and the defendant must be resolved in the defendant's favor. Because the defendant in the present case has requested appointment of counsel, extended discussion of McKaskie is not necessary.

The district court may properly require the defendant to choose either to proceed, *pro se*, with or without the help of standby counsel, or to utilize the full assistance of counsel, who would present the defendant's defense."); United States v. Swinney, 970 F.2d 494, 498 (8th Cir. 1992) ("The decision to allow this type of hybrid presentation is squarely within the discretion of the district court.") Courts uniformly refuse to permit *pro se* representation absent an explicit waiver of the 6th Amendment right. "An accused has the constitutional right to self-representation, of course, but the decision to waive the right to counsel is valid only if it is timely, not for the purposes of delay, unequivocal, and knowing and intelligent." United States v. Keen, 104 F.3d 1111, 1113-14 (9th Cir. 1996).

C. South Carolina Law

The South Carolina Constitution provides in Article I, Section 14 that the accused "shall enjoy the right...to be fully heard in his defense by himself or by his counsel or by both." In State v. Sanders, 237 S.E.2d 53 (1977), our Supreme Court that "a defendant does have the right to assistance of counsel, even if he (defendant) is representing himself." However, the court concluded that Mr. Sanders was not entitled to hybrid representation, which it defined as "partially *pro se* and partially by counsel although the court noted with approval that he had "the advice and assistance of two Public Defenders while he represented himself." The Sanders court did not define "assistance of counsel" or identify the source of the right but went on to approve the analysis provided by the Texas Court of Criminal Appeals in Landers v. Texas, 550 S.W.2d 272 (1977), which construed a nearly identical provision of that state's constitution. The Landers court conducted a full review of the law interpreting the essentially identical constitutional provisions of at least ten other states. The court traced the history of the English common law principle of disqualification for interest which rendered the accused "incompetent to be a witness in his own cause."

The court concluded: "Article 1, Section 10, and similar constitutional provisions were intended to afford an accused the right to participate and be heard in his trial while at the same time removing the restrictions to full representation and participation of counsel. However, these provisions were not intended to encompass the right to counsel as that right is delineated in Faretta v. California, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975)." Like Texas, South Carolina apparently has extended some degree of assistance to *pro se* defendants but has left the decision how to provide that assistance to the discretion of the trial judge. Numerous courts have recognized that the trial court has broad discretion to guide or limit what, if any, assistance counsel may provide to the *pro se* defendant. See e.g., United States v. Lawrence, 161 F.3d 250, 253 (4th Cir. 1999) (trial court "under no obligation to provide" standby counsel); United States v. Singleton, 107 F.3d 1091, 1102 (4th Cir. 1997) ("[T]he district court was under no obligation to provide {Defendant} any intermediate accommodation.")

2 It is unclear on what basis the court reached this conclusion. The opinion does not cite the source of the "right" nor does it define the extent of the "right." While it may appear that the court found this "right" in Article I, Section 14 of the South Carolina Constitution, the court never so stated, but instead adopted the reasoning of the Texas Court of Criminal Appeals in Landers v. Texas, 550 S.W.2d 272 (1977), discussed herein. That court specifically found that the referenced language *did not confer any right to counsel* but referred only to the defendant's right to testify.

1The Texas provision provides that an accused in criminal cases, "shall have the right of being heard by himself or counsel, or both."

D. Role of Counsel Assisting *Pro Se* Defendant

The court has carefully reviewed the decisions of our Supreme Court as well as cases from other states and the federal system in seeking to define counsel's role in assisting a *pro se* defendant. This court concludes that the proper role of counsel is to serve as "advisory counsel," as that term is further defined herein.

Various terms are used by courts to describe the role of an attorney appointed to assist a defendant who has waived his right to counsel. There is no uniformity in the use of these terms and on many occasions they are used inconsistently and interchangeably. For clarification, this court uses the following definitions⁴: Hybrid representation means participation by both the defendant and his lawyer at trial. Both are free to examine and cross examine witnesses, argue to the court and the jury and make objections. Hybrid representation is a "cc-counsel" relationship. Stand-by counsel must be present in the courtroom at all critical stages, including trial, must prepare the case as if he were fully representing the defendant, and must be ready to take over trial if requested to do so. Advisory counsel must be present at all critical stages of the prosecution, including the entire trial. He must give advice to the defendant on procedural or substantive matters when requested by either the defendant or the court to do so. He has no duty to prepare the case for trial or to be prepared to take over the defense of the case. He must not offer unsolicited advice.

⁴Note that the court's definition of these terms does not necessarily correspond to the overlapping definitions of the role of an attorney assisting a *pro se* defendant provided by the cases cited in section B of this Order on pages 3 and 4. Those cases use various phrases to refer to the entire spectrum of attorney/*pro se* defendant relationships whereas the definitions provided here are intended to identify sub-categories.

The appointment of counsel to assist a *pro se* defendant serves at least two purposes. First, a defendant who has exercised his right to self representation still benefits from the skill, knowledge and advice of trained counsel while being allowed to control his own defense. Second, the Court is freed of the burden of advising the defendant on matters of courtroom procedure, making for a more orderly and efficient trial. In choosing between the three types of assistance described above, this court must identify the substantive and logistical strength and weaknesses of each.

Hybrid counsel has been looked upon with disfavor for good reason. The arrangement would put an attorney in a vexing situation.

We can foresee irreconcilable differences arising from the varying obligations of lawyer and defendant if the defendant were to have a constitutional right to have counsel appointed for any role he sees fit. As an officer of the court, the lawyer has obligations, including the duty of disclosure, the duty to ask only appropriate questions, and the duty not to suborn perjury, which have not been considered personally binding on the defendant. In addition, the lawyer's duty of attorney-client confidentiality could be seriously compromised by a system in which the defendant selectively employs his attorney while make his own defense. And in a case in which these conflicts or mere differences of strategy bubbled to the surface before the jury, the last hope of properly presenting the relevant facts to the trier of fact could quickly be obscured by the side show of internecine strife between the defendant and his counsel. United States v. Singleton, 107 F.3d 1091, 1102 (4th Cir. 1987).

Counsel's trial strategy could be ruined at any instant by the defendant's decision to pursue a particular course of action. It is unrealistic to expect counsel and the Defendant to develop the kind of symbiotic relationship that exists between co-counsel when both are attorneys. The very fact that a defendant wishes to present himself often indicates distrust in the attorney's ability and trustworthiness. Hybrid representation would require the attorney to shift gears constantly during the course of litigation, trying to correct past mistakes and anticipate future ones. Moreover, appellate review of a hybrid relationship would be a near impossible task. Rather than simply evaluating performance, an appellate court would be forced to guess at which tasks the attorney undertook (or should have undertaken) and which the defendant wished to perform himself. Of course, most of these decisions would be absent from the official record, making the guessing game a virtually hopeless endeavor.

Similarly, the appointment of **standby counsel** would prove unworkable and would unduly compromise the integrity of the trial process. First, an appointed attorney would be required to spend the time and effort (and the state the expense) of preparing a case. The attorney may or may not ever have to present that case. Second, as in the case of hybrid representation, the attorney's role would be unclear. As an advocate and officer of the court, the attorney might feel compelled to appeal to the defendant or the court to be permitted to step in any time the defendant makes a poor trial strategy decision. Is standby counsel obligated to do so? On the other hand, undue zeal in trying to persuade a defendant to accept a particular course of action would run the risk of overstepping the bounds of standby status in violation of Faretta and McKaskle. Finally, providing a fully prepared standby counsel to a *pro se* defendant invites abuse of the system. Such an arrangement allows defendants to have it both ways. A defendant can proceed *pro se* and if it does not work out, can toss the responsibility back across the table any time. The extensive colloquy and warnings given to a defendant before allowing him to proceed *pro se* is undertaken precisely because that choice can have dire consequences. By supplying a state funded safety net to avoid those consequences, a court would extend to the *pro se* defendant an extra benefit to which he is not entitled and which would unduly tax the judicial system, to say nothing of the peer lawyer who finds himself between the devil and the deep blue sea.

Advisory counsel, unlike the above-described arrangements, provides for both clarity as to an attorney's role and meaningful assistance to the defendant and trial judge. The defendant would have sole responsibility for trying the case but would be able to avail himself of the attorney's legal expertise as needed. The trial judge could avoid length and disrupted legal lectures from the bench by directing advisory counsel to explain various points of law. In evaluating counsel's performance, an appellate court would have the benefit of a clear standard: did counsel adequately explain the law on the issue raised to him by the defendant or the court?

To the extent that State v. Sanders, 269 S.C. 215, 237 S.E.2d 53 (1977), recognizes any "right" to the assistance of counsel for a *pro se* defendant, appointment of advisory counsel adequately facilitates the enjoyment of that right. The advisory counsel arrangement achieves the optimal balance of fairness to the defendant, preservation of the integrity of the judicial process, and setting a clear standard for attorney performance that can be meaningfully reviewed by the appellate court.

ORDER

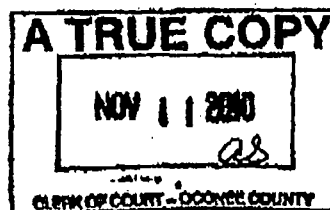
The Defendant is scheduled for trial the week of December 13, 2010 before the Honorable J. Cordell Maddox, Jr. Mr. Tavernier shall be present during the trial of this case. Prior to that time, Mr. Tavernier shall continue to make periodic visits to the defendant and shall furnish such advice and assistance in non-legal matters. Regarding matters which would conflict with Mr. Tavernier's ethical obligations, Mr. Tavernier is not obligated to comply. While the defendant has requested to represent himself *pro se*, Mr. Tavernier is ordered to continue to prepare for trial. Therefore, in the event that the defendant changes his mind and decides to allow Mr. Tavernier to represent him, it will not be grounds for a delay. Mr. Tavernier shall not be responsible for providing the Defendant any unsolicited advice. As "lead counsel" the Defendant himself may petition this court to resolve any conflict that may arise.

The defendant has filed numerous motions with the Oconee Clerk of Court's Office without providing copies to Mr. Tavernier. The defendant is hereby ordered to give Mr. Tavernier a copy of any and all documents that he files with the Oconee County Clerk of Court's Office. The Oconee County Solicitor's Office is also ordered to provide a copy to Mr. Tavernier of any and all documents that the defendant sends to them.

IT IS SO ORDERED.

November 8, 2010
Anderson, S.C.


The Honorable J. Cordell Maddox, Jr.
10th Circuit Court Judge



FILED
CLERK OF COURT
2010 NOV 15 P 4:38

State of South Carolina

County of Oconee

In the Court of General Sessions

State of South Carolina,

Plaintiff,

-vs-

Dennis Temple,

Defendant.

2010-GS-04-0886, 0889

December 7, 2010

Transcript of Record

BEFORE:

The Honorable J. Cordell Maddox, Jr., Judge

APPEARANCES:

Christina Adams, Esquire
Solicitor for Tenth Judicial Circuit
Lindsey Simmons, Esquire
Assistant Solicitor for Tenth Judicial Circuit
Attorneys for the State

Kurt Tavernier, Esquire
Attorney for the Defendant

Renee H. Tollison
Circuit Court Reporter

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1 December 7, 2010

2 (WHEREUPON, court convened with all parties present
3 and the following proceedings were had commencing at
4 approximately 2:55 p.m.)

5 THE COURT: All right. We're on the record in
6 the matter of the State versus Temple. We've got a good
7 many motions to take up today in preparation for the
8 trial next week in Oconee. It looks like I've got
9 probably six or eight motions filed by Mr. Temple, and I
10 also have two filed by the State. I'd like to do the
11 State's first if that would be all right with you.

12 Mr. Temple, have you got any more motions that you
13 filed that I might not have? You sent everything to the
14 Clerk's office up there?

15 MR. TEMPLE: I have about three other motions
16 that I would like to file that I've not filed with the
17 Clerk.

18 THE COURT: Okay. What I'm going to do is let
19 the State go first, and then I'll let you do it. At the
20 end of the ones -- we're going to -- I'm going to go
21 through the list I have of yours, and then we'll do a
22 cleanup after all of those and figure out how many more
23 you've got, okay?

24 MR. TEMPLE: All right.

25 THE COURT: All right. Yes, ma'am?

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1 MS. SIMMONS: Thank you, Your Honor.

2 THE COURT: I have two motions filed by the
3 State; is that right?

4 MS. SIMMONS: Yes, Your Honor. The State filed
5 two motions yesterday in this matter. They were served
6 on Mr. Temple at Oconee County Detention Center. We
7 first filed a motion in limine regarding South Carolina
8 Code Section § 16-3-659, and that would be what is
9 commonly know as the South Carolina Rape Shield Statute.

10 THE COURT: Right.

11 MS. SIMMONS: Under subsection two of that
12 statute, we have not received notice from Mr. Temple, as
13 required by the Statute, that he intends to offer any
14 evidence of the victim's prior sexual conduct,
15 reputation, or specific instances of prior sexual
16 conduct. We would ask for an order from this Court
17 prohibiting Mr. Temple from going into that.

18 There's a pretty strict test on this issue. And our
19 SLED testing indicated only one profile exists for the
20 swabs taken as a result of this sexual assault. Any
21 introduction by the Defendant of any other specific
22 evidence -- specific instances of sexual activity by the
23 victim would be solely for prejudicial purposes in front
24 of the jury.

25 THE COURT: All right. All right. Mr. Temple,

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1 you don't have to stand because I know it's uncomfortable
2 for you. And if Renee can't hear you, I may ask you just
3 to speak up.

4 Their motion -- basically they're asking me to rule
5 that you cannot introduce any evidence of other sexual
6 acts on the part of the victim in this case. I suspect
7 what they're telling me is that you don't -- haven't told
8 them you're going to do that. But I need to know if you
9 intend at any time to try to offer that kind of evidence
10 in the court next week.

11 MR. TEMPLE: No, sir, not -- well, besides the
12 D.N.A. test and the sexual assault protocol that was
13 taken of the victim ---

14 THE COURT: Right.

15 MR. TEMPLE: --- during admission in the Oconee
16 County Memorial Hospital -- besides that, that's it.

17 THE COURT: Okay.

18 MS. SIMMONS: Judge, that's precisely why I
19 filed this motion. There is consensual sexual activity
20 by the victim where contraception was used the day
21 before. There is no evidence of a second party present
22 in the samples that were submitted to SLED. I don't want
23 to get into a situation where on cross-examination of
24 her, he asks her about the specific instance of that
25 because it is prejudicial..

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1 THE COURT: All right. Is that what you intend
2 to do?

3 MR. TEMPLE: Well, Your Honor, as I just
4 stated, it is a part of the protocol during an alleged
5 rape case. I mean, the State is asking to exclude that
6 matter when it's pertinent. It's very important in this
7 situation. I also think that it's not inflammatory and
8 it's not prejudgment -- it's not outweighed by the
9 probative value. It's not.

10 I mean, the victim stated her -- she stated this
11 information to the nurse, which, like I said, it's part
12 of the sexual protocol. Any victim that alleges rape
13 will answer to these questions. I mean, it's clearly
14 noted in the protocol.

15 THE COURT: All right. But that's part of the
16 protocol. South Carolina law doesn't allow you to ask
17 those questions. It's very clear if you've read the
18 statute that you -- that those questions can't be asked
19 unless there's a certain burden met.

20 Can you put on the record what the burden is just so
21 it's on the record?

22 MS. SIMMONS: Yes, Your Honor. Specific
23 instances of sexual conduct with persons other than the
24 Defendant can be introduced to show the origin or source
25 of semen, pregnancy or disease about which evidence has

1 been introduced previously at trial if the judge finds
2 that such evidence is relevant to a material fact and
3 issue in the case and that its inflammatory or
4 prejudicial nature does not outweigh its probative value.

5 THE COURT: Okay.

6 And Mr. Temple, what I've got to decide is how
7 evidence of consensual sexual activity with contraceptive
8 -- contraception would in any way be relevant to the
9 incident that you're charged with.

10 MR. TEMPLE: Well, Your Honor, let me state
11 this. That the showing that the alleged victim had
12 sexual intercourse that same day -- you have to remember,
13 now, that the prosecution is intending to prove -- well,
14 she has to prove beyond a reasonable doubt that there was
15 aggravated battery and also that there is penetration. I
16 mean, this right here shows that there was penetration
17 involved by another party. So why -- if you exclude this
18 from the evidence, then you put the burden on me to prove
19 that I didn't, you know -- you put the burden on me, in
20 other words, and exclude the State from the burden.

21 And the law of § 16-3-6951 states clearly that --
22 says, however, the evidence of the victim's sexual
23 conduct with the Defendant or the evidence -- specific
24 instances of sexual activity with a person other than the
25 Defendant introduced to show the origin of the semen.

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1 Well, I intend to show the origin of penetration that was
2 not caused by me or caused by -- you know, alleged by me.

3 THE COURT: All right. What do you have D.N.A.
4 wise regarding ...

5 MS. SIMMONS: Your Honor, SLED conducted
6 testing regarding the D.N.A. sample in this case. It was
7 submitted, and there was one profile developed from the
8 swabs collected at the rape -- the rape kit. It was a
9 semen profile, and the SLED results indicate that it is a
10 one in three hundred and thirty trillion match to the
11 Defendant. There is no evidence of another contributor
12 to the sample.

13 THE COURT: None at all?

14 MS. SIMMONS: None at all.

15 THE COURT: Okay.

16 MR. TEMPLE: Well, Your Honor, there was also
17 evidence that it was a third-party there in the D.N.A.
18 test. I mean, it was just not two parties. It was three
19 -- it was three people involved, and the forensic exclude
20 the alleged victim.

21 THE COURT: What evidence is there that there's
22 another person?

23 MR. TEMPLE: D.N.A.

24 THE COURT: What evidence in the D.N.A.?
25 They're telling me there's one profile.

1 MR. TEMPLE: It was -- the victim alleged that
2 she was -- after the assailant had sexual intercourse and
3 had made orgasm, that he tried to clean her out and that
4 he used a rag -- she stated that he dipped the rag in
5 cleaning solution and ---

6 THE COURT: You're talking about what the
7 victim said that -- what you're charged with doing?
8 You're not talking about -- a third person. In other
9 words, there's not a third person, you're just denying it
10 was you, so there had to be a third person; is that
11 right?

12 MR. TEMPLE: I don't quite understand.

13 THE COURT: Well, you said that there was
14 another person involved, and she's telling me that
15 there's only one profile in the D.N.A. What I'm
16 understanding you to say is that your position is that
17 the victim's allegations of what the perpetrator did,
18 you're denying those allegations, so there had to be a
19 third person.

20 I'm just trying to understand your argument so I can
21 rule. You don't have any evidence of a third person.
22 You're just saying it wasn't you, so there had to be
23 somebody else, right?

24 MR. TEMPLE: Well, no. I'm saying that -- I'm
25 saying that there was more than the -- the D.N.A. test

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1 clearly state that there was more than three people
2 involved and that there was a mixture of D.N.A. between
3 two other parties that excluded the victim.

4 THE COURT: All right. And you're telling me
5 that there is no mixture?

6 MS. ADAMS: Your Honor, if I may, I think he's
7 confused. For the semen from the sexual assault kit,
8 there was only one individual. And that was the match,
9 one in three hundred and thirty trillion, to Mr. Temple.
10 What he's referring to, there was a piece of clothing.
11 There was a hood found in the victim's car that had been
12 abandoned, and we tested that for D.N.A. And the
13 swabbings of that hood, that doesn't even belong to the
14 victim that was found in her car, had a mixture of at
15 least three individuals.

16 THE COURT: Okay. Is that what you're talking
17 about Mr. Temple?

18 MS. ADAMS: So he's talking about different
19 items, not the actual rape kit.

20 THE COURT: Okay. Anything else on this issue?

21 MR. TEMPLE: I'm not quite clear on this issue,
22 Your Honor. It's not quite clear because the D.N.A. test
23 shows otherwise.

24 THE COURT: Okay. All right. What I'm going
25 to do is I'm going to grant your motion. I don't find

1 that based upon -- now, obviously things change based
2 upon what I hear at trial, and so I won't foreclose that.
3 But based upon what the State's telling me today, there's
4 only one D.N.A., there's only one profile. And so I'll
5 grant your motion regarding specific instance of the
6 victim's sexual conduct, reputation, et cetera. I don't
7 think that has anything to do with this, especially the
8 -- anything that may have occurred the day before. So
9 what I'm telling you is, Mr. Temple, you can't get into
10 that evidence in your questions.

11 All right. And that's pretty clear-cut unless
12 there's some -- the only reason it wouldn't be clear-cut
13 is if you had a D.N.A. sample that came back -- and I'm
14 talking about the D.N.A. from the profile kit, not any
15 other items that might have been found -- that might have
16 a mixture of two or three D.N.A. That would be a
17 different story. Obviously, there isn't anything. So
18 I'm going to grant your motion on that. Both sides are
19 prohibited from asking ---

20 MR. TEMPLE: Your Honor?

21 THE COURT: Yeah. Hold on.

22 MR. TEMPLE: I'm sorry. I'm sorry.

23 THE COURT: Let me finish what I'm going to
24 tell you, and then I'll let you talk. Both sides are
25 prohibited from asking any questions regarding the

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1 victim's sexual conduct, reputation or any other
2 questions in that regard or in that genre.

3 All right. Yes, sir?

4 MR. TEMPLE: Am I allowed to object to your
5 order? Because I think it's -- I think it's prejudice --
6 it's prejudice to my case, my whole case.

7 THE COURT: You can -- well, obviously, on an
8 appeal, I feel certain that you're going to object to my
9 order. That's what every lawyer does that doesn't agree
10 with me. But you can object. I mean, we're doing this
11 on the record.

12 Here's the problem, Mr. Temple. And we're going to
13 get into this in the end. The problem is you're
14 representing yourself. I have to hold you to the same
15 standards I would hold any lawyer. In other words,
16 you're presumed to know the rules of evidence. You're
17 presumed to understand that when I issue a ruling from
18 the bench -- and I'm going to have a bunch of them.
19 You're presumed to understand that, quite frankly, inside
20 these four walls, what I say goes. And that's just the
21 way it is.

22 MR. TEMPLE: Okay.

23 THE COURT: So you know, you need to understand
24 that. But, yeah, you're protected. All of this is on
25 the record. At some point, the Court of Appeals, I'm

1 sure, will take this up and determine whether or not I
2 ruled correctly. So, yeah.

3 All right. What's your second motion of third-party
4 guilt?

5 MS. SIMMONS: Yes, Your Honor. We filed a
6 motion in limine yesterday regarding Defense introduction
7 of third-party guilt. This motion was filed out of an
8 abundance of caution. We have not received any evidence
9 from Mr. Temple that he plans to introduce third-party
10 guilt in this matter. However, we wanted to make sure
11 that he is on notice that the standard from *State v.*
12 *Gregory*, 198 S.C. 98, is that evidence offered by the
13 Defendant about the commission of a crime by another is
14 limited to facts consistent -- inconsistent with his own
15 guilt and which raise a reasonable inference as to his
16 innocence. Evidence that casts merely a bare suspicion
17 on another party is not enough.

18 And he -- the burden is on him to establish a train
19 of facts or circumstances that will point out another
20 person as a guilty party. Unless Mr. Temple can meet the
21 burden of that train of facts and circumstances pointing
22 a third party, we would ask for an order from this Court
23 precluding him from introducing third-party guilt that
24 will merely cast suspicion on another party.

25 THE COURT: Okay. All right. Mr. Temple, what

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1 she's doing -- this happens in a lot of cases. And it's
2 up to me to have to determine whether you've met your
3 burden. Do you intend to introduce any facts that would
4 point the finger, in other words, at another party? In
5 other words, someone else as the person that did this.
6 Do you have any facts that would intimate that would be
7 true?

8 MR. TEMPLE: Well, I have -- there is evidence
9 that there was -- well, like I say, from D.N.A. tests,
10 that there was more than two participants in this alleged
11 -- allegation of criminal sexual conduct. I think that
12 this information, these facts that -- or scientific
13 discovery is relevant to the case and should not be
14 excluded. Those are the only issues that I intend to
15 present.

16 THE COURT: Okay. So you intend -- I mean,
17 look, my ruling wouldn't prohibit you from asking a SLED
18 D.N.A. person or a police officer, was there other D.N.A.
19 found on a hat in your car? That's not the issue. The
20 issue is are you going to stand up and say, I didn't do
21 this, he did it?

22 MR. TEMPLE: Oh, no, sir.

23 THE COURT: All right. So you don't have
24 anybody else that you are going to take the position --
25 you're not going to take the position that there is a

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1 specific person that you know of that did this?

2 MR. TEMPLE: No, sir.

3 THE COURT: All right. That's fine. I'm not
4 going to -- I mean, I'll have to make the decisions on
5 the fly about whether or not your questions are relevant
6 when you ask them, but I'm going to allow you the same
7 latitude that I would allow a lawyer under cross-
8 examination. Okay.

9 All right. Any other matters from the State?

10 MS. SIMMONS: Not at this time, Your Honor.

11 THE COURT: Okay.

12 All right. Well, let's go through this list. All
13 right. Mr. Temple, the first motion I've got was your
14 motion to suppress the sexual transmitted disease testing
15 order issued by Judge McIntosh.

16 MR. TEMPLE: The first -- that was the first
17 that you got?

18 THE COURT: Well, that's not the -- I'm not
19 talking about -- that's the first thing I'm going to take
20 up. I've got them all here. I've got -- let me just
21 tell you what I've got. I've got that motion. I've got
22 a suppression of the lineup, a search warrant
23 suppression, an arrest warrant suppression, a request for
24 an injunction or a declaratory judgment against the jail,
25 a motion to suppress D.N.A. testing conducted pursuant to

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1 my Schmerber order, a motion to dismiss the indictments
2 and a motion to compel discovery. That's what I have.
3 And I understand you may have three more. But let's
4 start with the motion to suppress the S.T.D. order
5 because I'm really going linearly from the first order.

6 So Judge McIntosh apparently ordered testing for
7 sexually transmitted disease; is that right?

8 Is that right from the State?

9 MS. SIMMONS: Yes, Your Honor.

10 THE COURT: All right. Do you have any problem
11 with that order? You filed a motion that you want me to
12 suppress it, so now's the time for you to tell me why I
13 should.

14 MR. TEMPLE: Yes, Your Honor. With that
15 specific state statute § 16-3-740, it was in violation of
16 my Fourth, Fifth, and Fourteenth Amendment.

17 THE COURT: Why?

18 MR. TEMPLE: Why? Specifically, because the
19 order required a showing of probable cause in this case
20 that me, the alleged victim -- I mean, alleged assailant
21 committed a crime. Based upon the arrest warrants, they
22 was issued in violation of the Fourth Amendment. The
23 arrest warrants, all three arrest warrants. The arrest
24 warrants never connected me to any criminal activity.
25 They never connected the storage room that the victim

1 alleges she was -- the victim and the police allege that
2 she was taken out of; never connected that. Never
3 connected me to the storage room as well, which the
4 Fourth Amendment requires a connection.

5 The Fourth Amendment states, the right of the people
6 shall be secure in their persons, house, papers and
7 effects against unreasonable search and seizure, shall
8 not be violated and no warrant shall issue but upon
9 probable cause supported by oath or affirmation, and
10 particularly describing the place to be searched and the
11 person or things to be seized. I mean, it clearly states
12 -- and then you would go to case law on, I believe it's
13 Ward versus -- Ward ---

14 THE COURT: So basically you're telling me that
15 the order from Judge McIntosh that required S.T.D.
16 testing violated your Fourth Amendment right?

17 MR. TEMPLE: Well, a requirement to get the
18 test, get the order.

19 THE COURT: Right.

20 MR. TEMPLE: You must show probable cause.

21 THE COURT: Right.

22 MR. TEMPLE: Okay. It's also a requirement
23 that the State get a written consent from the victim or
24 the victim's guardian and -- what is another requirement
25 of it? Another requirement is -- probable cause --

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1 there's at least one more requirement.

2 THE COURT: All right. Well, so basically
3 you're arguing the Fourth Amendment prevented it and
4 you're including in that the penumbra of the Sixth and
5 Tenth and everything else, right?

6 MR. TEMPLE: Well, also that the State did not
7 present me with a copy of the first D.N.A. test that was
8 taken which is a requirement to get another one. I mean,
9 if the State didn't satisfy those first ---

10 THE COURT: Well, this is the S.T.D. test.

11 MR. TEMPLE: § 16-3-740.

12 THE COURT: Right. The sexually transmitted
13 disease test is what we're talking about now, not the
14 D.N.A. That was what your motion was to suppress Judge
15 McIntosh -- he must have issued an order testing, I
16 assume, all parties for -- testing you for a sexually
17 transmitted disease. And I don't know what it showed at
18 this point.

19 MR. TEMPLE: Not only that, Your Honor, most of
20 all, though, I was not represented by counsel which is
21 also a requirement.

22 THE COURT: Okay.

23 Yes, ma'am, what's y'all's position on that?

24 MS. SIMMONS: Judge, back when we did the
25 S.T.D. testing order before Judge McIntosh, the Defendant

1 was given notice pursuant to the statute that the hearing
2 was going to occur. My notice to him specifically said,
3 if you do not have a lawyer or wish to get a lawyer,
4 please do so. This is when you're going to have this
5 hearing. He came to this hearing, he waived counsel
6 multiple times on the record. Judge McIntosh inquired to
7 him multiple times if he wanted an attorney present. I
8 called Sergeant Scott Arnold, the chief investigative
9 officer in this case, who offered sworn probable cause
10 testimony on the issue, and Judge Maddox issued -- Judge
11 McIntosh issued the S.T.D. testing order.

12 Personally, the State is not -- the State maintains
13 that that order is valid. However, we went later, out of
14 an abundance of caution, when Mr. Temple did have
15 counsel, and sought the *Schmerber* order. The sample that
16 was obtained from the *Schmerber* order with Judge
17 Macaulay, again, finding probable cause that this
18 Defendant had committed these acts, that is what we will
19 proceed on at trial. That is SLED sample six, and that
20 is the standard to which the rape kit collected from the
21 victim was compared.

22 THE COURT: So do you even need the first
23 S.T.D. testing?

24 MS. SIMMONS: Judge, we are not planning to
25 introduce any evidence of the Defendant's sexually

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1 transmitted disease status at this trial.

2 THE COURT: Okay. All right. Then I'll grant
3 your motion to suppress it. It's got going to be needed.
4 But I mean, we need to deal with all this now so we're
5 not dealing with it next week.

6 MR. TEMPLE: Okay. Another issue too as well
7 as the motion to suppress that *Schmerber* hearing as well.
8 It was in violation.

9 THE COURT: All right. Well, let's go ahead
10 and deal with that now. You think it was in violation
11 for the same reason, the Fourth, Sixth, Tenth Amendment
12 and ---

13 MR. TEMPLE: Your Honor, any way I could have
14 -- I need to get to my work, paperwork, a little better
15 than what I am.

16 THE COURT: No. You can sit down. Sit down.
17 You don't have to stand up. I mean, like I said,
18 normally anybody that speaks -- and next week we're going
19 to have to deal with that. We're going to talk about
20 what we're going to do to keep it from being a circus at
21 the end of this, but we've got to -- I'll let you sit
22 this time. Most of the time, anybody that speaks has to
23 stand up. But you're all right now.

24 All right. What about *Schmerber*?

25 MR. TEMPLE: The *Schmerber* hearing. Well, like

1 I said, the first D.N.A. test, § 16-3-740 was not
2 satisfied. And at that time, when the *Schmerber* hearing
3 came around, you gave me Mr. Tavernier here as my lawyer.
4 Before me and Mr. Tavernier had even gone to court in
5 reference to the *Schmerber* hearing, I faxed Mr. Tavernier
6 here ---

7 THE COURT: Mr. Tavernier. Tavernier. Just
8 for the record.

9 MR. TEMPLE: Mr. Tavernier.

10 THE COURT: Yeah.

11 MR. TEMPLE: --- information. I tell him what
12 I want exactly done. I told him to put up a defense for
13 the *Schmerber* hearing. I also told him, advised him
14 about motioning to dismiss the indictments in reference
15 to ---

16 THE COURT: Right.

17 MR. TEMPLE: --- vindictive prosecution, speedy
18 trial, 1974, Sixth Amendment and based upon South
19 Carolina Rules of Criminal Procedures, Rule -- for the
20 indictments. My request was disregarded by the attorney.
21 And as you are well aware ---

22 THE COURT: Go ahead. I just want to be able
23 to see you when I sit back, so go ahead.

24 MR. TEMPLE: As you're well aware, I also filed
25 a motion to dismiss Mr. Tavernier for threats and

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1 likewise.

2 THE COURT: Right.

3 MR. TEMPLE: So just from my evidence shows
4 that he was notified before he even went to the hearing
5 to put up a defense in reference to the D.N.A., which the
6 defense was there was no probable cause. Also, and the
7 State failed to satisfy the requirements of the first
8 D.N.A. testing. So it would be, I think, prejudice to
9 issue another order on behalf of the State when they
10 didn't satisfy the first requirement, two defenses, Your
11 Honor.

12 THE COURT: Okay. Yes, ma'am?

13 MS. SIMMONS: Judge, to give you a factual
14 background, the *Schmerber* motion in this case was
15 originally scheduled before Your Honor when the Defendant
16 had different counsel. He dismissed that counsel, and it
17 was subsequently rescheduled before Judge Macaulay in
18 Oconee.

19 After adequate notice to the defense, after you had
20 appointed Mr. Tavernier, Judge Macaulay conducted a
21 *Schmerber* hearing in Oconee on September 22nd of 2010.
22 At that time, he considered argument from the prosecution
23 as well as the previous sworn testimony that had
24 established probable cause. And he again ruled there was
25 probable cause to be found that the Defendant committed

1 this act and ruled there was clear indication material
2 evidence would be found as a result of obtaining this
3 Defendant's blood sample. Mr. Tavernier was acting as
4 the Defendant's counsel at the time. He conceded on the
5 record there was not a good faith argument to contest the
6 *Schmerber* motion.

7 The State has fully established the elements of
8 probable cause on more than one occasion. This Defendant
9 -- the officer testified this Defendant was picked out of
10 a photo lineup by the victim. He was picked out of a
11 photo lineup by the storage unit manager. He is the
12 renter of the storage unit, and we have ownership
13 documents linking him to this storage unit. Clearly, Mr.
14 Temple had the opportunity to have a *Schmerber* hearing.
15 He -- Judge Macaulay fully understood the facts in this
16 case when he found probable cause, and we believe the
17 order's valid.

18 THE COURT: Okay.

19 MR. TEMPLE: Your Honor, that does not satisfy
20 the requirements of probable cause when you're issuing a
21 warrant. I mean, the affidavit that was used to support
22 the warrant clearly did not state my name. It did not
23 state the storage unit that criminal activity was
24 allegedly taking place at. It did not connect me. The
25 affidavit, that's what is relevant, Your Honor. Any

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1 outside information, according to the Supreme Court, is
2 irrelevant to the case, to the cause, to have probable
3 cause.

4 THE COURT: Do y'all have the affidavit with
5 you?

6 MS. SIMMONS: The warrants, Your Honor?

7 THE COURT: Well, yeah, and the -- whatever
8 he's talking about. The affidavit or the warrant, yeah.

9 MS. SIMMONS: Judge, I believe he's moved on to
10 arrest warrants now.

11 THE COURT: Well, yeah. But I don't want to do
12 that. I want to keep it straight. I'm going to be as
13 patient as I can possibly, in my heart, be with
14 everybody, and I'm going to keep it straight. So we're
15 talking about *Schmerber*, but you're talking about the
16 warrant. I just want to look at it.

17 MR. TEMPLE: Yeah.

18 MS. SIMMONS: Yes, Your Honor. I'll be happy
19 to pass that up.

20 MR. TEMPLE: Please do, Your Honor.

21 MS. SIMMONS: May I approach?

22 THE COURT: Yeah. Oh, yeah.

23 (WHEREUPON, Ms. Simmons handed up document to the
24 Court.)

25 MR. TEMPLE: Your Honor, I also have a relevant

1 case law.

2 THE COURT: You what?

3 MR. TEMPLE: A relevant case law.

4 THE COURT: All right. Hold on just a second.

5 Let me read it.

6 (Pause while the Court reviewed document.)

7 THE COURT: Okay. If you've got some case law,
8 hand it up.

9 MR. TEMPLE: I would like to present you with
10 *Illinois v. Gates*, and *Unger v. Texas* (phonic) as well,
11 but I didn't bring it.

12 THE COURT: All right. His issue is that the
13 warrant's not supported by probable cause. What's
14 y'all's position on that?

15 MS. SIMMONS: Judge, *Thompson v. State* -- of
16 course, we allege that the warrant is supported by
17 probable cause. An arrest warrant is issued on
18 information and belief. It need not set forth the source
19 of the information or the specific grounds of the belief.
20 And that's *Town of Mayesville v. Clamp*, 149 S.C. 346,
21 from 1929.

22 Further, once the Defendant's been indicted by the
23 Grand Jury, even if there's problems with the arrest
24 warrant, the General Sessions Court has jurisdiction over
25 this Defendant. And that *Thompson v. State*, 251 S.C.

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1 593, from 1968.

2 THE COURT: Okay.

3 All right. Mr. Temple, here's the problem. And you
4 keep going back to the probable cause for the arrest, and
5 you seem to be hanging your hat on all of these
6 successive motions based upon the fact that you shouldn't
7 have been arrested in the first place, based upon the
8 fact that the warrants were issued based upon affidavits
9 that weren't sufficient under the Fourth, Sixth and Tenth
10 Amendment. Okay? I mean, that's what I'm hearing in all
11 these motions. You keep going back to that. The problem
12 is that at this point, while it'll be relevant on any
13 appeal if there's an appeal -- and if you're convicted,
14 you, of course, can appeal, and that could be one of your
15 issues. But you've had at least two judges other than me
16 who've been involved in this case that have found
17 probable cause.

18 Is that correct? At least.

19 MS. SIMMONS: Yes, Your Honor. Probable cause
20 was found by Judge McIntosh, Judge Macaulay. And he even
21 received a preliminary hearing when he was represented by
22 counsel, and probable cause was found and we were bound
23 over for Grand Jury.

24 THE COURT: Okay. So basically those issues
25 are what they are now and, again, will be an issue for an

1 appeal. So to the extent that the *Schmerber* hearing was
2 not based -- that the order resulting from the hearing
3 was not based on probable cause, I'm going to deny your
4 motion there.

5 MR. TEMPLE: Well, Your Honor, what about the
6 other issue? The issue with the attorney. I mean, even
7 if -- even if the State alleged that there was probable
8 cause, which there's clearly not -- I mean, according to
9 the case and the Fourth Amendment, there should have been
10 an establishment of a connection of me to the crime,
11 which the affidavit that you have in hand clearly does
12 not mention me or any criminal activity that connected me
13 to the storage unit. I mean, to -- it's clear. But I
14 understand. Okay, appeal. All right. Appeal.

15 THE COURT: No. I'm going to -- like I said,
16 I'm going to treat this -- I'm going to do it just the
17 way we always do it.

18 What's y'all's position on that?

19 MS. SIMMONS: Judge, there was sworn -- there
20 was argument by prosecution as well as prior sworn
21 testimony for probable cause before Judge McIntosh on the
22 issue of the *Schmerber*. I believe that he is misplacing
23 his argument on the probable cause of the arrest warrants
24 with the *Schmerber*.

25 THE COURT: Well, I think at this point he's

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1 asking about the probable cause and the arrest warrant
2 too. So if you can just address that again for the
3 record because we need to keep it straight.

4 MS. SIMMONS: Of course, we contend that there
5 is probable cause for the arrest warrant. But once he
6 was indicted by the Grand Jury, any problems with the
7 arrest warrant, if they had existed, have been cured.
8 And that's *Thompson v. State*.

9 MR. TEMPLE: Your Honor, even if that's so, the
10 indictments that was issued, according to the South
11 Carolina Rules of Criminal Procedure, Rule -- let's see.
12 Right here. Rule 3, disposition of arrest warrants,
13 action on the warrant, within ninety days after receipt
14 of an arrest warrant from the Clerk of Court, the
15 solicitor shall take action on the warrant by preparing
16 an indictment. None of this was done within ninety days.
17 These indictments were issued on me ---

18 THE COURT: Okay. All right. We're going to
19 get to the indictments.

20 MR. TEMPLE: --- on the one hundred and
21 eleventh day.

22 THE COURT: All right. We're going to get to
23 the indictments. All right. All right. So what I'm
24 going to do is the *Schmerber*, I'm going to deny your
25 motion there.

1 Now let's go to the lineup. You've filed a motion
2 to suppress, I guess, the results of the lineup? What's
3 your position on that?

4 MR. TEMPLE: Motion to suppress what?

5 THE COURT: The lineup?

6 MR. TEMPLE: Well ...

7 THE COURT: You've got suppression of lineup.
8 I guess you mean you want to suppress the lineup and
9 anything that came from the lineup; is that correct?

10 MR. TEMPLE: Your Honor, you -- yeah. What I
11 want to show you was -- I can't even present my case
12 properly because of these restraints, Your Honor. But
13 the photo lineup that was taken of me, six photos, three
14 of the participants -- two of the participants in the
15 photo are of non -- well, me and another participant of
16 the photo are a darker shade black folks. So the victim
17 alleged in her affidavit it was a black male between a
18 certain amount of age. She didn't really give a -- she
19 didn't give a description besides just black male. Well,
20 according to the Supreme Court, a suspect is -- it's
21 proper that a suspect is aligned with suspects or
22 prospect suspects that meet similar requirements or look
23 similar to me.

24 In this case, like I said, it's four other people in
25 this photo lineup. One guy, he has a high top. The

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1 other three guys, they also are a lighter shade. This
2 right here, according to the Supreme Court, it's -- it
3 draws out identification of someone. I had a --
4 according to this, to the Supreme Court, Your Honor, I
5 had basically a fifty/fifty chance. It was really
6 between me and two guys really instead of me and six
7 guys.

8 THE COURT: Okay. All right. That actually,
9 quite frankly, is a legitimate motion, so let's deal with
10 it.

11 Yes, ma'am?

12 MS. ADAMS: Your Honor, and we are prepared to
13 go forward with that. And we have the officer here that
14 got the photo lineup together, and we're ready to have
15 testimony.

16 THE COURT: All right. I've got to take a
17 five-minute break.

18 MS. ADAMS: Okay.

19 THE COURT: And then what we're going to do,
20 call the officer up, and I'm going to let you question
21 him, okay?

22 MS. ADAMS: And we have the victim here as
23 well, Your Honor.

24 THE COURT: Okay. We're going to deal with it,
25 and we're going to get through it today. I'll be right

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1 back. Five minutes. Take a break.

2 (WHEREUPON, court stood at recess for a short
3 break.)

4 THE COURT: Thanks. Have a seat. Sorry about
5 that.

6 All right. Yes, ma'am. We're dealing with the
7 lineup now?

8 MS. ADAMS: Yes, sir, Your Honor.

9 THE COURT: Okay.

10 MS. ADAMS: The State calls Lieutenant Greg
11 Reed to the stand.

12 GREG REED,

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MS. ADAMS:

16 Q. Lieutenant Reed, where are you employed?

17 A. Oconee County Sheriff's Office.

18 Q. And how long have you been employed there?

19 A. Twenty-five plus years.

20 Q. Did you have an occasion to conduct a photographic
21 display in this case?

22 A. Yes, I did.

23 Q. Approximately how long after the alleged crime was
24 committed was this display conducted?

25 A. Approximately five hours, I believe.

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1 Q. Okay. Who did you show the photographic display to?

2 A. To the victim, Catherine.

3 Q. All right. Was anyone else present when you showed
4 her this display?

5 A. Yes, there was. There was Vickie Bottom who is a
6 victim's advocate with our department. Also, a rape
7 crisis counselor and a uniform officer, Danielson.

8 Q. Okay. Did they participate or say anything during
9 this time?

10 A. No, they didn't.

11 Q. Okay. Where were you when you showed Catherine that
12 photo display?

13 A. At the Oconee Medical Center.

14 Q. What, if anything, did you tell her before you
15 showed her this display?

16 A. To make it short, I just told her she needed to be
17 one hundred percent positive of any individual that she
18 may or may not point out on the display that I showed
19 her.

20 Q. And did you explain the process, obviously, to her
21 what you were there to do and what you wanted her to do?

22 A. Yes, I did.

23 Q. Okay. How many photos were in that display?

24 A. Six.

25 Q. Okay. And how were they presented to her, one-by-

1 one or all together at the same time?

2 A. They were all placed on a sheet of paper.

3 Q. Okay. Can you please describe the photos that you
4 chose to put in that display?

5 A. They were taken from the Sheriff's Department
6 database using the suspect, Dennis Temple, as the suspect
7 individual. I asked the computer to pick out similar
8 individuals, and which it furnished me with a database at
9 that time. And I picked five other individuals that I
10 believed to be of similar age, all of the same race, with
11 similar characteristics.

12 Q. Okay. So you actually get those photos from a
13 database?

14 A. That's correct.

15 Q. All right. Now, are they -- describe the photos.
16 Like are they face-to-face? Are they black and white or
17 are they color?

18 A. No. They're all full facial photographs.

19 Q. Okay. And they're black and white, correct?

20 A. That's correct.

21 Q. Okay. How about what each of the individuals is
22 wearing? Is that similar?

23 A. Yes. They're all draped with a black cloth, so it's
24 pretty much an upper shoulder and facial shot.

25 Q. Okay. So no really one person would stand out for

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1 clothing?

2 A. That's correct.

3 Q. All right. Describe the individuals in there in the
4 sense of physical description like age, height, weight.

5 A. They're all of similar age. Of course, the height
6 -- the height wouldn't really matter because you're only
7 getting the shoulder and above shot. But all are
8 similar. Like I said, similar age, facial
9 characteristics, skin tone ...

10 Q. Build?

11 A. Build, hair, just -- I make it as close as the
12 database will allow me to.

13 Q. Okay. When you showed this to Catherine, did you
14 try to influence her or suggest to her in any way who to
15 pick out of those photos?

16 A. Absolutely not.

17 Q. Did Catherine select a photo when you showed it to
18 her?

19 A. She did.

20 Q. Okay. About how long did it take her to pick out
21 that picture?

22 A. Actually, once I presented her with the display, she
23 looked at it. And within three seconds, she said, I see
24 him. But I'm going to do what you suggested and really
25 take my time. Nine seconds later, she produced and said,

1 that's him right here. And she pointed to Dennis
2 Temple's photograph.

3 Q. And once she picked out immediately that individual,
4 what did you do?

5 A. I had her to circle the picture, which I had done
6 explained to her. She circled it, date and time and
7 initial.

8 Q. Okay. And whose photo did Catherine select?

9 A. Dennis Temple.

10 Q. And how certain was she of this identification?

11 A. One hundred percent.

12 (WHEREUPON, Court's Exhibit Number 1 was marked for
13 identification only.)

14 Q. Okay. Now, Lieutenant, I'm going to show you what
15 we've marked ...

16 MS. ADAMS: Judge, I've marked it as a Court's
17 exhibit for now.

18 THE COURT: All right. That's fine.

19 Q. ... Court's Exhibit 1. Can you please identify this
20 for the Judge?

21 A. Yes, Your Honor. This is the photographic lineup
22 that was presented to Catherine that night at Oconee
23 Memorial.

24 Q. And that is actually the original one?

25 A. That is the original.

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1 Q. Not a copy?

2 A. No, sir. That is the original.

3 Q. Okay. And this is where Catherine circled the
4 Defendant. And whose initials are those?

5 A. Well, this is actually hers, her signature, the date
6 and time. And then down here at the bottom, I wrote,
7 twelve seconds, and initialed it.

8 Q. Okay. But that was the total time even though she
9 immediately picked it out?

10 A. That's correct. That's the total time.

11 Q. And obviously, Lieutenant Reed, that photographic
12 display has not been altered or tampered with in any way
13 since Catherine picked the Defendant out of that lineup
14 immediately; is that right?

15 A. No, it has not.

16 MS. ADAMS: Your Honor, I have no further
17 questions for Lieutenant Reed.

18 THE COURT: All right. Yes, sir, do you have
19 any questions?

20 MR. TEMPLE: Yes.

21 CROSS-EXAMINATION

22 BY MR. TEMPLE:

23 Q. I would like to ask Mr. Reed how many people would
24 you say that are -- how many black men would you say that
25 are in your database?

1 A. How many black individuals, male individuals, are in
2 the database?

3 Q. Yes. Yes, sir.

4 A. It depends on what characteristics you're looking
5 for. If I was to use another individual with different
6 characteristics than you, there may be seven or eight
7 hundred. Using yours, I'm not sure without looking at
8 the actual -- actually going back to the database and
9 looking.

10 Q. Okay. Would you say that there is more than twelve
11 light skinned, black males in your database?

12 A. I would feel that there would be. Again, I would
13 have to actually look at the database again to see.

14 Q. Are you aware that it's different shades of black
15 males?

16 A. Yes, I am.

17 Q. You are? And you're saying that, yes, there's more
18 than twelve light-skinned black males in your database?

19 A. I would feel like that there would be. Again, I
20 would have to actually look at the database and see.

21 Q. So you're more safely to say yes or more safely to
22 say no to this question?

23 A. Again, I would I have to ---

24 Q. Would you say yes?

25 A. I would have to look at the database. You're asking

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1 me to make a guess is what you're asking me to do.

2 Q. Well, during your -- you've got twenty-five years
3 experience in law enforcement. I mean, that's a lot of
4 experience. I mean, you just ain't came across ---

5 A. If you want me to guess, I'd say yes.

6 Q Okay. Well, let me ask you this. How many black
7 males would you say -- dark-skinned black males that are
8 in your database? Twenty-five years of experience, now.

9 A. I would say there would -- black individuals in our
10 database, that would be in the hundreds I would imagine.

11 Q. All right. So have you done this procedure before?

12 A. Yes, I have.

13 Q. More than ten times?

14 A. Yes, sir.

15 Q. Are you aware that in the photo array lineup that
16 you put together of me as a suspect, you included me with
17 only one dark-skinned male and four other light-skinned
18 males?

19 A. I looked at the lineup very well after I put it
20 together. I printed it out in black and white, and I
21 don't think there's a whole lot of difference in the skin
22 tone.

23 Q. You say you wasn't paying attention?

24 A. No, sir. I'm paying attention.

25 THE COURT: He said there was no difference in

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1 the skin tone.

2 Q. No difference in the skin tone?

3 A. I said very little difference in the skin tone.

4 Q. Well, are you aware that one of the participants in
5 the photo lineup had a high-cut hair like a box fade,
6 which the primary suspect did not have?

7 A. It is impossible to go through in any database and
8 pick out six individuals that are identical. It wouldn't
9 be much use in doing a lineup.

10 Q. But you clearly had -- there was clearly five
11 individuals that had short hair, but one individual had
12 exceedingly longer hair. This right here itself.

13 A. I don't think any of the individuals had exceedingly
14 long hair.

15 MR. TEMPLE: Your Honor, can we show Mr. Reed
16 the photo lineup, please?

17 THE COURT: Sure.

18 MS. ADAMS: I'll get it for you.

19 THE COURT: Yeah. And if you've got one in
20 particular, point it out to him so that he can ...

21 Q. It would be the bottom row on the left, all the way
22 to the left, and the right. The left and the right at
23 the bottom row.

24 MS. ADAMS: So the two next to you?

25 MR. TEMPLE: Right.

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1 Q. Dissimilar features. Well, what about the skin
2 tone, Mr. Reed, with the two photo suspects in the
3 middle? You don't notice a difference between the skin
4 tone between those two and the other four individuals?

5 A. If there is a difference in the skin tone, it would
6 be -- depending on how you would count from left to
7 right, it would be picture number three and picture
8 number six. More than anything, it may be the flash
9 that's used on the camera or how the bounce of the light
10 is in the room when it's taken.

11 As far as the hair, you said a substantial
12 difference or how was it you put it?

13 Q. A difference. Dissimilar, something ---

14 A. Now, you said there was a great difference in the
15 length of hair. The ---

16 Q. A dissimilar.

17 A. The male picture as number six has -- what did you
18 call it? A high cut what?

19 Q. It's called a high top.

20 A. A high top?

21 Q. A high top.

22 A. It looks like his hair may be, I don't know, maybe a
23 half inch long.

24 Q. A half an inch?

25 A. That's what it looks like to me.

1 Q. You say that's the one on the right?

2 A. Number six, if you're counting left to right.

3 Q. Okay. What about the one, the one, the number
4 fourth one if you count from left to right? Wouldn't you
5 also say his hair's a little longer than the primary
6 suspect in that picture?

7 A. Yes. I would say it's slightly longer, yes.

8 Q. Yes, I would say that too.

9 MR. TEMPLE: All right. Your Honor, that's all
10 I have.

11 THE COURT: All right. Anything on redirect?

12 MS. ADAMS: No, sir, Your Honor.

13 THE COURT: All right. Thank you, sir. You
14 can step down. Appreciate it.

15 Call your next witness.

16 MS. ADAMS: Your Honor, the State calls
17 Catherine McGough.

18 CATHERINE MCGOUGH,

19 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MS. ADAMS:

22 Q. Catherine, you are the victim in this case, correct?

23 A. I am.

24 Q. How old are you?

25 A. I'm twenty.

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Catherine McGough - Direct Examination by Ms. Adams

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1 Q. Okay. Did Detective Reed show you a photographic
2 lineup on May the 10th of this year?

3 A. He did.

4 Q. Okay. And where were you when he showed you that
5 lineup?

6 A. I was at the Oconee Hospital.

7 Q. Okay. Do you recall or have any idea about what
8 time that was?

9 A. It was around five o'clock.

10 Q. Okay. Catherine, do you remember the time frame
11 after you were found by the police in the Defendant's
12 storage unit to when you saw that?

13 A. It was about four hours.

14 Q. Okay. What, if anything, did Detective Reed tell
15 you before you looked at those photos?

16 A. To be sure of the person I pick out and to take my
17 time to make sure.

18 Q. Okay. Did anybody else in the room that was present
19 in the hospital when you looked at it participate at all,
20 or was it just you and Greg Reed?

21 A. No one else participated.

22 Q. Okay. And you looked at these six photos that we
23 have just shown, right?

24 A. Yes, ma'am.

25 Q. Okay. How did Greg Reed show you those photos? Did

1 he hand them to you all at once or one-by-one?

2 A. On one sheet.

3 Q. Okay. When was the first time you ever saw the

4 Defendant?

5 A. On May 9th on my way into the storage unit. It was

6 around four-thirty.

7 Q. Okay. And we're talking about All-Safe Storage Unit

8 in Seneca, right?

9 A. Yes, ma'am.

10 Q. Okay. Do you remember what time that was that you

11 got to your storage unit?

12 A. It was about four-thirty.

13 Q. Okay. So it was four-thirty in the afternoon, so it

14 was broad daylight, right?

15 A. Yes, ma'am.

16 Q. Okay. When did you first notice the Defendant while

17 you were at the storage unit?

18 A. When I was coming into the storage, I noticed he was

19 leaving.

20 Q. Okay. So he was on foot?

21 A. Yes.

22 Q. Okay. What made you notice him?

23 A. I thought it was strange that someone would be

24 walking around without any possessions and without a car

25 in the storage unit.

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Catherine McGough - Direct Examination by Ms. Adams

1 Q. Okay. Did he say anything to you, or did you have
2 any contact with him at this time?

3 A. No, ma'am.

4 Q. Okay. When did you see him again?

5 A. He approached me at my storage unit a few minutes
6 later.

7 Q. Did he say anything to you at this time?

8 A. He greeted me and we had a conversation.

9 Q. Okay. How long did that conversation last?

10 A. A few minutes.

11 Q. So were you face-to-face and able to look at him
12 during this conversation?

13 A. We were a few feet apart, yes.

14 Q. Okay. What did you observe about him while you were
15 talking this first time?

16 A. I noticed his face and his voice and what he was
17 wearing.

18 Q. And all -- again, Catherine this is all outside at
19 about four-thirty in the afternoon with plenty of light,
20 correct?

21 A. Yes, ma'am.

22 Q. All right. When he first attacked you, Catherine,
23 just a few minutes later after this first initial meeting
24 and conversation took place, how close was he to you
25 during that attack?

1 A. His face was inches away from mine.

2 Q. Okay. And during that attack and your struggle,
3 were you able to get a good look at him?

4 A. Yes, ma'am. A very good look.

5 Q. Okay. Once he got you from your storage unit to his
6 storage unit, were you also able to look at him?

7 A. Yes. There was enough light in the storage unit to
8 see him.

9 Q. So when you first were forced into his unit, it was
10 still broad daylight and there was plenty of light,
11 correct?

12 A. Yes, ma'am.

13 Q. Okay. And when you first found yourself even in his
14 storage unit, there was plenty of light coming in,
15 correct? In other words, you think that the door to his
16 unit was even still open, right?

17 A. Yes. I got a very good look again.

18 Q. Okay. Now, Catherine, during the actual sexual
19 assault, were you also able to get a good look at him?

20 A. Yes, ma'am.

21 Q. Okay. How close was he to you during that?

22 A. At points, inches away.

23 Q. Was there light in the unit at that time?

24 A. Yes.

25 Q. Now, was the door to the unit closed at that time?

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Catherine McGough - Direct Examination by Ms. Adams

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1 A. Yes.

2 Q. But was it still daylight outside?

3 A. Yes. There was enough light to see well.

4 Q. So the light was still coming in through the closed
5 door?

6 A. Yes.

7 Q. Okay. Now, Catherine, you were locked in there for
8 approximately nine hours we know. During those nine
9 hours, how much of that were you -- how much time were
10 you able to get a good look at the Defendant?

11 A. At least an hour.

12 Q. Okay. When you looked at this lineup, Catherine --
13 I want to show it to you, Court's Exhibit Number 1 -- is
14 this the lineup that Lieutenant Reed showed you?

15 A. It is.

16 Q. Okay. And is that your signature?

17 A. Yes, it is.

18 Q. Okay. And is that the person that you picked out?

19 A. Yes, it is.

20 Q. Okay. Is the person that you picked out in this
21 lineup in this courtroom right now?

22 A. Yes, it is.

23 Q. And where is he?

24 A. He's sitting there.

25 Q. Okay. So it is the Defendant that you're referring

1 to, right? Mr. Temple?

2 A. Yes.

3 Q. Catherine, how sure are you that that is the man who
4 attacked you that day?

5 A. I am one hundred percent positive.

6 Q. Catherine, I don't have any other questions right
7 now. Please answer anything the Defendant may have,
8 okay?

9 THE COURT: All right. Yes, sir. Any
10 questions?

11 MR. TEMPLE: Yes.

12 CROSS-EXAMINATION

13 BY MR. TEMPLE:

14 Q. Ms. McGough, is it true that -- is it true or is it
15 not true that the initial contact that you allege, wasn't
16 that -- wasn't it twenty to forty feet you say you first
17 -- y'all was apart? You and the assailant?

18 A. We were feet away.

19 Q. Forty to -- twenty to forty feet?

20 A. No. Conversation distance. A few feet.

21 Q. And the focus of the conversation, was it ---

22 A. It was about shoe -- you were selling shoes.

23 Q. Okay. And was you -- is true or is it not true that
24 you was nervous because you were suspicious or something?

25 A. I was nervous because I was alone in a storage unit

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Catherline McGough - Cross-Examination by Mr. Temple

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1 and a man was approaching me.

2 Q. And you was -- you allege that you and the Defendant
3 was -- the Defendant had pushed you into your storage
4 shed. Was you wearing any corrective lenses?

5 A. I was wearing glasses, yes.

6 Q. And what time did your corrective lenses became
7 misplaced off your ---

8 A. They came off when you hit me in the face.

9 Q. In the face? What are corrective lenses for?

10 A. To improve your vision.

11 Q. To improve your vision? So without these corrective
12 lenses that improve your vision -- but you stated that --
13 how could you have a clear look at me if you had no --
14 well, did you have your corrective lenses on during the
15 time that you was allegedly in the storage shed with the
16 assailant?

17 A. I did not have my glasses on when you were raping
18 me.

19 Q. So how could you have ---

20 A. I don't need glasses to see someone who's inches
21 away from me.

22 MR. TEMPLE: That's all at this time, Your
23 Honor.

24 THE COURT: Thank you.

25 Anything?

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Catherine McGough - Redirect Examination by Ms. Adams

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1 MS. ADAMS: Your Honor ---

2 REDIRECT EXAMINATION

3 BY MS. ADAMS:

4 Q. Catherine, you only wear glasses to drive?

5 A. I wear glasses when I'm driving or sitting in the
6 back of class.

7 Q. Okay. Because right now you don't have any glasses
8 on, right?

9 A. No, ma'am.

10 Q. Okay. So it's mainly just for distances and to make
11 sure you can see signs when you drive, right?

12 A. Yes.

13 Q. Thank you.

14 THE COURT: Thank you, ma'am. You can step
15 down.

16 Anything else from the State?

17 MS. ADAMS: No, sir.

18 THE COURT: Mr. Temple, anybody you want to
19 call regarding the lineup?

20 MR. TEMPLE: No, sir. That would be it.

21 THE COURT: All right.

22 All right. In regards to the motion to suppress the
23 lineup, I'm going to deny that motion and allow its
24 introduction next week.

25 All right. The next motion was to suppress the

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1 search warrant. Mr. Temple, what's your position on
2 that? I assume it's the Fourth, Sixth, Tenth Amendment,
3 the same sort of thing, the search warrant. I don't want
4 to put words in your mouth. I just need to know for the
5 record what you're ---

6 MR. TEMPLE: So have we did that arrest warrant
7 yet?

8 THE COURT: No. We're doing the -- well, we
9 can start with the arrest warrant. Let's do the arrest
10 warrant first. What's your position on suppressing the
11 arrest warrant?

12 MR. TEMPLE: Well, Your Honor, the same
13 position that I had -- it's in violation of my Fourth
14 Amendment right. There is -- the Fourth Amendment
15 requires a connection between the criminal activity and
16 the storage unit, criminal activity between the Defendant
17 as well, and a connection between the Defendant and the
18 storage unit. There was no connection -- there was none
19 of these three was in the affidavit that was issued in
20 support of the warrant.

21 THE COURT: All right. Yes, ma'am?

22 MS. SIMMONS: Judge, you have copies of the
23 arrest warrant before you. I believe they set forth
24 specific and certain grounds, enough to establish
25 probable cause that this Defendant be arrested. However,

1 as I will point out again, *Thompson v. State*, 259 S.C.
2 593, once the Defendant was indicted by the Grand Jury,
3 any problems, if any, with the arrest warrant were cured.

4 MR. TEMPLE: So are we on the indictments now,
5 Your Honor?

6 THE COURT: No. We're still on the arrest
7 warrant. I've got to rule on that. All right. I'm
8 going to deny your motion on the arrest warrant based
9 upon South Carolina case law and also, quite frankly, a
10 long-standing line of cases regarding probable cause. So
11 I'll deny your motion on the suppression of the arrest
12 warrant.

13 We're on the search warrant now. So why do you want
14 me to suppress the search warrant?

15 MR. TEMPLE: The search warrants -- like I say
16 -- well, the Fourth Amendment requires a connection to
17 the individual and the -- or either the place to be
18 searched. Relevant case law, in 2005 there was a -- the
19 defendant [sic] in this case, Scott Arnold, a police
20 officer who initially went to the magistrate to get the
21 issuance of the warrant, took bits and pieces of the
22 victim's statement and the first officer on the scene
23 verbal statement. He took bits and pieces of the alleged
24 victim's statement and the officer's statement and made
25 an affidavit. The -- it says, as the United States of

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1 Appeal [sic] has indicated in *United States v. Collins*
2 4th volume, F.3d, page twelve hundred, 1204, Third
3 Circuit, 1993, when a District Court in reviewing a
4 magistrate's determination of probable cause based upon
5 probable cause ruling solely of the facts contained from
6 the affidavit, we exercise preliminary review of the
7 District Court decision.

8 The basis of -- in contrast, the reviewing court may
9 not conduct a new review of the magistrate judge's
10 determination of probable cause, *Collins* versus -- it
11 says, both we and the District Court exercise only a
12 difference -- a deferential review of the initial
13 probable cause determination made by the magistrate. The
14 magistrate's determination of probable cause should be
15 paid great deference by reviewing courts. A reviewing
16 court must determine that the magistrate judge had a
17 substantial basis for concluding probable cause existed
18 in upholding the warrant.

19 The main part of this, Your Honor, is what I want to
20 say is this right here. The supporting affidavit must be
21 read in its entirety and in a common sense and technical
22 manner. Statements in the affidavit may not be read in
23 isolation. The affidavit must be read as a whole.
24 Here's -- I mean, the officer's affidavit that was used
25 to get the warrant. The search warrant had bits and

1 pieces, and it did not meet the magistrate's requirements
2 for review the -- for making the determination. It says,
3 the test of the issuing magistrate is to make a practical
4 common sense decision whether given all the circumstances
5 set forth in the affidavit for him, there is a fair
6 probability that contraband or evidence of a crime will
7 be found in a particular place. I mean ...

8 THE COURT: Mr. Temple, you just read me a case
9 that doesn't support your position and actually supports
10 the State's position, which is that I'm to be deferential
11 to the issuing officer and their determination about
12 whether there was probable cause.

13 MR. TEMPLE: Well, this is -- Your Honor, it
14 says that the magistrate must have all the information
15 set forth before him before he can make a determination.
16 See, the officer's report never came out until like the
17 27th.

18 THE COURT: Okay. All right. What's y'all's
19 position on the search warrant?

20 MS. SIMMONS: Your Honor, as Mr. Temple just
21 said, that you may not conduct a review of the probable
22 cause determination by a magistrate absent certain facts
23 being set forth. In *State v. Patton*, 322 S.C. 408, he
24 must first -- the Defendant must first articulate
25 specific factual and legal grounds to support his

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1 contention that the search warrant should be suppressed.
2 And you are only required to grant a suppression hearing
3 if he states definite, specific and detailed facts
4 questioning the validity of the search warrant. The test
5 by case law on the veracity of a search warrant, you are
6 looking at deliberate falsehoods and reckless disregard
7 for the truth or allegedly false or reckless statements
8 by the officer.

9 Your Honor, I'll be happy to pass up as Court's
10 exhibits two certified copies of the search warrants in
11 question. I do not believe that Mr. Temple has
12 established any deliberate falsehoods in them.

13 THE COURT: All right. You can pass them up.
14 I'll look at them.

15 (WHEREUPON, Court's Exhibit Number 2 and 3 were
16 marked for identification only.)

17 THE COURT: Yes, sir, anything else?

18 MR. TEMPLE: Your Honor, that's -- well, yes,
19 there is. My main question was how could the magistrate
20 make a determination when he did not have all the
21 information set forth?

22 THE COURT: Tell me what information you think
23 he lacked?

24 MR. TEMPLE: Well, he didn't have all the
25 facts, Your Honor. I mean, he didn't have ---

1 THE COURT: But, I mean, I think your burden is
2 what fact didn't he have.

3 MR. TEMPLE: The fact that I was never
4 mentioned in the crime. I was never ---

5 THE COURT: Wasn't the search warrant for the
6 storage unit?

7 MR. TEMPLE: Yes, sir.

8 MS. SIMMONS: Yes, Your Honor. The search
9 warrant was for the storage unit, and the storage unit
10 was unit [REDACTED] where the victim was found and recounted
11 she'd been raped and held against her will.

12 THE COURT: And did you own that search warrant
13 or did you rent that search warrant? That storage unit,
14 excuse me.

15 MR. TEMPLE: That storage unit was not rented
16 in my name.

17 MS. SIMMONS: Your Honor, the storage unit
18 manager picked him out of a photographic display. He
19 signed the storage unit rental documents, Dennis Temple.

20 THE COURT: Did you?

21 MR. TEMPLE: No.

22 THE COURT: Okay. All right. Well, on the
23 search warrant -- and I understand a lot of these motions
24 to suppress are based upon sort of general grounds. And
25 I'm going to assume for the purposes of the ruling that

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1 you're objecting to the Fourth, Sixth and Tenth Amendment
2 and also the case law requiring there to be some
3 connection and some connection with the Defendant and
4 also some determination by the issuing officer that there
5 is probable cause. So I'm going to deny your motion on
6 the search warrant.

7 We dealt with *Schmerber*, I think, earlier. Now
8 we're sort of getting to the meat of these things. I'm
9 going to skip the injunction for declaratory judgment
10 against the jail. I'm going to do that. Let's get to
11 the motion to dismiss the indictments which is, quite
12 frankly, the underpinning of the case. What's your
13 position on why I should dismiss the indictments?

14 MR. TEMPLE: My main position there, Your
15 Honor, is that the Fifth Amendment states clearly that no
16 person shall be -- no person shall -- relevant part, no
17 person shall be held to answer to a capital or otherwise
18 infamous crime unless on presentment or indictment of the
19 Grand Jury. The State of South Carolina has adopted its
20 own ---

21 THE COURT: Rule?

22 MR. TEMPLE: --- statute in reference to the
23 indictments which conform to the highest law in the land.
24 The state statute states that South Carolina Rules of
25 Criminal Procedure, Rule 3, disposition of arrest warrant

1 states, action on the warrant, within ninety days after
2 receipt of an arrest warrant from the Clerk of Court, the
3 solicitor shall take action on the warrant by preparing
4 an indictment for the Grand Jury. Well, preparing an
5 indictment for presentment to the Grand Jury. Which
6 indictment shall be found -- I mean, Your Honor, these
7 are mandatory predicates too, shall. It don't say may or
8 -- as you know. It state, preparing the indictment for
9 presentment to the Grand Jury, which indictment shall be
10 filed with the Clerk of Court, assigned a criminal case
11 number and presented to the Grand Jury formally
12 dismissing the warrant, noted on the face of the warrant
13 the action taken, make an affirmative -- other
14 affirmative dispositions in writing and filing such
15 action with the Clerk of Court.

16 It also speak of an extension too, as well, Your
17 Honor, but the State did not get an extension of ninety
18 days.

19 THE COURT: Okay. Hold on just a second. All
20 right. So you're saying that they didn't present it
21 within ninety days and they didn't get an extension?

22 MR. TEMPLE: That's right.

23 THE COURT: And that's -- okay.

24 Yes, ma'am?

25 MS. SIMMONS: Judge, Your Honor has previously

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1 ruled on this issue as well as Judge Macaulay. Again, I
2 would draw the Court's attention to *State v. Edwards*, 364
3 S.C. 543, wherein the South Carolina Supreme Court
4 reviewed Rule 3 and interpreted that rule as
5 administrative, not jurisdictional. And further, the
6 Court stated that a solicitor's delay in itself does not
7 invalidate a warrant or prevent prosecution.

8 THE COURT: All right. What was the time
9 limit? What was the time?

10 MS. SIMMONS: Approximately a hundred and ten
11 days.

12 THE COURT: So it was a hundred and ten days
13 rather than ninety?

14 MS. SIMMONS: Yes, sir.

15 THE COURT: Okay.

16 All right. Do you understand what she's saying,
17 that our Supreme Court has said that that's an
18 administrative rule, it's not jurisdictional?

19 MR. TEMPLE: Yes, sir, I understand. I thought
20 though that the rules have a primary purpose for ---

21 THE COURT: Well, they do have a purpose. I
22 mean, it's an administrative. Can you cite as an example
23 for Mr. Temple as to why it would be administrative, what
24 would happen, say if it was a hundred and ten days? What
25 normally happens in your office if there's a delay?

1 MS. SIMMONS: Judge, if we -- if you did not --
2 let's say you didn't go a hundred and eighty days on
3 those warrants.

4 THE COURT: Right.

5 MS. SIMMONS: I could present an indictment to
6 -- a direct indictment to the Grand Jury and get that --
7 and bring formal charges against Mr. Temple, even if I
8 did not have warrants.

9 THE COURT: I mean, I understand why you're
10 reading that ruling thinking that somehow that takes
11 jurisdiction from the courts and therefore I should
12 indict them. I remember one of the earlier hearings you
13 -- and this may have been one of the falling-out points
14 you had with Mr. Tavernier, I think. And I understood at
15 the time that you were reading that rule as a
16 jurisdictional rule. And I think the problem Mr.
17 Tavernier was saying you're not going to get anywhere
18 with that because the Supreme Court, our Supreme Court,
19 has said it's an administrative rule. And also, just as
20 a matter of course and practice, they could still direct
21 indict.

22 But again, this is going to be one -- if there's
23 anything to all of your motions that may be reviewed by
24 the Supreme Court, it may be this one because Rule 3 is
25 somewhat of an interesting rule in that it is

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1 administrative.

2 I'm going to deny it based upon ---

3 MR. TEMPLE: If ---

4 THE COURT: Go ahead.

5 MR. TEMPLE: Your Honor, so these are Rules of
6 Criminal Procedures, are not they? These are the South
7 Carolina Rules of Criminal Procedure. Aren't these the
8 Rules of the Criminal Procedures of the court?

9 THE COURT: Right. But they're interpreted by
10 the Supreme Court.

11 MR. TEMPLE: Let me -- let me read something
12 else to you as well. In *United States v. Kennedy*, volume
13 372 F.3d page 686, 696, 430 2004, criminal procedures are
14 the rules governing the mechanism under which the crimes
15 are investigated by the prosecution, adjudicated by the
16 judge, the court, and punished. It includes the
17 protection of the accused person's constitutional rights.
18 All right. These rights, I don't see how ...

19 THE COURT: Okay. All right. Well, what I'm
20 going to do, as I said, based upon South Carolina Supreme
21 Court's Ruling, I'm going to deny your motion to suppress
22 the indictments.

23 Let's move on to the motion to compel discovery, and
24 then we've got that last one about the jail.

25 What do you need from the Solicitor's office that

1 you don't have? You filed a motion to get information
2 from them?

3 MR. TEMPLE: I don't understand.

4 THE COURT: You filed a motion to compel
5 discovery.

6 MR. TEMPLE: Compel the discovery? Basically
7 ---

8 THE COURT: Rule 5 basically -- let me just say
9 this. Rule 5, which is a very serious rule of criminal
10 procedure, requires them to give you everything.

11 I'm assuming you've given him everything you have?

12 MS. SIMMONS: Yes, Your Honor, we have given
13 him everything we have. I have prepared a duplicate copy
14 of everything for my file. It's this thick.

15 THE COURT: All right.

16 MS. SIMMONS: He has everything we have. We
17 actually went to the evidence storage at the Sheriff's
18 office with him last week, and he has actually looked at
19 all the physical evidence in this case against him. At
20 that time, he was further asked if there was anything
21 else he needed from us or anything he wanted to see, and
22 he said he had everything.

23 THE COURT: All right. Is that true?

24 MR. TEMPLE: Somewhat, Your Honor.

25 THE COURT: Well, it either is or it isn't.

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1 Did you go to the evidence locker with them, look at all
2 the physical evidence and say, I don't need anything
3 else?

4 MR. TEMPLE: Your Honor, I do not know what the
5 prosecution intend to present as evidence, Your Honor.

6 THE COURT: Well, they probably don't either at
7 this point completely. I mean, things like that move.
8 But whatever they're going to present has to be within
9 those documents that they have sent you. So you should
10 have everything that they intend to use. I suspect you
11 have a lot of stuff they don't intend to use. But the
12 rule is they have to give you anything that they intend
13 to use at trial. So you should have everything. If at
14 some point over the weekend you discover that there's
15 something missing, we'll have to get it to you Monday.

16 MR. TEMPLE: You say they -- okay. They must
17 do this?

18 THE COURT: Yeah. But they have, it sounds
19 like. I mean, it's -- that's one of the base rules.
20 They -- South Carolina has a Rule 5 that requires the
21 prosecutor to give you everything. They usually send it
22 to your lawyer. If the lawyer thinks that there's
23 something particular missing or an oversight, then they
24 call them and they send it to them.

25 MR. TEMPLE: Aren't these Rules of Criminal

1 Procedures too, as well?

2 THE COURT: That's what I'm telling you.

3 MR. TEMPLE: So, Your Honor -- but what you're
4 saying is one rule apply to one situation, but the Rule 3
5 don't apply to ---

6 THE COURT: I'm saying that Rule 3 applies.
7 It's administrative. This is the reason why you are
8 making a huge mistake representing yourself. But I've
9 given you every shot. This is not nuclear physics, but
10 it is not an easy thing. And you're going to have to
11 understand that some rules our Supreme Court have
12 determined are administrative, some of them are
13 mandatory. And Rule 5 is something that I take seriously
14 because every defense lawyer in the world shows up here
15 at some point and says, I don't have all the information.
16 Quite frankly, if we get to Wednesday of next week and
17 you discover that there's something that you should have
18 had and you don't have it, it is a huge problem for the
19 Solicitor's office. As a result, I can promise you that
20 my experience, after ten years on the bench, that
21 solicitors give you everything, even stuff they don't
22 care to use.

23 So you're telling me as an officer of the court,
24 you've sent him everything that you have?

25 MS. SIMMONS: Yes, Your Honor.

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1 THE COURT: Okay. All right. So you should
2 have everything. If you discover something different ...

3 All right. Last one and then I've got a couple of
4 issues that I want to deal with and set some ground rules
5 for next week. But the last one is a request for
6 injunction or declaratory judgment against the jail. And
7 I don't, quite frankly, know what that's about.

8 MR. TEMPLE: Well, Your Honor, there's actually
9 another one as well.

10 THE COURT: What else do you have?

11 MR. TEMPLE: And the issue about the -- the
12 motion that I filed for a fast and speedy trial.

13 THE COURT: Well, you're getting that Monday..

14 MR. TEMPLE: Excuse me?

15 THE COURT: That was granted. You got it.

16 You're going to trial Monday. So I mean, you made a
17 motion for a fast and speedy trial, and you got it.

18 MR. TEMPLE: The requirement wasn't satisfied.

19 THE COURT: What requirement?

20 MR. TEMPLE: Upon the -- well, you want to do
21 them one at a time?

22 THE COURT: No. Go ahead and do that one since
23 that's on your mind because then we can deal with the
24 jail.

25 MR. TEMPLE: Well, back in -- August the 19th,

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1 I filed a motion for a fast and speedy trial in reference
2 to Section § 17-23-90 of the South Carolina Code of Laws.
3 In accordance with the speedy trial act, it says to put a
4 time limit on it, and the time limit was not satisfied.

5 THE COURT: Well, I don't think it ever was
6 heard by a judge was it?

7 MS. SIMMONS: No, Your Honor.

8 THE COURT: Yeah. Normally, what would happen
9 is you would file a motion for speedy trial. It would be
10 set in front of a judge to rule on whether or not -- in
11 fact, before you came in here, we had another defendant
12 that made a motion for speedy trial, and I actually held
13 the hearing. And we set it for -- we're going to end up
14 probably setting it for March. That's what happens.

15 In this case, you made the motion for a speedy
16 trial. Without me having to order the Solicitor's office
17 to set it, they set it for Monday. So that's really a
18 moot issue. I mean, on appeal it may be something you
19 can bring up, but it doesn't matter.

20 MR. TEMPLE: So you're denying it?

21 THE COURT: No, I'm granting it. It's Monday.
22 So you got -- you got that one.

23 MR. TEMPLE: Well, what I'm saying is, Your
24 Honor, it has not been satisfied. I mean, there's -- the
25 only way to remedy the matter is to dismiss the charges.

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1 THE COURT: I'm granting your motion for a
2 speedy trial Monday.

3 MR. TEMPLE: But -- but -- okay. I understand.
4 Okay. All right.

5 THE COURT: I can't do it today. All right.

6 All right. Then I've got this request for
7 injunction or declaratory judgment against the jail.

8 And let me just say for the record, I'm actually not
9 granting it. It's moot. We're having the trial.

10 Okay. What's your problem with the jail, and what
11 do you want me to order them to do? I assume this is the
12 Oconee County Jail?

13 MR. TEMPLE: Well, Your Honor, it's kind of
14 like way too late for that. I mean, these motions that I
15 filed, they are very -- some of them are real old. I
16 mean, if I'm going to trial this coming Monday, the
17 relief will be -- once I go to trial and get convicted or
18 get found not guilty, the relief would be leaving or
19 going to the penitentiary or either go home. I mean,
20 there would -- this motion really, Your Honor, it's not
21 going to be any good to me.

22 THE COURT: Okay. All right. I understand
23 that. All right. So we'll just -- I won't make you
24 officially withdraw it. We'll just rule that that's moot
25 now. And you know, it may be an issue that you can bring

1 up under another -- in another court at some other later
2 date, not in regard to this trial. Okay.

3 MR. TEMPLE: D.N.A. test, § 17-13-140.

4 THE COURT: All right. We'll do that one.

5 That was the *Schmerber* order. I've already ruled that
6 that's ---.

7 MR. TEMPLE: No, sir, that was -- there was --
8 there was also a -- these relevant D.N.A. tests that were
9 taken ---.

10 THE COURT: Then you've got a motion just
11 generally about the D.N.A. test not under the *Schmerber*?

12 MR. TEMPLE: Not under *Schmerber*.

13 THE COURT: Okay. All right. What's your
14 motion regarding those?

15 MR. TEMPLE: This is the D.N.A. test that was
16 taken pursuant to statute § 17-13-140, which is in
17 violation of my Fourth, Fifth and Fourteenth Amendment as
18 well. Like I say, it was -- it's not the only grounds or
19 probable cause and I believe illegal arrest rather. No
20 probable cause. But also that -- what else?

21 MS. SIMMONS: Judge, I may can speed this up a
22 little bit.

23 THE COURT: All right. Let her -- yeah. Go
24 ahead if you've got something to add to it.

25 MS. SIMMONS: He's referring to the search

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1 warrant § 17-13-140. Search warrant for blood and
2 suspect kit was done in this case. We never even sent
3 that for testing. We tested under the *Schmerber* order.

4 THE COURT: Okay.

5 Do you understand that? That was something that ...

6 Did I issue that order?

7 MR. TEMPLE: Your Honor ---

8 THE COURT: Hold on a second.

9 MS. SIMMONS: The magistrate issued a search
10 warrant for samples from the Defendant. We never even
11 sent that to SLED for testing.

12 MR. TEMPLE: I was a participant of this order.
13 They served this search warrant on me before I even took
14 blood. They took blood, the values of blood, pubic
15 hairs, head hairs, combing hairs.

16 THE COURT: Pursuant to that statute. And
17 she's telling me that they -- that that was not sent to
18 D.N.A. It ain't going to be used, not going to be a
19 part.

20 MR. TEMPLE: Okay. Listen to what I'm saying
21 though, Your Honor.

22 THE COURT: I'm listening.

23 MR. TEMPLE: The D.N.A. test that Mr. Tavernier
24 had dismissed were these tests which are the results of
25 the test. Do you understand what I'm saying?

1 THE COURT: No.

2 Can you enlighten me?

3 MS. SIMMONS: We never tested the samples that
4 were based on the search warrant. I believed that it was
5 more prudent to go to trial under the *Schmerber* order.
6 That is the sample that was actually collected from the
7 Defendant and compared to the rape kit that was sent to
8 the hospital. At the point in time when Mr. Tavernier
9 brought up the search warrant, we conceded we were not
10 using that, that we were not using the samples out of the
11 search warrant. And that is the time where he is -- he's
12 viewing that as Mr. Tavernier got that dismissed. We
13 conceded we weren't going to use it.

14 THE COURT: Okay.

15 MR. TEMPLE: Your Honor?

16 THE COURT: Basically, you won that without
17 them having to do anything.

18 MR. TEMPLE: But I don't think you probably
19 understand me though.

20 THE COURT: I mean, I understand. What is your
21 objection to the fact that they took this information
22 under a search warrant and then determined not to use it
23 or send it off for testing? They just basically
24 abandoned it.

25 MR. TEMPLE: The D.N. -- it's obvious that

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1 there was a result because it was only one pubic hair
2 combing that I did on all the D.N.A. tests. I took three
3 D.N.A. tests. It was only one pubic hair combings, and
4 that's the results of the test which are being used.

5 THE COURT: So you're alleging that the State
6 is lying to me about the fact that they didn't use that.

7 MR. TEMPLE: Well, you can look at the
8 information. You can look at the evidence right here,
9 and the evidence will show you itself. I mean, the
10 records state it. I mean, the test says -- the first
11 test that was done was pubic hair test which included
12 blood. And these tests ...

13 THE COURT: So you're saying that even though
14 they're telling me they didn't, they did use the items
15 recovered under the statute for D.N.A. testing? I think
16 that's what you're telling me. I understand what you're
17 saying. She's telling me they didn't. You're saying,
18 well, they had to because they had pubic hair and that's
19 the only ---

20 MR. TEMPLE: Yeah. That's exactly what -- I'm
21 saying that ---

22 THE COURT: I got you. Okay. I understand.
23 All right. What's -- tell me ---

24 MS. SIMMONS: Judge, there's no pubic hair
25 results that were issued from SLED in this case. And out

1 of an abundance of caution, the May 13th, 2010, search
2 warrant that we're not proceeding under, here's a
3 certified copy for the record. We can make that a
4 Court's exhibit.

5 THE COURT: Yeah. Make that a copy for the
6 record.

7 (WHEREUPON, Court's Exhibit 4 was marked for
8 identification only.)

9 MR. TEMPLE: Here we go right here, Your Honor.
10 It says clearly right here. Known pubic hairs, pubic
11 hair combings, suspect Dennis Temple. This is the first
12 test.

13 THE COURT: Well, it says, no, doesn't it?
14 Show the Solicitor what you're talking about there so we
15 can understand and we're on the same page.

16 (Off record discussion)

17 THE COURT: I think what you're
18 misunderstanding is there wasn't -- there was a decision
19 made by the Solicitor's office not to send that stuff for
20 D.N.A. testing.

21 Is that correct?

22 MS. ADAMS: Your Honor, it was -- what he's
23 talking about is their -- and I will make these Court's
24 exhibit, Your Honor, but there are two SLED reports. One
25 is dated July the 2nd of this year, and one is dated

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1 November 8th, which is a supplemental report. And
2 really, the difference is, out of an abundance of
3 caution, the November 8th, which we are using, is the
4 sample of the Defendant's that was received from the
5 *Schmerber* instead of the S.T.D. test, which is where this
6 one comes from.

7 THE COURT: Right.

8 MS. ADAMS: So ---

9 THE COURT: So the *Schmerber* order was sent for
10 D.N.A. testing. The S.T.D. test that we talked about at
11 the very beginning was not.

12 MS. SIMMONS: The S.T.D. test was sent for
13 testing under the S.T.D. testing statute. Judge McIntosh
14 made a specific finding that we could use that sample for
15 scientific testing. It went to SLED. In the interim,
16 this Defendant filed a motion to quash Judge McIntosh's
17 order. So at that point, out of an abundance of caution,
18 we went ahead and re-filed under *Schmerber*, got a sample
19 with him being represented by counsel.

20 THE COURT: Okay. So the bottom line is you
21 are going to use the sample resulting from the *Schmerber*
22 hearing, not the earlier S.T.D. testing under the
23 statute?

24 MS. SIMMONS: Correct, Your Honor.

25 THE COURT: Okay.

1 MR. TEMPLE: Your Honor, it's says -- it says
2 supplemental on this November the 8th.

3 THE COURT: All right. Why does it say
4 supplemental?

5 MS. ADAMS: That's how SLED does it. That's
6 their procedure, Judge.

7 THE COURT: There will be a SLED agent here, I
8 assume, right?

9 MS. ADAMS: Yes, sir, absolutely.

10 THE COURT: You'll be able to ask him why. I
11 don't know why they put supplemental other than they've
12 issued one and they have another and they want to make
13 sure that -- but you're going to be able to cross-exam
14 the SLED agent, and you can ask him that.

15 MS. ADAMS: And Your Honor, I will make both of
16 these Court's exhibits.

17 (WHEREUPON, Court's Exhibit Number 5 and 6 were
18 marked for identification only.)

19 THE COURT: Okay. What other motions do we
20 have? Because I do want to get to a couple of serious
21 issues I've got for next week.

22 MR. TEMPLE: Other motions I have?

23 THE COURT: Now, if they haven't been served on
24 the Solicitor's office, we're going to have to take them
25 up Monday. But tell me what they are so we'll all know.

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1 MR. TEMPLE: I think I might have covered all
2 of them.

3 THE COURT: All right. Make sure that you go
4 through your list. I've covered everything that I've got
5 here. And it's -- just so you'll know, it's this.
6 That's what we made our list from. If you think over the
7 weekend or between now and Monday that there's something
8 else before we -- actually, after we select the jury but
9 before we start the trial, I'll take up any other
10 motions.

11 All right. Anything else from the State before I go
12 into a couple of other matters?

13 MS. SIMMONS: Not at this time, Your Honor.

14 THE COURT: Mr. Temple, anything else you want
15 to bring up? I want to talk to you about Dr. Friarson's
16 hearing and also how we're going to handle next week.

17 MR. TEMPLE: Not that I can recall.

18 THE COURT: Okay. All right. The first thing
19 I want to tell you is my understanding is that you have
20 an appointment at nine-thirty a.m. December 13th with Dr.
21 Friarson; is that right?

22 MR. SIMMONS: Yes, Your Honor. Dr. Friarson
23 contacted me. He did conduct the initial competency
24 evaluation ordered by Your Honor in this case. In order
25 to protect the record, Dr. Friarson was planning on

1 having a brief thirty-minute meeting with him prior to
2 jury selection just to affirm his findings and report
3 them to Your Honor.

4 THE COURT: Yeah, which is normal. Dr.
5 Friarson apparently is coming up here. He's already
6 ruled that you are competent. My concern in any case
7 like this is whether or not there's been some change from
8 the previous exam. So he'll come up here Monday morning.
9 He will talk to you. I can't tell you what to do. I
10 would obviously cooperate with him. He doesn't have a
11 dog in this show. But he'll be here at nine-thirty to
12 talk to you for a half hour, however long he needs. And
13 I'll give him as much time with you as he needs. Because
14 he's going to either then say, Mr. Temple's still
15 competent, or he's going to come and say, you know,
16 there's a problem. And then I'll just have to deal with
17 it then. So he'll be there Monday morning.

18 Yes, ma'am?

19 (Off record discussion)

20 THE COURT: All right. The second to last
21 thing before I talk about what we're going to do Monday,
22 Mr. Temple, I've gone over exhaustively your right to
23 counsel. I know you and I don't agree on some of these
24 issues. And that's fine. Unfortunately, the law does
25 basically say that we may not agree, but what I say is

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1 final. Mr. Tavernier, who has sat here very quietly all
2 day, deserves to know for his preparation if you have
3 changed your mind about whether or not he's going to
4 represent you or whether you intend on Monday of next
5 week to represent yourself. For my sake, I just need you
6 to tell me, have you changed your mind? You still want
7 to represent yourself?

8 MR. TEMPLE: If I could get some kind of
9 stipulation between me, Mr. Tavernier and the Court upon
10 certain things that I would like to be done during trial,
11 I would let him be the attorney on this case. I would
12 let him try this case. However, I am trying to preserve
13 all these rights that I just presented also in trial.
14 Arrest warrants, the issues, Fourth Amendment, all the
15 violations. Arrest warrants, search warrants, D.N.A.
16 testing, section § 16-3-740, D.N.A. test, § 17-13-140,
17 photo lineup, indictments, speedy trial acts. I'm trying
18 to preserve all these issues for appeal.

19 THE COURT: Right.

20 MR. TEMPLE: I must object to them when they
21 are presented.

22 THE COURT: Well, I understand. I don't take
23 it personally. I understand.

24 MR. TEMPLE: If I could get some kind of
25 agreement on having these issues taken care of during

1 trial, then I would let Mr. Tavernier try this case.

2 THE COURT: All right. Do you need some time
3 now to speak with Mr. Tavernier to find out what the -- I
4 mean, I don't want to force you to say in open court what
5 the issues are that you -- I mean, you don't have to do
6 that. But I'm going to give you time here now to speak
7 with Mr. Tavernier and see ...

8 I mean, look, here's the deal. I appointed him as
9 your lawyer. You asked me to let him go. I did. In the
10 abundance of caution, I issued a long order basically
11 recognizing your Sixth Amendment right to counsel, and I
12 required him to sit. Basically what he's been doing is
13 even though he's not representing you, he's been keeping
14 up with all this stuff. And if you tell me today, I
15 don't want him to represent me, I'm still going to make
16 him come to Oconee, sit there just like he has. And if
17 you had had a question today about anything, you can turn
18 to him and he's got to answer it. But talk to him now.
19 I'm going to give you a minute to talk. I'll let y'all
20 go over here.

21 And Mr. Tavernier, what I need you to do is find out
22 what issues he needs some agreement on.

23 Yes, sir?

24 MR. TEMPLE: Because, Your Honor, frankly, I
25 mean, my plans were to go through the trial and just

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1 preserve all my rights. And I'm one hundred percent sure
2 I'll win on appeal, which will take anywhere from six to
3 fourteen months. I mean, I've been illegally arrested.
4 I know this.

5 THE COURT: Okay. All right. All right.
6 Well, talk to Mr. Tavernier. I'll give you about five or
7 ten minutes or how much time you need. Let's take a
8 break. And then what I want to do no matter what is I'm
9 going to come back briefly and I'm going to set some
10 ground rules for next week. And that ain't going to be a
11 joke. So I'll be back.

12 Y'all let me know when you've had a chance to talk.

13 (WHEREUPON, court stood a recess for a short break.)

14 THE COURT: Thank you. Have a seat.

15 Okay. We took a break so that Mr. Tavernier could
16 speak to Mr. Temple about the parameters of his
17 representation.

18 All right. Mr. Tavernier, have you had plenty of
19 time to speak with him? I know I've put you in a very
20 precarious position because you're under an appointment
21 now to sit and assist Mr. Temple during the course of the
22 trial. And I understand the precarious position I've put
23 you in. Before the break there was some indication that
24 Mr. Temple might want you to represent him. If -- and
25 what I'm assuming he meant ...

1 And Mr. Temple, correct me if I'm wrong -- that you
2 want him to represent you if he will preserve the issues
3 that you've brought up in these motion hearings and other
4 ones that we've had for appeal. Is that right,
5 basically?

6 MR. TEMPLE: Yes, sir.

7 THE COURT: Okay. All right.

8 Yes, sir, what's your feeling?

9 MR. TAVERNIER: Your Honor, there are three
10 concerns that I have, the first being my preparation for
11 this trial in a sense became extremely stalled when Mr.
12 Temple filed the grievance with the Supreme Court with
13 the allegation that I have people that would kill him and
14 his family if he didn't listen to me. At that point in
15 time when the grievance was filed, I kind of in a sense
16 ceased aggressive preparation on this trial because of
17 that pending grievance. I have kept up with the motions,
18 but I have not pursued them in a manner I would have,
19 Your Honor, had I been, quite frankly, attorney of record
20 and representing Mr. Temple to the best of my ability.

21 The second concern I have is this. I have had brief
22 discussions with Mr. Temple pursuant to your direction
23 this afternoon. In that regard, there are certain, for
24 lack of a better term, confines or restrictions that Mr.
25 Temple has requested or made plain that I would be

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1 confined to in a trial of this case. I don't necessarily
2 agree with those, and I think it presents somewhat of an
3 ethical dilemma to me in the fact that I would be held
4 accountable as attorney of record to a standard to which
5 I would be precluded from doing so if I comply with what
6 Mr. Temple has requested. I will qualify that he wants
7 ~~I have~~ attorney/client. I better stay away from that,
8 Your Honor.

9 THE COURT: Okay.

10 MR. TAVERNIER: I'm going to base it on that
11 statement without divulging any confidence or privilege.

12 The third basis, Your Honor, is if there is a change
13 in my status, there becomes a really substantial legal
14 question. Would I be -- would the attorney be confined
15 to the motions that Mr. Temple has already argued with
16 the Court and the findings which have already been
17 determined, or would it be open for subsequent legal
18 argument in which he has made some points, but his
19 argument has lacked sufficient legal basis? But in
20 principle, I think he knows where he wants to go but
21 hasn't been able to present the basis for a legal
22 argument that would stand as a proffer for proper
23 appellate argument for them to be able to review.

24 So that and then -- that would kind of play off of
25 some of the confines for representation. What I think,

1 and I'm going to make a suggestion not to tell -- also,
2 quite frankly, Your Honor, if my status were to change, I
3 think it would create a delay of several weeks before I
4 would be comfortable and prepared enough to go forward
5 which would then be contradictory to what we've already
6 determined about proceeding to trial on Monday.

7 So based on that, Your Honor, I would state this.

8 And I have recommended this to Mr. Temple and was -- and
9 I haven't formulated it in its entirety, so I'm kind of
10 thinking on my feet here. But if my role were to become
11 more as the advisory counsel and allow him to meet --
12 allow me to meet with him, go over what legal arguments
13 he wishes to present, be able to present to him a more
14 substantial legal basis that would stand muster as far as
15 his appellate review, which he wants to protect ---.

16 THE COURT: Right.

17 MR. TAVERNIER: --- and the objections that he
18 wants to protect on the record, I could present those to
19 him more than just as standby counsel and not be allowed
20 to make recommendations to him. I could give him some
21 advice rather than just answer the specific questions.
22 Because quite frankly, what he has demonstrated is I
23 think he knows where he wants to get, but he doesn't know
24 how to get there and does not necessarily know how to
25 frame the question nor present the argument with the

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1 principles that he's discovered or that he's been able to
2 research.

3 So there's kind of a fine-line distinction between
4 what standby counsel would be as far as being prepared
5 and ready to step in as opposed to advisory counsel. But
6 I think we could probably reach a comfortable medium
7 where I wouldn't necessarily be a participant in trial,
8 but I would be free to offer advice, suggestions to him
9 and not provide any undue delay for the trial on Monday.

10 I'm free. I have a pretty free weekend. Quite
11 frankly, a weekend and the rest of the week. I've got
12 pleas to do on Thursday. But to accommodate Mr. Temple,
13 his calendar, I could go up to Oconee -- that's not a
14 problem -- and get these things accomplished and do
15 what's necessary in order to properly prepare him with
16 what he needs ---

17 THE COURT: So you've got time to meet with him
18 before the trial?

19 MR. TAVERNIER: Your Honor, I would have
20 virtually five or six hours I could meet with him
21 tomorrow, a couple of hours on Thursday, virtually all
22 day Friday. I could meet with him Saturday afternoon and
23 Sunday afternoon after church.

24 THE COURT: Okay. And you'd rather stay as
25 advisory counsel pursuant to my order, given some of the

1 restrictions that would be placed upon -- and again, I
2 understand that you're trying to protect the
3 attorney/client privilege. But you would be more
4 comfortable staying as advisory counsel given some of the
5 restrictions placed upon your representation. But your
6 intention, even as advisory counsel, is to meet with him
7 prior to trial and be with him during trial in the event
8 that he has a question or whatever that may come up. Is
9 that what you're telling me basically?

10 MR. TAVERNIER: Yes, Your Honor, because I
11 think that would alleviate the ethical dilemmas that I
12 would have as being counsel with discussions that I've
13 had with him. And I think that would accomplish both
14 ends.

15 THE COURT: Okay. Mr. Temple, you've had time
16 to talk to him. I know you haven't had a whole lot of
17 time, but obviously some time. And it sounds to me like
18 he's going to try to spend as much time as he can with
19 you. Are you comfortable with the current situation as
20 it stands?

21 MR. TEMPLE: Yes. I mean, I been -- I been
22 proceeding like this from, pretty much from the
23 beginning. So I mean ...

24 THE COURT: Okay. So you want to keep him
25 basically as advisory counsel? I mean, I -- to tell you

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1 the truth, if you said, no, I don't want him as advisory
2 counsel, this might be the one time that I would just
3 look at you and say, sorry, I'm going to keep him.
4 Because, quite frankly, all this -- and from your
5 perspective it may not seem true. But from my
6 perspective, I'm doing everything I can to protect your
7 constitutional rights.

8 Now, we may disagree on what I do, but that's why I
9 have appointed him. And I've written a fairly long order
10 expanding on his Sixth Amendment right. There's a lot of
11 reasons for that, but I want to make sure that you
12 understand that he'll continue as your advisory counsel.
13 He'll be there. He's going to spend time with you before
14 trial and be with you. If you've got any pleas next
15 week, they're continued. Do you have pleas next week
16 here?

17 MR. TAVERNIER: No, Your Honor.

18 THE COURT: Oh, okay.

19 MR. TAVERNIER: My next week ---

20 THE COURT: I'm sorry. I misheard that.

21 MR. TAVERNIER: --- is wide open.

22 THE COURT: Oh, I misheard that.

23 MR. TAVERNIER: It's this Thursday I have some
24 scheduled, so I'm fine.

25 THE COURT: Okay. Whatever. I mean,

1 obviously, this takes precedence. And you know, I'm
2 going to issue -- if you will do an order because there
3 are obviously -- I want to make sure that you're covered.
4 All right. So he'll remain as advisory counsel. We'll
5 move on next Monday.

6 MS. ADAMS: Your Honor, I just want to be clear
7 that he's choosing to go pro se and that we're not in the
8 situation of hybrid representation, because I'm a little
9 confused on Mr. Tavernier saying he wants to kind of tell
10 him what to do without representing him.

11 THE COURT: No. He's going to assist him under
12 my previous order. It's not hybrid representation. Mr.
13 Temple is proceeding pro se.

14 Is that correct, Mr. Temple. But he's going to be
15 there as your advisory counsel; is that right?

16 MR. TEMPLE: Right.

17 THE COURT: Okay.

18 Anything?

19 MS. ADAMS: I guess basically now Mr. Temple's
20 just saying he's willing to ask Mr. Tavernier questions
21 if he feels the need to during the trial?

22 THE COURT: Yeah, although ---

23 MS. ADAMS: Where before he didn't really want
24 him there.

25 THE COURT: No. He wants him -- I mean, he's

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1 -- I think he probably is not going to take a position on
2 whether he wants him there. But Mr. Tavernier is
3 basically saying, under my order, he's going to meet with
4 him prior to trial to assist Mr. Temple in his own
5 preparation and to represent himself pro se.

6 Is that about the best way to say it, Mr. Tavernier?

7 MR. TAVERNIER: Yes, Your Honor. Quite
8 frankly, without divulging any confidence, I think the
9 Court has noted that Mr. Temple is somewhat overwhelmed
10 with the volume of information. And he wants to be able
11 to get that put in proper perspective, and that's the
12 purpose of the meeting. And that's the way I'll be able
13 to handle it. I'll address what he is addressing. And
14 if he comes across and needs to be able to understand how
15 to present an argument, then I will make that available
16 to him.

17 THE COURT: Okay. All right. We're good
18 there.

19 Okay. Let me also just tell you then for the last
20 thing that yesterday I went up to Oconee. I looked at
21 the new courtroom. They have a -- they're redoing that
22 courtroom. And what I want is -- and I spent a good bit
23 of time in there with Beverly, the Clerk of Court. And
24 I'll show you on Monday.

25 There's going to be a piece of tape between the

1 Clerk's box and the jury box that will be the point at
2 which the lawyers and Mr. Temple need to stop in their
3 questioning, okay? And actually I told them to put a
4 mike at the place where y'all will be able to get up and
5 question because you're going to be able to stand up in
6 the courtroom, move to a point in the courtroom with a
7 microphone to ask your questions. You need to do that
8 because the court reporter can't hear you.

9 I'm putting that restriction on both sides because I
10 think that's fair. I'll show you Monday. This is not a
11 big deal. It's just I'm giving the witnesses -- under
12 that new setup in the courthouse up there, I want to give
13 all the witnesses a zone within which the attorneys don't
14 encroach, okay? And you'll see when you get up there.

15 But basically -- in here, oftentimes, lawyers will
16 walk around. They'll stand right here to question. In
17 civil and criminal cases, they'll question, they'll hand
18 documents. And basically they're standing right next to
19 each other. Because of the way that new -- and they're
20 literally working on the courtroom right now, or they
21 were yesterday. It's set up perfectly to do what I want
22 to do which is basically you're going to have a line from
23 that television to the jury that's probably ten or twelve
24 feet that the attorneys can't cross. I'll show you when
25 I get up there. That gives all the witnesses and all the

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1 attorneys a zone within which their comfort levels are
2 met.

3 It doesn't make any sense now, I realize as I say
4 it. It'll make sense when you get up there. It's just
5 basically nobody's going to get too close to the
6 witnesses when they question them, including the
7 prosecutor. Okay?

8 What time is the jury coming in up in Oconee?

9 MS. ADAMS: I think ten, Your Honor.

10 THE COURT: Ten o'clock? All right. We might
11 as well address this now, too. Is there a plan -- there
12 was some discussion yesterday about a security belt for
13 Mr. -- obviously, Mr. Temple is able to wear ...

14 You're not going to be up there in an orange
15 uniform. You've got a suit you're going to wear?
16 Normally, in those circumstances what they'll do is,
17 they're probably going to put a security belt under your
18 suit. Have they talked to you about that?

19 MR. TEMPLE: No, Your Honor.

20 THE COURT: Okay. Well, it's just a security
21 -- it's one of the ways -- and we're going to have to
22 deal Monday when we get up there with whether or not
23 you're shackled and all of that business. I mean, I
24 suspect that what we're going to end up doing is not have
25 you shackled. But you'll have a belt under you. And I

1 think the way it works -- the way it works down here
2 basically is there's going to be deputy with a button.
3 If you do something, you know, if you take off out the
4 back door, they hit the button, it gives you a beep. My
5 advice to you is not to do that. I'm not saying you're
6 going to, but it's -- that's the only way I know to give
7 every -- to resolve security issues and also allow you to
8 wear a regular suit and not be completely shackled in
9 front of the jury. Okay?

10 MR. TEMPLE: Your Honor, I'm not going nowhere.
11 I've not committed no crime.

12 THE COURT: Okay. Well, like I said, it is an
13 issue that some defendants don't like. And I'm sorry
14 about it. I either have to leave you shackled or I can
15 use that security belt. I prefer to use the security
16 belt because quite frankly nobody will even know it's on
17 you unless there's a problem with it. And if there's a
18 problem, everybody knows it's on you.

19 Okay. Anything else we need to deal with today
20 before Monday from the State?

21 MS. ADAMS: No, sir, Your Honor.

22 THE COURT: Mr. Temple?

23 MR. TEMPLE: I've got a question.

24 THE COURT: Sure.

25 MR. TEMPLE: So was all my motions denied?

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1 THE COURT: No. I granted one. Well, I
2 granted one, and then one was basically moot. I granted
3 your suppression of the S.T.D.

4 MR. TEMPLE: S.T.D.

5 THE COURT: That's the sexually transmitted
6 disease. I think you made a motion to suppress the
7 evidence obtained under Judge McIntosh's order. I think
8 the Solicitor's office had already determined not to use
9 any of that, so I granted that motion.

10 Is that correct? I'm not stepping on y'all, am I?
11 Isn't that correct?

12 MS. SIMMONS: Yes, Your Honor. We do not
13 intend to introduce evidence of ---

14 THE COURT: So I granted your motion to
15 suppress. And then the issue of the injunction,
16 declaratory judgment, against the jail was moot. The
17 rest of them I did deny. Okay.

18 All right. I'll see y'all Monday up there. The
19 jury's coming in at ten, so I'll be up there early.

20 (WHEREUPON, the hearing ended at approximately 5:35
21 p.m.)

22 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

CERTIFICATE OF REPORTER

I, the undersigned Renee H. Tollison, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Anderson County, South Carolina, on the 7th day of December 2010.

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

November 21, 2011

Renee H. Tollison

Circuit Court Reporter

1

2

State of South
Carolina) In the Court of General
) Sessions

3

County of Oconee

) Indictments Nos:
) 2010-GS-37-00886, 00887,
) 00888, and 00889

4

5

6

7

State of South
Carolina

8

Plaintiff,

) Transcript of Record
) Trial - Volume 1
) Pages 1 through 152

9

-vs-

10

Dennis Temple,

11

Defendant.

12

December 13, 2010
Walhalla, South Carolina

13

B E F O R E:

14

The Honorable J. Cordell Maddox, Jr., Judge; and a
15 Jury.

16

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

17

18

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Lindsey S. Simmons
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Pro se

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1 ** Start of Requested Transcript of Record **

2 (Whereupon, the trial in the matter of the
3 *State of South Carolina v. Dennis Temple*,
4 Indictments Numbers 2010-GS-37-886,
5 2010-GS-37-887, 2010-GS-37-888, and
6 2010-GS-37-889, commenced on the 13th day of
7 December, 2010, at approximately 11:50 a.m.)

8 **THE COURT:** Okay. All right. Ladies and gentlemen,
9 what we're gonna do now is select the jury for this case.
10 I have some more questions I need to ask you that are
11 particular to this case.

12 What I'm gonna do now is ask the Defendant to stand
13 up, introduce himself, ask the attorneys for the State to
14 stand up, introduce themselves. Afterwards I'm gonna ask
15 you if you are related by blood or marriage to any of the
16 parties or attorneys in this case, or if you have any
17 close business or personal relationship to any of the
18 parties.

19 All right. Yes, sir. Stand up and just introduce
20 yourself.

21 **THE DEFENDANT:** Hello. I'm Dennis Temple from
22 Seneca, South Carolina.

23 **THE COURT:** All right.

24 **MS. ADAMS:** Thank you, Your Honor, may it please the
25 Court.

1 My name is Chrissy Adams, the Solicitor for the 10th
2 Circuit, which is Anderson and Oconee. And with me is
3 Lindsey Simmons, She's a prosecutor in my office. And
4 this is Lieutenant Greg Reed with the Oconee County
5 Sheriff's Department.

6 **THE COURT:** Okay. Is anyone related by blood or
7 marriage or do you have any close business or personal
8 relationship with either the attorneys or with
9 Mr. Temple? If so, please stand.

10 Yes, sir. Give us your name and number.

11 **PROSPECTIVE JUROR WRIGHT:** Randall Wright, 228. If
12 I may speak with you?

13 **THE COURT:** Yeah, come on up.

14 (Prospective juror Randall Wright approached
15 the bench.)

16 **THE COURT:** Could you please give us your name and
17 number again?

18 **PROSPECTIVE JUROR WRIGHT:** Yes, sir. Randall
19 Wright, 228. I believe you went with Tammy Dix
20 (phonetic)?

21 **THE DEFENDANT:** No, sir.

22 **PROSPECTIVE JUROR WRIGHT:** His aunt, one of his
23 kids, and I go with his sister, so I know the family.

24 **THE COURT:** All right. You understand that since he
25 has got a connection, I wanted to let him go. What did

1 you do before you retired?

2 PROSPECTIVE JUROR WRIGHT: I was a pastor. I also
3 work at Duke Energy.

4 THE COURT: 228 is excused on this one.

5 (Prospective Juror Wright was excused on the
6 trial of this case.)

7 THE COURT: All right. Ladies and gentlemen, I'm
8 gonna read to you a long list of potential witnesses. I
9 don't know whether or not all these witnesses are gonna
10 testify. You need to assume for the purposes of my
11 question that they are. After I read this list, I'm
12 gonna ask you if you are related by blood or marriage or
13 if you have any close business or personal relationship
14 with any of these potential witnesses, okay? And I'll be
15 happy to repeat one if you need me to.

16 Catherine McGough, Scott Arnold, Greg Reed, Kevin
17 Cain, Tyrel Woodring, Allen Van Heusen, Christy Shiflett,
18 Patrick Merck, David Philpott, Amanda Webb, Doris
19 Yarbrough, Amy Stephens, Betty Butler, Sherree Brown,
20 Josetta Blair, Selena Kinard, Nikki Perry, Toni Broome,
21 Patricia Crooks, Brian Danielson, Britta Chapman,
22 Dr. Greg Cromer, Nancy Rust, Casey Smith, Vickie Bottoms,
23 Christine Steele, Jerry Moss, David Smith, Mark Miller,
24 Derek Pace, Scott McCreary, Jason Kilpatrick, Jeff
25 Underwood, Neill Burkett, Matt Saski, Kim Chewning,

1 Jeremy Rothell, Mark Tiller, Allen Sayre, Josh Underwood,
2 Tracy Call, Tandria Moon, Or Celina Nichols.

3 Now, those are all potential witnesses. Now, is
4 anyone on the panel related by blood or marriage or do
5 you have any close personal or business relationship with
6 any of them?

7 Yes, sir. Give us your name and number.

8 PROSPECTIVE JUROR CHAPMAN: Cletus Chapman, 43.
9 Britta Chapman is my niece.

10 THE COURT: Britta is your niece? At the Ocone
11 Medical Center?

12 PROSPECTIVE JUROR CHAPMAN: Yes, sir.

13 THE COURT: OKAY. I'm gonna allow you to -- you can
14 go on this one. What was your number again?

15 PROSPECTIVE JUROR CHAPMAN: 43.

16 THE COURT: All right. 43. And since this is the
17 only case we're gonna try this week, you are excused for
18 the week.

19 Okay. Yes, ma'am.

20 PROSPECTIVE JUROR PHILLIPS: Shelby Phillips, number
21 157. Britta Chapman is my second cousin and Kevin Cain
22 is married to my second cousin.

23 THE COURT: You've got a lot of second cousins.

24 PROSPECTIVE JUROR PHILLIPS: I've got a lot of
25 second cousins.

1 THE COURT: All right. Will the fact that -- that
2 relationship is not close enough for me to kick you off
3 because of that. Will the fact that you have relatives,
4 second cousins, will that prevent you from being fair and
5 impartial on this case?

6 PROSPECTIVE JUROR PHILLIPS: It will not have any
7 bearing.

8 THE COURT: All right. And can you render a verdict
9 based only on the evidence that you hear in this
10 courtroom, despite the fact that you have a relationship,
11 rather tenuous, with these people?

12 PROSPECTIVE JUROR PHILLIPS: Absolutely.

13 THE COURT: Okay.

14 Any questions of her by the State?

15 MS. ADAMS: No, sir.

16 THE COURT: Mr. Temple, anything you want me to ask
17 her?

18 THE DEFENDANT: Uh, no, sir.

19 THE COURT: Thank you, ma'am. You can stay.

20 Yes, ma'am, in the blue.

21 PROSPECTIVE JUROR LEE: Kristi Lee, 109, I'm good
22 friends with Jeff and Josh Underwood, or have been.

23 THE COURT: With the Oconee County Sheriff's Office?
24 How close friends?

25 PROSPECTIVE JUROR LEE: Jeff and I were best friends

1 growing up in school, or very good friends.

2 THE COURT: All right. And I assume that fact would
3 prevent you from being fair and impartial since he might
4 testify?

5 PROSPECTIVE JUROR LEE: Possibly, yes.

6 THE COURT: All right. And do you think you would
7 have trouble rendering a verdict based only on the
8 evidence in this case, assuming that he does testify?

9 PROSPECTIVE JUROR LEE: Yes.

10 THE COURT: Okay. All right. I'll allow you to go.

11 PROSPECTIVE JUROR LEE: Thank you.

12 THE COURT: Yes, sir.

13 PROSPECTIVE JUROR: Kim Chewning is a member of our
14 church.

15 THE COURT: All right. Give us your name and
16 number.

17 PROSPECTIVE JUROR MCCONNELL: Johnny McConnell,
18 NUMBER 130.

19 THE COURT: So Mr. [Sic] Chewning is a member of
20 your church?

21 PROSPECTIVE JUROR MCCONNELL: She was. She's been
22 to my house a couple of times since this event. So I
23 just wanted you to be aware of that.

24 THE COURT: Okay. Will that fact prevent you from
25 being fair and impartial in this case?

1 PROSPECTIVE JUROR MCCONNELL: No, sir.

2 THE COURT: Have you had a chance to talk to her at
3 all about this case?

4 PROSPECTIVE JUROR MCCONNELL: After it took place,
5 immediately, right after it took place, probably, so...

6 THE COURT: Do you think you could still render a
7 verdict based only on the evidence that you hear in this
8 case or would you be influenced at all by what
9 Ms. Chewning told you? And I need you to be honest with
10 me. I mean, I'm obviously just trying to pick a jury
11 that knows nothing about this case or doesn't know too
12 much about it.

13 PROSPECTIVE JUROR MCCONNELL: I believe I could be
14 fair and impartial.

15 THE COURT: Okay. How many times did you talk to
16 her after this case, or how many times was she in your
17 house?

18 PROSPECTIVE JUROR MCCONNELL: Probably twice.

19 THE COURT: And she works for All Safe Storage?

20 PROSPECTIVE JUROR MCCONNELL: Yes, sir.

21 THE COURT: Anything from the State?

22 MS. ADAMS: Your Honor, he said he could set
23 anything aside and be fair and impartial based on
24 whatever he hears in the courtroom, so we feel that he's
25 qualified.

1 THE COURT: Anything, Mr. Temple?

2 THE DEFENDANT: I'd rather not test those waters,
3 Your Honor.

4 THE COURT: How many do I have?

5 THE CLERK: At the moment only 64.

6 THE COURT: I'm gonna excuse him. That's too much
7 of a risk.

8 (Prospective Juror Johnny McConnell, number
9 130, was excused from the trial of this
10 case.)

11 THE COURT: Yes, ma'am.

12 PROSPECTIVE JUROR: I'm friends with Britta Chapman.

13 THE COURT: All right. What's your name and number?

14 PROSPECTIVE JUROR MCALLISTER: Lezlie McAllister,
15 147 I think my number is.

16 THE COURT: Okay. Britta Chapman at the Oconee
17 County Medical Center?

18 PROSPECTIVE JUROR MCALLISTER: Yes.

19 THE COURT: How close friends are you?

20 PROSPECTIVE JUROR MCALLISTER: We go to church
21 together. We do things together.

22 THE COURT: Have you talked to her about this case
23 at all?

24 PROSPECTIVE JUROR MCALLISTER: I don't know anything
25 about it.

1 THE COURT: Okay. Can you listen to the testimony
2 and render a verdict based only on the evidence that you
3 hear in this case?

4 PROSPECTIVE JUROR MCALLISTER: Yes, sir.

5 THE COURT: And do you feel like you would be
6 influenced by your friendship at all?

7 PROSPECTIVE JUROR MCALLISTER: No.

8 THE COURT: Okay. I'll allow you --
9 Anything from the State with her?

10 MS. ADAMS: No, sir.

11 THE COURT: Mr. Temple, anything?

12 THE DEFENDANT: No, sir.

13 THE COURT: Okay. Yes, ma'am.

14 PROSPECTIVE JUROR BARKER: Susan Barker, Number 12.
15 And I just, because I work at the hospital, and I know
16 Nancy and Dr. Cromer just from business. I wanted to
17 make sure that doesn't matter.

18 THE COURT: Well, yeah. And so you work there with
19 them?

20 PROSPECTIVE JUROR BARKER: I work in Records, they
21 work in the Emergency Department. But I know absolutely
22 nothing about what's going on here.

23 THE COURT: Well, if they testify, can you still
24 render a verdict based only on what you hear in this
25 courtroom and can you be uninfluenced by the fact that

1 you may have some relationship with them? That's my
2 concern. Can you be uninfluenced by the fact that you
3 have a relationship with them?

4 PROSPECTIVE JUROR BARKER: I can.

5 THE COURT: And can you render a verdict based only
6 on the evidence that you hear in this courtroom?

7 PROSPECTIVE JUROR BARKER: I can.

8 THE COURT: Okay. Thank you, ma'am.

9 Yes, ma'am. Give us your name and number.

10 PROSPECTIVE JUROR KING: Andrea King, 104. I don't
11 know what you mean by business relationship. I'm a home
12 investigator with Child Protective Services, and I've
13 licensed Christy Shiflett's foster home. She's one of
14 the witnesses.

15 THE COURT: Well, the fact that you have had that
16 relationship, whatever it may be, can you be fair and
17 impartial in this case?

18 PROSPECTIVE JUROR KING: I've also investigated some
19 of the family members of Mr. Temple.

20 THE COURT: Okay. We'll get to that in a second.

21 PROSPECTIVE JUROR KING: Oh, I'm sorry.

22 THE COURT: That's okay. But you need to answer
23 this question. And I understand it may seem ridiculous.

24 PROSPECTIVE JUROR KING: I understand.

25 THE COURT: That's okay. Can you render a verdict

1 based only on the evidence you hear in this courtroom and
2 not based upon your relationship with Ms. Shiflett?

3 PROSPECTIVE JUROR KING: Yes.

4 THE COURT: All right. Thank you.

5 I know you're gonna stand up in a minute. I
6 understand. I have to do it one at a time because it's
7 all on the record.

8 Has any member of the panel, a family member, or a
9 close personal friend ever been prosecuted by the 10th
10 Circuit Solicitor's Office, which would include Anderson
11 and Ocone? If so, please stand. (No response).

12 Has any member of the jury panel, a family friend or
13 a close personal friend ever been accused of or
14 prosecuted for kidnapping or criminal sexual assault? If
15 so, please stand.

16 All right. Give us your name and number.

17 PROSPECTIVE JUROR: Number 45.

18 THE COURT: All right. Yes, sir.

19 PROSPECTIVE JUROR: My son four or five years ago
20 was involved in a case in the 10th Circuit.

21 THE COURT: Will that fact prevent you from being
22 fair and impartial in this case?

23 PROSPECTIVE JUROR: Yep.

24 THE COURT: All right. I'll allow you -- and what
25 was your number, 45?

1 PROSPECTIVE JUROR: 45.

2 THE COURT: All right. 45 is excused.

3 (Prospective Juror 45, William A. Chiusano,
4 was excused from the trial of this case.)

5 THE COURT: Yes, sir.

6 PROSPECTIVE JUROR: My daughter is dating somebody
7 that was, served time for kidnapping.

8 THE COURT: Okay. Give us your name and number.

9 PROSPECTIVE JUROR KOTAJARVI: My stepdaughter. My
10 name is Mark Kotajarvi, number 106.

11 THE COURT: Can you be fair and impartial in this
12 case?

13 PROSPECTIVE JUROR KOTAJARVI: No problem.

14 THE COURT: All right. And can you render a verdict
15 based only on the evidence that you hear in this court?

16 PROSPECTIVE JUROR KOTAJARVI: Yes, sir.

17 THE COURT: Okay. Yes, sir.

18 PROSPECTIVE JUROR KELLY: Steve Kelly, 101. I have
19 a brother that was convicted in Pickens County and is a
20 registered sex offender.

21 THE COURT: That's okay. And I'd rather know than
22 not know. Trust me. Can you still be fair and impartial
23 in this case?

24 PROSPECTIVE JUROR KELLY: Yes, sir.

25 THE COURT: And can you render a verdict based only

1 on the evidence that you hear in this courtroom?

2 PROSPECTIVE JUROR KELLY: Yes, sir.

3 THE COURT: Okay. Thank you, sir.

4 All right. Ladies and gentlemen, the case name in
5 this matter is the *State of South Carolina versus Dennis*
6 *Temple*. In just a minute the Solicitor's Office is
7 actually gonna call that case.

8 But I need to know now, does anyone know anything
9 about this case whatsoever?

10 Okay. I need you just to stand up, and I don't want
11 to know what you know, but I need to know if just
12 generally if what you know is gonna prevent you from
13 being fair and impartial in this case, and it may
14 certainly be that I need to question you more privately
15 but I'll be happy to do that.

16 Yes, ma'am, your name and number again?

17 PROSPECTIVE JUROR KING: Andrea King.

18 THE COURT: What was your number?

19 PROSPECTIVE JUROR KING: 104.

20 THE COURT: All right. And as a D.S.S. worker you
21 have done some investigation. Do you have other
22 knowledge of this case?

23 PROSPECTIVE JUROR KING: Yes.

24 THE COURT: Okay. And would that prevent you from
25 being fair and impartial in this case?

1 PROSPECTIVE JUROR KING: Yes.

2 THE COURT: Okay. All right. You are excused. I'm
3 sorry to make you stand up twice, I just have to do it
4 this way.

5 PROSPECTIVE JUROR KING: That's fine.

6 THE COURT: Sometimes it drives me crazy, too.
7 Yes, ma'am. Give us your name and number.

8 PROSPECTIVE JUROR HARBIN: Melinda Harbin, 89. I
9 heard it on the radio and saw it in the newspaper.

10 THE COURT: All right. Can you still be fair and
11 impartial in this case?

12 PROSPECTIVE JUROR HARBIN: Yes.

13 THE COURT: And can you render a verdict based only
14 on what you hear in the courtroom?

15 PROSPECTIVE JUROR HARBIN: Yes.

16 THE COURT: And do you believe that the information
17 that you have, may have garnered from any publicity,
18 would influence you in any way?

19 PROSPECTIVE JUROR HARBIN: No.

20 THE COURT: Okay. Any questions or additional
21 information from the state?

22 MS. ADAMS: No, sir, Your Honor.

23 THE COURT: Okay. Mr. Temple?

24 THE DEFENDANT: No, sir.

25 PROSPECTIVE JUROR CLARKE: Michael Clarke, 47. I've

1 read about it in the newspaper.

2 THE COURT: So you've just read something about it
3 in the newspaper?

4 PROSPECTIVE JUROR CLARKE: Yes.

5 THE COURT: All right. Can you still be fair and
6 impartial in this case?

7 PROSPECTIVE JUROR CLARKE: Yes, Your Honor.

8 THE COURT: And can you render a verdict based only
9 on the evidence that you hear in this courtroom?

10 PROSPECTIVE JUROR CLARKE: Yes, sir, Your Honor.

11 THE COURT: And can you render a verdict
12 uninfluenced by the publicity that you may have been
13 subjected to?

14 PROSPECTIVE JUROR CLARKE: Yes, Your Honor.

15 THE COURT: All right. Any questions from the
16 State?

17 MS. ADAMS: No, sir.

18 THE COURT: Mr. Temple?

19 THE DEFENDANT: No, sir.

20 THE COURT: Okay. Yes, ma'am.

21 PROSPECTIVE JUROR BRYAN: Sandra Bryan, Number 26,
22 and I would like to speak with you in private.

23 THE COURT: Okay. I'll do that in just a second.
24 Yes, sir.

25 PROSPECTIVE JUROR BURCHFIELD: Jack Burchfield, 28.

1 I've read about it in the paper.

2 THE COURT: All right. And can you render a verdict
3 based only on the evidence you hear in this courtroom?

4 PROSPECTIVE JUROR BURCHFIELD: Yes, sir.

5 THE COURT: And can you be uninfluenced by any
6 publicity that you may have been subjected to?

7 PROSPECTIVE JUROR BURCHFIELD: Yes, sir.

8 THE COURT: Okay. Any questions from the State?

9 MS. ADAMS: No, sir.

10 THE COURT: Mr. Temple?

11 THE DEFENDANT: Questions?

12 THE COURT: For him.

13 THE DEFENDANT: No, sir.

14 THE COURT: Okay.

15 Does anyone know of any reason whatsoever that they
16 cannot serve as a juror in this particular case? If so,
17 please stand. (No response).

18 Okay. Ma'am, come on up, I'll talk to you.

19 (A juror approached the bench and conferred
20 with the Court.)

21 THE COURT: Mr. Temple, come on up.

22 Yes, ma'am. Give us your name and number again?

23 PROSPECTIVE JUROR BRYAN: Sandra Bryan, Number 26.

24 Not only had I been reading about it in the paper before
25 you called me, but I have a personal friend who is also a

1 personal friend of someone from the storage unit, and she
2 had, before I was called, had been talking to me about
3 this woman's testimony.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR BRYAN: And I'm afraid it might
6 influence me.

7 THE COURT: Okay. That's all I needed to know.
8 What was your number again?

9 PROSPECTIVE JUROR BRYAN: 26. And I'm terribly
10 sorry.

11 THE COURT: No, no. I mean, what we're trying to do
12 here is, believe it or not, people that haven't heard
13 about it and not be influenced. But I need to know.

14 All right. 26 excused.

15 (Prospective Juror Bryan, Number 26, was
16 excused from the trial of this case.)

17 THE COURT: Does anyone need to speak to me
18 personally about any problems you may have serving as a
19 juror on this case? And speak now or forever hold your
20 peace. But is there any reason again that you might not
21 be able to serve as a juror in this case? Does anyone
22 know anything about this case whatsoever? (No response.)
23 Last chance. If I was an auctioneer, I'd hit the thing.
24 Okay.

25 All right. Any other questions by the State that

1 you want me to ask the jury panel?

2 MS. ADAMS: No, sir, Your Honor.

3 THE COURT: Mr. Temple?

4 THE DEFENDANT: No, sir.

5 THE COURT: I find that you are all qualified to
6 serve.

7 And I think the best thing to do, let's go ahead and
8 select the jury now. How much time do you need to pull
9 that list?

10 THE CLERK: Five minutes, maybe.

11 THE COURT: All right. We'll just stay in here
12 while you do it. Is that okay with you?

13 THE CLERK: Yes, sir, absolutely.

14 (The Clerk conferred with the Court off the
15 record.)

16 THE COURT: So we have five strikes and ten, right?
17 Everybody agree on that?

18 MS. ADAMS: Yes, sir.

19 THE COURT: Mr. Temple, do you understand you have
20 ten strikes?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Ladies and gentlemen, I need to ask you
23 one other question. Hold on just a minute, Lisa. I just
24 realized that I didn't introduce Mr. Tavernier.

25 Mr. Temple in this case is representing himself.

1 What I have done is I have appointed Kurt Tavernier, who
2 is a defense lawyer in Anderson who does work up here,
3 too, to be his advisory counsel. And I've issued an
4 Order requiring Mr. Tavernier to sit here and answer any
5 questions that Mr. Temple might have. And that's a
6 normal circumstance in a case where you have someone
7 representing themselves in a case such as this.

8 Mr. Tavernier, how about standing up and introducing
9 yourself to everybody?

10 Mr. TAVERNIER: I'm Kurt Tavernier. I'm in private
11 practice in Anderson.

12 THE COURT: Okay. Has anyone ever been represented
13 or are you currently represented by Mr. Tavernier? (No
14 response.)

15 Does anyone have any close personal or business
16 relationship with Mr. Tavernier? (No response.)

17 All right. Mr. Tavernier, quite frankly, is gonna
18 be seated at the table the whole time and he will be
19 available for Mr. Temple, but he is not going to
20 participate in the trial unless Mr. Temple asks him to.
21 I just need to make sure.

22 Okay. You can go ahead and draw the list.

23 I'm gonna pick, ladies and gentlemen, two alternates
24 for this case. This case is not gonna go past this week.
25 Don't be too worried about it. We'll be finished this

1 week one way or the other.

2 When your name is called bring all your personal
3 items and personal belongings, come up, stand and turn
4 around, as Mr. Bibb is doing, and face both the parties.

5 Let me just tell you that in South Carolina each
6 side gets a certain number of strikes. They can strike
7 you for any reason whatsoever except for certain
8 criteria, like race, gender, religious beliefs, that type
9 of thing. But other than some very isolated pockets of
10 restrictions, you can be stricken. Don't be insulted.
11 Trust me. I've seen ministers stricken, so don't worry
12 about it.

13 Yes. Do you want to present the case?

14 MS. ADAMS: Thank you, Your Honor, may it please the
15 Court.

16 This is *State versus Dennis Temple*. He's been
17 charged on Indictment 2010-GS-37-886 for grand larceny
18 over five thousand; '887, criminal sexual conduct first
19 degree; '888, kidnapping; and '889, criminal sexual
20 conduct, first degree.

21 THE DEFENDANT: Your Honor --

22 THE COURT: Yes, sir.

23 THE DEFENDANT: I would like, I would like to object
24 to those indictments. Can I?

25 THE COURT: Yeah. Hold on just a second. What I'm

1 gonna do is -- well, I need to do it before the jury is
2 selected.

3 Ladies and gentlemen, I have to send you out of the
4 courtroom. I'll tell you, if you are selected as a
5 juror, normally I tell jurors you're gonna have to leave
6 the courtroom a good bit, we'll get you plenty of
7 exercise. I need for you to go outside the courtroom for
8 about ten minutes and then we'll bring you back in.
9 Please don't discuss this case with anyone, including
10 yourselves.

11 (Whereupon, the jury panel left the courtroom
12 at approximately 12:15 P.M.)

13 THE COURT: Yes, sir, what's your objection?

14 THE DEFENDANT: Yes, Your Honor. My objection, my
15 grounds for my objection is that those indictments are,
16 are untimely. They were served not within 90 days as
17 required by the South Carolina Rules of Criminal
18 Procedure. Rule 3(c) states specifically that they shall
19 be presented to any defendant within 90 days.

20 Also, those indictments are a product of vindictive
21 prosecution. They are in violation of the Exclusionary
22 Rule, the Sixth Amendment, and the Speedy Trial Act of
23 1974.

24 THE COURT: All right. Yes, ma'am.

25 MS. SIMMONS: Your Honor, we addressed this last

1 week. *State versus Edwards*, 364 S.C. 343 deals with the
2 timeliness of indictments, and the rule is purely
3 administrative. Mr. Temple was served with copies of all
4 of his indictments during discovery and certainly they
5 are not the result of vindictive prosecution. Seeking
6 indictments of the grand jury is part of our job.

7 THE COURT: All right. Yes, sir.

8 THE DEFENDANT: Your Honor, well, the State had a
9 remedy if, if, if they did not serve them within 90 days,
10 they had a remedy. They could have squashed [sic] --
11 well, they could have immediately indicted or got an
12 order from the Court for an extension of time, which the
13 rule clearly states. But the State didn't do neither
14 one.

15 THE COURT: All right. Wasn't your position last
16 week that since it was forwarded to the grand jury, that
17 the issue was not -- re-argue just for the record. I
18 can't remember exactly what you argued last week.

19 MS. SIMMONS: Yes, sir. The rule is administrative,
20 it is not jurisdictional. There's a long line of case
21 law, *State versus Edwards* and other South Carolina cases,
22 stating that a mere delay by the Solicitor presenting it
23 to the grand jury. In some of those cases, there's
24 actually one case where it was 800 days. And we're
25 looking at approximately 110. And quite frankly, Judge,

1 we only have grand juries here once a month. There was
2 not an undue or malicious delay in this matter.

3 THE COURT: And again, you are protected. Anything
4 else you want to say?

5 THE DEFENDANT: *United States versus Kennedy*, 372
6 F.3D 2004 Fourth Circuit clearly states that (reading):

7 In criminal procedures, the Rules of Criminal
8 Procedures under which crimes are investigated,
9 prosecuted, adjudicated and punished also encompass
10 Constitutional rights for the defendant.

11 So, I mean, it's clearly, that's no way to do it.

12 THE COURT: All right. You are protected for the
13 record. I'm gonna use the same reasoning I used last
14 week. I'll deny those. I think that it is
15 administrative. And I don't find any evidence of
16 vindictive prosecution at this point, but again, you are
17 protected for the record.

18 All right. Anything else that we need to take up
19 before we select a jury?

20 THE DEFENDANT: Pretrial motions.

21 MS. SIMMONS: Judge, we heard those in Anderson.

22 THE COURT: What other motions do you have?

23 THE DEFENDANT: Well, Your Honor, there's several
24 issues. A motion to suppress D.N.A. tests pursuant to
25 *Schmerber versus California*. I think they are in

1 violation of the South Carolina Rules 5 and 6.

2 Motion to change the venue. As you know, Your
3 Honor, this case has been exposed to prejudicial
4 publicity, sometimes three or four newspapers are
5 reporting the outcomes of certain hearings every month,
6 every week. There's been publicity on the TV nonstop for
7 like eight months.

8 I think that to continue with this trial in this
9 jurisdiction, I think it would be prejudicial to me. I
10 think it would.

11 THE COURT: All right. We took up -- you are
12 talking about a *Schmerber* motion, right?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: We took that up last week. But you are
15 basically re-raising the objection you made last week,
16 all right? And again, I'm trying to make sure you are
17 protected for the record.

18 THE DEFENDANT: Yes, Your Honor. I think the D.N.A.
19 tests were dismissed in reference to *Schmerber versus*
20 *California* because these D.N.A. tests that we have now
21 that was, they are purported new D.N.A. tests that was
22 issued on November the 8th. But it clearly states on the
23 front of it it's a supplement, but this is a new D.N.A.
24 test by itself. So if it's a supplement, then it's
25 obviously connected to something else. That's my

1 argument there.

2 THE COURT: All right. Yes, ma'am. Let's talk
3 about that and then we'll talk about Rule 5 and 6.

4 MS. SIMMONS: Judge, when S.L.E.D. issues an initial
5 report, it's called a report. Anything they subsequently
6 issue they write "supplemental" on. It's S.L.E.D.
7 procedure. I've asked about that. And the September
8 22nd D.N.A. samples, the ones that Judge Macaulay ordered
9 pursuant to a *Schmerber* Order after a hearing with him,
10 are samples that are analyzed and reflected in the
11 November 8th report.

12 THE COURT: All right. That's pretty much the same
13 argument as we had last week. And as I said, you can ask
14 the S.L.E.D. agent, if they testify, why it's called
15 supplemental. I'm not gonna limit your cross-examination
16 of it. But I'll deny that motion at the present time.

17 Now, Rule 5, what do you think you are still
18 entitled to? Rule 5 requires them to give you all the
19 evidence. Is there something?

20 THE DEFENDANT: Well, Your Honor, on their Rule 5, I
21 think that, well, Rule 5 was in reference to the other
22 D.N.A. tests that were issued. They were not disclosed
23 within the time that was required by the D.N.A. test
24 itself under Statute 6-23-740, Statute 13, 1713 AND 140.
25 But those are irrelevant statutes for D.N.A. tests as of

1 now. So that's about it, Your Honor.

2 THE COURT: Okay. And then the motion for change of
3 venue, obviously if I can't select a jury today, that's a
4 motion you can take up. But so far it looks like we've
5 got enough who are uninfluenced by any of the publicity.
6 And I understand you are protected for the record on that
7 motion, but I'm gonna deny the motion for change of
8 venue.

9 THE DEFENDANT: Can I proceed?

10 THE COURT: Yes. How many more do you have?

11 THE DEFENDANT: A motion for independent testing
12 that was never done.

13 THE COURT: Of the D.N.A.?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay.

16 MS. SIMMONS: He never filed for a motion for
17 independent testing.

18 THE COURT: Okay. Did you ever file a motion for
19 independent testing?

20 THE DEFENDANT: I was gonna leave that up to my
21 attorney. Never could get the attorney situation worked
22 out. Never could.

23 THE COURT: Okay. All right. Well, for the record
24 I'm gonna deny that motion as not timely filed. But go
25 ahead. Again, you are protected for the record, that's

1 why I want to make sure everything is on the record.

2 **THE DEFENDANT:** Okay. Discovery. I believe there
3 was a discovery violation. Certain information that I
4 requested was never produced.

5 **THE COURT:** Like what?

6 **THE DEFENDANT:** Like, like information in reference
7 to the officers that ruled, did the investigation or
8 police officers or witnesses that was unidentified at the
9 time, which are still unidentified at the time, right
10 now, that had written like statements on me or, you know,
11 and other information as well.

12 **THE COURT:** Okay. Yes, ma'am.

13 **MS. SIMMONS:** Judge, I think he's referring to there
14 were jailhouse snitches in this case. We provided them
15 the contents of their statements. They are not on our
16 witness list. We do not intend to use those folks in our
17 prosecution.

18 **THE COURT:** Is that who you are talking about?

19 **THE DEFENDANT:** Yeah. But also in reference to
20 police officers, past problems come up, you know,
21 citations, or disciplinary offenses or, you know, stuff
22 like that, too.

23 **THE COURT:** All right. Yes, ma'am.

24 **MS. SIMMONS:** Judge, he did send me a letter asking
25 for the personnel files of the law enforcement officers

1 in this case, every ticket they had ever written, or
2 every warrant they had ever written and he wanted to know
3 what medications they were on, on or about May 9th of
4 2010. I did respond to him in a timely manner in less
5 than ten days and told him that those items pursuant to
6 the Rules of Discovery are not within the care, custody
7 and control of the 10th Circuit Solicitor. I even went
8 as far as explaining to him in my correspondence with him
9 where he could subpoena those documents and files if he
10 chose to do so.

11 THE COURT: All right.

12 THE DEFENDANT: She did, Your Honor. But I thought
13 that it still was a discovery violation because of the
14 fact the information was not disclosed.

15 THE COURT: Okay. All right. Well, since there was
16 no subpoena sent, I'll deny it. But again, you are
17 protected for the record.

18 THE DEFENDANT: Motion to exclude undisclosed
19 witnesses. Your Honor, I just received the witness list
20 just now. I think that according to the South Carolina
21 Rules of Criminal Procedures that I should have received
22 the witness list ten days before trial.

23 THE COURT: Yes, ma'am.

24 MS. SIMMONS: Judge, he called us last week. We
25 explained to him that any name which was referenced in

1 discovery materials, which were voluminous and have been
2 provided to him, were subject to being called as a
3 witness in this case. I believe he's probably reading
4 Rule 5(d)(2) -- I mean 5(e)(2) on Notice of Alibi. If he
5 had noticed us of alibi, we would have had to give him a
6 witness list of names and addresses of witnesses that we
7 intend to rely on. He had the names of everybody who's
8 on that witness list in discovery materials.

9 THE COURT: All right. Is that what you are talking
10 about?

11 THE DEFENDANT: Yes, sir, that's what I'm talking
12 about. Just that rule and -- yes, sir.

13 THE COURT: Okay. All right. Again, you are
14 protected for the record. I'm gonna deny that motion
15 since alibi is not an issue at the current time.

16 THE DEFENDANT: Okay. My last motion, Your Honor,
17 would be motion to offer proof regarding South Carolina
18 Code of Laws Statute 16-3-659 in which the State has
19 previously requested that certain entities that would
20 prove my innocence be disclosed. Well, they're not to be
21 disclosed to the jury or -- I think that this evidence,
22 Your Honor, if I may please state briefly the primary
23 purpose of the State's motion is to prohibit the
24 Defendant, me, from introducing evidence of the alleged
25 victim's prior sexual activities and a third-party guilt

1 because the evidence would be inflammatory, prejudicial
2 or misleading. Further introduction of the said evidence
3 lacks probative value, lacks evidence of facts or
4 circumstances -- that was a reason.

5 However, I find that this -- Your Honor, the victim
6 says that she was taken to the hospital. They did what
7 you call a criminal sexual -- no -- it's called a sexual
8 assault examination on her which consists of asking the
9 alleged victim information and doing examinations on her.

10 Well, the examiner found out that she had had sex
11 that previous day, which was also, the rape, she alleges
12 later on she was raped. Okay? Now, from the examiner
13 came the criminal sexual conduct kit which they sent it
14 to the S.L.E.D. laboratory forensics.

15 The S.L.E.D. did an examination on this evidence,
16 and they concluded that there was more than two males'
17 semen identified. But her previous sexual act, she
18 stated that she used a condom, contraception. So I think
19 that this evidence right here would prove that the victim
20 is not only lying, but it would prove that, my innocence.
21 That's what I believe.

22 THE COURT: All right. Yes, ma'am.

23 MS. SIMMONS: Judge, we are looking at 16-3-659
24 which would allow the Defendant to introduce evidence of
25 semen, pregnancy or disease at trial if there was another

1 source. The vaginal swabs were taken to S.L.E.D., and
2 that's item 1.3 from the S.L.E.D. report, from the
3 S.L.E.D. testing kit. There was no semen identified in
4 those vaginal swabs.

5 The victim alleges that she had consensual sex with
6 her boyfriend with a condom the day before.

7 The match on the rectal swabs ---

8 THE DEFENDANT: Same thing.

9 THE COURT: Let her finish. That's one thing we
10 were talking about. Don't interrupt.

11 MS. SIMMONS: The rectal swabs did indicate semen
12 consistent with the victim's story, and that semen,
13 S.L.E.D. only developed one profile from that semen.
14 There is only one semen sample collected from the rape
15 kit, that is the rectal swab, and the match on that is
16 one in 330 trillion, one profile was developed. Any
17 evidence of another party would be solely just to confuse
18 this jury and inflame and prejudice the jury.

19 THE DEFENDANT: Your Honor?

20 THE COURT: Yes, sir.

21 THE DEFENDANT: The alleged victim stated to the
22 police, to the officers, that the assailant raped her and
23 he released inside her. When he realized that he had
24 released inside her, he was like, oh, and cursed and he
25 grabbed a rag and tried to clean her out with the rag.

1 This is the rag. The forensic did an examination on the
2 rag and they said it was a mixture of two D.N.A.'s, two
3 D.N.A.'s, not just one.

4 THE COURT: All right. Hold on. What did they say
5 about that? See, I don't have the evidence yet. I'll
6 see it as it comes in.

7 MS. SIMMONS: Judge, quite frankly, because of the
8 condition of the storage unit, we don't even know if we
9 sent the right rag for testing, number one. We're not
10 planning on introducing this rag. And I think 16-659 is
11 source of semen, pregnancy or other disease. There is
12 D.N.A. on that rag, there is no indication that it's
13 semen. I think the rag is moot for this point. We're
14 talking about if a rape kit was conducted and more than
15 one semen profile was developed.

16 THE DEFENDANT: Your Honor?

17 THE COURT: Yes, sir.

18 THE DEFENDANT: Regardless of whether the State can
19 use the evidence or not, I mean, it should not be their
20 determination if we can use it or not, you know?

21 THE COURT: Well, they're telling me they're not
22 gonna introduce it.

23 MS. SIMMONS: And Judge, just for the record, the
24 washcloth is S.L.E.D. 7.2, and it was swabbed, and the
25 D.N.A. profile of the major contributor on that is the

1 Defendant.

2 THE COURT: Were there other contributors?

3 MS. SIMMONS: It said it's a mixture of at least two
4 individuals, and the major contributor is Dennis Temple.
5 And there are two swabs taken from that, and swab 7.3
6 also matched Dennis Temple.

7 THE DEFENDANT: Your Honor, I think that this shows
8 itself that the victim is lying, you know?

9 THE COURT: All right. What you can do, and we'll
10 have to decide this. If there is testimony from S.L.E.D.
11 or the D.N.A. expert, we'll have to decide at that time
12 whether you can ask them about other D.N.A. found on the
13 rag. But that's not something I'm gonna take care of
14 pretrial.

15 THE DEFENDANT: Okay. But what about the previous
16 sexual act? You know, the prosecution has to prove that
17 there was two elements in criminal sexual conduct:
18 Aggravated force and penetration. By the victim stating
19 that she had previous sex that same day, 5-9-2010, that
20 she was allegedly raped, penetration is visible, could be
21 visible. How do we know for sure that the penetration is
22 not from the previous sexual act instead of the rape?

23 THE COURT: All right. Again, from a pretrial
24 standpoint, I don't need to deal with that now. Once we
25 get to the point in the trial that that may come up, a

1 lot of what you are mentioning now is dependent upon what
2 the witnesses say. So we'll save that one until -- you
3 need to let me know, though, when you get to the point
4 where you are thinking you may need to ask that question
5 because then I'll send the jury out and we'll make this
6 objection then, okay?

7 THE DEFENDANT: Okay.

8 THE COURT: Is that all of them?

9 THE DEFENDANT: Yeah. But, Your Honor, one more
10 thing?

11 THE COURT: Sure.

12 THE DEFENDANT: I think that was, that was the
13 reason to try to get this evidence introduced as legal
14 evidence admissible in order to present it to the jury
15 because the jury is the one that's gonna to be making a
16 decision.

17 THE COURT: Well, the jury has to determine the
18 facts. They have to determine whether the requirements
19 of criminal sexual conduct first are met, and they have
20 to determine that based upon the totality of the
21 evidence. The question is gonna be, quite frankly,
22 whether I let you ask that question, which is ask the
23 question of the victim: Did you have intercourse the
24 night before? I don't know.

25 I mean, then the jury has to make a decision about

1 whether or not that affects their factual determination.
2 I mean, the fact that you may think that evidence is not,
3 or shouldn't come in is not proper now. That's something
4 we're gonna have to decide. And you need to understand
5 that just because a certain piece of evidence may affect
6 your case either in the positive or in the negative, both
7 sides get to put their case in. The jury has to
8 determine the facts based upon the totality of the
9 evidence. So we'll decide that at the time it comes in.

10 THE DEFENDANT: Okay. Thank you, Your Honor.

11 THE COURT: Okay.

12 MS. SIMMONS: Judge, just for clarification I wanted
13 to make sure that Mr. Temple understands that you're
14 gonna rule on that when it comes up, so it would not be
15 proper to argue that until any point in time as he asks
16 those questions of the witness.

17 THE COURT: Well, Mr. Temple, do you intend to bring
18 that up in your opening statement?

19 THE DEFENDANT: Your Honor, I think, like I was
20 telling you, I have prepared my opening statement about
21 four months ago. Well, I'm not gonna say four months
22 ago. But I had the D.N.A. test at the time. And
23 everything was included to give the jury a preview of
24 what's to come. And this was included in my opening
25 statement. Maybe not detailed as it is, but I think I --

1 THE COURT: Well, do you intend to bring up in your
2 opening statement the prior act of the victim?

3 THE DEFENDANT: No, sir, I don't.

4 THE COURT: All right. That's all I need to know.
5 I don't need to know what you're gonna say. But since
6 you are representing yourself, you need to understand,
7 and I need this on the record real clear, and I need to
8 make sure you understand, while you are representing
9 yourself, you are held to the standards of the Rules just
10 as if you were a lawyer and as if you knew the Rules. So
11 if at some point during the trial you do something and
12 say, Oh, Judge, I'm sorry I did that, I didn't know the
13 Rule, that ain't gonna be good enough.

14 So what you need to understand is that if you get to
15 a point at any point during this trial, and you are
16 afraid you are getting ready to step over the line with
17 the Rules, the proper thing to do would be to say, Judge,
18 we need to take this up outside of the jury, and I'll
19 send them out. And if you object to something, I'm gonna
20 send them out every time because I don't want them to
21 hear what may be objectionable testimony. So just make
22 sure that, if you think you are getting ready to do
23 something, the best thing to do is say, "Judge, I got to
24 talk to you outside the jury," I'll send them out, and
25 then put it on the record.