

**THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals**

**APPEAL FROM CLARENDON COUNTY
Court of General Sessions**

W. Jeffery Young, Third Circuit Court Judge

Case No(s): 2013-GS-14-70

The State of South Carolina,

Respondent.

v.

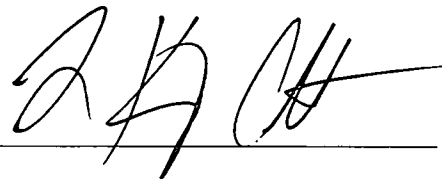
Andrew Lee Blackmon,

Appellant.

Statement of Facts for Appeal of Guilty Plea

Defendant, Andrew Lee Blackmon, appeals his negotiated guilty plea and sentence in this case. The following is the statement of facts required by Rule 203(B)(iv) of the South Carolina Appellate Court Rules.

Date: November 14, 2013



L. King Cutter
Clarendon County Public Defender
PO Box 339
Manning, SC 29102
(803) 433-0188

RECEIVED

NOV 15 2013

SC Court of Appeals

Pursuant to Rule 203 (B)(iv) of the South Carolina Appellate Court Rules, the Defendant, Andrew Lee Blackmon, is appealing a negotiated guilty plea in front of the Honorable W. Jeffrey Young on November 5, 2013. The Defendant contends that his guilty plea was not freely and voluntarily entered into because the Court did not allow the Defendant to proceed with an insanity defense at trial due to timely notice not being properly filed under Rule 5(f) of the South Carolina Rules of Criminal Procedure. The Defendant argues that the trial court erred by not allowing the Defendant to receive a second independent competency evaluation that may have aided the Defendant's insanity defense.

The Defendant along with his wife co-Defendant were arrested on January 25, 2013 for Entering a Bank with the Intent to Steal under Section 16-11-380 of the South Carolina Code. The State and Defendant consented to a M'Naughten competency evaluation on March 15, 2013. The Defendant received the evaluation on May 7, 2013. On May 30, 2013, South Carolina Department of Mental Health returned a report stating that the Defendant knew right from wrong at the time of the incident and was competent to stand trial. The Defendant produced a letter from Cynthia S. Carter MD who diagnosed him as Bipolar Disorder, Type I on December 29, 2009. During the evaluation period, Dr. Carter relocated her practice and boxed up her client's records making them unavailable for the evaluation. On October 14, 2013, the Defendant was one of 128 cases placed on the Clarendon County Trial Docket. On October 31, it was brought to the Court's attention the murder case going forward on November 4, 2013 could not proceed due to a severe medical diagnosis of that Defendant's counsel. On that day, this Defendant received a plea offer from the State. Counsel informed the Defendant of that plea offer and he refused to consider it citing the problems with the May 7th evaluation and that he needed a second evaluation or a chance to argue Insanity as an affirmative defense. Defendant filed a Notice of Insanity Defense with the Court and upon the State on November 1, 2013.

On Monday November 4, 2013, the Defendant made a motion for continuance, a motion for an independent evaluation, a motion for another state evaluation, a motion to argue Insanity Defense for good cause under Rule 5(f) under the South Carolina Rules of Criminal Procedure and the Defendant personally made a motion to relieve counsel. The Court denied the Defendant's motion for continuance, but allowed the trial to start on Tuesday November 5, 2013. The court denied the motions for an independent evaluation and a motion for a separate state evaluation and took the motion to argue Insanity under advisement until November 5, 2013. The court gave the Defendant the option of proceeding to trial with present counsel or representing himself.

On Monday, the Defendant spent several hours discussing with counsel the advantages and disadvantages of pleading guilty and going to trial. The Defendant refused to focus on potential defenses with the trial, but continued to state that the May 7th evaluation was incorrect and accompanied by conspiracy and fraud. The Defendant's counsel was granted permission to speak with the co-Defendant, Virginia Blackmon, about the facts and circumstances of the crime alleged in addition to the Defendant's mental history. The co-Defendant accompanied

Defendant's counsel to the Clarendon County Detention Center to meet with the Defendant. During this meeting, it was brought to the Defendant's attention that the Defendant's version of the events that took place were incorrect. The medicine the Defendant was taking during the time of the alleged incident was not the correct medicine according to his co-defendant, who is his caretaker and wife. Further, the Defendant had claimed ancillary activities that counsel knew could not have fit the timeline of events, but the Defendant refused to accept that until informed by his co-Defendant wife. After several hours of communication, the Defendant, against the advice of counsel, wished to turn down a plea offer of ten years in the South Carolina Department of Corrections and proceed to trial. The next morning the Court informed counsel that he was not allowing the Defendant to argue insanity to the jury by the use of lay witnesses or potential expert witnesses for failure to comply with Rule 5(f) of the South Carolina Rules of Criminal Procedure as there was no good cause shown to the court.

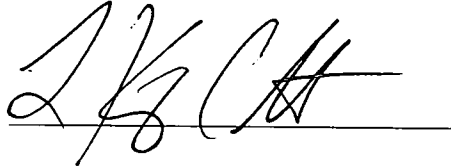
The Defendant was made aware of the Court's ruling. After extended talks with the counsel, the co-defendant and co-defendant's counsel, the Defendant wished to take the State's offer of ten years in the South Carolina Department of Corrections. The State then informed Defense counsel that the ten year offer needed the victim's consent. The Victim did not consent and a fifteen year offer was extended. The Defendant accepted the offer and signed the plea sheet. However, during the plea, the Defendant did not agree with the facts alleged on the Indictment. Therefore, the Defendant proceeded to trial. Before breaking for lunch, the State produced five witnesses, three videos showing the Defendant give the teller a note and receive money and the note that was used. Further, the first witness was the teller who testified that she felt threatened and intimidated as required by the statute.

After lunch, the State allowed the Defendant to enter a guilty plea to the original fifteen years offered by the State due to a multitude of factors. The guilty plea would be a negotiated guilty plea as the Court typically controls punishment once the jury is sworn. The Defendant proceeded in the guilty plea stating that he was entering the plea freely and voluntarily. The Court accepted the plea and followed the recommendation of fifteen years with credit for time served.

The Defendant contends that because of the inability to argue insanity to the jury or receive a second or independent evaluations, he did not enter his plea freely and voluntarily. After Monday November 4, 2013, the Defendant had options of going to trial facing thirty years with a substantial amount of evidence of his guilt or pleading guilty to fifteen years. In *Ake v. Oklahoma*, 470 U.S. 68, 105 S. Ct. 1087, 84 L.Ed. 2d 53 (1985), (cited with approval by *Bailey v. State*, 309 S.C. 455, 424 S.E.2d 503 (1992)). When an indigent defendant seeks psychiatric assistance to establish an insanity defense, and there is evidence this is a potentially viable defense, the state is constitutionally mandated to provide the defendant with access to a competent psychiatrist who will conduct an appropriate examination and assist in evaluation, preparation and presentation of the defense. Further, under S.C. Statute 44-23-410 (C), the Court may order the Defendant to be examined by an additional independent expert and designate the

time and conditions of the evaluation. Here, the Defendant was in the Clarendon County Detention Center, had no intentions of attempting to bond out of jail and simply wanted an opportunity to fully explore his mental issues. That was not allowed, thereby, forcing Mr. Blackmon to enter into a plea that was not freely and voluntarily given.

Date:

A handwritten signature in black ink, appearing to read 'L. King Cutter', written over a horizontal line.

L. King Cutter
Clarendon County Public Defender
PO Box 339
Manning, SC 29102
(803) 433-0188

ROXCOMP

December 29, 2009

RE: Andrew Blackmon (DOB 9/16/70)

To Whom It May Concern:

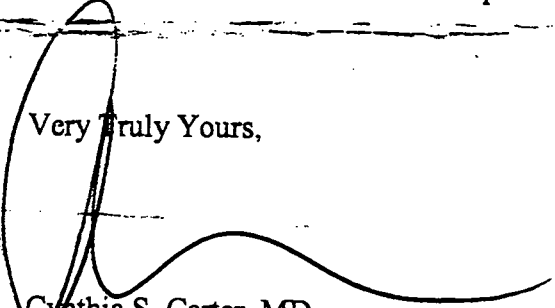
Andrew Blackmon is a patient under my care for the treatment of Bipolar Disorder, Type I. In my view, his symptoms of irritability, explosive tendencies, and inconsistent mood render him unable to work in any form of employment.

Prescribed medications include:

1. Prozac (an antidepressant also useful in the treatment of anxiety) 40 mg daily
2. Lamictal (a mood stabilizer) 25 mg daily for seven days then 50 mg daily for seven days then 75 mg daily for seven days then 100 mg daily
3. Trazodone 150 mg at bedtime

Please feel free to contact me with questions or concerns.

Very Truly Yours,



Cynthia S. Carter, MD
Diplomat, American Board of Psychiatry and Neurology

ROXCOMP BEHAVIORAL HEALTH
435 Warren Street, Roxbury, MA 02119
Tel (617) 442-7400 • Fax (617) 541-3797



University of Massachusetts

Disability Evaluation Services
P.O. Box 2795
Worcester, MA 01613-9938
Toll Free 1-800-888-3420
Toll Free TTY 1-866-693-1390 (for the deaf and hard of hearing).

Esta noticia afecta sus derechos a responsabilidades y debe ser traducida en seguida. Si Usted necesita ayuda en traducir esta noticia, su oficina del Department of Transitional Assistance le asignara un trabajador de la oficina que es bilingue o un interprete para asistirle a ud.

September 22, 2010

Andrew Blackmon

7 Rosa St

Case#: 631109

HYDE PARK, MA 02136

Dear Andrew Blackmon:

As an applicant or recipient of the Emergency Aid to the Elderly, Disabled, and Children (EAEDC) Program, you have stated that you are disabled. The Disability Evaluation Services Program was asked to review information about you and decide whether you are disabled.

We have decided that you have a disability that is expected to last through:

March 22, 2011

If you have any questions about this notice, please call your worker at the local Transitional Assistance Office.

Sincerely,

Disability Evaluation Services

CRIMINAL



INVESTIGATIONS

Case No.: 13-0286

Incident: **Bank Robbery**

Subject(s): **Andrew Blackmon, Virginia Blackmon**

Investigator: **Det. E.D. Rosdail**

488
FEB -5 2013

On Jan 25, 2013 The wife of Andrew Blackmon called Mr. Terry Kelley to come to day's Inn in Kam bay, to pick him and his wife up from Motel. When I first got there could find nobody went front desk and ask did he know the Mr. Blackmon and they didn't know them. When I turn around I saw the wife, and she said we are in this room over here, we I left and went upstairs into room she was counting the money ~~then~~ Mr. Blackmon ask me to carry him to his house on 301 to get some stuff. As I was passing the Manning Motel they asked me to stop and get some more stuff from here. As the police officer drove up he ask me to leave. T. L. K.

10/13

T.L.K.

Having complied with the defendant's request, the State hereby requests the information subject to disclosure under Rule 5(b)(1)(A)&(B).

The State hereby requests information subject to Rule 5(e)(1) Notice of Alibi; Rule 5(f) Notice of Insanity Defense or Plea of Guilty but Mentally Ill; and any intent of the defendant to rely upon the defenses of necessity or self-defense. |

This Motion is pursuant to Circuit Rule 5, upon compliance by the prosecution with the defendant's previous Motion for Discovery and Disclosure based upon the same circuit court rule. The duty to make said disclosure is a continuing duty up to and during trial.



Christopher Durant
Assistant Solicitor
Third Judicial Circuit

Manning, South Carolina

June 3, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)
State of South Carolina,)
)
)
vs.)
)
Andrew Lee Blackmon)
Defendant.)
_____)

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT

MOTION FOR
DISCOVERY & INSPECTION

Now comes the State, by and through its undersigned attorney, Christopher R. DuRant, Assistant Solicitor, pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure (SCRCP), and moves the defense to permit the State to inspect and copy or photograph, including, but not limited to, the following, with the express provision that the duty of disclosure be a continuing one in the event that any such materials come into existence or become available after the initial disclosures:

- a) Any books, papers, documents, photographs, tangible objects, or copies or portions thereof, which are within the possession, custody or control of the defendant and which the defendant intends to introduce as evidence in chief at trial;
- b) Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce as evidence in chief at the trial or which were prepared by a witness whom the defendant intends to call at trial when the reports relate to his testimony;
- c) The State would further move that if the Defendant intends to call to the stand an expert witness, that if no report of said witness has to this point been made, that the Defendant, prior to trial, have said expert witness reduce the essence of his testimony to writing, listing the basis for his opinion and the methods used to substantiate said opinion.
- d) Pursuant to subsection (e) of Rule 5, SCRCP, the State moves the defendant to serve upon the prosecution within ten (10) days, or at such time as the Court may direct, a written notice of the defendant's intention to offer an alibi defense. The notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the defendant intends to rely to establish such alibi.

The State further moves that the defense provide written notice of its intention to rely upon the defense of insanity and/or guilty but mentally ill at the time of the crime, if applicable, or its intention to plead guilty but mentally ill, as is required and provided under Rule 5(f), SCRCP.

Respectfully Submitted,


Christopher R. DuRant
Assistant Solicitor

2013A1420100014

STATE OF SOUTH CAROLINA
 County/ Municipality of
MANNING

THE STATE
against

ANDREW LEE BLACKMON

Address: 5326 HWY 301 #2
ALCOU SC 29001

Phone: _____ SSN: _____
Sex: M Race: B Height: 5-8 Weight: 160
DL State: SC DL#: 102996524

DOB: 09/16/1970 Agency OR#: SC0140100
Prosecuting Agency: MANNING POLICE DEPARTMENT
Prosecuting Officer: DET. ERIC ROSDAILL

Offense: ENTERING A BANK WITH INTENT TO
STEAL Offense Code: 0257
Code/Ordinance Sec: 16-11-0380

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

Signature of Judge _____ (L.S.)
Date: 01/25/2013

RETURN
A copy of this arrest warrant was delivered to
defendant ANDREW LEE BLACKMON
on 01/26/2013 12:13 pm

RETURN WARRANT TO:
MANNING MUNICIPAL COURT
36 WEST BOYCE STREET
MANNING, SC 29102

Signature of Constable/Law Enforcement Officer
ALL DJ

STATE OF SOUTH CAROLINA
 County/ Municipality of
MANNING

AFFIDAVIT

Form Approved by
S.C. Court General
April 13, 2009
SCCA 518

Personally appeared before me the affiant DET. ERIC ROSDAILL
being duly sworn deposes and says that defendant ANDREW LEE BLACKMON
did within this county and state on 01/25/2013 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of MANNING)
In the following particulars:
DESCRIPTION OF OFFENSE: 16-11-0380 / ENTERING A BANK WITH INTENT TO STEAL

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

THAT ON JANUARY 25, 2013 THE DEFENDANT DID ENTER THE BANK OF CLARENDON LOCATED AT 108 S. BROOKS STREET
IN THE CITY OF MANNING WITH THE INTENT TO STEAL MONEY FROM THE BANK. THE DEFENDANT DID APPROACH A
TELLER OF THE BANK AND DID GIVE THE TELLER A NOTE STATING, GIVE ME ALL THE MONEY, AND, DONT MAKE ANY
FAST MOVES OR PUSH ANY BUTTONS. THE DEFENDANT STATED TO THE TELLER "IM NOT PLAYING" AND PATTED HIS
PANTS LEG MAKING THE TELLER BELIEVE HE MAY HAVE A HANDGUN. PROBABLE CAUSE FOR THIS WARRANT ARE THE
STATEMENTS OF THE TELLER AND THE VIDEO FROM THE BANK POSITIVELY IDENTIFYING THE DEFENDANT AND SHOWING
THE ACTIONS LISTED ABOVE. THIS INCIDENT OCCURRED IN THE CITY OF MANNING, CLARENDON COUNTY, SC. THE
AFFIANT ALONG WITH VICTIMS WILL PROVE SAME.

Signature of Affiant
STATE OF SOUTH CAROLINA
 County/ Municipality of
MANNING

Affiant's Address 42 WEST BOYCE STREET
MANNING SC 29102
Affiant's Telephone 803 435 8859

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 01/25/2013 defendant ANDREW LEE BLACKMON

did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of MANNING) as set forth below:
DESCRIPTION OF OFFENSE: ROBBERY / ENTERING BANK, DEPOSITORY OR BLDG AND LOAN
ASSOCIATION WITH INTENT TO STEAL

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 the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of his execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 01/25/2013
James Dingle (L.S.)
JAMES DINGLE
Judge Code: 200

Judges Address 36 WEST BOYCE ST
MANNING SC 29102

Judges Telephone 803-433-0050
Issuing Court: Magistrate Municipal Circuit

AUDIT COPY

Case: 13-0286

2013A1420100015

STATE OF SOUTH CAROLINA
 County/ Municipality of
MANNING

THE STATE
against

VIRGINIA IRENE BLACKMON

Address: 5326 HWY 301
ALCOLU SC 29001

Phone: _____ SSN: _____

Sex: F Race: W Height: _____ Weight: _____
DL State: SC DL#: 102996583

JOB: 04/03/1972 Agency OR#: SC0140100

Prosecuting Agency: MANNING POLICE DEPARTMENT
Prosecuting Officer: DET. ERIC ROSDAIL

Offense: ENTERING BANK WITH INTENT TO
STEAL Offense Code: 0257

Code/Ordinance Sec. 16-11-0380

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

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

Signature of Judge _____ (L.S.)

Date: 01/25/2013

RETURN

A copy of this arrest warrant was delivered to
defendant VIRGINIA IRENE BLACKMON
on 01/26/2013 12:12 PM

Signature of Constable/Law Enforcement Officer
A21 DA

RETURN WARRANT TO:
MANNING MUNICIPAL COURT
36 WEST BOYCE STREET
MANNING, SC 29102



STATE OF SOUTH CAROLINA
 County/ Municipality of
MANNING

AFFIDAVIT

Personally appeared before me the affiant DET. ERIC ROSDAIL
being duly sworn deposes and says that defendant VIRGINIA IRENE BLACKMON
did within this county and state on 01/25/2013
State of South Carolina (or ordinance of County/ Municipality of MANNING) violate the criminal laws of th
in the following particulars:

DESCRIPTION OF OFFENSE: 16-11-0380 / ENTERING BANK WITH INTENT TO STEAL

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

THAT ON JANUARY 25, 2013 THE DEFENDANT DID COMMIT THE OFFENSE OF ENTERING A BANK WITH INTENT TO STEAL.
THE DEFENDANT DID TAKE A SHEET OF PAPER AND A PEN FROM THE DEPARTMENT OF SOCIAL SERVICES OFFICE AND
DID WRITE ON IT "NO DYE PACKS, GIVE ME ALL THE MONEY, DONT TALK, DONT PUSH ANY BUTTONS, DONT RISK IT. I
KNOW YOU AND YOUR FAMILY." AND DID GIVE THE NOTE TO A CO-DEFENDANT WHOM DID ENTER THE BANK OF
CLARENDON AND DID GIVE THE SAME NOTE TO A TELLER AT THE BANK OF CLARENDON AT 106 S. BROOKS STREET AND
DID TAKE FROM THE BANK WITHOUT PERMISSION TWO THOUSAND AND SEVEN HUNDRED AND SEVENTY-SIX DOLLARS
AND SEVENTY-FIVE CENTS (\$2,776.75). PROBABLE CAUSE FOR THIS WARRANT ARE THE STATEMENTS OF THE DSS
WORKER ALONG WITH THE DEFENDANTS STATEMENT THAT SHE DID WRITE THE NOTE AND GIVE IT TO THE
CODEFENDANT. THIS INCIDENT OCCURRED IN THE CITY OF MANNING, CLARENDON COUNTY, SC. THE AFFIANT ALONG
WITH WITNESSES WILL PROVE SAME.

Signature of Affiant
STATE OF SOUTH CAROLINA
 County/ Municipality of
MANNING

Affiant's Address 42 WEST BOYCE STREET
MANNING SC 29102
Affiant's Telephone 803 435 8859

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 01/25/2013 defendant VIRGINIA IRENE BLACKMON

did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of MANNING

DESCRIPTION OF OFFENSE: ROBBERY / ENTERING BANK, DEPOSITORY OR BLDG AND LOAN
ASSOCIATION WITH INTENT TO STEAL) as set forth below.

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 the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of his execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on 01/25/2013
JAMES DINGLE

Judge Code: 200

Judge's Address 36 WEST BOYCE ST
MANNING SC 29102
Judge's Telephone 803-433-0050

AUDIT COPY

Issuing Court: Magistrate Municipal Circuit

Case: 13-0286

MANNING POLICE DEPARTMENT
INCIDENT REPORT

CASE NUMBER

13 - 0286

NCIC

INC. ENTD.

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM			
1. 120 - ROBBERY				<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	02		<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.			
2.				<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO						
3.				<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO						
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)						ZIP CODE	WEAPON TYPE				
108 SOUTH BROOKS ST. THE BANK OF CLARENDON, MANNING SC						29102	99				
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK			LOCATION NO.			
01/25/2013	0850		01/25/2013	0900	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME			
					01/25/2013	0850	0851	1100	03		
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
BLANDING, CHRISTINA			#1 AQ	#2 AQ	<input checked="" type="checkbox"/> SOU	B	F	00	N	(803) 433-4451 H	
ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.				
108 S BROOKS ST (BANK OF CLARENDON)				MANNING	SC	29102	03				
VICTIM'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
BLANDING, CHRISTINA			#1 AQ	#2 AQ	<input checked="" type="checkbox"/> SOU	B	F	35	N	(803) 433-4451 H	
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
5-8	120	BLK	BRO								
ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.				
108 S BROOKS ST (BANK OF CLARENDON)				MANNING	SC	29102	03				
VISIBLE INJURY (VICT. 1) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN -											
VICTIM (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK.											
<input type="checkbox"/> TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPLASMT. <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED											
J - This Jurisdiction S - State O - Out of State U - Unknown											
SUBJECT NAME (LAST, FIRST, MIDDLE) RACE SEX AGE ETH. DATE OF BIRTH HEIGHT WEIGHT HAIR EYES											
BLACKMON, ANDREW LEE B M 42 N 09/16/1970 5-8 160 BLK BRO											
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.											
ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.				
5326 HWY 301 #2				ALCOLU	SC	29001	03				
SUBJECT (NO. 1) USING: ALCOHOL: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK. ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO											
DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK. TYPE: TOTAL # ARRESTED 0 DATE/TIME OF OFFENSE 01/25/2013 0850 DATE/TIME OF ARREST											

Offenses:
ROBBERY

ON THE DATE AND TIME INDICATED ON THIS REPORT MANNING UNITS WERE CALLED TO THE BANK OF CLARENDON LOCATED AT 106 S. MILL STREET IN REFERENCE TO A TELLER BEING THREATENED. UPON ARRIVAL MANNING UNITS WERE MET BY BANK OFFICIALS WHO STATED THAT A B/M LATER IDENTIFIED AS ANDREW BLACKMON HAD ENTERED THE BANK AND HAD GIVEN A NOTE TO TELLER CHRISTINA BLANDING DEMANDING MONEY. UPON SPEAKING WITH THE MS. BLANDING SHE STATED THAT A B/M SHE THOUGHT TO BE NAMED KEITH HAD CAME TO HER WINDOW AND HAD GIVEN HER A NOT STATING "GIVE ME ALL THE MONEY, MAKE NO FAST MOVES OR PUSH ANY BUTTONS". MS. BLANDING STATED THAT SHE LOOKED AT MR. BLACKMON AS IF HE WAS JOKING AND MR. BLACKMON STATED "I AM NOT PLAYING" AND PATTED HIS FRONT PANTS POCKET. MS. BLANDING GAVE MR. BLACKMON A STACK OF \$10'S AND \$20'S FROM HER DRAWER AND MR. BLACKMON TOLD HER TO STOP. MR. BLACKMON TURNED TO LEAVE AND THEN TURNED BACK AROUND AND RETRIEVED THE NOTE AND TOOK IT WITH HIM AND FLED THE BANK. BANK OFFICIALS PULLED THE VIDEO OF THE INCIDENT AND WERE ABLE TO IDENTIFY THE INDIVIDUAL AS ANDREW LEE BLACKMON ALONG WITH PROVIDING AN ADDRESS AND PHONE NUMBER FROM HIS ACCOUNT INFORMATION AT THE BANK. MANNING UNITS ALONG WITH CLARENDON DEPUTIES CONDUCTED A SEARCH OF THE AREA BUT WERE UNABLE TO LOCATE MR. BLACKMON.

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
P	TYPE (GROUP)	20-Money									TOTAL VALUE
R	Burned										
O	Count./Forged										
P	Dest./Damaged										
E	Recovered	2555.00									
R	Seized										2555.00
T	Stolen	2770.00									
Y	Unknown										2770.00
SUBJECT IDENTIFIED		SUBJECT LOCATED		<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18		<input type="checkbox"/> EX-CLEAR UNDER 18			
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR 18 AND OVER			
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY											
REPORTING OFFICER(S)				DATE	UNIT NUMBER	APPROVING OFFICER				DATE	UNIT NUMBER
DET. SGT ERIC ROSDAIL				01/25/2013							
MANNING POLICE AS A BYWAY				01/25/2013		FOLLOW-UP INVESTIGATION OFFICER					

SC0140100

MANNING POLICE DEPARTMENT

SUPPLEMENTAL INCIDENT REPORT

WAVE NUMBER
13-0286

NUM. INCL. **1**

PAGE **1**

- ORIGINAL REPORT
- MODIFIES ORIGINAL
- SUPPLEMENTAL REPORT
- CASE STATUS CHANGE
- ADDITIONAL VICTIMS
- ADDITIONAL OFFENDERS
- ADDITIONAL STOLEN PROPERTY
- ADDITIONAL RECOVERED PROPERTY

VICTIM SUBJ OVERFL	<input type="checkbox"/> COMPLAINANT	NAME (LAST, FIRST, MIDDLE) BLACKMON, VIRGINIA IRENE		RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.
	<input type="checkbox"/> VICTIM #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.	J S O U	W	F	40	04/03/1972
	<input checked="" type="checkbox"/> SUBJECT # 02	ADDRESS 5326 HWY 301		CITY ALCOLU	STATE SC	ZIP CODE 29001	LOCATION NO.	DAY PHONE	EVENING PHONE		
	<input type="checkbox"/> RUNAWAY	VICTIM NO. _____		VISIBLE INJURY: <input type="checkbox"/> NO <input type="checkbox"/> YES		VICTIM USING ALCOHOL: <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> UNK.		DRUGS: <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: _____		<input type="checkbox"/> TWO-MAN VEH. <input type="checkbox"/> DETECTIVE/SPLASMT <input type="checkbox"/> ALONE <input type="checkbox"/> UNK. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> OTHER <input type="checkbox"/> ASSISTED	

UNKNOWN

SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> UNFOUNDED	<input type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR UNDER 18	<input type="checkbox"/> EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE		1. <input type="checkbox"/> OFFENDER DEATH	2. <input type="checkbox"/> NO PROSECUTION	3. <input type="checkbox"/> EXTRADITION DENIED	4. <input type="checkbox"/> VICTIM DECLINES COOPERATION	5. <input type="checkbox"/> JUVENILE - NO CUSTODY	
REPORTING OFFICER(S) DET. SGT ERIC ROSDAL	DATE 01/25/2013	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER	
MAJOR DOUGLAS A RIDGEWAY		01/25/2013	FOLLOW-UP INVESTIGATION OFFICER <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO DET. SGT ERIC ROSDAL				

AGENCY NO.
SC0140100

MANNING POLICE DEPARTMENT

PROPERTY LISTING

1 3 - 0 2 8 6

INQ. ENTD.

<input type="checkbox"/> ORIGINAL REPORT	<input type="checkbox"/> SUPPLEMENTAL REPORT	<input type="checkbox"/> ADDITIONAL VICTIMS	<input type="checkbox"/> ADDITIONAL STOLEN PROPERTY
<input type="checkbox"/> MODIFIES ORIGINAL	<input type="checkbox"/> CASE STATUS CHANGE	<input type="checkbox"/> ADDITIONAL OFFENDERS	<input type="checkbox"/> ADDITIONAL RECOVERED PROPERTY

5	RECOVERED		
	MONEY		
		TOTAL GROUP	-2,555.00
7	STOLEN		
	MONEY		
		TOTAL GROUP	2,770.00
		TOTAL GROUP	2,770.00

TOTAL PROPERTY

215.00

A D M I N I S T	SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> UNFOUNDED	<input type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER		
	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY									
	REPORTING OFFICER(S)			DATE	UNIT NUMBER	APPROVING OFFICER			DATE	UNIT NUMBER
	DET. SGT ERIC ROSDAIL			01/25/2013						
MAJOR DOUGLAS A RIDGEWAY			01/25/2013		FOLLOW-UP INVESTIGATION OFFICER <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO DET. SGT ERIC ROSDAIL					

INVESTIGATIVE NOTES

Case Number: 13-0286

Date: 01/30/2013

Officer: 42 - ERIC ROSDAIL

Notes: Just prior to getting the call at the bank on January 25, 2013 Manning units were called to the Manning Motel on Hwy 521 in reference to a W/F and a B/M leaving a bag of clothes in the lobby. As descriptions and identification came in on the bank suspects it was determined that these were the same individuals. The manager at the Manning Motel was advised to call 911 if the couple came back. At approx. 12:30 pm on January 25, 2013 Manning units were dispatched to the Motel in reference to the couple being back for their items. Manning Officers along with Deputies from the Clarendon Sheriff's Office were able to detain both subjects. A relative Jerry Kelley stated that he received a call from the couple to give them a ride and they paid him \$20.00 which he turned back over to Officers. Officers found the note used in the robbery in the back pocket of Mr. Blackmon upon his arrest. Upon Mirandizing and questioning Ms. Blackmon she admitted to writing the note used in the robbery. Also found were two phones, one which it was later determined that was bought at Walmart using money taken from the bank. Also recovered were two room keys to the Days Inn on Paxville Hwy. for room 256. It was discovered that the couple had asked Bernie Montgomery to rent the room for them for two nights in his name. Mr. Montgomery was located and confirmed he had rented the room for Mr. and Ms. Blackmon. Ms. Blackmon did state that the rest of the money was in the hotel room and was able to give a description of where the room was at the hotel, which did match the location of room 256. The suspects were taken to CCDC and booked in pending warrants. A search warrant was drawn up and County units secured the room until the warrant was signed and could be executed. Upon execution of the warrant \$2410.00 in cash was recovered in the drawer of the night stand table between the two beds. Also recovered was the Trac phone box and receipts were the phone and minutes were purchased totaling \$80.00. A second Phone along with clothes were also recovered at the Days Inn. The \$2430.00 in cash was photographed entered into evidence and signed over to bank officials.

INVESTIGATIVE NOTES

Case Number: 13-0286

*NAME?
TWO?*

Date: 01/30/2013

Officer: 42 - ERIC ROSDAIL

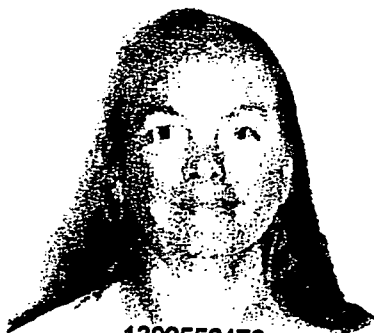
Notes: Upon conducting a search of the area Chief Shaffer enter the DSS building on Church Street to ask if anyone had seen the suspects. A DSS worker informed Chief Shaffer that the couple had come in and the female had borrowed a piece of paper and a pen to write the note used in the bank robbery. The couple had also come in after the robbery and the male had changed clothes in the lobby. Upon checking the area further the blue coat worn by Blackmon during the robbery was found hanging over the dumpster fence at T's Express at the corner of Church and Boyce streets and the pants, camouflage bandanna, and black jeans were found in a clear plastic bag hanging on the inside of the same fence near the dumpster at T's Express. These items were recovered by Manning Police and are in evidence.

Guy walked over to Christina's line. He said "hi" to me and said that he remembered me. I say hey back. He was rambling on about something but I could not understand what he was saying.

Jennifer Watson
1/25/13



3 YEAR DRIVER RECORD



1302556478

Customer No: 32897365

Name: BLACKMON, VIRGINIA IRENE

Driver License No: 102996583

Address: 5326 HWY 301

City: ALCOLU

State: SC

Zip: 290017100

County: CLARENDON

DOB: 04/03/1972

Sex: F

Driver Training: N

Status - DL: NO SUSPENSION

CDL: NO DISQUALIFICATION

Point Summary

Total Current Points: 0

Driver Credit: -0

Adjusted Current Points: 0

End of Report



DAYS INN OF MANNING
2825 PAXVILLE HIGHWAY
MANNING, SC 29102 US
Phone: (803) 473-4021
Fax: (803) 473-4006
Email: mike73daysinn@yahoo.com
Printed: 1/25/2013 9:30:24 AM

Registration

Name: MONTGOMERY, BERNIE
Address: 2346 ALEX HARVIN HWY.
MANNING, SC 29102 US
Room: 256
Rate Plan: RACK
Arrival: 1/25/2013 (Fri)
Room Type: DD1, 2 DOUBLES SMK
Daily Rate: \$55.95 + \$6.72 Tax
Departure: 1/27/2013 (Sun)
Confirmation Number: 812-680167
Account Number: 812-680167
Nights: 2
GTD: CA - CASH
Guests: 2/0

if you taking non smoking and if you smoke in the room you will be charged \$75.00 X_____

Room Rate:

1/25/2013 (Fri) - 1/26/2013 (Sat)

\$55.95 + \$6.72 Tax per night.

Total Estimated Stay Amount:

\$125.34

License Plate #:	_____
Make:	_____
Model:	_____

Guest Signature: Bernie Montgomery

By signing above, I agree to the terms and conditions listed on this entire page.

Check-in time: 3:00 PM

Check-out time: 11:00 AM

(1) I agree that my liability for this bill is not waived and I agree to be held personally liable in the event that the indicated person, company, or association fails to pay for any or part of the full amount of these charges and I shall be responsible for any loss or damage to the premises or contents. (2) The property is privately owned and management reserves the right to refuse service to any one, and will not be responsible for injury or accidents to guests or loss of money, jewelry or any personal valuables of any kind.

RETURN

I received the attached Search Warrant From ERIC ROSPAIL, and have executed it as follows:

On JANUARY 25th 2013 at 1:50 o'clock PM, I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with BERNIE TYRONE MONTGOMERY
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

- 1- \$2410⁰⁰ IN US CURRENCY - NIGHTSTAND DRAWER - KENNEDY
- 2- BLACK WOMANS COAT - OF BEN - KENNEDY
- 3- WALMART REEFER - FROM BLACK COAT - KENNEDY / STONE
- 4- WHITE STAINLESS CAP - OF BEN - KENNEDY
- 5- GREY CAMO BACKPACK WITH NUMEROUS ITEMS - FOUND BY ROSE - RIDGWAY
- 6- WALMART BAG WITH TRAC PHONE AND TRAC PHONE CARD - FOUND BY JED - ROSPAIL
- 7- LG GREY IN GEAR CAR PHONE - OF BEN - ROSPAIL
- 8- KYOKKO BLK IN GEAR CAR PHONE - OF BEN - ROSPAIL
- 9- PURPLE BANANA - OF BEN - ROSPAIL

This inventory was made in the presence of D. RIDGWAY, M. KENNEDY, K. MAXLOWE
AND S. DALBACH

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____
day of _____,

Signature of Judge (L.S.)

[Signature]
(Signature of Officer Executing Warrant)

STATE OF SOUTH CAROLINA

COUNTY OF MANNING

AFFIDAVIT

Personally appeared before me, one DET. ERIC ROSDAIL who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

ANY AND ALL EVIDENCE RELATING TO THE ROBBERY OF THE BANK OF CLARENDON LOCATED AT 106 S. MILL STREET ON JANUARY 25, 2013, TO INCLUDE BUT NOT LIMITED TO ANY CLOTHING USED DURING THE ROBBERY, MONEY TAKEN FROM THE BANK OF CLARENDON, ANY ITEMS USED IN THE ROBBERY.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

THE HOTEL ROOM RENTED UNDER THE NAME OF TYRONE BERNEY MONTGOMERY, LISTED AS ROOM 256 AT THE DAYS INN MOTEL LOCATED AT 2825 PAXVILLE HWY. LEAVING THE MANNING POLICE DEPARTMENT AND TRAVELING WEST ON BOYCE STREET GO APPROXIMATELY 2 MILES TO THE DAYS INN MOTEL JUST PRIOR TO REACHING RACCOON ROAD ON THE LEFT HAND SIDE OF THE ROAD. ROOM 256 IS THE 3RD ROOM FROM THE END OF THE BUILDING ON THE RACCOON ROAD SIDE ON THE SECOND FLOOR OF THE MOTEL AND HAS THE NUMBER 256 ON THE DOOR.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

IN A STATEMENT MADE BY A CO-DEFENDANT AT THE TIME OF ARREST, SHE STATED THAT THE MONEY TAKEN FROM THE ROBBERY WAS AT THE ROOM THEY WERE STAYING IN AT THE DAYS INN ON THE 2ND FLOOR OF THE MOTEL TOWARD THE BACK. AT THE TIME OF ARREST THE DEFENDANTS HAD A ROOM KEY FROM THE DAYS INN WITH THE NUMBER 256 ON THE KEY CARD.

Sworn to and Subscribed before me

this 25th day of Jan, 2013.

[Handwritten Signature]

Signature of Judge

(L.S.)

[Handwritten Signature: Eric D. Rosdail]

Affiant

Address 42 WEST BOYCE STREET

MANNING SC 29102

Phone 803 435 8859

STATE OF SOUTH CAROLINA

County/Municipality of MANNING

SEARCH WARRANT

Date 01/25/2013

Officer DET. SGT ERIC ROSDAIL

STATE OF SOUTH CAROLINA

COUNTY OF MANNING

SEARCH WARRANT

Form Approved by S.C. Attorney General Section 17-13-160 March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF MANNING

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

THE HOTEL ROOM RENTED UNDER THE NAME OF BERNIE TYRONE MONTGOMERY, LISTED AS ROOM 256 AT THE DAYS INN MOTEL LOCATED AT 2825 PARVILLE HWY. LEAVING THE MANNING POLICE DEPARTMENT AND TRAVELING WEST ON BOYCE STREET GO APPROXIMATELY 2 MILES TO THE DAYS INN MOTEL JUST PRIOR TO REACHING RACCOON ROAD ON THE LEFT HAND SIDE OF THE ROAD. ROOM 256 IS THE 3RD ROOM FROM THE END OF THE BUILDING ON THE RACCOON ROAD SIDE ON THE SECOND FLOOR OF THE MOTEL AND HAS THE NUMBER 256 ON THE DOOR.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

ANY AND ALL EVIDENCE RELATING TO THE ROBBERY OF THE BANK OF CLARENDON LOCATED AT 106 S. MILL STREET ON JANUARY 25, 2013, TO INCLUDE BUT NOT LIMITED TO ANY CLOTHING USED DURING THE ROBBERY, MONEY TAKEN FROM THE BANK OF CLARENDON, ANY ITEMS USED IN THE ROBBERY.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Judge P.B. Harkin @ 102 S Mill St. Manning SC

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Manning, S.C. 1-25-2013

P.B. Harkin (L.S.) Signature of Judge

Date Printed: 01/25/2013 01:23:54 PM

Response: CLACC001 - J--

TO: CLACC001-803964 20130128 15:30:51 001EA4870C
FROM: DMV-10782476 20130128 15:30:51 1F3D0520A4
TXLIC SC01401001F3D0520A4

XLIC

ID NO 0102996524

BLACKMON, ANDREW LEE

5326 HWY 301

ALCOLU SC 290017100 CLAR CNTY

SEX M HGT 5 08 WGT 160 BIRTH 09/16/1970

SSN 016-56-9779 RACE BLACK

STATUS-DL:NO SUSPENSION CDL:NO DISQUALIFICATION

**** IDENTIFICATION ONLY **** ISSUED 06/04/2012

NO CURRENT VIOLATIONS, SUSPENSIONS, OR ACCIDENTS

** END OF INQUIRY **

Response: CLACC001 - J--
TO: CLACC001-803969 20130128 15:31:59 003FD7C5CE
FROM: SCCH-14140878 20130128 15:31:59 1F3D0520A8

ICHR REQUEST FOR RAP SHEET
ORI-SC0140100 FBI-178312JB6 PUR-C
ATN-ROSDAIL

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

PAGE-01 DATE-01/28/2013 TIME-15:24:46
REQ ORI-SC0140100 MANNING PD
SID-SC02085955 FBI-178312JB6
NAME BLACKMON, ANDREW LEE SEX-M RACE-B
HEIGHT-508 WEIGHT-160 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC- HENRY-

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--01/09/2013 DATE OF LAST UPDATE--01/26/2013

ADDITIONAL IDENTIFIERS BIRTH
NAME DATES MARKS SOC SEC MISC NUM
09161970 016569779

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

BLACKMON, ANDREW LEE 11/18/2012
SC0140000 CLARENDON CNTY SO
CASE-N/A
ATN-990000604236
WARR-43802FO @
CIT-22-5-150, 03-560-MISDEMEANOR

ARREST CHARGE 01-BREACH OF PEACE
OFFENSE DATE-11/18/2012

BLACKMON, ANDREW LEE 01/25/2013
SC0140100 MANNING PD
CASE-MP-0003068
ATN-140000015675
WARR-2013A1420100014
CIT-16-11-380(D)(1)-FELONY

ARREST CHARGE 01-ENTERING BANK WITH INTENT TO STEAL
OFFENSE DATE-01/25/2013

@ - WARRANT OCCURS WITH MORE THAN ONE SID NUMBER

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/178312JB6
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS OUT OF STATE ARREST INFORMATION
REQUEST FORWARDED TO NCIC FOR OUT-OF-STATE INFORMATION
INFORMATION FROM OTHER STATES TO FOLLOW THRU NLETS VIA YOUR TERMINAL

ENQUIRY WILL BE FORWARDED TO: NCIC WANTED PERSONS

** S C CJIS END OF RECORD **

TO: CLACC001-803970 20130128 15:32:00 000667235F
FROM: NC2K-6759263 20130128 15:32:00 1F3D0520A9
1L011F3D0520A92QWA
SC0140100

NO NCIC WANT FBI/178312JB6
NO NCIC WANT SOC/016569779

***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.

TO: CLACC001-803971 20130128 15:32:00 00353A6368
FROM: III-3826536 20130128 15:32:00 1F3D0520AA
FL011F3D0520AA2QR
SC0140100

THIS INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR RECORD REQUEST FOR FBI/178312JB6. INDIVIDUAL'S RECORD WILL BE COMPLETE WHEN ALL RESPONSES ARE RECEIVED FROM THE FOLLOWING SOURCES:
FBI - FBI/178312JB6

AN ADDITIONAL RECORD MAY BE OBTAINED FROM FILES WITHIN YOUR STATE.
END

TO: CLACC001-803972 20130128 15:32:01 00084949C6
FROM: NLETS-4803014 20130128 15:32:01 1F3D0520AA
CR.WVFBINF00
13:31 26160
01/28/2013 08893 SC0140100
*1F3D0520AA

TXT
HDR/2L011F3D0520AA2QR
ATN/ROSDAIL

***** CRIMINAL HISTORY RECORD *****

***** Introduction *****

This rap sheet was produced in response to the following request:

FBI Number 178312JB6
Purpose Code C
Attention ROSDAIL

The information in this rap sheet is subject to the following caveats:

This record is based only on the FBI number in your request-178312JB6. Because additions or deletions may be made at any time, a new copy should be requested when needed for subsequent use. (US; 2013-01-28)
All arrest entries contained in this FBI record are based on fingerprint comparisons and pertain to the same individual. (US; 2013-01-28)
The use of this record is regulated by law. It is provided for official use only and may be used only for the purpose requested. (US; 2013-01-28)

***** IDENTIFICATION *****

Arresting Agency MA0092700 POLICE DEPARTMENT MALDEN
Charge 01
Charge Literal IND A&B 2 CNTS
Severity
Charge 02
Charge Literal BOSTON DEF LARCENY OF M/V
Severity

==== Cycle 2 =====
Earliest Event Date 2008-12-05

Arrest Date 2008-12-05
Arrest Case Number 1993139703
Arresting Agency MA0130100 POLICE DEPARTMENT BOSTON
Subject's Name BLACKMAN, ANDREW
Charge 01
Charge Literal UNLAWFUL POSSESSION OF AMMUNITION
Severity

***** INDEX OF AGENCIES *****

Agency Address FBI-CJIS DIV-CLRKSBG CLARKSBURG; WVFBNF00;
1000 CUSTER HOLLOW RD
CLARKSBURG, WV 26306

Agency Address POLICE DEPARTMENT MALDEN; MA0092700;
200 PLEASANT ST
MALDEN, MA 021484818

Agency Address POLICE DEPARTMENT BOSTON; MA0130100;
ROOM 149-SOUTH 1 SCHROEDER PLAZA
BOSTON, MA 021202014

Agency POLICE DEPARTMENT MALDEN; MA0092700;

Agency POLICE DEPARTMENT BOSTON; MA0130100;

* * * END OF RECORD * * *

Response: CLACC001 - 1--
TO: CLACC001-803973 20130128 15:33:16 001EA4876B
FROM: DMV-10782571 20130128 15:33:16 1F3D0520AB
TXLIC SC01401001F3D0520AB
XLIC
ID NO 0102996583
BLACKMON, VIRGINIA IRENE
5326 HWY 301
ALCOLU SC 290017100 CLAR CNTY
SEX F HGT 5 04 WGT 155 BIRTH 04/03/1972
SSN 502-90-5800 RACE WHITE
STATUS-DL:NO SUSPENSION CDL:NO DISQUALIFICATION
**** IDENTIFICATION ONLY **** ISSUED 06/04/2012
NO CURRENT VIOLATIONS, SUSPENSIONS, OR ACCIDENTS
** END OF INQUIRY **

Response: CLACC001 - J--
* TO: CLACC001-803976 20130128 15:34:02 003FD7C5EB
FROM: SCCH-14140907 20130128 15:34:02 1F3D0520AE

ICHR REQUEST FOR RAP SHEET
ORI-SC0140100 FBI-678024TD8 PUR-C
ATN-ROSDAIL

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

PAGE-01 DATE-01/28/2013 TIME-15:26:48
REQ ORI-SC0140100 MANNING PD
SID-SC02088359 FBI-678024TD8
NAME-BLACKMON, VIRGINIA IRENE SEX-F RACE-W
HEIGHT-504 WEIGHT-155 EYES-BLU HAIR-RED SKIN- BORN-SC
FPC- HENRY-

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--01/26/2013 DATE OF LAST UPDATE--01/26/2013

ADDITIONAL IDENTIFIERS
NAME BIRTH DATES MARKS SOC SEC MISC NUM
04031975 502905800

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

BLACKMON, VIRGINIA IRENE 01/25/2013
SC0140000 CLARENDON CNTY SO
CASE-MP-0003069
ATN-140000015678
WARR-2013A1420100015
CIT-16-11-380(D)(1)-FELONY

ARREST CHARGE 01-ENTERING
BANK WITH INTENT TO STEAL
OFFENSE DATE-01/25/2013

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/678024TD8
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **

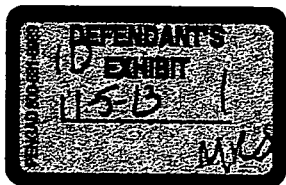
TO: CLACC001-803977 20130128 15:34:06 00066723B4
FROM: NC2K-6759348 20130128 15:34:06 1F3D0520AF
1L011F3D0520AF2QWA
SC0140100

NO NCIC WANT FBI/678024TD8
NO NCIC WANT SOC/502905800

***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.

Keith came in and pass me a note. I grab the note open it and read it. It said "give me all the money. Make no fast moves or push any buttons. I looked at him as he was playing. He had his arm by his side and said I'm not playing. I then grab some twenties and tens out of my draw and hold them for a second. I handed them to him. He took it and said thank you turn around to walk away and turned back around and grab the note off the counter and walk out!

Christina Blanding





State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair
Joan Moore, Vice Chair
Jane B. Jones
Everard Rutledge, PhD
J. Buxton Terry

Division of Inpatient Services
G. Werber Bryan Psychiatric Hospital
Forensic Evaluation and Treatment Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-6586

May 30, 2013

STATE DIRECTOR

John H. Magill

King Cutter
Attorney at Law
PO Box 339,
Manning, SC 29102

Re: The State of South Carolina vs. Blackmon, Andrew
DMH Case #: 1026-0462
Clarendon County, Court of General Sessions

Dear Attorney Cutter:

In accordance with the court order issued by the Honorable R. Ferrell Cothran, evaluations of criminal responsibility and capacity to conform were conducted by the South Carolina Department of Mental Health (SCDMH) pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

Please see the attached report for the results of this evaluation.

This 13 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

5/30/13
Date

Jeffrey E. Musick, Ph.D., ABPP
Jeffrey E. Musick, Ph.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

cc: Christopher Durant, Assistant Solicitor, PO Box 70, Manning, SC 29102

JM/tl

MISSION STATEMENT
To support the recovery of people with mental illnesses.



JEM

**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE**

CRIMINAL RESPONSIBILITY/CAPACITY TO CONFORM CONDUCT EVALUATION

Name: BLACKMON, Andrew Lee

Date of Birth: 09/16/70 (age: 42 years)

Date of Evaluation: 05/07/13

Evaluators: Marla L. Domino, Ph.D. (presiding)
Dawn Whetstone, LISW-CP

Identifying & Referral Data: Andrew Lee Blackmon was ordered by the Clarendon County Court of General Sessions to undergo an evaluation of his criminal responsibility and, if opined responsible pursuant to § 17-24-10 (A), capacity to conform his conduct to the requirements of the law, pursuant to § 17-24-20 (A) because of a *“Diagnosis with Manic Bipolar Disorder [sic] and not taking medication.”* According to that court order, Mr. Blackmon is currently charged with Entering a Bank with Intent to Steal which allegedly occurred on or about 01/25/13. He is waiting adjudication at the Clarendon County Detention Center.

Sources of Information:

1. Interview with Mr. Blackmon on 05/07/13 for approximately 1 hour 30 minutes.
2. Psychological testing with Mr. Blackmon on 05/07/13.
3. State of South Carolina, County of Clarendon, Order for Criminal Responsibility and Capacity to Conform Evaluation (M’Naughten), received 03/25/13.
4. Review of Mr. Blackmon’s current South Carolina Department of Mental Health (SCDMH) Forensic Evaluation Service outpatient chart, including a Psychiatric Social Work Admission Assessment conducted by Dawn Whetstone, LISW-CP, with an acquaintance of Mr. Blackmon’s.
5. Information pertaining to Mr. Blackmon’s current charge including:
 - a. Arrest Warrant 2013A1420100014

- b. Incident Report, Supplemental Incident Report, Property Listing, and Investigative Notes (case#13-0286)
6. Clarendon County Detention Center records (dated 01/25/13 – 04/23/13, one document not dated).
 7. Clarendon Health System records (dated 06/08/12, 07/30/12, and 09/05/12).
 8. Clarendon Memorial Hospital records (not readable due to poor copy).
 9. Santee-Wateree Mental Health Center records (dated 02/07/13 – 04/16/13).
 10. Telephone contact with Christina Blanding and Stacy McInnis of the Bank of Clarendon (05/29/13).

Efforts to contact Detective Eric Rosdail of the Manning Police Department were unsuccessful. Records from the May Institute (West Roxbury, Massachusetts) were requested but not received. Staff from the Roxbury Comprehensive Community Health Center left a message for the undersigned on 05/30/13 indicating that their facility is closing and all records are boxed up (and, therefore, inaccessible) to be transported for storage.

Notification: At the outset of this evaluation, Mr. Blackmon was notified of these examiners' role, the purpose of this evaluation, and the limits on confidentiality. Upon inquiry, he noted this evaluation was ordered by "the judge" to "see whether or not – how I was acting around the time." He noted the resulting report would be sent to "my lawyer – maybe to the solicitor [and] the judge." He recalled that these examiners were on "nobody's" side. He indicated a willingness to proceed.

Personal History:

Family and Social History

According to Mr. Blackmon, he was born in Boston, Massachusetts (MA), and raised in the same by his biological mother. He described his childhood as "violent" and reported physical abuse by family members and peers. He also noted that he was "raped" by an older female cousin as a child.

Education History

Mr. Blackmon terminated his formal education during the 7th grade to avoid gang-related violence. Per his report, he then worked at a fast food restaurant. Mr. Blackmon described

achieving variable grades and denied attendance to special education classes. He also denied behavioral problems (e.g., suspensions, expulsions) while in school.

Employment History

Mr. Blackmon reported past employment primarily as a cook, although denied that he has ever had a consistent, full-time job. He noted receipt of disability for post-traumatic stress disorder (PTSD) since about 2005. He denied a history of military service. At times, Mr. Blackmon has been homeless.

Medical History

Mr. Blackmon reported a history of loss of consciousness at age 12 years secondary to a car accident; per his report, he was hospitalized for an unknown period of time. He noted receiving stitches for injuries incurred in a "rock fight" as a child. Mr. Blackmon also reported a history of seizures which began approximately three years ago and includes an average of two or three seizures per year. Mr. Blackmon stated he was hospitalized once after suffering from a "big contusion" incurred during the course of a seizure. He also noted high blood pressure, a heart murmur, "severe hypoglycemia" and an appendectomy.

Clarendon Health System records indicate Mr. Blackmon was seen in June 2012 for hypertension, epilepsy, and pain in his hand and shoulder, as well as several psychiatric complaints (see below). Those records also refer to a previous injury to his back when stabbed in a fight.

Substance Abuse History

Mr. Blackmon asserted being an "alcoholic" and noted he typically consumes a pint plus a six-pack of alcohol per day. He reported being "kicked out" of an inpatient alcohol abuse treatment facility in Boston. He noted attendance to outpatient treatment for the same at the Clarendon Behavioral Health Services (Manning, South Carolina) when arrested for the present charge. He acknowledged use of marijuana and brief experimentation with cocaine and heroin.

Legal History

Santee-Wateree Mental Health Center records indicate Mr. Blackmon reported an arrest at age 17 for stealing a car and, in his early 20s, a charge for assault and battery. During today's exam, Mr. Blackmon reported an arrest for rape and indecent assault.

Psychiatric History (per Mr. Blackmon's report)

According to Mr. Blackmon, he first sought psychiatric services in his mid-30s at the behest of his mother who expressed concern regarding his lifestyle (e.g., numerous sexual partners, engagement in "dog fighting"); Mr. Blackmon denied that he was experiencing symptoms of a mental illness at that time. To appease his mother, however, he engaged in outpatient treatment at a facility in Roxbury, MA, for eight or nine months to include prescriptions of Trazodone (mood stabilizer) and Prozac (antidepressant), and reportedly his symptoms were diagnosed as indicative of bipolar disorder, PTSD, and anxiety, per Mr. Blackmon's report; those records (from Roxbury Comprehensive Community Health Center) were inaccessible as noted below. Mr. Blackmon said he sought outpatient treatment a year later at an unknown facility in Malden, MA, but "the lady said I'd have to stop drinking and I never went back." When asked why he sought psychiatric treatment at that time, Mr. Blackmon was unable to provide an explanation other than to note that his former therapist (at Roxbury Comprehensive Community Health Center) "told me how much I needed treated." Mr. Blackmon did not describe symptoms suggestive of significant depression, mania or psychosis (e.g., hearing voices). He did admit to one suicidal gesture in the context of excessive alcohol consumption.

Psychiatric History (per collateral sources)

Staff from the Roxbury Comprehensive Community Health Center left a message for the undersigned on 05/30/13 indicating that their facility is closing and all records are boxed up (and, therefore, inaccessible) to be transported for storage. However, they did state that Mr. Blackmon's case was closed in 2010.

Clarendon Health System (dated 06/08/12) records indicate that during an appointment in June 2012, Mr. Blackmon "claims to have PTSD due to fighting in a gang in Boston and all the killings, beatings he has seen." At that time, he endorsed anxiety, sleep disturbance, and anxiety; it was noted that Mr. Blackmon admitted to drinking alcohol the morning of that appointment due to nervousness around doctors. He was referred to psychiatry although there is no indication in those records that he was ever seen.

Clarendon County Detention Center records indicate that Mr. Blackmon reported a history of psychiatric treatment (to include psychotropic medication prescription), past diagnoses of bipolar disorder and PTSD, one past suicidal gesture in which he attempted to cut his wrist, and abuse of alcohol. An appointment with mental health was scheduled for 01/28/13, although on

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02/21/13 it was noted that no such referral was necessary. In addition to medications for seizures, since the beginning of February 2013, Mr. Blackmon has been prescribed Prozac (antidepressant) and Trazodone (mood stabilizer). Also at the beginning of February 2013, diagnoses of "psychosis" and epilepsy were given; in April 2013, diagnoses of "seizures" and bipolar disorder were listed. Jail records also report several disciplinary responses for minor infractions (e.g., bed not made).

Records from Santee-Wateree Mental Health Center indicate Mr. Blackmon has been seen by facility staff since 02/07/13, while incarcerated. At that time it is noted that "Today at least even [though] no meds in 10 [months] is not hypomanic or even [significantly] depressed." It is likewise noted that Mr. Blackmon "does not appear to be as significantly depressed by affect [observed emotional expression] as he describes subjectively." Those records indicate Mr. Blackmon reported a history of diagnoses of bipolar disorder and PTSD, nightmares, anxiety, and hearing "voices"; Mr. Blackmon presented with a letter from Roxbury Comprehensive Community Health Center ("Roxcomp") dated 12/29/09 which indicated a diagnosis of bipolar I disorder. However, it is noted in Santee-Wateree Mental Health Center records that, despite that diagnosis, the clinician did "not so far get that history from him, [especially] considering heavy alcohol use and no meds over three years until recently." The clinician reviewed additional records from that facility and noted a variety of past diagnoses (e.g., PTSD, mood disorder not otherwise specified), noting that "malingering was always a consideration"; it appears that a diagnosis of PTSD was the most consistent diagnosis given to Mr. Blackmon at that facility (per the clinician) with supporting data of multiple losses and chronic irritability and anger. The clinician also indicated that Mr. Blackmon has reported poor sleep during his present incarceration but jail staff say they have not observed this. It was noted that no psychotic symptoms were reported or observed. His symptoms were diagnosed as indicative of mood disorder, not otherwise specified, and alcohol abuse.

According to a friend of Mr. Blackmon's, to evaluator Ms. Whetstone, Mr. Blackmon often has difficulty staying still and focusing, his "talk is not normal and doesn't make sense," and he has voiced some hyperreligious beliefs (e.g., that he is closer to God than anyone else, God came and spoke to him in jail, "sees visions of God talking to him"). She noted that he sometimes isolates himself and is non-verbal, tearful, and sad especially regarding his mother's death.

Current Mental Status: A mental status examination performed today revealed a 42-year-old, African-American male who presented with adequate, personal hygiene and clean attire. No auditory, visual, or motor abnormalities were noted. He exhibited good eye contact and his use of mannerisms and gestures was within normal limits. He was cooperative with the evaluation and polite at all times.

Mr. Blackmon did not exhibit significant deficits in his memory, attention, concentration, fund of knowledge, or abstract thinking. He correctly identified the date, day of the week, location, approximate time, and situation. Mr. Blackmon's speech was clear, of normal volume, and of average rate. He presented with goal-directed, linear thinking.

When asked, Mr. Blackmon described his current mood as "pretty good" and his typical mood as "all over the place - sad, very very sad, happy, angry, depressed." He denied current thoughts of wanting to hurt himself or others. Mr. Blackmon reported adequate relationships with jail staff and peers although stated, "one C.O. doesn't know how to handle the mentally disabled," referring to a seizure disorder. He noted his sleep to be "horrible" but described adequate energy and appetite. During today's exam, Mr. Blackmon's affect [observed emotional expression] appeared consistent and within normal limits. He denied current symptoms of significant mood disturbance (e.g., depression) or psychosis (e.g., hearing voices) and no overt signs of such were observed. He reported current prescription of Prozac (antidepressant), Dilantin (for seizures), Lamictal (for seizures), and Trazodone (for sleep).

Psychological Testing: During today's exam, Mr. Blackmon completed a published, standardized self-report questionnaire of personality traits and psychiatric symptoms. Its validity scales indicated he presented with mild exaggeration of his psychiatric problems such that his resulting profile should be interpreted with caution. Mr. Blackmon's profile resulted in five of eleven scales in the clinically significant range indicating he chose to present himself as someone with numerous somatic complaints, who has experienced trauma-related stress, who is overly hostile and suspicious, who has identity problems and a poor ability to maintain relationships, and who is dependent on alcohol.

Diagnostic Impressions: Based on the available data, it appears Mr. Blackmon's symptoms are best characterized by a diagnosis of (rule out) antisocial personality disorder. Antisocial personality disorder describes an individual with a pervasive pattern of disregard for, and

violation of, the rights of others, in addition to a variety of concomitant behaviors (e.g., activities that are grounds for arrest, consistent irresponsibility) and/or personality traits (e.g., lack of remorse, aggressiveness). Individuals whose symptoms are diagnosed with antisocial personality disorder must also evidence symptoms of conduct disorder (e.g., aggression towards people or animals, destroying property, deceitfulness, theft, significant rule violation) before the age of 15 years. This diagnosis is based on symptoms indicative of conduct disorder since at least his early teens, in addition to significant disregard for and violation of the rights of others, engagement in illegal activities, impulsivity and failure to plan, irritability and aggressiveness, disregard for the safety of others, and consistent irresponsibility during his adulthood. This is offered as a "rule out" as Mr. Blackmon did not endorse items consistent with a diagnosis of antisocial personality disorder on a psychological measure (see above). The descriptor, "rule out," indicates there is insufficient information to conclusively offer a diagnosis, although available data suggest a disorder should be considered.

As noted above, Mr. Blackmon's symptoms have been diagnosed as indicative of PTSD and/or a mood disorder (e.g., bipolar disorder) by past treatment providers. However, he did not endorse sufficient symptoms to meet criteria for a diagnosis of PTSD and there is no documentation (e.g., in jail records) of observation of symptoms suggestive of PTSD. In addition, Mr. Blackmon denied symptoms suggestive of mania, which is required for a diagnosis of bipolar disorder. While he described a history of depressive symptoms, these did not appear consistent with the frequency and severity needed to diagnose a mood disorder, but rather appeared to be the consequence of excessive alcohol consumption and poor coping skills. To this effect, a diagnosis of alcohol dependence, in a controlled environment, is warranted. The "in a controlled environment" descriptor indicates that Mr. Blackmon theoretically does not have access to these substances secondary to his current incarceration.

Information Relevant to Criminal Responsibility and Capacity to Conform Conduct:

Police Account of Alleged Events

According to police incident reports, on 01/25/13 at approximately 8:50am, Mr. Blackmon entered the Bank of Clarendon and gave a hand-written note a teller [Christina Blanding] that demanded money. He reportedly also told the teller, "Give me all the money, make no fast moves or push any buttons." Per the teller, she looked at him like he was "joking" and he

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responded, "I am not playing" and patted his front pants pocket. The teller then gave him money and he told her to stop at some point. Mr. Blackmon then left the bank.

Police later determined that, prior to entering the bank, according to South Carolina Department of Social Services (DSS) staff, Mr. Blackmon's co-defendant, Virginia Blackmon, had borrowed a pen and paper from them. After the alleged robbery, the couple reportedly reentered the DSS building and changed clothes. Police records indicate that a search of a nearby dumpster revealed the clothes Mr. Blackmon was wearing during the alleged incident.

According to Mr. Jerry Kelley, after leaving the bank, Mr. Blackmon and his co-defendant called paid him \$20 for a ride. Per police reports, they returned to the Manning Motel to retrieve a bag of clothes they left there earlier in the day, and the hotel's manager called 911. Police arrived shortly thereafter and arrested both suspects; at that time, Ms. Blackmon admitted to writing the note which was found in Mr. Blackmon's back pocket. It was later determined that the couple used some of the stolen money to buy a phone at Wal-Mart. Per police reports, \$2410 was eventually recovered. An incident report indicates Mr. Blackmon appeared under the influence of alcohol when arrested.

Defendant's Account of Alleged Events

According to Mr. Blackmon, on the morning of the alleged offense, he and his wife woke up at an unknown time; he described his mood as "fine" at that time. Mr. Blackmon stated he then consumed a "tall can of beer." At some point, they left their house to walk from Alcolu to Manning. They rested at a hotel on the way to Manning, obtaining permission from the hotel's manager to leave their bag there. As some point along the way, Mr. Blackmon stated he procured a pint of gin. Upon their arrival to Manning, they went to visit a friend who had recently opened a restaurant; when informed their friend was not there, they walked down the street to a clothing store. Mr. Blackmon stated his wife called their friend and told him of their location; Mr. Blackmon stated he went inside the clothing store while his wife spoke to their friend. Upon leaving the clothing store, Mr. Blackmon suggested to his wife that they get a copy of his criminal record from the Sherriff's office, as a background check was needed for an application they were intending to complete for housing in Sumter. Mr. Blackmon stated that when he went into the Sherriff's office, he saw another office marked "DMH" (the South Carolina Department of Mental Health) and asked his wife to make an appointment for him, which she reportedly did while he waited for a copy of his criminal record.

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Mr. Blackmon stated they then began to walk home, at which point, per Mr. Blackmon, "I was drinking and smoking." He stated he then told his wife to write on a piece of paper "Don't push any buttons. Don't make any fast moves." Mr. Blackmon stated he had "no idea" why he would ask her to write such a note and he reportedly did not recall where his wife obtained the writing materials. Per his report, his wife did as he instructed and he took the note out of her hand and walked into the bank. He reported having "no feelings" at the time. He denied speaking to the teller, as is indicated in police reports. He stated that the teller or police "lied" about him patting his pants, as the teller reported. Mr. Blackmon provided a detailed account of his behavior from that point forward. He did not describe experience with significant symptoms of a mental illness during the time in question.

Mr. Blackmon stated that upon leaving the bank, he and his wife walked across the street to the DSS building "to take off my hat and coat" and then placed them in the dumpster in front of the DSS building; he provided an explanation for why he did that. He denied taking off his pants, as is suggested in police reports. Mr. Blackmon then walked to a nearby store and bought a six-pack of beer and cigarettes. Mr. Blackmon stated he offered a man near the store \$20 to drive them to a Ramada Inn and asked one of the other passengers to rent him a room. Mr. Blackmon stated that once he and his wife went into their hotel room, they drank beer and watched TV. At some point, per Mr. Blackmon, his wife left and returned with a new cell phone. Mr. Blackmon stated he informed his wife that they needed to return home, but first had to stop at another motel to retrieve their bag. Ms. X reportedly called a friend who picked the couple up and dropped them off at the motel; Mr. Blackmon stated they were arrested shortly thereafter. Mr. Blackmon stated that upon his arrest, "I was so out of control ... yelling and screaming. Telling them I want a lawyer." Mr. Blackmon stated that his uncle arrived at the scene and he [Mr. Blackmon] was "telling him he owes me money."

Mr. Blackmon denied being intoxicated at the time, noting, "I was tipsy." He denied using illegal drugs at the time. He reported compliance with seizure medication. Mr. Blackmon reported that he has consumed alcohol with his seizure medication in the past, with no adverse consequences. However, he did report one instance in which he was drinking (in the absence of prescription medication), obtained a knife, and called his mother to express suicidal intention; Mr. Blackmon stated he broke into a building, then returned home and made superficial cuts on his wrists at that time.

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Mr. Blackmon reported several stressors in the weeks preceding the alleged offense including the death of a close friend and learning of a possible murder charge against his son. He described getting along well with his wife at the time and described his living accommodations in positive terms.

Collateral Information of Alleged Events

Clarendon County Detention Center records indicate that on the day of the alleged offense, Mr. Blackmon appeared under the influence of alcohol; no other observations of psychiatric symptoms were noted. An appointment to see mental health was made for 01/28/13, although it does not appear that he was seen at that time. At the beginning of February 2013, Mr. Blackmon was prescribed Prozac and Trazodone, and his symptoms were diagnosed as indicative of "psychosis" and bipolar disorder although there is minimal evidence contained in records for support of either diagnosis.

Santee-Wateree Mental Health Center records indicate Mr. Blackmon was first seen almost two weeks after the alleged offense, on 02/07/13. At that time, he reported being off psychotropic medications since he came to South Carolina, about 10 months ago. Regarding the alleged offense, Mr. Blackmon informed the clinician (per mental health center records):

I don't know why I went in that bank ... he does not know why he did this [because] he and girlfriend are on disability and had money. Was drinking at the time. Says remembers writing the note, going into the bank ... Before went to bank had been getting more depressed and anxious, not sleeping, having some voices; using alcohol to calm himself.

At the time of that appointment (02/07/13), Mr. Blackmon reported feeling "depressed, anxious, not sleeping and having nightmares" however it is noted that "Today at least even [though] no meds in 10 [months] is not hypomanic or even [significantly] depressed." His symptoms were diagnosed as indicative of mood disorder, not otherwise specified, and alcohol abuse and he was prescribed Prozac (antidepressant) and Trazodone (for sleep).

During an appointment with Santee-Wateree Mental Health Center staff on 04/16/13 it is noted that:

Once in the office he tells me that he wanted to ask me why he did what he did in robbing the bank. He says he remembers asking his wife to write a note saying to give him money. He remembers giving the note to the bank teller. However he says he did not

plan to rob the bank, cannot imagine why he would try to rob the bank because he and wife are on disability, had money, had no reason to rob a bank. Does say he was drinking that day, wonders if the alcohol interacted [with] his Lamictal. Says only similar episode was a few yrs ago when he called his [mother] to say he was going to kill himself ... cannot imagine why he would have done that as he was not depressed ... as he was leaving, he asked if I could write a statment [*sic*] about my findings today and send it to his lawyer. I told him his attorney could ask for our records.

Telephone contact was made with Ms. Christina Blanding, the teller in the alleged offense, and Mr. Stacy McInnis, her supervisor, of the Bank of Clarendon, on 05/29/13. They requested a copy of the court order pertaining to the present exam which was sent; however, Ms. Blanding did not call back. Efforts to contact Detective Eric Rosdail of the Manning Police Department were unsuccessful.

Clinical Opinion Regarding Criminal Responsibility:

Pursuant to S.C. Code Ann. § 17-24-10 (A), *"It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong."*

Based on available data, it appears Mr. Blackmon did not lack the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong, as the result of a mental disease or defect, at the time of the alleged offense. Although Mr. Blackmon's symptoms have been diagnosed by these examiners as indicative of (rule out) antisocial personality disorder, none of the associated symptoms are related to his capacity to distinguish right from wrong at the time of the alleged offense. Moreover, should the court determine that Mr. Blackmon committed the offense as alleged, there are data to indicate knowledge of wrongfulness at that time. For example, police reports indicate that Mr. Blackmon and his co-defendant changed their clothes and discarded the clothes they were wearing during the incident in a nearby dumpster; these actions indicate an attempt to evade detection and thus suggest knowledge of wrongfulness.

Available information indicates that Mr. Blackmon may have been intoxicated with alcohol during the time of the alleged offense. Use of and intoxication from alcohol can lead to changes

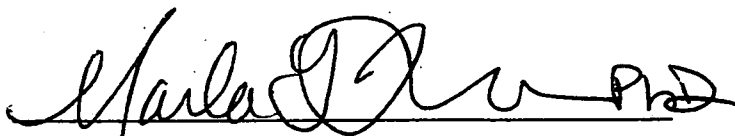
in mood and behavior as well as impaired judgment and decision-making. However, voluntary alcohol use/intoxication cannot be used to support a defense of insanity.

Clinical Opinion Regarding Capacity to Conform Conduct:

Pursuant to S.C. Code Ann. § 17-24-20, "*a defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law.*"

The available data suggest that, at the time of the alleged offense, Mr. Blackmon did not lack sufficient capacity to conform his conduct to the requirements of the law, as a result of mental disease or defect. Specifically, both collateral sources and Mr. Blackmon describe his actions on the day of the alleged event as deliberate, self-directed, logical, rational, organized, and goal-oriented in nature. While his symptoms appear consistent with a diagnosis of (rule out) antisocial personality disorder, his behavior did not appear to be directly influenced by or a direct manifestation of symptoms of a significant mental illness.

As noted, available information indicates that Mr. Blackmon may have been intoxicated with alcohol during the time of the alleged offense; if true, this could have impacted his mood and/or behavior at the time, as well as impaired his judgment and decision-making.



Marla L. Domino, Ph.D.
Licensed Clinical Psychologist

05/30/13

Date



Earliest Event Date 1998-08-27

 Arrest Date 1998-08-27
 Arrest Case Number 11675
 Arresting Agency MA0092700 POLICE DEPARTMENT MALDEN
 Charge 01
 Charge Literal IND A&B 2 CNTS
 Severity
 Charge 02
 Charge Literal BOSTON DEF LARCENY OF M/V
 Severity

==== Cycle 2 =====
 Earliest Event Date 2008-12-05

 Arrest Date 2008-12-05
 Arrest Case Number 1993139703
 Arresting Agency MA0130100 POLICE DEPARTMENT BOSTON
 Subject's Name BLACKMAN, ANDREW
 Charge 01
 Charge Literal UNLAWFUL POSSESSION OF AMMUNITION
 Severity

***** INDEX OF AGENCIES *****

Agency Address FBI-CJIS DIV-CLRKSBG CLARKSBURG; WVFBINF00;
 1000 CUSTER HOLLOW RD
 CLARKSBURG, WV 26306

 Agency Address POLICE DEPARTMENT MALDEN; MA0092700;
 200 PLEASANT ST
 MALDEN, MA 021484818

 Agency Address POLICE DEPARTMENT BOSTON; MA0130100;
 ROOM 149-SOUTH 1 SCHROEDER PLAZA
 BOSTON, MA 021202014

 Agency POLICE DEPARTMENT MALDEN; MA0092700;

 Agency POLICE DEPARTMENT BOSTON; MA0130100;

* * * END OF RECORD * * *

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 ***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF GENERAL SESSIONS
THIRD JUDICIAL CIRCUIT
CASE #: 2013-GS-14-14

State of South Carolina,)
)
Plaintiff,)
)
vs.)
)
Andrew Lee Blackmon,)
)
Defendant.)

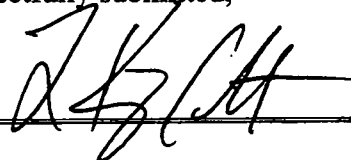
NOTICE OF INSANITY DEFENSE

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC
2013 NOV -1 PM 3:52

Pursuant to Rule 5(f) of the South Carolina Rules of Criminal Procedure and in response to the request for such by the State, the above-captioned defendant hereby gives notice that he intends to offer an Insanity Defense to the offense(s) alleged in the above captioned indictment.

Furthermore, Defendant hereby requests that the State serve upon him, by and through his undersigned counsel, the names and addresses of witnesses upon whom the State intends to rely to establish Defendant's presence at the scene of the alleged crime, said request made pursuant to Rule 5(e)(2) of the South Carolina Rules of Criminal Procedure.

Respectfully submitted,



L. King Cutter
Attorney for Andrew Lee Blackmon

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 10/1/13
Beulah G. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

GENERAL SESSIONS COURT
INDICTMENT # 2013-GS-14-0070

The State,)
)
 v.)
)
ANDREW LEE BLACKMON,)
)
 Defendant.)
_____)

CERTIFICATE OF MAILING

Kathy Saint does hereby certify that she placed a copy of the within Rule 5 Discovery in the box for King Cutter, Attorney for the Defendant, in the Clerk of Courts Office on June 3, 2013.

King Cutter
PO Box 339
Manning, SC 29102

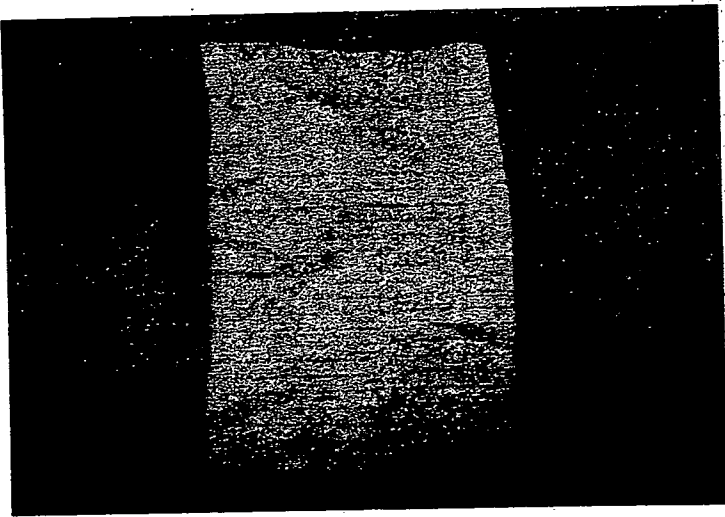


Kathy Saint
Office of the Solicitor

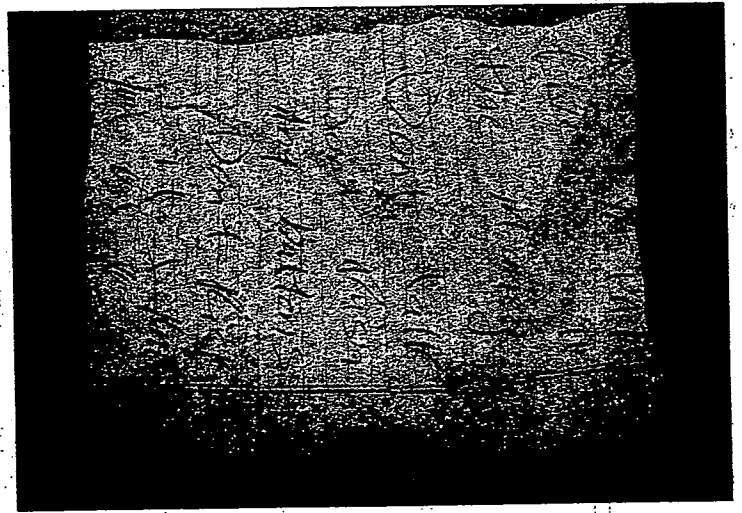
Manning, South Carolina

Date: June 3, 2013

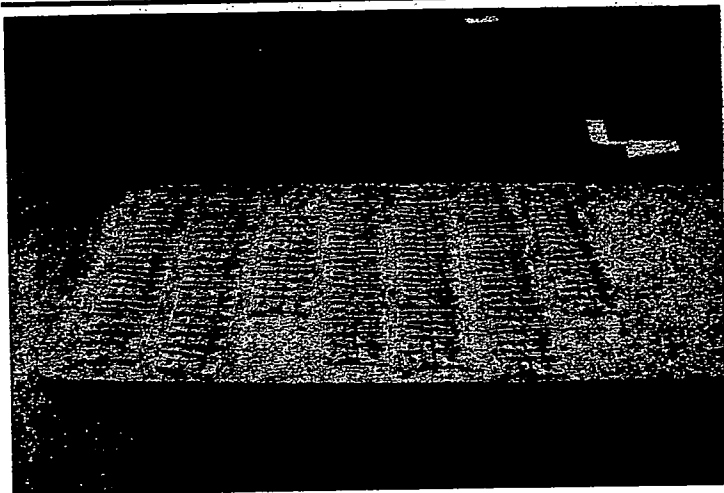
Incident Case #: 13-0286



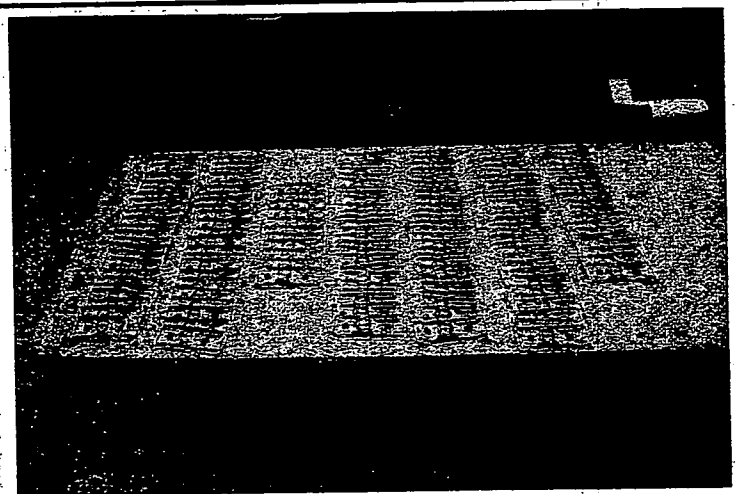
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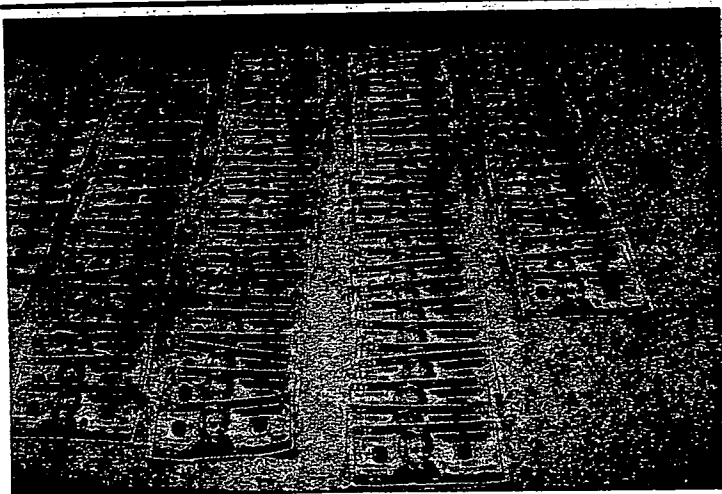
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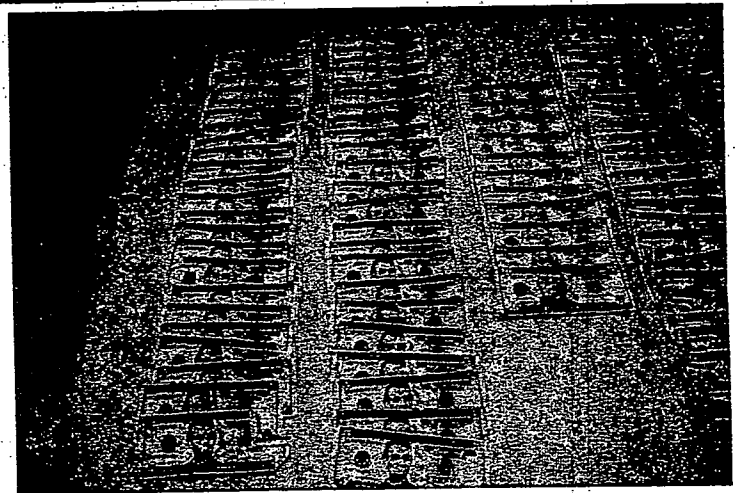
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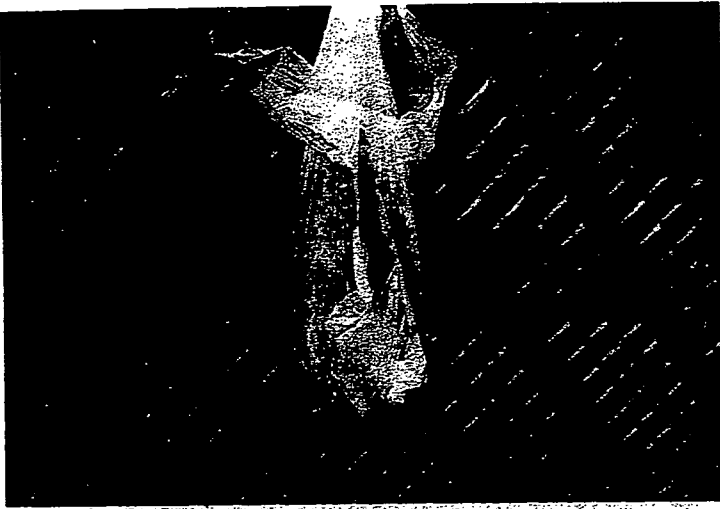


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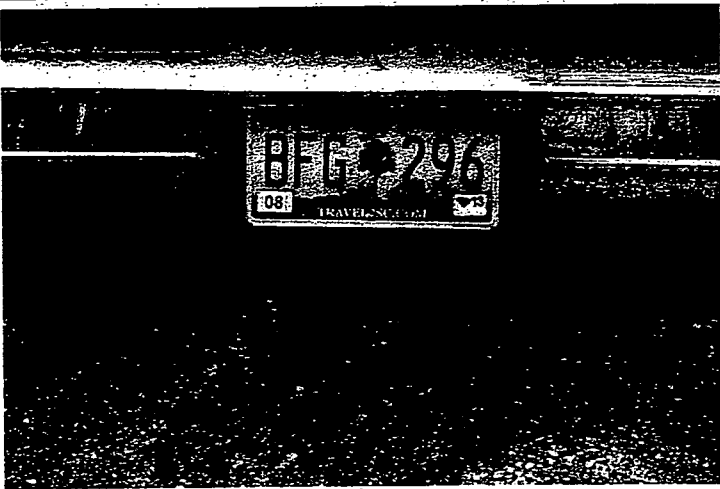
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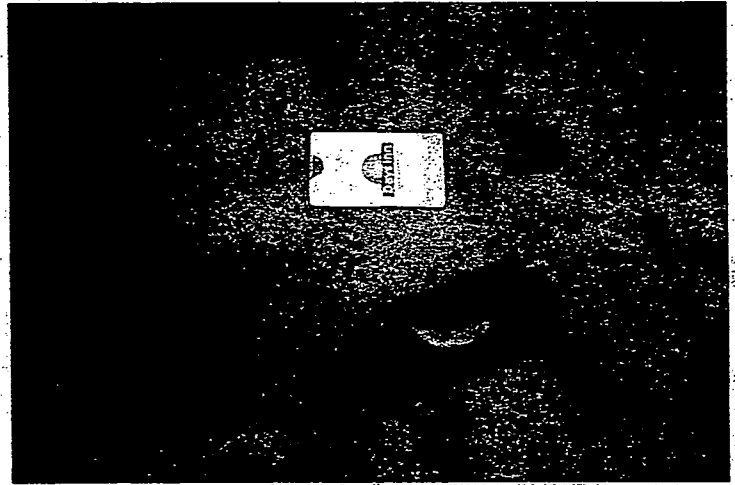
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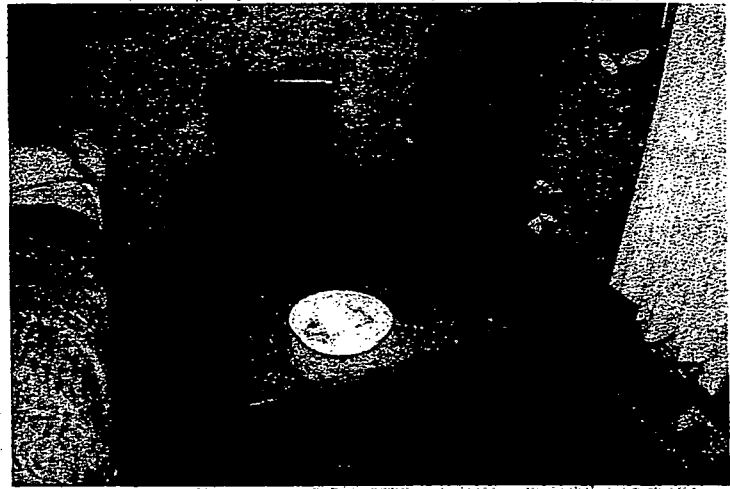
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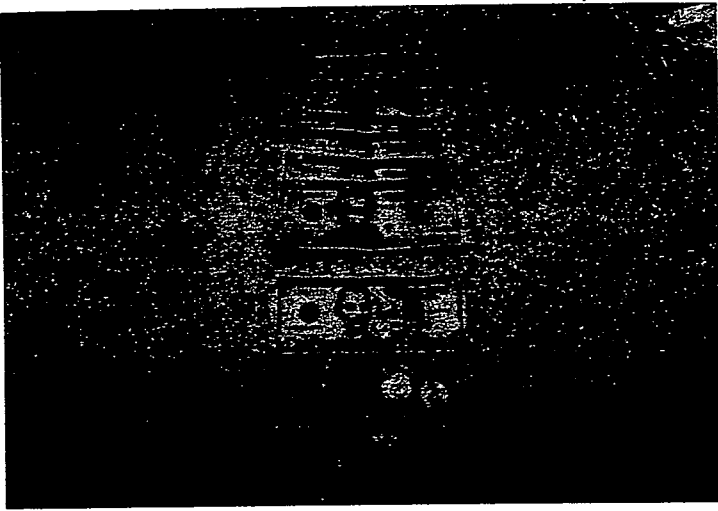


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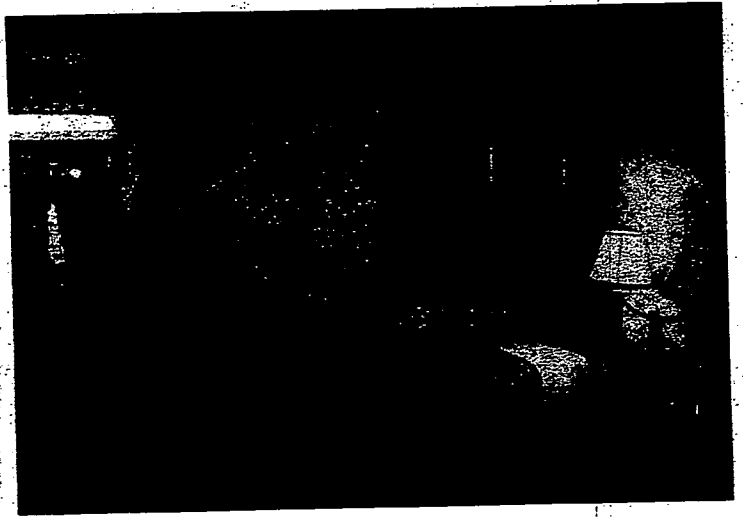


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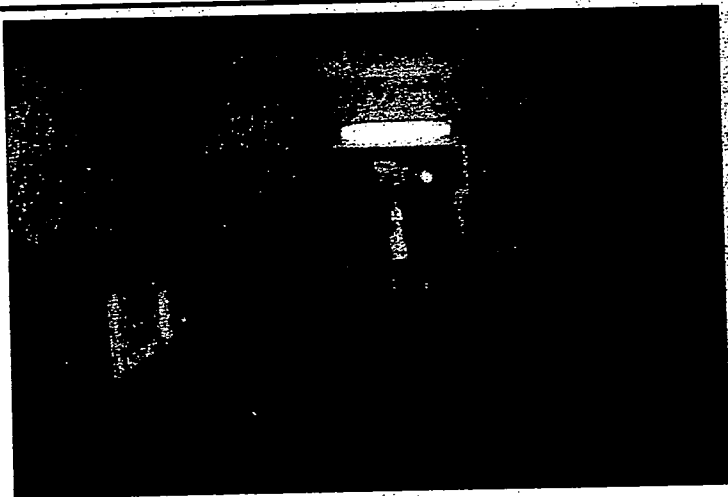
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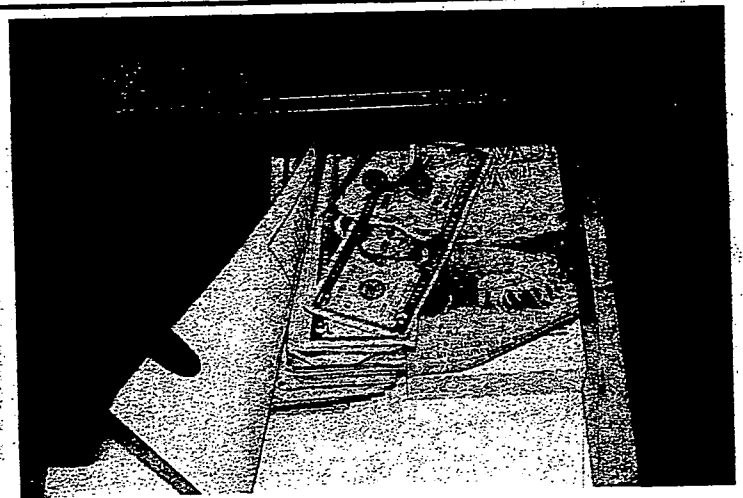
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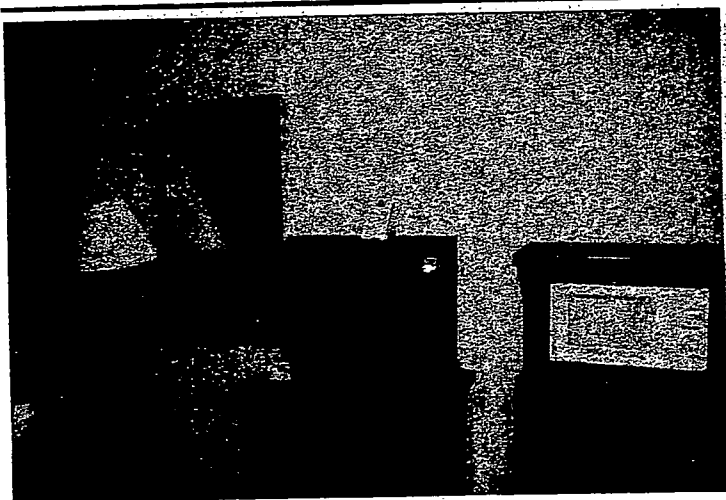
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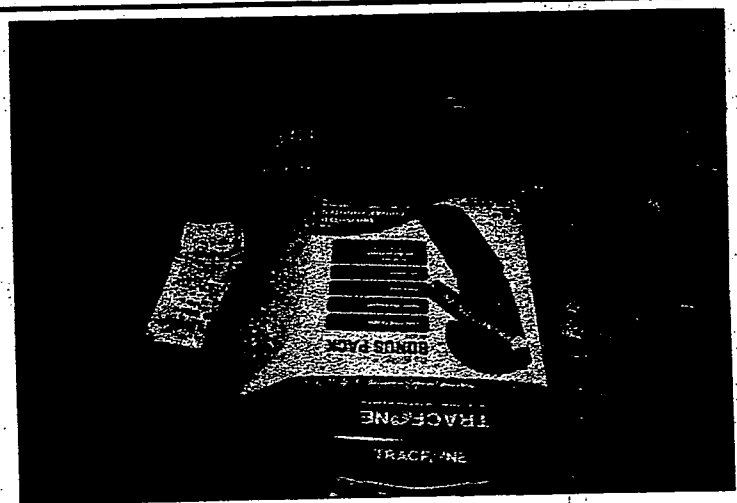
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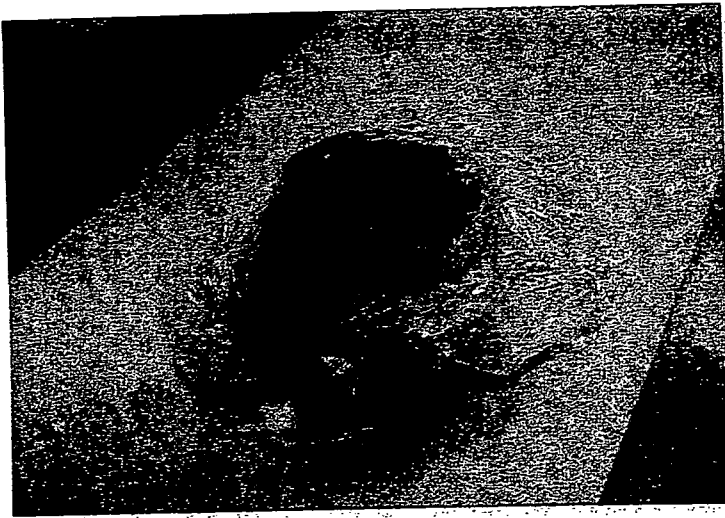
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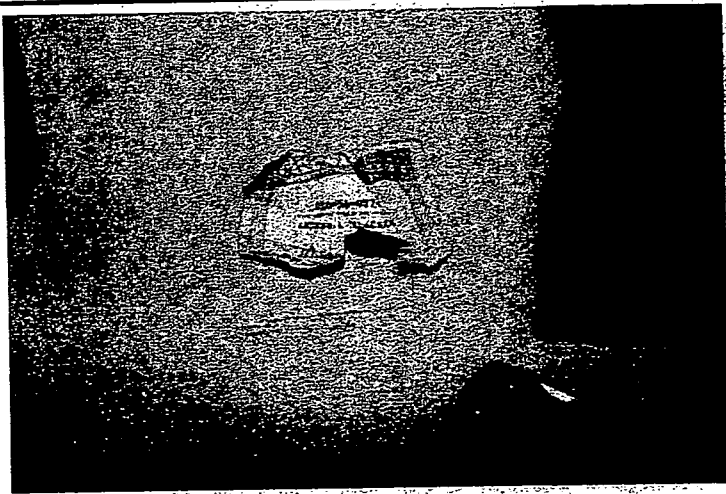
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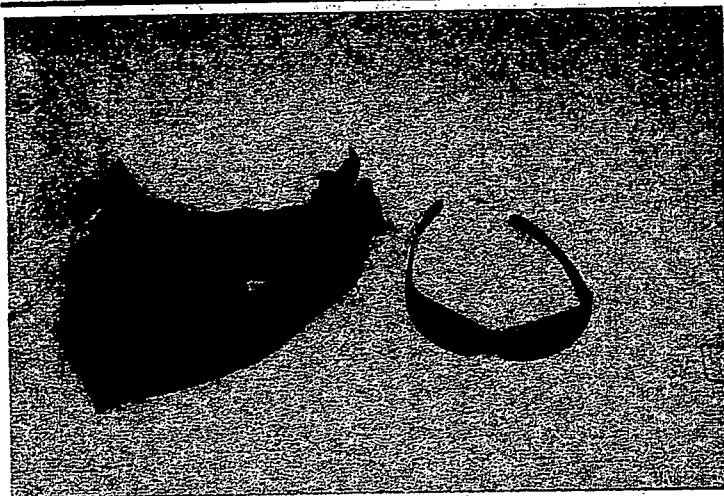
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INSANITY

THE DEFENDANT HAS RAISED THE DEFENSE OF INSANITY. CRIMINAL INTENT IS REQUIRED TO PROVE THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED. A PERSON WHO IS INSANE CANNOT HAVE CRIMINAL INTENT AND, THEREFORE, CANNOT BE FOUND GUILTY OF A CRIME.

IN ORDER TO BE FOUND NOT GUILTY BY REASON OF INSANITY, IT MUST BE SHOWN THAT, AT THE TIME OF THE CRIME, THE DEFENDANT HAD A MENTAL DISEASE OR DEFECT WHICH MADE HIM (HER) UNABLE TO DISTINGUISH MORAL OR LEGAL RIGHT FROM WRONG OR TO RECOGNIZE THE CRIME AS MORALLY OR LEGALLY WRONG.

BY RAISING THE DEFENSE OF INSANITY, THE DEFENDANT DOES NOT NECESSARILY ADMIT THE CRIME WAS COMMITTED. THE STATE MUST STILL PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE CRIME. HOWEVER, THE DEFENDANT MUST PROVE INSANITY BY A PREPONDERANCE OF THE EVIDENCE. A PREPONDERANCE OF THE EVIDENCE

SIMPLY MEANS THE GREATER WEIGHT OF THE EVIDENCE, OR MORE LIKELY THAN NOT.

IF YOU FIND THERE IS EVIDENCE IN THE RECORD THAT AT THE TIME THE CRIME WAS ALLEGEDLY COMMITTED, IT IS MORE LIKELY THAN NOT THAT, BECAUSE OF A MENTAL DISEASE OR DEFECT, THE DEFENDANT DID NOT KNOW THE ALLEGED CRIME WAS MORALLY OR LEGALLY WRONG, THE STATE MUST THEN PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS SANE.

IT IS FOR YOU TO DECIDE WHAT THE STATE OR CONDITION OF THE DEFENDANT'S MIND WAS AT THE TIME THE ALLEGED CRIME WAS COMMITTED.

[INSANITY CAUSE BY THE USE OF DRUGS OR ALCOHOL MAY BE A DEFENSE IF THE INSANITY IS PERMANENT AND DESTROYS THE DEFENDANT'S ABILITY TO KNOW RIGHT FROM WRONG.⁷⁸ HOWEVER, WHEN VOLUNTARY INTOXICATION HAS NOT PRODUCED PERMANENT INSANITY, IT IS NOT A DEFENSE TO A CRIME. A

⁷⁸ State v. Hartfield, 300 S.C. 469, 388 S.E.2d 802 (1990).

PERSON WHO VOLUNTARILY BECOMES INTOXICATED IS JUST AS RESPONSIBLE FOR THE ACTS COMMITTED WHILE INTOXICATED AS IF THE PERSON WERE NOT INTOXICATED.^{79]}

THERE ARE FOUR POSSIBLE VERDICTS YOU MAY RETURN IN THIS CASE.⁸⁰

IF YOU HAVE ANY REASONABLE DOUBT AS TO THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, THEN YOU MUST FIND THE DEFENDANT NOT GUILTY.

IF YOU HAVE NO REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE CRIME, BUT YOU FIND THAT IT IS MORE LIKELY THAN NOT THAT, BECAUSE OF A MENTAL DISEASE OR DEFECT, THE DEFENDANT COULD NOT DISTINGUISH MORAL OR LEGAL RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS MORALLY OR LEGALLY WRONG, YOU MUST FIND THE DEFENDANT NOT GUILTY BY REASON OF INSANITY.

⁷⁹ State v. Crocker, 272 S.C. 344, 251 S.E.2d 764 (1979); State v. Vaughn, 268 S.C. 119, 232 S.E.2d 328 (1977).

⁸⁰ If there is evidence of insanity or a mental disease or defect, the trial judge must submit not guilty by reason of insanity, guilty but mentally ill, guilty, and not guilty verdict to the jury. State v. Rimert, 315 S.C. 527, 446 S.E.2d 400 (1994); S.C. Code Ann. § 17-24-30.

ANOTHER POSSIBLE VERDICT IS GUILTY BUT MENTALLY ILL. IF YOU HAVE NO REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE CRIME, AND THAT THE DEFENDANT HAD THE MENTAL CAPACITY TO DISTINGUISH MORAL OR LEGAL RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS MORALLY OR LEGALLY WRONG, BUT YOU FIND THAT IT IS MORE LIKELY THAN NOT, BECAUSE OF A MENTAL DISEASE OR DEFECT, THE DEFENDANT COULD NOT FOLLOW THE LAW, YOU MUST FIND THE DEFENDANT GUILTY BUT MENTALLY ILL.

AS WITH INSANITY, THE DEFENDANT HAS THE BURDEN OF PROVING THAT HE (SHE) IS GUILTY BUT MENTALLY ILL BY A PREPONDERANCE OF THE EVIDENCE.

THE FINAL POSSIBLE VERDICT IN THIS CASE IS GUILTY. YOU MAY ONLY FIND THE DEFENDANT GUILTY IF THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE CRIME, THAT THE DEFENDANT WAS ABLE TO DISTINGUISH MORAL AND LEGAL RIGHT FROM WRONG AND TO RECOGNIZE THE CRIME AS MORALLY AND LEGALLY WRONG, AND THAT THE DEFENDANT WAS ABLE TO

FOLLOW THE LAW.

GUILTY BUT MENTALLY ILL

THE DEFENDANT ALLEGES THAT HE (SHE) IS GUILTY BUT MENTALLY ILL. THE DEFENDANT IS GUILTY BUT MENTALLY ILL IF, AT THE TIME OF THE CRIME, THE DEFENDANT WAS ABLE TO DISTINGUISH MORAL OR LEGAL RIGHT FROM WRONG OR TO RECOGNIZE HIS (HER) ACT AS BEING MORALLY OR LEGALLY WRONG BUT, BECAUSE OF A MENTAL DISEASE OR DEFECT, THE DEFENDANT DID NOT HAVE SUFFICIENT ABILITY TO FOLLOW THE LAW.

THE STATE STILL HAS THE BURDEN TO PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE CRIME. HOWEVER, THE DEFENDANT HAS THE BURDEN OF PROVING THAT HE (SHE) IS GUILTY BUT MENTALLY ILL BY A PREPONDERANCE OF THE EVIDENCE. THE PREPONDERANCE OF THE EVIDENCE SIMPLY MEANS THE GREATER WEIGHT OF THE EVIDENCE, OR MORE LIKELY THAN NOT.

THERE ARE THREE POSSIBLE VERDICTS IN THIS CASE.⁸¹

IF YOU HAVE ANY REASONABLE DOUBT AS TO THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, THEN YOU MUST FIND THE DEFENDANT NOT GUILTY.

IF YOU HAVE NO REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE CRIME, BUT YOU FIND THAT THE DEFENDANT HAD THE MENTAL CAPACITY TO DISTINGUISH MORAL OR LEGAL RIGHT FROM WRONG OR RECOGNIZE THE CRIME AS MORALLY OR LEGALLY WRONG, BUT THAT IT IS MORE LIKELY THAN NOT, BECAUSE OF A MENTAL DISEASE OR DEFECT, THE DEFENDANT COULD NOT FOLLOW THE LAW, YOU MUST FIND THE DEFENDANT GUILTY BUT MENTALLY ILL.

THE FINAL POSSIBLE VERDICT IN THIS CASE IS GUILTY. YOU MAY ONLY FIND THE DEFENDANT GUILTY IF THE STATE HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE CRIME, THAT THE DEFENDANT

⁸¹ Where there is no evidence of that the defendant lacked the capacity to distinguish moral or legal right from wrong or to recognize the crime as morally or legally wrong, insanity does not have to be submitted to the jury. State v. Lewis, 328 S.C. 273, 494 S.E.2d 115 (1997).

WAS ABLE TO DISTINGUISH MORAL AND LEGAL RIGHT FROM
WRONG AND TO RECOGNIZE THE CRIME AS MORALLY AND
LEGALLY WRONG, AND THAT THE DEFENDANT WAS ABLE TO
FOLLOW THE LAW.

Code of Laws of South Carolina 1976 Annotated Currentness

Title 17. Criminal Procedures

Current selection Chapter 24. Mentally Ill or Insane Defendants

§ 17-24-10. Affirmative defense.

(A) It is an affirmative defense to a prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong.

(B) The defendant has the burden of proving the defense of insanity by a preponderance of the evidence.

(C) Evidence of a mental disease or defect that is manifested only by repeated criminal or other antisocial conduct is not sufficient to establish the defense of insanity.

§ 17-24-20. Guilty but mentally ill; general requirements for verdict

(A) A defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in Section 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law.

(B) To return a verdict of "guilty but mentally ill" the burden of proof is upon the State to prove beyond a reasonable doubt to the trier of fact that the defendant committed the crime, and the burden of proof is upon the defendant to prove by a preponderance of evidence that when he committed the crime he was mentally ill as defined in subsection (A).

(C) The verdict of guilty but mentally ill may be rendered only during the phase of a trial which determines guilt or innocence and is not a form of verdict which may be rendered in the penalty phase.

(D) A court may not accept a plea of guilty but mentally ill unless, after a hearing, the court makes a finding upon the record that the defendant proved by a preponderance of the evidence that when he committed the crime he was mentally ill as provided in Section 17-24-20(A).

§ 17-24-30. Form of verdict.

In a prosecution for a crime when the affirmative defense of insanity is raised sufficiently by the defendant, or when sufficient evidence of a mental disease or defect of the defendant is admitted into evidence, the trier of fact shall find under the applicable law, and the verdict must so state, whether the defendant is:

- (1) guilty;
- (2) not guilty;
- (3) not guilty by reason of insanity; or
- (4) guilty but mentally ill.

§ 17-24-40. Commitment of person found not guilty by reason of insanity.

(A) In the event a verdict of "not guilty by reason of insanity" is returned, the trial judge must order the person who was the defendant committed to the South Carolina State Hospital for a period not to exceed one hundred twenty days. During that time, an examination must be made of the person to determine the need for hospitalization of the person pursuant to the standards set forth in Section 44-17-580.

(B) A report of the findings must be made to the chief administrative judge of the circuit in which the trial was held, the solicitor, the person, and the person's attorney.

(C)(1) Within fifteen days after receipt of this report by the court, the chief administrative judge of the circuit in which the trial was held must hold a hearing to decide whether the person should be hospitalized pursuant to the standard of Section 44-17-580.

(2)(a) If the chief administrative judge finds the person not to be in need of hospitalization, the judge may order the person released upon such terms or conditions, if any, as the judge considers appropriate for the safety of the community and the well-being of the person.

(b) In the event the chief administrative judge finds the person to be in need of hospitalization, the judge must order the person committed to the South Carolina State Hospital.

(c) If at a later date it is determined by officials of the State Hospital that the person is no longer in need of hospitalization, the officials must notify the chief administrative judge, the solicitor, the person, and the person's attorney. Within twenty-one days after the receipt of this notice, the chief administrative judge, upon notice to all parties, must hold a hearing to determine whether the person is in need of continued hospitalization pursuant to the standard of Section 44-17-580. If the finding of the court is that the person is in need of continued hospitalization, the court must order his continued confinement. If the court's finding is that the person is not in need of continued hospitalization, it may order the person released upon such terms and conditions, if any, as the chief administrative judge considers appropriate for the safety of the community and the well-being of the person.

(D) Any terms and conditions imposed by the chief administrative judge must be therapeutic in nature, not punitive. Therapeutic terms must include, but not be limited to, requirements that the person:

(1) continue taking medication for an indefinite time and verify in writing the use of medication;

(2) receive periodic examinations and reviews by psychiatric personnel; and

(3) report periodically to the probation office for an evaluation of his reaction to his environment and his general welfare.

(E) The chief administrative judge of the circuit in which the trial was held at all times has jurisdiction over the person for the purposes of this chapter.

(F) If a person is committed to the supervision of the Department of Mental Health pursuant to this section after having been found not guilty by reason of insanity of a violent crime, the person may not leave the facility or grounds to which he is committed at any time unless accompanied by an employee of the department who must be responsible for and in the physical presence of the person at all times. For purposes of this section, a violent crime includes those offenses described in Section 16-1-60 and the common law offense of assault and battery of a high and aggravated nature.

§ 17-24-50. Length of confinement or supervision of defendant found not guilty by reason of insanity

In no case shall a defendant found not guilty by reason of insanity be confined or be under supervision longer than the maximum sentence for the crime with which he was charged without full civil commitment proceedings being held.

§ 17-24-60. Petition by attorney of defendant found not guilty by reason of insanity.

Two years from the date of commitment the defendant's attorney may petition the chief administrative judge to be relieved as counsel.

§ 17-24-70. Sentencing of defendant found guilty but mentally ill.

If a verdict is returned of "guilty but mentally ill" the defendant must be sentenced by the trial judge as provided by law for a defendant found guilty, however:

(A) If the sentence imposed upon the defendant includes the incarceration of the defendant, the defendant must first be taken to a facility designated by the Department of Corrections for treatment and retained there until in the opinion of the staff at that facility the defendant may safely be moved to the general population of the Department of Corrections to serve the remainder of his sentence.

(B) If the sentence includes a probationary sentence, the judge may impose those conditions and restrictions on the release of the defendant as the judge considers necessary for the safety of the defendant and of the community.

§ 17-24-80. Release of defendant.

(A) Should a defendant be released pursuant to §§ 17-24-40(C)(2)(a), 17-24-40(C)(2)(c), or 17-24-70(B) herein, the solicitor shall immediately notify the local probation office and it shall then be the responsibility of the probation office to monitor compliance by the defendant of the terms and conditions of his release.

(B) The probation office shall file reports quarterly or more often, if necessary, of the defendant's compliance with the terms of his release with the circuit solicitor, the chief administrative judge of the circuit, the defendant's attorney, and the defendant.

(C) In the event the defendant violates any of the terms of his release, notice of the violation shall be immediately given by the probation office to the chief administrative judge of the circuit, the circuit solicitor, the defendant's attorney, and the defendant. Upon the receipt of the notice the chief administrative judge, upon notice to all parties, may order a hearing and order inpatient treatment if he finds the defendant in need of hospitalization pursuant to the standard of § 44-17-580 of the 1976 Code, or order such other action as he may deem appropriate.

328 S.C. 273, 494 S.E.2d 115

Judges and Attorneys

Supreme Court of South Carolina.

The STATE, Respondent,

v.

James Joseph LEWIS, Jr., Appellant.

No. 24720.

Heard Oct. 7, 1997.

Decided Dec. 8, 1997.

Defendant was convicted in the Circuit Court, Horry County, Daniel E. Martin, Sr., J., of voluntary manslaughter and first-degree burglary, but was found mentally ill. He appealed. The Supreme Court, Burnett, J., held that defendant was not entitled to charge on insanity, overruling *State v. Campen*, 321 S.C. 505, 469 S.E.2d 619.

Affirmed.

West Headnotes

[1]  KeyCite Citing References for this Headnote

↔ 110 Criminal Law

↔ 110XVII Evidence

↔ 110XVII(B) Presumptions and Inferences

↔ 110k305 Presumptions

↔ 110k311 k. Sanity. Most Cited Cases

In every criminal case, it is presumed defendant is sane. Code 1976, § 17-24-10(A).

[2] KeyCite Citing References for this Headnote

↔ 110 Criminal Law

↔ 110VI Capacity to Commit and Responsibility for Crime

↔ 110k47 Insanity

↔ 110k48 k. In General. Most Cited Cases

Insanity is an affirmative defense to prosecution for crime. Code 1976, § 17-24-10(A).

[3] KeyCite Citing References for this Headnote

↔ 110 Criminal Law

↔ 110VI Capacity to Commit and Responsibility for Crime

↔ 110k47 Insanity

↔ 110k48 k. In General. Most Cited Cases

Key to insanity is the power of defendant to distinguish right from wrong in the act itself-to recognize the act complained of is either morally or legally wrong. Code 1976, § 17-24-10(A).

[4] KeyCite Citing References for this Headnote

↔ 110 Criminal Law


↔ 110XVII Evidence

↔ 110XVII(V) Weight and Sufficiency

↔ 110k570 Insanity or Other Incapacity

↔ 110k570(1) k. In General. Most Cited Cases

Defendant may rely on lay testimony to establish insanity. Code 1976, § 17-24-10(A).

[5]  KeyCite Citing References for this Headnote

- ↔ 110 Criminal Law
 - ↔ 110XVII Evidence
 - ↔ 110XVII(R) Opinion Evidence
 - ↔ 110k492 Effect of Opinion Evidence
 - ↔ 110k494 k. Experts. Most Cited Cases

Jury may disregard expert testimony on issue of defendant's sanity. Code 1976, § 17-24-10(A).

[6]  KeyCite Citing References for this Headnote

- ↔ 110 Criminal Law
 - ↔ 110XX Trial
 - ↔ 110XX(G) Instructions: Necessity, Requisites, and Sufficiency
 - ↔ 110k814 Application of Instructions to Case
 - ↔ 110k814(1) k. In General. Most Cited Cases

Law to be charged is determined from facts presented at trial.

[7]  KeyCite Citing References for this Headnote

- ↔ 110 Criminal Law
 - ↔ 110XX Trial
 - ↔ 110XX(G) Instructions: Necessity, Requisites, and Sufficiency
 - ↔ 110k814 Application of Instructions to Case
 - ↔ 110k814(10) k. Insanity or Intoxication. Most Cited Cases

Requested charge on insanity is properly refused where there is no evidence tending to show defendant was insane at time of crime charged. Code 1976, § 17-24-10(A).

[8]  KeyCite Citing References for this Headnote

↳ 203 Homicide

↳ 203XII Instructions

↳ 203XII(F) Capacity to Commit Crime

↳ 203k1502 k. Insanity. Most Cited Cases
(Formerly 203k294.1)

Murder defendant was not entitled to charge on insanity, even though defendant suffered from severe depression at time of shooting; defendant chased his former wife out of her home after shooting victim and then ran back inside when he saw police officers, defendant allowed emergency crew into home to remove victim, and defendant remained in his former wife's residence for hours and threatened to shoot himself but did not do so until police entered, all of which suggested that defendant recognized gravity of situation and that his conduct was wrong; overruling *State v. Campen*, 321 S.C. 505, 469 S.E.2d 619. Code 1976, § 17-24-10(A).

**115 *275 Deputy Chief Attorney Joseph L. Savitz, III, of South Carolina Office of Appellate Defense, Columbia, for appellant.

Attorney General Charles Molony Condon, Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General Salley W. Elliott, and Senior Assistant Attorney General Norman Mark Rapoport, Columbia; and Ralph J. Wilson, Conway, for respondent.

BURNETT, Justice:

On November 2, 1995, appellant broke into his estranged wife's home and shot her paramour at close range, killing him. Appellant was indicted on murder and first degree burglary charges. He was convicted of voluntary manslaughter and first degree burglary, but found mentally ill.

Appellant argues the trial judge erred by failing to instruct the jury on insanity. He contends his own testimony and that of lay witnesses supported an instruction on insanity. We disagree.

ISSUE

Did the trial judge err by refusing appellant's request to instruct the jury on insanity?

**116 FACTS

Appellant testified he and Charlotte began living together in March 1991 and married in March 1993. Throughout the marriage, appellant was suspicious of Charlotte's relationships with other men. Appellant and Charlotte separated in June 1995. Charlotte moved into her own residence. After their separation, appellant learned some of Charlotte's relationships had been adulterous.

Appellant testified between the separation and the shooting, he lost 70 pounds, had difficulty sleeping, saw a "nerve specialist," and contemplated suicide. Appellant testified he did not remember going to work two days before the shooting. The day before the shooting, appellant saw a psychiatrist who prescribed medication.

*276 The morning of the shooting, appellant testified he awoke and felt at peace because he had decided to visit Charlotte and then take his own life. Appellant remembered telephoning Charlotte and telling her he was going to shoot himself on her front porch. Appellant explained he sat on Charlotte's front porch with the gun in his mouth waiting for someone to look out the window, but no one did. Appellant testified the next thing he remembered was the gun going off. He realized he had shot Sammy, who was laying half-dressed in Charlotte's bed. Appellant maintained he did not intend to harm anyone other than himself.FN1

FN1. Appellant neither admitted nor denied knowing Sammy was inside Charlotte's home, however, Charlotte testified she told appellant over the telephone Sammy was there and “[they] were still in bed.”

After the shooting, appellant admitted following Charlotte out of her residence with the gun in his hand, but after seeing two police officers with their guns drawn, he turned around and went back into the home. Appellant allowed emergency personnel into the residence to remove Sammy.FN2 Appellant stated he remained in the home with a gun to his head and shot himself when the SWAT team threw in tear gas because he “thought they may be able to take me out alive.” FN3

FN2. Charlotte testified she heard Sammy breathing before she fled from her home. The forensic pathologist testified Sammy died several hours after the shooting.

FN3. Police negotiated with appellant for seven hours before the SWAT team entered the home.

On cross-examination, appellant testified he “wasn't in [his] right mind that morning;” “I didn't do anything logical that day.” He testified he must have been “totally out of [his] mind.”

A neighbor testified she saw appellant the evening before the shooting. He was slumped in a chair and was acting differently; he did not hear anything she was saying; he cried; he was “completely out of it;” he was “severely disturbed.” The neighbor testified she thought appellant was going to kill himself. Another neighbor testified she never saw appellant lose his temper.

*277 Appellant's employee testified months prior to the shooting, appellant quit coming to work on a regular basis and was dazed and depressed.

Appellant's sister, who resided in Maryland, testified weeks prior to the shooting, appellant would telephone and, when she answered, he would be crying and incoherent. She testified she visited appellant a few days before the shooting because she was concerned he would kill himself. The sister testified appellant was not a violent person.

Appellant's daughter testified she was very worried about appellant after he and Charlotte separated. Appellant would telephone her and cry, and spend hours talking about how he missed Charlotte. On the day of the shooting, appellant telephoned his daughter at 6:00 a.m.; she thought he was going to kill himself.

Both the prosecution and defense medical experts testified appellant suffered from severe depression, a mental illness, at the time of the commission of the crimes, but concluded appellant was able to distinguish between right and wrong. Appellant's expert testified, because of his severe depression, appellant was unable to conform his conduct to the requirements of the law. FN4

FN4. This testimony alone supported the charge on guilty but mentally ill (GBMI). A defendant is GBMI, "if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong ... but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law." S.C.Code § 17-24-20(A) (Supp.1996).

**117 DISCUSSION

[1] [2] In every criminal case, it is presumed the defendant is sane. *State v. Milian-Hernandez*, 287 S.C. 183, 336 S.E.2d 476 (1985). Insanity is an affirmative defense to a prosecution for a crime. *Id.*

[3] South Carolina has adopted the M'Naghten test to determine insanity. FN5 A defendant is insane if, at the time of the commission of the act constituting the offense, as a result of mental disease or defect, he lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong. S.C.Code Ann. § 17-24-10(A) (Supp.1996). "[T]he key to insanity is 'the power of the defendant to distinguish right from wrong in the act itself-to recognize the act complained of is either morally or legally wrong'." *State v. Wilson* 306 S.C. 498, 506, 413 S.E.2d 19, 23, cert. denied, 506 U.S. 846, 113 S.Ct. 137, 121 L.Ed.2d 90 (1992), quoting *State v. McIntosh*, 39 S.C. 97, 17 S.E. 446 (1893).

FN5. M'Naghten's Case, 8 Eng.Rep. 718 (1843).

[4] [5] A defendant may rely on lay testimony to establish insanity. *State v. Hinson*, 253 S.C. 607, 172 S.E.2d 548 (1970); see also, *State v. Rimert*, 315 S.C. 527, 446 S.E.2d 400, cert. denied, 513 U.S. 1080, 115 S.Ct. 730, 130 L.Ed.2d 634 (1995) (State relied on lay testimony to establish sanity); *State v. Smith*, 298 S.C. 205, 379 S.E.2d 287 (1989) (where defendant presents expert testimony on his insanity, State is not required to present expert testimony on sanity; lay testimony may be sufficient). In fact, a jury may disregard expert testimony. *Milian-Hernandez*, supra.

[6] [7] The law to be charged is determined from the facts presented at trial. *State v. Todd*, 290 S.C. 212, 349 S.E.2d 339 (1986). A requested charge on insanity is properly refused where there is no evidence tending to show the

defendant was insane at the time of the crime charged. 23A C.J.S. Criminal Law § 1321 (1989).

Appellant contends his own testimony and the testimony of lay witnesses established he could not distinguish between right and wrong or recognize his acts as wrong at the time of the shooting. Appellant relies on his characterization of his mental condition as “out of [his] mind” at the time of the offense and other witnesses' descriptions of his mental state near the time of the offense.

[8] After carefully reviewing the evidence presented, we conclude appellant was not entitled to a charge on insanity. While it is uncontroverted appellant suffered from severe depression, the evidence does not suggest he was unable to distinguish between right and wrong or unable to recognize his actions as morally or legally wrong at the time of the *279 offense. Even appellant's own testimony that he was “out of [his] mind” does not indicate he could not differentiate between right and wrong or recognize his conduct as wrong.FN6 We note “there are but few instances where one slays another while his mind is in normal condition.” *State v. Gardner*, 219 S.C. 97, 107, 64 S.E.2d 130, 135 (1951), citing *Anderson v. State*, 67 Tex.Crim. 320, 148 S.W. 802 (1912).

FN6. See *Brodka v. State*, 53 Ala.App. 125, 298 So.2d 55 (1974) (evidence was insufficient to sustain plea of insanity and court was justified in instructing jury to that effect despite defendant's testimony he was depressed, upset, “something just came over him,” and he “didn't know what he was doing at the time of the shooting”); *McClendon v. State*, 157 Ga.App. 435, 278 S.E.2d 96 (1981) (testimony that just prior to assault defendant was “going crazy,” was not evidence defendant did not have mental capacity to distinguish between right and wrong); *State v. Roy*, 40 N.M. 397, 60 P.2d 646 (1936) (evidence defendant was “polluted half the time or crazy or something” after the death of his wife, cried, “wasn't himself,” and on the day of the homicide “looked kind of wild in his eyes ... just looked something out of the ordinary; figgety [sic], like” did not show at time of

crime defendant was not able to distinguish right from wrong); *State v. Davis*, 77 N.C.App. 68, 334 S.E.2d 509 (1985) (defendant's testimony at time of the homicide he "lost [his] mind," "was so mixed up right then," and "went completely out of [his] mind" was not evidence of insanity); *De La Garza v. State*, 650 S.W.2d 870 (Tex.App.1983) (defendant's testimony he was sleep deprived, intoxicated, confused, and "out of control" was insufficient to support a jury charge on insanity).

**118 Moreover, appellant's own testimony suggests he was sane. After killing Sammy, appellant testified he chased Charlotte out of her home then ran back inside when he saw police officers with their guns drawn. He allowed an emergency crew into the home to remove Sammy, who was still alive. Thereafter, appellant remained in Charlotte's residence for hours, threatening to shoot himself but not doing so until the SWAT team entered. These actions suggest appellant recognized the gravity of the situation and that his conduct was wrong, and tend to establish his sanity rather than his insanity. *Id.* at 106, 64 S.E.2d at 135 (defendant not entitled to insanity charge even though police testified, shortly after the homicide, defendant "didn't act clear" and "looked like a madman," but stated he was "ready to be electrocuted;" the statement showed the defendant "fully appreciated the gravity of his act.").

*280 Since there was no evidence appellant was unable to distinguish between right and wrong or unable to recognize his actions as wrong at the time of the offense, there was no evidence of insanity and the trial judge properly refused appellant's request to charge insanity. *State v. Todd*, supra. FN7 Appellant's conviction is AFFIRMED.

FN7. In *State v. Campen*, 321 S.C. 505, 469 S.E.2d 619 (Ct.App.1996), the Court of Appeals held, in dicta, a defendant was properly entitled to a charge on insanity where he had testified he had mental difficulties most of his life, suffered from paranoia, and, on the day of the offense, he was paranoid, confused, had no control over his actions, and needed psychological help. We overrule *Campen* insofar as it

found this evidence supported a charge on insanity.

FINNEY, C.J., and TOAL, MOORE and WALLER, JJ., concur.

S.C.,1997.

State v. Lewis

328 S.C. 273, 494 S.E.2d 115