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STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from York County  
Honorable John C Hayes, III, Circuit Court Judge

Case Nos 2004-GS-46-2614, 3232, 200, 3233, 3234, 196-199

THE STATE

Respondent,

v

BILLY WAYNE COPE  
JAMES EDWARD SANDERS

Appellants

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AMENDED SUPPLEMENTAL RECORD ON APPEAL

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**AMENDED SUPPLEMENTAL RECORD ON APPEAL  
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STATE OF SOUTH CAROLINA ) IN GENERAL SESSIONS COURT  
 )  
COUNTY OF YORK )

State of South Carolina, )  
 )  
vs. )  
 )  
James E Sanders, )  
Defendant )  
\_\_\_\_\_ )

**MOTION TO SUPPRESS**

H-509255, et al

NOW COMES the Defendant, James E Sanders, by and through undersigned counsel of record, and does move this court for an order suppressing all evidence in any way related to, or connected with, the drawing and analyzing of any body fluid of the defendant, including but not limited to, blood and saliva.

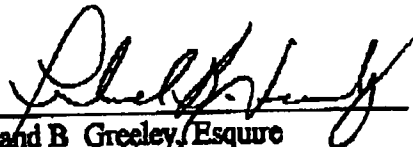
This motion is based on the following grounds

1 That the warrant allowing the obtaining of the nontestimonial identification evidence in this matter, specifically any and all body fluid of the defendant, was sought and issued in such a way as violated the defendant's 4<sup>th</sup> amendment constitutional rights under the South Carolina Constitution, the United States Constitution, and case law of South Carolina,

2 That the method used by the State in obtaining the warrant violated the defendant's constitutional right to due process in that it obtained such warrant for nontestimonial identification evidence by way of an ex parte hearing with the court after the defendant had been incarcerated. At no time was the defendant given notice the State would request such evidence from him, nor that a hearing was to be held to determine whether the warrant should issue.

Respectfully submitted,

LELAND B GREELEY, P A.

By   
Leland B Greeley, Esquire  
Post Office Box 2981 CRS  
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(803) 329-0088  
Attorney for the Defendant

Rock Hill, South Carolina  
June 18, 2004

STATE OF SOUTH CAROLINA ) IN GENERAL SESSIONS COURT  
 )  
COUNTY OF YORK )

State of South Carolina, )

vs )

James E. Sanders, )  
Defendant )


**MOTION TO DISCLOSE**

H-509255, et al.

NOW COMES the Defendant, James E. Sanders, by and through undersigned counsel of record, and does move this court for an order requiring the State to inform the defendant of, and produce to the defendant, any and all alleged evidence it intends to introduce under Rule 404(b), SCRE and *State v Lyle*, 125 S C 406, 118 S.E 803 (1923) at the trial of this case. The defendant requests that such information be made available to him no later than July 20, 2004

Respectfully submitted,

LELAND B GREELEY, P.A.

By   
Leland B Greeley Esquire  
Post Office Box 2981 CRS  
Rock Hill, South Carolina 29732  
(803) 329-0088  
Attorney for the Defendant

Rock Hill, South Carolina  
June 18 2004

1 Defendant requests this date in order to have sufficient time to review and address by the August 9, 2004 pretrial motion deadline

**CERTIFICATE OF MAILING**

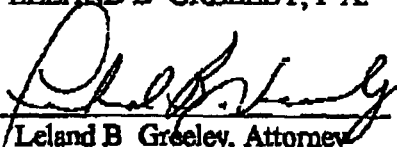
The undersigned hereby certifies that he is the attorney for James E. Sanders in the within matter and that the within MOTION TO SUPPRESS and MOTION FOR DISCLOSURE was served upon the Attorney for South Carolina by depositing a copy of same in the United States Mail with sufficient postage annexed thereto, addressed as follows

The Honorable Thomas E. Pope, Solicitor  
Sixteenth Judicial Circuit  
1675-1A York Highway  
York, South Carolina 29745-9463

June 18, 2004

LELAND B. GREELEY, P.A.

By



Leland B. Greeley, Attorney  
Post Office Box 2981 CRS  
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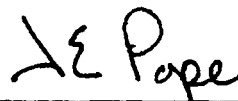
STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )  
STATE OF SOUTH CAROLINA, )  
vs )  
JAMES E SANDERS, )  
DEFENDANT )  
\_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS

NOTICE OF MOTION

2002-GS-46-1260

Please take notice that on August 4, 2004, or as soon thereafter as may be heard, the State of South Carolina by and through Thomas E Pope, Solicitor for the Sixteenth Circuit, will move for an Order of the Court requiring the defendant, James E Sanders, be taken by law enforcement officials to the appropriate law enforcement and/or medical facilities and samples of blood be taken from the defendant, James E Sanders, forcibly, if necessary, and said samples will be analyzed in connection with the investigation into the burglary occurring at 131 Reid Street, Rock Hill, South Carolina on January 12, 2002



\_\_\_\_\_  
Thomas E Pope  
Solicitor  
Sixteenth Judicial Circuit

York, South Carolina  
8/3, 2004

FILED

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )  
STATE OF SOUTH CAROLINA, )  
vs )  
JAMES E SANDERS, )  
DEFENDANT )  
\_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS

MOTION

2002-GS-46-1260

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111615

This matter comes before the Court upon motion of Thomas E Pope, Solicitor of the Sixteenth Judicial Circuit, requesting a court order, pursuant to S C Code Ann §17-13-140 (Law Co-op, 1976), that the defendant, James E Sanders, be taken by law enforcement officials to the appropriate law enforcement and/or medical facilities and samples of blood be taken from the defendant, James E Sanders, forcibly, if necessary, and said samples will be analyzed in connection with the investigation into the burglary occurring at 131 Reid Street, Rock Hill, South Carolina on January 12, 2002

The defendant, James E Sanders, has been arrested on charges of burglary for his alleged involvement in the burglary of the residence of Sarah Hagman Probable cause for the defendant's arrest consists of statements taken from witnesses and the defendant along with physical evidence recovered from the crime scene and from other locations

The South Carolina Supreme Court has construed the word "property" within the language of §17-13-140(4), which provides for the issuance of a search warrant for "property constituting evidence of crime or tending to show that a particular person committed a criminal offense," to encompass nontestimonial identification evidence In

Re Snyder, 308 S C 192, 417 S E 2d 572 (1992) The Court ruled that §17-13-140 provided for the involuntary submission of nontestimonial identification evidence In previous holdings, both the South Carolina and United States Supreme Courts have designated blood, among other things, to be nontestimonial identification evidence

In the Snyder case, the Court promulgated criteria to determine whether probable cause for acquisition of such "nontestimonial identification evidence" exists

(1) probable cause to believe the suspect committed the crime, (2) a clear indication that relevant material evidence will be found, and (3) and that the method used to secure the evidence is safe and reliable The Court also mentioned the necessity for balancing interests such as the seriousness of the crime and the importance of the evidence to the investigation against constitutional safeguards prohibiting unreasonable bodily intrusions, searches, and seizures Id At 195, 417 S E 2d at 574

The Supreme Court of the United States has held that the withdrawal and chemical analysis of blood from a defendant, against his objections, violated neither the defendant's Fifth Amendment right against self-incrimination nor the defendant's Fourth Amendment right to be free of unwarranted search and seizure Schmerber v California, 384 U S 757(1966)

The State therefore contends probable cause to permit the acquisition of the blood from the defendant, James E Sanders, based upon the following

(1) The probable cause to believe the defendant, James E Sanders, committed the crimes of burglary

(2) The blood of the defendant, James E Sanders, which the State now seeks, are relevant material evidence in the investigation of this crime Blood was taken from the

scene of the crime There is sufficient probable cause to believe these samples will prove to be a positive match based upon the investigation as detailed above

(3) The method used to acquire the samples of the defendant, James E Sanders, is safe and reliable

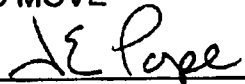
Furthermore, the State wishes to impress upon the Court the gravity of the crime of burglary 1<sup>st</sup> degree with which the defendant James E Sanders, has been charged, and the samples requested by the State are relevant material evidence needed for the investigation of this crime The State respectfully notes that in balancing the constitutional rights of criminal defendants, the Supreme Court of South Carolina has determined such samples as these requested by the State to be subject to the seizure requirements of §17-13-140 Additionally §17-13-140 has been construed to provide for the involuntary submission of such nontestimonial identification evidence In Re Snyder, 308 S C at 196, 417 S E 2d at 574 The State further contends the Court's permission to acquire samples of the defendant's blood would not be violative of the defendant's constitutional rights The Supreme Court of the United States has sanctioned the withdrawal and analysis of a criminal defendant's blood, against the defendant's objection, as being neither violative of the defendant's Fifth Amendment right against self-incrimination nor his Fourth Amendment right to be free from unwarranted search and seizure Schmerber, 384 U S at 1834

Therefore, based on the guidelines mandated under the statutory provisions of §17-13-140, case law and Constitutional laws of this State and of the United States, the State respectfully moves for an order of this Court that the defendant, James E Sanders, be taken by law enforcement officials to the appropriate law enforcement

and/or medical facilities and that samples of blood be taken from the defendant, James E Sanders, forcibly, if necessary, and said samples be analyzed in connection with the investigation of this case

Further in the event this order is granted, the State retains the right to comment in Court on any refusal by the defendant to cooperate in providing the samples, based on South Dakota v Neville 459 U S 553, 103 S Ct 916 (1983), State v Middleton 266 S C 251, 222 S E 2d 763 (1976), and other case law

I SO MOVE



Thomas E Pope  
Solicitor  
Sixteenth Judicial Circuit

York, South Carolina  
8/3, 2004

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STATE OF SOUTH CAROLINA )

IN THE COURT OF GENERAL SESSIONS  
SIXTEENTH JUDICIAL CIRCUIT

COUNTY OF YORK )

State of South Carolina, )

Plaintiff, )

v )

Billy Wayne Cope, )

Defendant. )

MOTION

Indi # 2002-GS46-3232-3234  
2003-GS46-1843-1844  
2004-GS46-0200  
2004-GS46-2614-2618

This matter comes before the Court on the motion of the undersigned attorney for the state for an order excluding or limiting the testimony of any "expert" witness on the issue of false confessions

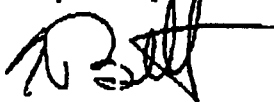
The State has been informally made aware of the defense's intention to call a psychologist to testify regarding the prevalence of false confessions and the factors that create a climate conducive to the rendering of a false confession. Additionally, this witness may be called to describe other cases where false confessions have been made and might be asked his opinion of the voluntariness and/or reliability of the confessions given in this case.

The state submits that this supposed area of expertise does not meet the requirements of the South Carolina Supreme Courts decisions concerning the admissibility of expert testimony under Rule 702 SCRE and State v Jones, 259 S E 2d 120 (1979)

Should the court determine that the expert testimony is admissible the state would further move to limit any such testimony to prevent the introduction of facts from other specific cases or any opinions that such expert may attempt to render that go beyond either the scope of their expertise or the recognized boundaries of that area of expertise.

Finally, should the court deem such testimony admissible, the state would seek to introduce through cross-examination and reply testimony all the circumstances surrounding the taking of this defendant's confessions including the administration of a polygraph exam and the results thereof. See, U S v Johnson, 816 F 2d 918 (3<sup>rd</sup> Cir 1987), U S v Kamples, 608 F 2d 1133 (7<sup>th</sup> Cir 1979)

Respectfully Submitted,



Kevin S Brackett  
Deputy Solicitor  
Sixteenth Judicial Circuit

York, South Carolina

August 13, 2004

STATE OF SOUTH CAROLINA ) IN GENERAL SESSIONS COURT  
 )  
COUNTY OF YORK )

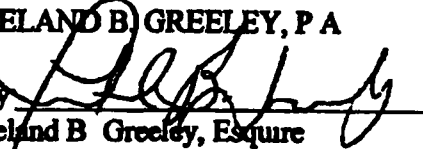
State of South Carolina, )  
 )  
vs ) MOTION TO SUPPRESS  
 )  
James E. Sanders, )  
Defendant. ) 2004-GS-46-196, 197, 198, 199  
\_\_\_\_\_ )

NOW COMES the Defendant, James E. Sanders, by and through undersigned counsel of record, and does move this court for an order suppressing all evidence in any way related to, or connected with, the drawing and analyzing of any body fluid of the defendant, including but not limited to, blood and saliva. The drawing of the blood occurred on or about August 5, 2004

The order allowing the taking of the nontestimonial identification evidence in this matter from the Defendant was sought and issued in such a way as violated the defendant's 4<sup>th</sup> amendment constitutional rights under the South Carolina Constitution, the United States Constitution, and case law of South Carolina,

Respectfully submitted,

LELAND B. GREELEY, P A

By   
Leland B. Greeley, Esquire  
Post Office Box 2981 CRS  
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(803) 329-0088  
Attorney for the Defendant

Rock Hill, South Carolina  
August 30, 2004

4

STATE OF SOUTH CAROLINA ) IN GENERAL SESSIONS COURT  
 )  
COUNTY OF YORK )

State of South Carolina, )  
 )  
vs ) **MEMORANDUM IN SUPPORT OF**  
 ) **MOTION TO SUPPRESS**  
 )  
James E Sanders, )  
Defendant ) 2004-GS-46-196, 197, 198, 199  
\_\_\_\_\_ )

The Defendant, James E Sanders, by and through undersigned counsel of record, submits this memorandum of law in support of his motion for the suppress of evidence

**Procedural History**

On or about September 12, 2002, Agent Lambert of the South Carolina Law Enforcement Division notified members of the Solicitor's Office for the Sixteenth Judicial Circuit that he had an alleged match of a sample taken from Mr Sanders in January 2002 with unknown samples of bodily fluids taken from the body and pants of Amanda Cope. Approximately 1 year later Mr Sanders was indicted for the current charges against him in the death of Amanda Cope. The sample was extracted on or about January 14<sup>th</sup>, 2002 from Mr Sanders pursuant to a search warrant involving other allegations against him.

The undersigned attorney was appointed counsel for Mr Sanders in April 2004 after a potential conflict was identified by the Office of the Public Defender. In early June 2004 Mr Sanders filed a Motion to Suppress evidence extracted from him in 2002 and any and all evidence arising from the extraction on constitutional law grounds.

On August 3, 2004 the State filed a motion to once again draw blood from Mr

Sanders. A hearing was held on August 5, 2004 Circuit Court Judge Lee S Alford ordered the taking of blood in the case involving an alleged burglary on Reid Street on January 12, 2002 (henceforth referred to as the "Hagman" case), over the objection of Mr Sanders Blood was drawn the following day

Subsequently, on August 23, 2004, the State agreed that the previous draw of blood had been taken in violation of Mr Sander's 4<sup>th</sup> amendment rights under the South Carolina and United States Constitutions and consented to an Order suppressing the same

On Friday, August 27, 2004, in connection with the "Cope" case, the State provided Defendant Sanders with discovery containing the result of DNA analysis of the blood drawn on August 6, 2004

#### **Pertinent Facts**

During the fall of 2003, James Sanders was indicted as a participant in the sexual assault and murder of Amanda Cope. Billy Cope, the father of Amanda Cope had been indicted previously for the murder and sexual assault of Amanda after making more than four confessions<sup>1</sup> and other incriminating statements Sanders had been incarcerated awaiting trial on other charges since January 13, 2002 On January 14, 2002 blood was drawn from Mr Sanders pursuant to a search warrant Between December 2001 and September 2002, the State had been seeking a "match" for body fluid evidence left on the body and pants of Amanda Cope<sup>2</sup>

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1 One of the confessions being a videotaped incident reenacted confession at the scene of the crime

2 Their investigation had not revealed a match after analysis of Defendant Cope's body fluids as well as nine other individuals Additionally, Mr Cope never made mention of the involvement of a third party and there has never been evidence found indicating a forced entry into the home

6

On or about September 12, 2003, Agent Lambert of the South Carolina Law Enforcement DNA unit notified members of the Sixteenth Judicial Circuit Solicitor's Office that an alleged "match" had been made between the samples taken in the Cope case and James Sanders.<sup>3</sup> No additional evidence was uncovered regarding Sanders alleged involvement except that he resided within a few city blocks of the Cope household. Finally, the Solicitor's office sought and obtained indictments against Sanders over a year later.

Following the filing of a Motion to Suppress by Mr Sanders of the blood and analysis from the January 13, 2002 draw, the State filed a motion for a Schmerber hearing to have Mr Sander's blood drawn again. This time in relation to the Hagman matter. At the time of this hearing the State already had in its custody and control a DNA analysis that had been performed in the Hagman case that was favorable to its position.<sup>4</sup> No motion to suppress had been filed in that matter. A hearing was held 33 days before the Cope matter was scheduled to go to trial and about 10 days before the motion to suppress was to be heard in the Cope matter. The State did not request a Schmerber hearing regarding the Cope matter.

Although the hearing was noticed on the Hagman matter and facts to present probable cause to Judge Alford, presiding judge, were based on the Hagman matter, the intent of the State in holding the hearing at that time was for the sole purpose of assisting them in the Cope matter.

Solicitor Thompson introduced the hearing to the Court with the following

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<sup>3</sup> It is submitted that up until this time Mr Sanders had not been investigated as having any involvement in the Cope matter.

presentation

This is the State of South Carolina v James E Sanders, Indictment 2002-GS-46-1260, wherein he's charged with Burglary 1<sup>st</sup> Degree. The State has filed a motion in which we are asking to draw blood samples from the Defendant to compare to blood that was found at the crime scene and at this point we are prepared to go forward. The reason at this point forward for the blood drawing, as you know, Mr Sanders is charged with a number of separate crimes happening over a 2-3 month period of time back when he was arrested on these, one of which also involves Mr Cope and we have that scheduled for trial with Mr Sanders and Mr Cope together with pre-trial starting on the 23<sup>rd</sup> of this month and the trial itself starting on the 7<sup>th</sup> of September.

Mr Greeley represents Mr Sanders and in that trial he's made a motion to suppress the DNA results based on the case that deals with Mr Sanders based on the fact that they were unlawfully obtained. Without arguing that point at this time, they were obtained by a search warrant and, basically, at this point the State is seeking to quash any problem with the obtaining of the results by having them without a doubt lawfully obtained this time. Rather than take a chance and later on have it be ruled unfavorably and having to continue everything, we're trying to cut it off now. (emphasis added) See transcript p 4, ln 3 - p 5, ln 2 (transcript attached hereto)

It should be noted that 10 days after the State had more blood in its possession for analyzation, it conceded that the prior draw was not in conformity with constitutional standards and was subject to be suppressed.

#### Discussion

The South Carolina Constitution provides the same protections afforded people in the United States arising from the Fourth Amendment's protections against unreasonable search and seizures. At the same time, the State Constitution additionally protects people in this State against "unreasonable invasions of privacy." S C Constitution Art. I, Section 10. Section 17-13-140, South Carolina Code of Laws, 10976, as amended, requires that "a warrant issued hereunder shall be issued only upon affidavit sworn to before a magistrate, municipal judicial officer, or judge of a court of record establishing the

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<sup>4</sup> See Transcript of Hearing p 31, ln 14 - p 32, ln 4



grounds for a warrant ”

The general law regarding search warrants is that they must be (1) based on facts that establish probable cause, (2) particularly describe the place to be searched, (3) particularly describe the things to be seized, and (4) must be issued by a neutral and detached officer. The issuing magistrate must make a practical, common sense decision whether, given all the circumstances set forth in the affidavit before him, there is a probability that contraband or evidence of a crime will be found in the place. Illinois v. Gates, 462 U S 213 (1983)

This case involves the taking of nontestimonial alleged evidence from Mr Sanders. The South Carolina Supreme Court addressed the taking of nontestimonial evidence pursuant to the South Carolina Search warrant statute in the case In re. Snyder, 308 S C 192, 417 S E 2d 572 (S C 1992). Although the parties in Snyder were not arrested, the same constitutional considerations apply to arrested subjects. The Court ruled that the considerations, or elements, for determining whether or not there exists probable cause to permit the acquisition of nontestimonial evidence are

- (1) probable cause to believe the suspect has committed the crime;
- (2) a clear indication that relevant material evidence will be found, and,
- (3) the method used to secure it is safe and reliable

Also the seriousness of the crime, and the importance of the evidence to the investigation are to be considered Snyder at 574

In the present case, the order of August 4, 2004 is in error in two respects and the resulting blood from the draw on August 5, 2004 and all following analysis should be

suppressed

**The blood and resulting analysis should be suppressed for the criteria provided by In re Snyder for the importance of the evidence was not considered properly by the Court.**

At the time the State filed its motion in the Hagman matter and the hearing was held, the blood being sought was not in the least important to the State. The State had already performed an analysis of the previously drawn blood. The results were favorable to the State. At that time no Court had ruled there was any constitutional deficiency in the drawing of the blood. The State had not conceded at that time there was a deficiency in the draw. The State was asked by undersigned counsel on the record whether it would stipulate to a deficiency and its inadmissibility. The State refused. Having drawn Mr Sander's blood, having had it analyzed by SLED, and having in their possession a favorable result to their position, the second blood draw was of no importance to their case. The State essentially was acting in anticipation. Sanders knows of no incidence where the intrusive procedure has been ordered due to the State's mere anticipation of possible future determinations. Such a precedent is frightening as will be discussed below.

Additionally, in the Cope matter, the same rationale is applicable. This hearing was actually a Cope hearing, the purpose being admitted by the State. At the time of the hearing counsel had merely filed a motion. No ruling had been made. The State had in its possession favorable evidence to its position from the January 13, 2002 draw and September 2002 analysis. Once again its purpose was anticipatory in nature. At the time of the hearing and order, the additional draw was of no importance to the State.

(18)

Since the ordered additional draw of blood had no importance to the State at the time, it should be suppressed for the court failed to give that fact proper consideration under In re Snyder

**The blood draw from the order dated August 4, 2004 and the resulting analysis should be suppressed as fruit of the unconstitutional draw on January 13, 2002.**

The hearing held on August 4, 2004 was for the purpose of obtaining evidence in the Cope matter that was scheduled for trial on September 7, 2004. This is clear from the recitation of the Solicitor at the beginning of the hearing. It was held in anticipation of a motion filed in the Cope matter and in light of the trial date. It is admitted the State did not proceed with a Schmerber hearing for the Cope matter, but there is an obvious reason for their decision.

Such a hearing before the court in the Cope matter would have required the State to present evidence outside of the January 13, 2002 to establish probable cause for the taking of Mr Sander's blood. The State is well aware that it does not have sufficient evidence to establish the necessary probable cause. The only alleged evidence against Mr Sander's in the Cope case is the DNA analysis arising from the January 13, 2002 draw. This draw has been found to have been unconstitutionally taken and the Court has suppressed any and all evidence arising from the drawing of the blood. (See attached Order)

The reason the hearing was held on August 4, 2004 is because the State anticipated such a ruling. In making the motion and scheduling the hearing the way it did, the State was acting on the knowledge it had gained from the previous draw on January

13, 2004 when SLED "found" the alleged match. The motivating factor for the State's actions was the single alleged fact that Mr Sander's blood "matched" the fluids on Amanda Cope's body and pants. Therefore, their sole inspiration was knowledge or evidence they had learned from the unconstitutional draw. The State has no other evidence whatsoever to use in the case involving Amanda Cope against Mr Sanders. Therefore, to allow the State to use the evidence derived from the blood draw would be in contradiction of the doctrine of the "fruit of the poisonous tree"

Additionally, a finding that the evidence of the subsequent blood draw to be admissible in this case would give the State another way in future cases to skirt the law requiring suppression of evidence taken in violation of someone's constitutional rights.

The United States Supreme Court issued a ruling on June 28, 2004 that can be analogized to this consideration. Missouri v. Seibert, 124 S Ct 2601 (2004). Seibert was convicted of second degree murder. In the case Seibert had a son who was disabled and had died in his sleep. Afraid she would be charged in neglect, she conspired with others to burn the home and the body to rid the scene of any evidence of neglect on her part. In the burning of the home, a co-conspirator was burned to death.

Seibert went to the police station for an interview. The Court referred to it as a two-step interrogatory process. She was not under arrest. In the first step she was not apprised of her *Miranda* rights. During the course of the first step interview, Seibert made a confession. After this first step process there was a twenty-minute break taken. Then Seibert was advised of her *Miranda* rights and she repeated the same statement. The United States Supreme Court ruled that the second step should have been suppressed.

(12)

Although Siebert deals exclusively with the application of Miranda, the reasoning of the Court is applicable in the present case. In the ruling Justice Souter, referring to the question-first process, wrote

“ the reason the question-first is catching on is as obvious as its manifest purpose, which is to get a confession the suspect would not make if he understood his rights at the outset, the sensible underlying assumption is that with one confession in hand before the warnings, the interrogator can count on getting its duplicate, with trifling additional trouble ” Siebert at 2610

A similar analysis can be drawn in the present case. Not only in the present case, but also in any case that deals with the search for D N A. evidence. If the State knows that it can come back at any time to correct an unconstitutional taking of blood, then there is no encouragement for the first process to be done correctly. It could lead law enforcement to do whatever they needed to do to extract blood from several suspects, whether constitutional or not, hoping for a match. Once the match is obtained, the State could then motion for a Schmerber hearing regarding the same blood and same defendant in order to clean up the case or “quash” any motion to suppress the evidence due to the previously unconstitutional taking. The precedent established by such a ruling is frightening in the hands of law enforcement whose recognition of constitutional rights is secondary to its goal of making an arrest.

#### Conclusion

For all, or any one of the above states reasons, the blood drawn from Mr Sanders on August 5, 2004 should be suppressed as well as any evidence that arises from the analysis of the blood

Respectfully submitted,

LELAND B GREELEY, P.A.

By

  
Leland B Greeley, Esquire

Post Office Box 2981 CRS

Rock Hill, South Carolina 29732

(803) 329-0088

Attorney for Defendant James Sanders

Rock Hill, South Carolina  
August 31, 2004

14

**NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE COURT OF GENERAL SESSIONS**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of General Sessions

John C Hayes, III

Case No 2004-GS-46-2614  
2004-GS-46-3232, 2004-GS-46-200, 2004-GS-46-3233  
2004-GS-46-3234

SEP 30 2004

The State, Respondent,  
V  
Billy Wayne Cope, Appellant

**NOTICE OF APPEAL**

Billy Wayne Cope appeals his conviction and sentence in this case. The sentence was imposed by the Honorable John C Hayes, III on September 22, 2004

September 30, 2004

*James M. Morton*  
James M Morton  
Post Office Box 707  
Rock Hill, South Carolina 29731  
(803) 366-3388  
Attorney for Appellant

Other Counsel of Record  
Kevin S Brackett  
16<sup>th</sup> Circuit Solicitor's Office  
167<sup>th</sup> -1A York Hwy  
York, SC 29745

STATE OF SOUTH CAROLINA ) IN GENERAL SESSIONS COURT  
 )  
COUNTY OF YORK )

State of South Carolina, )  
 )  
vs ) **POST TRIAL MOTIONS**  
 )  
James E Sanders, )  
Defendant. ) **2004-GS-46-196, 197, 198, 199**  
\_\_\_\_\_ )

NOW COMES the Defendant, James E. Sanders, by and through undersigned counsel of record, and does present the following post trial motions pursuant to Rule 29(a), SCRCrP

**RENEWAL OF MOTION FOR DIRECTED VERDICT ON EACH  
INDICTMENT**

The motions for directed verdicts on each indictment are hereby renewed and request the Court to grant such motions. The grounds for each motion is reiterated and is the same grounds presented to the Court at the close of the State's case as well as at the close of evidence

**MOTION FOR NEW TRIAL**

James Sanders should be granted his request for a new trial on all the indictments in the above-captioned matter. The Defendant submits that the verdict of the jury on each indictment was the result of passion and emotion, given the factual circumstances of the case, and was against the evidence, or lack of evidence presented by the State as to Mr. Sander's guilt. Therefore, Mr. Sander's is entitled to a new trial.

Respectfully submitted,

LELAND B. GREELEY, P A

By 

Leland B. Greeley, Esquire  
Post Office Box 2981 CRS  
Rock Hill, South Carolina 29732  
(803) 329-0088  
Attorney for the Defendant

Rock Hill, South Carolina  
September 24, 2004

15

STATE OF SOUTH CAROLINA ) IN GENERAL SESSIONS COURT  
 )  
COUNTY OF YORK )

State of South Carolina, )  
 )  
vs )  
 )  
James E Sanders )  
Defendant. )  
\_\_\_\_\_ )

**ORDER**

2004-GS-46-196, 197, 198, 199

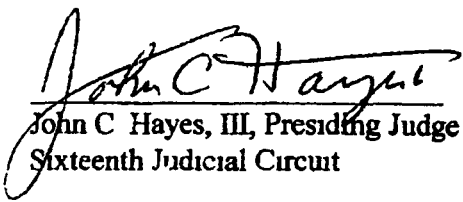
The Defendant, James E Sanders, by and through undersigned counsel of record, timely submitted post trial motions following the jury verdict in the above referenced matters

After consideration of such motion in light of the trial record in the matter, the motions should be denied Therefore,

**IT IS ORDERED THAT**

- 1 The renewal of the motions for a directed verdict as to each indictment in this matter are denied, and
- 2 The motion for a new trial is denied

**AND IT IS SO ORDERED**

  
John C Hayes, III, Presiding Judge  
Sixteenth Judicial Circuit

York, South Carolina

September 27th, 2004

H-023263

STATE OF SOUTH CAROLINA

County/ Municipality of Rock Hill

THE STATE against

STATE OF SOUTH CAROLINA County/ Municipality of Rock Hill

AFFIDAVIT

SC Affor of Genera July 26 1990 SCA 518

Personally appeared before me the affiant C. Blackwelder being duly sworn deposes and says that defendant Billy Wayne Cope did within this county and state on 11-29-01 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Rock Hill) in the following particulars

DESCRIPTION OF OFFENSE

Unlawful Neglect Towards Minor Child 20-7-50

I further state that there is probable cause to believe that the defendant named above did the crime set forth and that probable cause is based on the following facts The defendant did violate the SC Code of Law by allowing his seven year old child to live in a filthy and unsanitary living conditions while at 407 Rich St in the city of Rock Hill. The residence was observed by affiant and numerous other officers of the Rock Hill Police Dept. It was infested with bugs and lice and has unsuitable food for a minor. The house also had inadequate bathing and toilet facilities.

- \* Police investigation
\* Recovery of evidence

Billy Wayne Cope
407 Rich St.
Rock Hill S.C. 29830
328-974 SSN
Race W Height 5'11 Weight 330
DL#
Agency ORI# SC0460100
Rock Hill Police Dept.
C. Blackwelder
Unlawful Neglect Towards
or Child
Offense Code
Ordinance Sec 20-7-50

Sworn to and subscribed before me on 11-30-01
Signature of Affiant
Affiant's Address 120 East Black St.
Rock Hill, S.C. 29730
Affiant's Telephone 329-7200-

STATE OF SOUTH CAROLINA County/ Municipality of Rock Hill

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY appearing from the above affidavit that there are reasonable grounds to believe on 11-29-01 defendant Billy Wayne Cope did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Rock Hill) as set forth below

DESCRIPTION OF OFFENSE

Unlawful Neglect Towards Minor Child 20-7-50

Now therefore you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution or as soon thereafter as is practicable

Judge's Address 120 East Black St
Rock Hill, S.C. 29730
Signature of Issuing Judge
Judge's Telephone 329-5691
Judge Code 6316
Issuing Court Magistrate Municipal Circ

DEFENDANT COPY

26

variant is CERTIFIED FOR SERVICE in the county/ Municipality of
The accused
be arrested and brought before me to be dealt with according to law

Signature of Judge (LS)

RETURN

of this arrest warrant was delivered to
at
Signature of Constable/Law Enforcement Officer

WARRANT TO

IR# J111291224

H-023259

STATE OF SOUTH CAROLINA

County/ Municipality of Rock Hill

THE STATE against

Illy Wayne Cope ss 407 Rich St Rock Hill, S C 29730 309-9124 SSN I Race Height 5'11 Weight 330 Date DL# 03-13-03 Agency ORI# SC0460300 Issuing Agency Rock Hill Police Dept. Issuing Officer Chylene Blackwelder Charge Unlawful Neglect Towards Minor Child Offense Code Ordinance Sec 20-7-50

Warrant is CERTIFIED FOR SERVICE in the County/ Municipality of The accused be arrested and brought before me to be with according to law

Signature of Judge (LS)

RETURN

Copy of this arrest warrant was delivered to ant R J W... 11/29/01

Signature of Constable/Law Enforcement Officer

NON WARRANT TO

IR 0111291224

STATE OF SOUTH CAROLINA County/ Municipality of Rock Hill

AFFIDAVIT

Personally appeared before me the affiant C.M. Blackwelder being duly sworn deposes and says that defendant Billy Wayne Cope did within this county and state on 11-29-01 violate the criminal laws State of South Carolina (or ordinance of County/ Municipality of Rock Hill in the following particulars

DESCRIPTION OF OFFENSE Unlawful Neglect Towards Minor Child 20-7-50

I further state that there is probable cause to believe that the defendant named above did the crime set forth and that probable cause is based on the following facts The Defendant did violate Code of Law Section 20-7-50 Unlawful Conduct Towards A Child by, allowing a twelve years of age daughter to live in conditions such as lack of infestation, animal feces, unsuitable food, unsanitary living conditions taking place at 407 Rich St in the City of Rock Hill, S C Police Investigation Recovery of Evidence

Sworn to and subscribed before me on 11-29-01 Signature of Issuing Judge (LS)

Signature of Affiant Affiant's Address 120 East Black St Rock Hill, S C 29730 Affiant's Telephone 329-7200

STATE OF SOUTH CAROLINA County/ Municipality of Rock Hill

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe on 11-29-01 defendant Billy Wayne Cope did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Rock Hill as set forth below

DESCRIPTION OF OFFENSE Unlawful Neglect Towards a Minor Child 20-7-50

Now therefore you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law A copy of this Arrest Warrant shall be delivered to defendant at the time of its execution or as soon thereafter as is practicable

Signature of Issuing Judge 6316 Judge's Address 120 East Black St Rock Hill, S C 29730 Judge's Telephone 329-5691 Issuing Court Magistrate Municipal

H-723250

STATE OF SOUTH CAROLINA

County/  Municipality of Rock Hill

THE STATE against

ss Billy Wayne Cope  
407 Rich St.  
Rock Hill, S.C. 29730  
088-9124 SSN  
W Race Wp Height 5'11 Weight 330  
ate DL#  
01-13-62 Agency ORI# SC0460300  
cuting Agency Rock Hill Police Dept.  
cuting Officer C.M. Blackwelder  
se Unlawful Neglect Towards  
Minor Child Offense Code  
Ordinance Sec 20-7-50

warrant is CERTIFIED FOR SERVICE in the  
county/  Municipality of  
The accused  
be arrested and brought before me to be  
with according to law

Signature of Judge (LS)

RETURN

of this arrest warrant was delivered to  
ant  
Signature of Constable/Law Enforcement Officer

IN WARRANT TO

114 0111291224

STATE OF SOUTH CAROLINA

County/  Municipality of Rock Hill

AFFIDAVIT

Personally appeared before me the affiant C.M. Blackwelder  
being duly sworn deposes and says that defendant Billy Wayne Cope  
did within this county and state on 11-29-01 violate the criminal laws  
State of South Carolina (or ordinance of  County/  Municipality of Rock Hill  
in the following particulars

DESCRIPTION OF OFFENSE Unlawful Neglect Towards Minor Child 20-7-50

I further state that there is probable cause to believe that the defendant named above did  
the crime set forth and that probable cause is based on the following facts The defendant did  
the SC Code of Law by allowing his eleven year old daughter to live in  
and unsanitary living conditions while at 407 Rich St in the city limits of  
Rock Hill, S C The residence was observed by affiant and numerous officers  
the Rock Hill PD It is infested with bugs and lice and has no suitable  
the child The house also has inadequate bathing and toilet facilities

- \* Police investigator
- \* Recovery of evidence

Sworn to and subscribed before me )  
on 11-30-01 )  
Signature of Issuing Judge (LS)

Signature of Affiant  
Affiant's Address 120 East Black St  
Rock Hill, S C 29730  
Affiant's Telephone 329-7200

STATE OF SOUTH CAROLINA

County/  Municipality of Rock Hill

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe  
on 11-29-01 defendant Billy Wayne Cope  
did violate the criminal laws of the State of South Carolina (or ordinance of

County/  Municipality of Rock Hill ) as set forth below

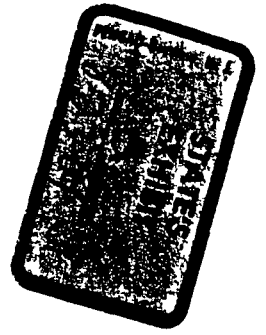
DESCRIPTION OF OFFENSE Unlawful Neglect Towards Minor Child 20-7-50

Now therefore you are empowered and directed to arrest the said defendant and bring him or her  
me forthwith to be dealt with according to law A copy of this Arrest Warrant shall be delivered to  
defendant at the time of its execution or as soon thereafter as is practicable

Signature of Issuing Judge (LS)  
Judge Code 6216

Judge's Address 120 East Black St  
Rock Hill, S C 29730  
Judge's Telephone 329-5691  
Issuing Court  Magistrate  Municipal  Ci

28



**BILLY WAYNE COPE**

AKA \_\_\_\_\_  
Race W Sex M Age 41  
DOB 08-13-1963 SS# 251-41-0335  
Address 407 Rich Street  
Rock Hill, SC 29730  
DL# \_\_\_\_\_ SID# SC01268649

A/W# H-023255  
Date of Offense 11-29-2001  
S C Code § 16-3-10  
CDR Code # 0116

CASE RESTORED  
 PLEA  TRIAL

#1

In disposition of the said indictment comes now the Defendant who was TO Murder

CONVICTED OF or  PLEADS

in violation of § 16-3-10 of the S C Code of Laws bearing CDR Code # 0116

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury

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

ATTEST *Billy Thompson* Solicitor *Bobby J* Defendant *Jim Mader* Attorney for Defendant

WHEREFORE the Defendant is commuted to the  State Department of Corrections,  County Detention Center, for a determinate term of life days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_, provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_, plus costs and assessments as applicable\*, the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference

CONCURRENT or  CONSECUTIVE to sentence on \_\_\_\_\_

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

**SPECIAL CONDITIONS**

RESTITUTION  Heard,  Waived,  Ordered  
Total \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_  
Payment Terms \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment

Obtain GED \_\_\_\_\_  
Attend Voc Rehab or Job Corp \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling \_\_\_\_\_  
Random Drug/Alcohol testing \_\_\_\_\_  
Fine may be pd in equal consecutive weekly/monthly pmts of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund  
Other \_\_\_\_\_

Recipient _____	
*Fine	\$ _____
§ 14-1-206 - (Assessments 107.5 %)	\$ _____
§ 14-1-211(A)(1) (Surcharge)	\$ <u>100.</u>
§ 14-1-211(A)(2) (Surcharge)	\$ _____
§ 56-5-2995 (DUI Assessment)	\$ _____
3% to Count (if paid in installments)	\$ _____
§ 73 3 1B TP (Law Enforce Funding)	\$ <u>25.</u>
§ 33 7 1B TP (Drug Court Surcharge)	\$ _____
§ 50-21-114(BUI Breath Test Fee)	\$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$ _____
TOTAL	\$ <u>125.</u>

Appointed PD or appointed other counsel, §15 13 TP  
Requires \$500 be paid to clerk during probation

PRESIDING JUDGE *John C Hays*  
Judge Code 1 / 9 / 4 / 9

Sentence Date 9-22-04

*David Hamilton* Clerk of Court/Deputy Clerk  
Court Reporter *Janet Rich*

**WITNESSES**

Blackwelder

AMENDED  
DOCKET NO 2002-GS-46-3232

**The State of South Carolina**

**County of York**

**COURT OF GENERAL SESSIONS**

**July 22, Term 2004**

**THE STATE**

**vs**

**Billy Wayne Cope**

**ARREST WARRANT NUMBER**

5

**ACTION OF GRAND JURY**

**TRUE BILL**

*[Handwritten Signature]*  
son of Grand Jury  
7/22/04

**VERDICT**

*SUILTY*

*[Handwritten Signature]*  
son of Petit Jury  
SEPTEMBER 22, 2004

**Indictment for**

**MURDER**

SC Code 16-3-10  
CDR Code 0116

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

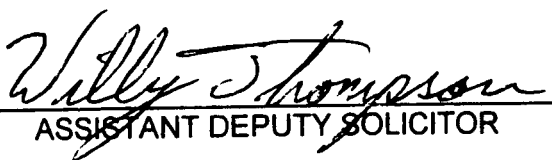
INDICTMENT

At a Court of General Sessions, convened on July 22, 2004 the Grand Jurors of York County present upon their oath

**MURDER**

Billy Wayne Cope did in York County, South Carolina on or about November 29, 2001, with malice aforethought, kill Amanda Cope by means of battering and/or strangulation and Amanda Cope died as a result thereof The murder occurred in the City of Rock Hill, all in violation of Section 16-3-10, South Carolina Code of Laws, (1976, as amended)

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

  
ASSISTANT DEPUTY SOLICITOR

**The State of South Carolina**

**County of York**

**COURT OF GENERAL SESSIONS**

**November 14, Term 2002**

**THE STATE**

**vs**

**Billy Wayne Cope**

**Indictment for**

**MURDER**

SC Code 16-3-10

CDR Code 0116

**WITNESSES**

*D/Blackwelder*

**ARREST WARRANT NUMBER**

55

**ACTION OF GRAND JURY**

**TRUE BILL**

*rdogbrown*

Person of Grand Jury

*11-14-02*

**VERDICT**

son of Petit Jury



STATE VS  
**BILLY WAYNE COPE**  
 AKA \_\_\_\_\_  
 Race W Sex M Age 41  
 DOB 08-13-1963 SS# 251-41-0335  
 Address 407 Rich Street  
Rock Hill, SC 29730  
 DL# \_\_\_\_\_ SID# SC01268649

2002-GS46-3234  
 A/W# H-023262  
 Date of Offense 11-29-2001  
 S C Code § 16-3-652  
 CDR Code # 0160  
 CASE RESTORED  
 SENTENCE  
 PLEA  TRIAL #2

In disposition of the said indictment comes now the Defendant who was  
 TO Criminal Sexual Conduct First Degree  
 in violation of § 16-3-652 of the S C Code of Laws, bearing CDR Code # 0160

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45  
 The charge is  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury  
 The plea is  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State

ATTEST  
Wally Thompson Solicitor Billy Cope Defendant Jim North Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 30 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_, provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_, plus costs and assessments as applicable\*, the balance is suspended with **probation** for \_\_\_\_\_  
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
 probation, which are incorporated by reference

CONCURRENT or  CONSECUTIVE to sentence on 02-63-76-3232  
 The Defendant is given credit for time served pursuant to S C Code § 24-13-40 to be calculated and applied by the  
 State Department of Corrections

**SPECIAL CONDITIONS**

RESTITUTION  Heard,  Waived,  Ordered  
 Total \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_  
 Payment Terms \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED \_\_\_\_\_  
 Attend Voc Rehab or Job Corp \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling \_\_\_\_\_  
 Random Drug/Alcohol testing \_\_\_\_\_  
 Fine may be pd in equal, consecutive weekly/monthly  
 pmts of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other \_\_\_\_\_

Recipient _____	\$ _____
*Fine _____	\$ _____
§ 14-1-206 - (Assessments 107.5%)	\$ _____
§ 14-1-211(A)(1) (Surcharge)	\$ <u>100.</u>
§ 14-1-211(A)(2) (Surcharge)	\$ _____
§ 56-5-2995 (DUI Assessment)	\$ _____
3% to Count (if paid in installments)	\$ _____
§ 73-3-1B TP (Law Enforce Funding)	\$ <u>25.</u>
§ 33-7-1B TP (Drug Court Surcharge)	\$ _____
§ 50-21-114(BUI Breath Test Fee)	\$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$ _____
<b>TOTAL</b>	\$ <u>125.</u>

Appointed PD or appointed other counsel, §5 13 TP  
 Requires \$500 be paid to clerk during probation  
 PRESIDING JUDGE John Hay  
 Judge Code 101419  
 Sentence Date 1-27-04

David Hamblen Clerk of Court/Deputy Clerk  
Janet Rich Court Reporter

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

WITNESSES

D/Blackwelder

The State of South Carolina  
County of York

Defendant

COURT OF GENERAL SESSIONS

November 14, Term 2002

I hereby appear in my own proper person and pl guilty to the within indictment or to

ARREST WARRANT NUMBER

62

Defendant

THE STATE

vs

Witness

CCC PLS AND GS

ACTION OF GRAND JURY

Billy Wayne Cope

TRUE BILL

*[Signature]*  
son of Grand Jury  
11-14-02

VERDICT

Indictment for

*GUILTY*

CRIMINAL SEXUAL CONDUCT  
FIRST DEGREE

SC Code § 16-3-0652  
CDR Code 0160

*[Signature]*  
on of Petit Jury  
SEPTEMBER 22, 2004

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

INDICTMENT

At a Court of General Sessions, convened on November 14, 2002 the Grand Jurors of York County present upon their oath

**CRIMINAL SEXUAL CONDUCT, FIRST DEGREE**

Billy Wayne Cope did in York County on or about November 29, 2001, commit the crime of Criminal Sexual Conduct in the First Degree Billy Wayne Cope committed a sexual battery with his daughter, Amanda Cope, with one or more of the following aggravating circumstances 1 Billy Wayne Cope used aggravated force to accomplish the sexual battery 2 Billy Wayne Cope forcibly confined Amanda Cope to cause her to submit to the sexual battery <sup>2001</sup> - Billy Wayne Cope penetrated Amanda Cope's anus with an unknown foreign object, all in violation of Section 16-3-652, *Code of Laws of South Carolina, (1976)*, as amended

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

  
\_\_\_\_\_  
SOLICITOR

STATE VS  
**BILLY WAYNE COPE**  
 AKA \_\_\_\_\_  
 Race W Sex M Age 41  
 DOB 08-13-1963 SS# 251-41-0335  
 Address 407 Rich Street  
Rock Hill, SC 29730  
 DL# \_\_\_\_\_ SID# SC01268649

2002-GS46-3233

A/W# H-023258  
 Date of Offense 11-29-2001  
 S C Code § 16-3-652  
 CDR Code # 0160

CASE RESTORED  
 SENTENCE  
 PLEA  TRIAL

#3

In disposition of the said indictment comes now the Defendant who was  
 TO Criminal Sexual Conduct First Degree

CONVICTED OF or  PLEADS

in violation of § 16-3-652 of the S C Code of Laws, bearing CDR Code # 0160

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury

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

ATTEST  
[Signature] Solicitor  
[Signature] Defendant  
[Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 30 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_, provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_, plus costs and assessments as applicable\*, the balance is suspended with probation for \_\_\_\_\_  
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
 probation, which are incorporated by reference

CONCURRENT or  CONSECUTIVE to sentence on 9/22/04

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

**SPECIAL CONDITIONS**

RESTITUTION  Heard,  Waived,  Ordered  
 Total \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_  
 Payment Terms \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_  
 \_\_\_\_\_ days/hours Public Service Employment

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

Recipient _____	\$ _____
*Fine _____	\$ _____
§ 14-1-206 - (Assessments 107.5%)	\$ _____
§ 14-1-211(A)(1) (Surcharge)	\$ <u>100.</u>
§ 14-1-211(A)(2) (Surcharge)	\$ _____
§ 56-5-2995 (DUI Assessment)	\$ _____
3% to Count (if paid in installments)	\$ _____
§ 73-3-1B TP (Law Enforce Funding)	\$ <u>25.</u>
§ 33-7-1B TP (Drug Court Surcharge)	\$ _____
§ 50-21-114(BUI Breath Test Fee)	\$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$ _____
<b>TOTAL</b>	\$ <u>125.</u>

Appointed PD or appointed other counsel § 15-13-TP  
 Requires \$500 be paid to clerk during probation

PRESIDING JUDGE [Signature]  
 Judge Code 10141R  
 Sentence Date 9-22-04

[Signature] Clerk of Court/Deputy Clerk  
 Court Reporter [Signature]

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

**WITNESSES**

D/Blackwelder

**The State of South Carolina  
County of York**

Defendant

**COURT OF GENERAL SESSIONS**

**November 14, Term 2002**

I hereby appear in my own proper person and pl guilty to the within indictment or to

**ARREST WARRANT NUMBER**

'58

Defendant

**THE STATE**

**VS**

Witness

C C C P L S A N D G S

**ACTION OF GRAND JURY**

**Billy Wayne Cope**

*Lindsay Brown*

Person of Grand Jury

*11-14-02*

**VERDICT**

**Indictment for**

**CRIMINAL SEXUAL CONDUCT  
FIRST DEGREE**

SC Code § 16-3-0652  
CDR Code 0160

*Guilty*

*Edward A. Pennington*

Person of Petit Jury

*September 22, 2004*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

INDICTMENT

At a Court of General Sessions, convened on November 14, 2002 the Grand Jurors of York County present upon their oath

**CRIMINAL SEXUAL CONDUCT, FIRST DEGREE**

Billy Wayne Cope did in York County on or about November 29, 2001, commit the crime of Criminal Sexual Conduct in the First Degree Billy Wayne Cope committed a sexual battery with his daughter, Amanda Cope, with one or more of the following aggravating circumstances 1 Billy Wayne Cope used aggravated force to accomplish the sexual battery 2 Billy Wayne Cope forcibly confined Amanda Cope to cause her to submit to the sexual battery  
Billy Wayne Cope  
penetrated Amanda Cope's vagina with an unknown foreign object, all in violation of Section 16-3-652, *Code of Laws of South Carolina*, (1976), as amended

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

  
\_\_\_\_\_  
SOLICITOR

STATE VS )  
**BILLY WAYNE COPE** )  
 AKA \_\_\_\_\_ )  
 Race W Sex M Age 41 )  
 DOB 08-13-1963 SS# 251-41-0335 )  
 Address 407 Rich Street )  
Rock Hill, SC 29730 )  
 DL# \_\_\_\_\_ SID# SC01268649 )

2004-GS46-200  
 A/W# H-509259  
 Date of Offense 11-29-2001  
 S C Code § 16-17-410  
 CDR Code # 0049

CASE RESTORED  
 SENTENCE  
 PLEA  TRIAL #4

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO Conspiracy to Commit Criminal Sexual Conduct in violation of § 16-17-410 of the S C Code of Laws, bearing CDR Code # 0049

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury

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

ATTEST [Signature] [Signature] [Signature]  
 Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 5 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_, provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_, plus costs and assessments as applicable\* the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference

CONCURRENT or  CONSECUTIVE to sentence on 9/22/04

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

**SPECIAL CONDITIONS**

RESTITUTION  Heard,  Waived,  Ordered  
 Total \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_  
 Payment Terms \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

PTUP \_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED \_\_\_\_\_  
 Attend Voc Rehab or Job Corp \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling \_\_\_\_\_  
 Random Drug/Alcohol testing \_\_\_\_\_  
 Fine may be pd in equal, consecutive weekly/monthly pmts of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other \_\_\_\_\_

Recipient _____	\$ _____
*Fine _____	\$ _____
§ 14-1-206 - (Assessments 107.5 %)	\$ _____
§ 14-1-211(A)(1) (Surcharge)	\$ _____
§ 14-1-211(A)(2) (Surcharge)	\$ <u>100</u>
§ 56-5-2995 (DUI Assessment)	\$ _____
3% to Count (if paid in installments)	\$ _____
§ 73-3-1B TP (Law Enforce Funding)	\$ <u>251</u>
§ 33-7-1B TP (Drug Court Surcharge)	\$ _____
§ 50-21-114(BUI Breath Test Fee)	\$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$ _____
TOTAL	\$ <u>1251</u>

Appointed PD or appointed other counsel §15-13-TP Requires \$500 be paid to clerk during probation  
 PRESIDING JUDGE [Signature]  
 Judge Code 101419  
 Sentence Date 9-22-04

David Hamilton  
 Clerk of Court/Deputy Clerk  
 Court Reporter [Signature]

**WITNESSES**

Blackwelder

**ARREST WARRANT NUMBER**

9

**ACTION OF GRAND JURY**

**TRUE BILL**

*Mr. Cullen*  
son of Grand Jury  
7/22/04

**VERDICT**

*guilty*

*[Signature]*  
son of Petit Jury

September 22, 2004

AMENDED  
DOCKET NO 2004-GS-46-200

**The State of South Carolina**  
**County of York**

**COURT OF GENERAL SESSIONS**

**July 22, Term 2004**

**THE STATE**

**vs**

**Billy Wayne Cope**

**Indictment for**

**CRIMINAL CONSPIRACY**

SC Code 16-17-410  
CDR Code 0049

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

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness

CCC PLS AND GS



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

**WITNESSES**

Blackwelder

**The State of South Carolina  
County of York**

Defendant

**COURT OF GENERAL SESSIONS**

I hereby appear in my own proper person and ple guilty to the within indictment or to

**January 22, Term 2004**

**ARREST WARRANT NUMBER**

9

Defendant

**THE STATE**

vs

Witness

C C C PLS AND G S

**ACTION OF GRAND JURY**

**Billy Wayne Cope**

**TRUE BILL**

*[Signature]*  
son of Grand Jury  
- 22-04

**VERDICT**

**Indictment for**

**CRIMINAL CONSPIRACY**

SC Code 16-17-410  
CDR Code 0049

son of Petit Jury



STATE VS )  
 BILLY WAYNE COPE )  
 AKA )  
 Race W Sex M Age 41 )  
 DOB 08-13-1963 SS# 251-41-0335 )  
 Address 407 Rich Street )  
 Rock Hill, SC 29730 )  
 DL# SID# SC01268649 )

2004-GS46-2614  
 A/W# H-023259  
 Date of Offense 11-29-2001  
 S C Code § 20-7-50  
 CDR Code # 2481  
 CASE RESTORED  
 PLEA  TRIAL #5  
 CONVICTED OF or  PLEADS

In disposition of the said indictment comes now the Defendant who was TO Unlawful Conduct Towards a Child in violation of § 20-7-50 of the S C Code of Laws, bearing CDR Code # 2481

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

The charge is  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury  
 The plea is  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State

ATTEST  
 [Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is commuted to the  State Department of Corrections,  County Detention Center, for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_, provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_, plus costs and assessments as applicable\* the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference

CONCURRENT or  CONSECUTIVE to sentence on 9/22/04  
 The Defendant is given credit for time served pursuant to S C Code § 24-13-40 to be calculated and applied by the State Department of Corrections

**SPECIAL CONDITIONS**

RESTITUTION  Heard,  Waived,  Ordered  
 Total \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_  
 Payment Terms  set by SCDPPPS

PTUP \_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED \_\_\_\_\_  
 Attend Voc Rehab or Job Corp \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling \_\_\_\_\_  
 Random Drug/Alcohol testing \_\_\_\_\_  
 Fine may be pd in equal consecutive weekly/monthly pmts of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other \_\_\_\_\_

Recipient _____	
*Fine	\$ _____
§ 14-1-206 - (Assessments 107.5 %)	\$ _____
§ 14-1-211(A)(1) (Surcharge)	\$ 100.
§ 14-1-211(A)(2) (Surcharge)	\$ _____
§ 56-5-2995 (DUI Assessment)	\$ _____
3% to Court (if paid in installments)	\$ _____
§ 73-3-1B TP (Law Enforce Funding)	\$ 25.
§ 33-7-1B TP (Drug Court Surcharge)	\$ _____
§ 50-21-114(BUI Breath Test Fee)	\$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$ _____
TOTAL	\$ 125.

Appointed PD or appointed other counsel §5 13 TP Requires \$500 be paid to clerk during probation  
 PRESIDING JUDGE [Signature]  
 Judge Code 101419  
 Sentence Date 9-22-04

Daniel Hamilton Clerk of Court/Deputy Clerk  
 Court Reporter Janet Rich

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

WITNESSES

The State of South Carolina

County of York

Defendant

Blackwelder

COURT OF GENERAL SESSIONS

I hereby appear in my own proper person and plead guilty to the within indictment or to

July 22, Term 2004

ARREST WARRANT NUMBER

THE STATE

Defendant

9

vs

Witness

CCC PLS AND GS

ACTION OF GRAND JURY

BILLY WAYNE COPE

TRUE BILL

*Wesley Cherry*  
on of Grand Jury  
11/22/04

VERDICT

Indictment for

SUILTY

UNLAWFUL CONDUCT TOWARDS A CHILD

*Wesley Cherry*  
on of Petit Jury

SC Code 20-7-50  
CDR Code 2481

SEPTEMBER 22, 2004

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

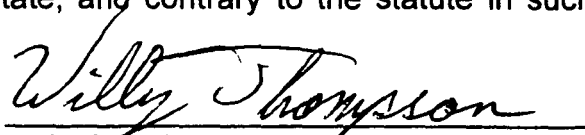
INDICTMENT

At a Court of General Sessions, convened on July 22, 2004 the Grand Jurors of York County present upon their oath

**UNLAWFUL CONDUCT TOWARDS A CHILD**

That Billy Wayne Cope did in York County on or about November 29, 2001, wilfully and unlawfully place his natural child, Amanda Cope, age twelve years, at unreasonable risk of harm affecting the child's life, physical or mental health, or safety by failing to maintain sanitary living conditions in the house AND/OR by allowing or causing physical or mental abuse to be inflicted upon the child, thus placing the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety, this occurring in the City of Rock Hill, South Carolina, all in violation of §20-7-50, Code of Laws of South Carolina, (1976, as amended)

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

  
ASSISTANT DEPUTY SOLICITOR



Request of Waiver of the Twenty-Five Dollar (\$25 00) Application Fee

I Billy W. COPE hereby request  
The waiver of the twenty-five dollar (\$25 00) application fee

I certify that I do not have twenty-five dollars available to me to present to  
The Clerk of Court for payment of the application fee

I agree that should my case be disposed of by trial or guilty plea, that the  
twenty-five dollar application fee will be attached to any cost, or fine, or sentence  
that the court may impose

This 1st day of Dec 2001

Billy W. Cope  
Signature

DAVID HAN  
C O C P  
YORK COUN  
Dec 3 2 23 PM '01  
FILED RECEIVED  
PAC

STATE OF SOUTH CAROLINA )

COUNTY OF YORK )

AFFIDAVIT OF INDICENCY  
AND  
APPLICATION FOR COUNSEL

STATE vs Billy Wayne Cope

CRIMINAL CASE NO H023255, H023256, H023259, H023260  
(if known) H013242, H023243

CHARGE(S) Murder, CSC 1st (2 counts) Unl. neglect toward Child - (3 counts)

BIRTH DATE 8-13-63 SEX M RACE W

SOCIAL SECURITY NUMBER 257-41-0335

ADDRESS 407 Buck St PHONE # 328-9124  
Rock Hill, SC

- 1 Are you presently employed? Yes  No 
  - a If yes give name and address of employer and your wages  
Steak Out - Main St - 160 Hwy 2 weeks -
  - b If no where did you last work when did you stop work there what were your wages?
  - c Is your spouse employed? Yes  No   
If yes where? Lancaster Health Fund  
Income? 300 WK
  - d What is the combined income for all working members of your household?
- 2 How many people (children relatives etc) are dependent on you for support? 2  
How much do you spend weekly for their support?
- 3 List below any money you have received in the past twelve months which you have not already listed and the source of that money such as self-employment gifts inheritances insurance benefits
- 4 Do you have any cash money or checking or savings accounts?  
Yes  No   
If yes how much?
- 5 Do you own any real estate or valuable personal property? Yes  No  If yes describe the property and its value

FILED RECEIVED  
DEC 3 2 23 PM '01

CONTINUED ON BACK

Is it paid for? Yes \_\_\_\_\_ No ✓

If not what are the payments? 200 mo

7 List the amount of all debts you owe and to whom they are owed

Rent 500 mo  
Utilities 200 mo  
Car 25 mo

8 If you have been released on bail who paid your bond?

How much was the bond? \_\_\_\_\_

I do solemnly swear that all the information I have given in this affidavit is true to the best of my knowledge I have made no attempts at any time to misrepresent my true financial status so as to present the appearance that I am unable to employ private counsel I am financially unable to employ counsel and request that counsel be appointed to represent me

I understand that the State may file a claim against me for the cost of my representation and that such a claim will constitute a lien against my property after I have been given thirty days notice and the Court has reduced the claim to a judgment

I understand that I am entitled to thirty days notice before a claim against me may be reduced to judgment and I do hereby waive the right to such notice

[Signature]  
Defendant's Signature

12-1-01  
Date

Subscribed and witnessed by me this 1st day of Dec 2001

[Signature]  
Witness

Approved for Appointment of Counsel

Rejected as non-indigent \_\_\_\_\_

Other Disposition \_\_\_\_\_

Determination made by [Signature]

Date 12-1-01



STATE OF SOUTH CAROLINA  
COUNTY OF YORK

BOND HEARING CERTIFICATION

CITY OF ROCK HILL

State  
VS

Pelly W Cape

General Session  
Township

IT APPEARS that the defendant named above was arrested on or about the 30 day of Nov, 1920-01 for the specific charges herein named. The defendant now appears before the undersigned Judge for Rock Hill Municipal Court, South Carolina on this the 1 day of Dec, 1920-01 for the purpose of a Bond Hearing to determine if the defendant is entitled to such bond.

IT IS HEREBY ORDERED that the Defendant's bond be set for each charge as follows:

WARRANT/ TICKET #	CHARGE	TRIAL DATE/ TIME	BOND TYPE	AMOUNT
H-023255	Murder	Feb 4, 2002 8 AM		\$
H-023258	CSC 1st Reg	"		\$
H-023259	unlawful neg Toward minor child	"		\$
H-023260	"	"		\$
H-023262	CSC 1st Reg	"		\$
H-023263	unlawful neg Toward minor child	"		\$
				\$

*Handwritten notes in table: "20 Be County Court Judge"*

BOND TYPES Personal Recognizance, Surety Bond, Cash, Summons, Cash % in Lieu of Bond, Denied

IT IS FURTHER ORDERED, that the Defendant remain in the custody of the Rock Hill City Jail until such time sufficient surety are found and an Order of Discharge is issued.

IT IS SO ORDERED

*Count dates  
Nov 31, 2001 1 PM  
Feb 4, 2002 8 AM*

[Signature] (L S)  
Municipal Judge City of Rock Hill

Distribution: White Detention Center  
Yellow Trial Magistrate  
Pink Defendant's Copy

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )  
 )  
STATE OF SOUTH CAROLINA, )  
 )  
 )  
 )

IN THE COURT OF GENERAL SESSIONS

AMENDED ADMINISTRATIVE ORDER

2001  
15  
11

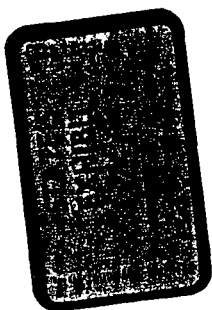
Pursuant to the authority vested in this Court by the attached Administrative Order (Attachment "A") signed by The Honorable Chief Justice Jean Toal of the South Carolina Supreme Court, the following Administrative Order is hereby adopted by this Court for the County of York

This Court hereby declares and orders that all General Sessions cases arising after December 31, 2000 will be processed through the Court under the principles of the system known as Differentiated Case Management. In accordance with the requirements of this system the following rules are hereby adopted

The Court hereby directs that in each General Sessions case arising before the various Magistrates and Municipal Court of this County, the following will be done

1 BOND HEARING

- 1 Magistrates and Municipal Judges are required to transmit warrants to the Clerk of Court within 15 days as required by Rule 3(a) of the South Carolina Rules of Criminal Procedure
- 2 At the time of their bond hearing all defendants shall be screened by the Magistrate or Municipal Judge to determine if they qualify for appointment of counsel. Such screening will be done in a manner as prescribed by the Clerk of Court
- 3 The defendant shall be served with a Notice of Initial Appearance at the time of the bond hearing. The defendant's attendance at the initial appearance shall be made a condition of the defendant's bond by noting such in Section III of a Personal Recognize Bond Form or Section D of a Surety Bond Form. At the time of the setting of the Initial Appearance date the Magistrate or Municipal Judge shall inform the defendant in writing and orally of his right to a Preliminary Hearing. Should a hearing be desired, it will be scheduled at the Initial Appearance. The date of the Initial Appearance shall be assigned



*Handwritten signature or initials.*

in accordance with the schedule prepared and disseminated by the Solicitor's Office

## II INITIAL APPEARANCE

- 1 The Initial Appearance will be held at the Moss Justice Center. Roll call will be conducted as necessary to ensure attendance. The Clerk is authorized to issue a bench warrant for those defendants who fail to appear and have not been excused by the solicitor.
- 2 There shall be no continuances of Initial Appearances.
- 3 A preliminary hearing, if desired, must be requested in writing on or before the initial appearance date.
- 4 The issue of legal representation shall be addressed at the Initial Appearance.
  - a If a defendant qualifies for Court appointed counsel and has not retained private counsel the Public Defender shall continue to represent the defendant.
  - b If a defendant qualifies for a Public Defender but has retained private counsel prior to the Initial Appearance date then that attorney must file a general notice of representation with the Clerk of Court and serve a copy on the Solicitor. The Public Defender shall be relieved of representation at that time.
  - c If a defendant did not qualify for a Public Defender, and private counsel has been retained, then a letter of representation must be filed pursuant to the requirements of this Court's Administrative Order dated July 12, 1995.
  - d Unrepresented defendants may apply for a Public Defender at the Initial Appearance. Applications will be taken by the clerk and if approved, will be assigned that day.
  - e Defendants who remain unrepresented at the Initial Appearance must appear on their Bond Returnable date and remain in Court throughout that term until excused by the Court. These defendants must appear for each successive term of Court as required by their bond until their

*JCT #2*

case is disposed

- 5 In all cases where the defendant is represented by the Public Defender the Public Defender shall assess the case at the Initial Appearance for possible conflicts of interest and resolve those conflicts readily identifiable on that date The Clerk shall, upon Affidavit of Conflict, appoint the next attorney from the conflict list and advise the defendant as to the identity of their attorney The newly appointed counsel shall also be notified on that date and a preliminary hearing automatically scheduled for the defendant
- 6 In all cases where it is feasible to do so, the defendant and the State shall enter into negotiations concerning pleas and dispositional tracking All offers tendered at the Initial Appearance must be accepted or rejected by the Thursday prior to that defendant's Bond Returnable date
- 7 By the Initial Appearance the Solicitor shall provide discovery in all cases where the appropriate motions have been filed with the Clerk of Court
- 8 All Law Enforcement Agencies are required to forward to the Solicitor's Office all existing case reports no later than one week prior to the Initial Appearance date
- 9 At the Initial Appearance the case will be assigned to one of three dispositional tracks These tracks will be 90, 120 and 150 days long respectively Assignment of cases to a track will be the responsibility of the Solicitor's Office The tracking decision of the Solicitor is subject to review by the Circuit Court upon motion of the defendant filed prior to the defendant's bond returnable date, and at other times for good cause shown by motion in open court Murder cases will not fall within the guidelines of any track

The length of the track in which a case is placed determines the deadline by which a case must be moved The date is calculated from the Initial Appearance date or Bond Returnable date, whichever is earlier Should the deadline fall in a non-court week, it will be extended until the end of the next term of Court

### III PRELIMINARY HEARINGS

- 1 Preliminary hearings shall be held at the Moss Justice Center The presiding magistrate shall be appointed by the Chief Magistrate
- 2 The Solicitors Office shall represent the State at all centralized

11/7/73  
✓

preliminary hearings and notify all victims and witnesses as to the scheduling of said hearings

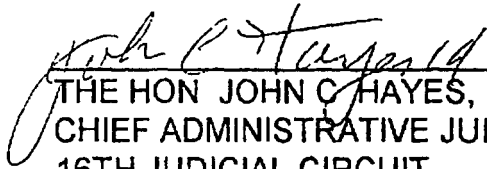
- 3 Continuances of preliminary hearings may not be granted for any reason
- 4 The defendant or their attorney must be present to be given a preliminary hearing. If one has been requested in a case involving an individual affiant then the failure of the affiant to appear and give testimony will result in the dismissal of the warrant regardless of the defendant's presence
- 5 This section of the administrative order (Section III) shall remain in effect as long as law enforcement resources continue to allow the provisions contained herein to be carried out. Should it become impractical to conduct preliminary hearings in the manner outlined in this section the Solicitor may void the requirements of this section of the order by applying to one of the resident judges for a modification to this order. Such action, if approved, would only void this section of the order

#### IV GENERAL SESSIONS COURT PRACTICE

- 1 The Solicitor's Office will, on the 1st and 15th of each month, provide the Chief Administrative Judge a list of all pending cases within 30 days of their track deadlines
- 2 Presiding Judges will be available from 9:00 - 9:30 on Tuesdays through Fridays of General Sessions Court terms to hold case status conferences with attorneys for the state and the defense. Conferences may be requested by either party and once scheduled, appearance is mandatory
- 3 At least seven days prior to each term of court the Solicitor shall prepare and publish a docket of all cases subject to being called in that term of court. Publication shall be effected by making the docket available in the office of the Clerk of Court located in the Moss Justice Center. The Clerk of Court shall also distribute the docket to those attorneys listed via U.S. Mail, or in the alternative via facsimile machine. It shall be the responsibility of all attorney's with clients on this docket to notify their clients that their case is scheduled for disposition

*J. E. H. A.*

AND IT IS SO ORDERED

  
THE HON JOHN C HAYES, III  
CHIEF ADMINISTRATIVE JUDGE  
16TH JUDICIAL CIRCUIT

THIS 27<sup>th</sup> DAY OF December, 2000  
YORK, SOUTH CAROLINA

#5