

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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MAY 29 2014

APPEAL FROM GREENVILLE COUNTY SC Court of Appeals  
Court of General Sessions

Letitia H. Verdin, Circuit Court Judge

Warrant Nos. 2013A2320501044 and 45

The State,

Respondent,

v.

Walter Jacob Merka,

Appellant .

2014 MAY 27 PM 3:17  
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NOTICE OF APPEAL

Defendant Walter Merka appeals his conviction and sentence in this case. The defendant pled guilty to carjacking and assault and battery of a high and aggravated nature and was sentenced to eight years in prison on December 11, 2013. This appeal is taken from the order of the Honorable Latitia Verdin, dated May 15, 2014, which denied Defendant's motion for a new trial. Appellant received written notice of entry of this order May 19, 2014.

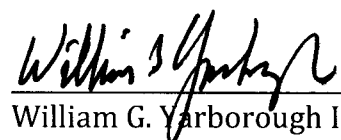
The issues for appeal are whether the defendant's motion should have been granted based on the following: whether the State's failure to turn over key statements by the victim regarding the defendant's guilt or lack thereof rendered the guilty plea invalid; whether the trial judge was required to ask about the defendant's mental state as a part of a guilty plea; and whether a new trial should have been granted when the issue of mental illness was discovered post-plea.

All of these issues were originally raised in a motion for reconsideration or vacate sentence filed on December 12, 2013, pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure. The first issue involved what the defendant alleges to be a discovery violation; after the plea entry, the defendant's counsel discovered

that the victim in the case had expressed her desire to the Solicitor's office that the defendant receive counseling in lieu of jail time. Because the defendant's counsel did not receive this information through discovery, the defendant's counsel argued in both the motion to reconsider and the motion for a new trial that the defendant's guilty plea was not entered with all of the necessary facts of the case due to the State's discovery violation. Two further issues raised in the motions were that the defendant's counsel did not receive notice of the defendant's history of mental illness until after his plea entry, nor did the Honorable Verdin question the defendant's history of mental illness during the plea hearing.

The December 12, 2013 motion to reconsider of vacate sentence was denied by the Honorable Verdin on December 18, 2013. Thereafter, this motion was renewed as a motion for a new trial, for which a hearing was held on January 9, 2014. All of the issues discussed above were renewed and argued at the January 9, 2014 hearing. As noted above, this motion was denied on May 15, 2014, and the defendant received written notice of the denial on May 19, 2014.

May 27, 2014



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Other Counsel of Record:

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Warrant Nos. 2013A2320501044 and 45

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The State,

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Walter Jacob Merka,

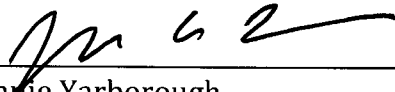
Appellant.

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PROOF OF SERVICE OF  
NOTICE OF APPEAL

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I hereby certify that I hand-delivered a copy of the Notice of Appeal in the above-captioned case to the Respondent Party Allen Fretwell, Assistant Solicitor, with the clerk at his office, at the following address: 305 E. North Street, Greenville, SC 29601.

  
\_\_\_\_\_  
Jennie Yarborough,  
Office of William G. Yarborough, Attorney at Law

May 27, 2014

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**SC Court of Appeals**

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CLERK OF COURT  
GREENVILLE COUNTY  
SC 29601

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May 27, 2014

Jenny Abbott Kitchings  
Clerk of Court, Court of Appeals of South Carolina  
P.O. Box 11629  
Columbia, SC 29211  
In re: Walter Merka, Warrant Nos. 2013A2320501044 and 45  
**VIA UNITED STATES MAIL**

Dear Ms. Kitchings:

Attached please find an original, clocked copy of the Notice of Appeal in the case of The State v. Walter Merka, to file with the Clerk of Court of the Court of Appeals of South Carolina. Also attached for filing is Proof of Service on the Respondent Party and a copy of the Order of the Honorable Latitia Verdin from which this appeal is taken.

Enclosed you will also find a self-addressed, stamped envelope; please return to us a clocked copy of the enclosed filings.

Thank you so much.

Sincerely,

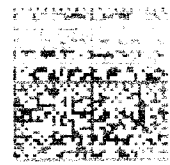
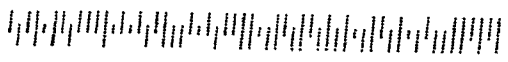


William G. Yarborough III/jy

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**SC Court of Appeals**



**Law Office of William G. Yarborough III**

522 North Church Street  
Greenville, SC 29601

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**SC Court of Appeals**

**Jenny Abbott Kitchings  
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Columbia, SC 29211**