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21673

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions

Frank R. Addy, Jr., Circuit Court Judge

Case No. 2013-000548

RECEIVED

JAN 20 2015

SC Court of Appeals

The State, ... Respondent.
v.
Donkevis Durell Jones, ... Appellant.

RECORD ON APPEAL

Janna A. Nelson
600 Monument St., Suite 208
Park Plaza, Box P-133
Greenwood, SC 29646
(864) 359-2103
Attorney for Appellant

J. Benjamin Aplin
PO Box 11549
Columbia, SC 29211-1549
(803) 734-3727
Attorney for Respondent

INDEX

Warrants	1
Indictments	8
Sentencing Sheets.	22
Transcript of Sentencing Hearing on September 1, 2011.	26
Order Amending Sentence dated October 26, 2011.	50
Transcript of Restitution Hearing on December 18, 2012	52
Testimony of Michelle Boggs	69
Testimony of Donkevis Jones	85
Restitution Order dated December 21, 2012	105
Motion to Reconsider Restitution Order dated December 31, 2012	111
Restitution Order dated February 23, 2013	115

ARREST WARRANT

M-078152 11-1614

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

THE STATE

11-12304

against

Donkevis Durell Jones

Address: 215 Duncan

SC 29646-2116

Phone: SSN: Sex: M Race: B Height: 5 7 Weight: 165

DL State: SC DL #: 101636502

DOB: Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: John Long - 0103

Offense: Assault & Battery of a High & Aggravated Nature (Deputy Young)

Offense Code: 3411

Code/Ordinance Sec: 16-03-0600(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Donkevis Jones

on 4-29-2011

Signature of Constable/Enforcement Officer

RETURN WARRANT TO:

General Sessions
528 Monument Street
Room 114
Greenwood, SC 296462623

ORIGINAL

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

AFFIDAVIT

ORIGINAL

S.C. Attorney General
April 21, 2003
SCCA 518Personally appeared before me the affiant John Long who being duly sworn deposes and says that defendant Donkevis Durell Jones did within this county and state on or about 04/22/2011 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenwood) in the following particulars:

DESCRIPTION OF OFFENSE Assault & Battery of a High & Aggravated Nature (Deputy Young)

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:

In that Donkevis Durell Jones did on April 22, 2011 along with Lamar Dontrell Lockhart enter into the business of Lakeland cycles and detailing. The two, acting in concert, gained entry to the business by prying open the door. Once inside, they took, stole, and carried away approximately \$10,000.00 of the victim's belongings to include but not limited to several ATV's, dirt bikes, one pressure washer, and one black utility trailer. Deputy JB Smiley and Deputy M. Young arrived at the incident location and noticed the crime in progress. Jones then drove the truck threw a garage door, towards the deputies, damaging the door beyond repair to get away from the deputies. The deputies being in fear for their lives, both fired shots into the truck containing Jones. This incident occurred at 2048-B highway 72-221 E, at approximately 5:00 AM and before dawn, in Greenwood County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address 528 Edgefield Street

Affiant's Telephone (864)942-8600

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/22/2011 defendant Donkevis Durell Jones

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Assault & Battery of a High & Aggravated Nature (Deputy Young)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 04/22/2011

Signature of Issuing Judge (L.S.)

C. Ryan Johnson

Judge Code: 7129

Judge's Address Greenwood County Courthouse

Greenwood, SC 29646-2634

Judge's Telephone (864)942-8655

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

M-078146

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

THE STATE

11-12304

against

Donkevis Durell Jones

Address: 215

SC 29646-2116

Phone: SSN:

Sex: M Race: B Height: 5 7 Weight: 165

DL State: SC DL #: 101636502

DOB: Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: John Long - 0103

Offense: Burglary (Violent) - Second degree

Offense Code: 0086

Code/Ordinance Sec: 16-11-0312(B)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
528 Monument Street
Room 114
Greenwood, SC 296462623

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☒ County/ ☐ Municipality of)

Greenwood

AFFIDAVIT

SCCA 518

Personally appeared before me the affiant John Long

who

being duly sworn deposes and says that defendant Donkevis Durell Jones

did within this county and state on or about 04/22/2011

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of)

in the following particulars:

DESCRIPTION OF OFFENSE Burglary (Violent) - Second degree

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

In that Donkevis Durell Jones did on April 22, 2011 along with Lamar Dontrell Lockhart enter into the business of Lakeland cycles and detailing. The two, acting in concert, gained entry to the business by prying open the door. Once inside, they took, stole, and carried away approximately \$10,000.00 of the victim's belongings to include but not limited to several ATV's, dirt bikes, one pressure washer, and one black utility trailer. Deputy JB Smiley and Deputy M. Young arrived at the incident location and noticed the crime in progress. Jones then drove the truck threw a garage door, towards the deputies, damaging the door beyond repair to get away from the deputies. The deputies being in fear for their lives, both fired shots into the truck containing Jones. This incident occurred at 2048-B highway 72-221 E, at approximately 5:00 AM and before dawn, in Greenwood County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address 528 Edgefield Street

Greenwood, SC 29646-

Affiant's Telephone (864)942-8600

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/22/2011

defendant Donkevis Durell Jones

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenwood

) as set forth below:

DESCRIPTION OF OFFENSE: Burglary (Violent) - Second degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 04/22/2011

Signature of Issuing Judge

C. Ryan Johnson

Judge Code: 7129

Judge's Address Greenwood County Courthouse

Greenwood, SC 29646-2634

Judge's Telephone (864)942-8655

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

M-078147 11-1613

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

THE STATE

11-12304

against

Donkevis Durell Jones

Address: 215

Phone: _____ SSN: _____
 Sex: M Race: B Height: 5 7 Weight: 165
 DL State: SC DL #: 101636502
 DOB: _____ Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County SheriffProsecuting Officer: John Long - 0103Offense: Assault & Battery of a High & Aggravated NatureOffense Code: 3411Code/Ordinance Sec: 16-03-0600(B)(1)This warrant is **CERTIFIED FOR SERVICE** in the☐ County/ ☐ Municipality of

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

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
 defendant Donkevis Jones
 on 4-25-2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
 528 Monument Street
 Room 114
 Greenwood, SC 296462623

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☒ County/ ☐ Municipality of)
 Greenwood)

AFFIDAVIT

April 21, 2003
 SCCA 518

Personally appeared before me the affiant John Long who
 being duly sworn deposes and says that defendant Donkevis Durell Jones
 did within this county and state on or about 04/22/2011 violate the criminal laws of the
 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenwood)
 in the following particulars:

DESCRIPTION OF OFFENSE Assault & Battery of a High & Aggravated Nature (Deputy Smiley)

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:

In that Donkevis Durell Jones did on April 22, 2011 along with Lamar Dontrell Lockhart enter into the business of Lakeland cycles
 and detailing. The two, acting in concert, gained entry to the business by prying open the door. Once inside, they took, stole, and
 carried away approximately \$10,000.00 of the victim's belongings to include but not limited to several ATV's, dirt bikes, one
 pressure washer, and one black utility trailer. Deputy JB Smiley and Deputy M. Young arrived at the incident location and noticed
 the crime in progress. Jones then drove the truck threw a garage door, towards the deputies, damaging the door beyond repair to get
 away from the deputies. The deputies being in fear for their lives, both fired shots into the truck containing Jones. This incident
 occurred at 2048-B highway 72-221 E, at approximately 5:00 AM and before dawn, in Greenwood County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address 528 Edgefield StreetGreenwood, SC 29646-Affiant's Telephone (864)942-8600

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/22/2011 defendant Donkevis Durell Jones

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Assault & Battery of a High & Aggravated Nature

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
 soon thereafter as is practicable
 Sworn to and subscribed before me)

on 04/22/2011)

Signature of Issuing Judge
C. Ryan Johnson

Judge Code: 7129

(L.S.)

Judge's Address Greenwood County CourthouseGreenwood, SC 29646-2634Judge's Telephone (864)942-8655

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

MI-U/8148 11-1011
STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Greenwood

THE STATE 11-12304
against

Donkevis Durell Jones

Address: 215

SC 29646-2116

Phone: SSN:

Sex: M Race: B Height: 5' Weight: 165

DL State: SC DL #: 101636502

DOB: Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: John Long - 0103

Offense: Grand Larceny, value \$10,000 or more

Offense Code: 3421

Code/Ordinance Sec: 16-13-0030(B)

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

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Donkevis Jones
on 4-22-2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
528 Monument Street
Room 114
Greenwood, SC 296462623

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ORIGINAL

Greenwood

Personally appeared before me the affiant John Long who
being duly sworn deposes and says that defendant Donkevis Durell Jones
did within this county and state on or about 04/22/2011 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenwood)
in the following particulars:

DESCRIPTION OF OFFENSE Grand Larceny, value \$10,000 or more

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

In that Donkevis Durell Jones did on April 22, 2011 along with Lamar Dontrell Lockhart enter into the business of Lakeland cycles
and detailing. The two, acting in concert, gained entry to the business by prying open the door. Once inside, they took, stole, and
carried away approximately \$10,000.00 of the victim's belongings to include but not limited to several ATV's, dirt bikes, one
pressure washer, and one black utility trailer. Deputy JB Smiley and Deputy M. Young arrived at the incident location and noticed
the crime in progress. Jones then drove the truck threw a garage door, towards the deputies, damaging the door beyond repair to get
away from the deputies. The deputies being in fear for their lives, both fired shots into the truck containing Jones. This incident
occurred at 2048-B highway 72-221 E, at approximately 5:00 AM and before dawn, in Greenwood County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address 528 Edgefield Street
Greenwood, SC 29646-
Affiant's Telephone (864)942-8600

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/22/2011 defendant Donkevis Durell Jones
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Greenwood) as set forth below.

DESCRIPTION OF OFFENSE: Grand Larceny, value \$10,000 or more

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 04/22/2011

Signature of Issuing Judge
C. Ryan Johnson
Judge Code: 7129

(L.S.)

Judge's Address Greenwood County Courthouse
Greenwood, SC 29646-2634
Judge's Telephone (864)942-8655

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

M-078149

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenwood

THE STATE

11-12304

against

Donkevis Durell Jones

Address: 715

SC 29646-2116

Phone:

SSN:

Sex: M Race: B Height: 5 7 Weight: 165

DL State: SC DL #: 101636502

DOB: Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: John Long - 0103

Offense: Malicious injury to real property, injury value more than \$2,000, but less than \$10,000

Offense Code: 3429

Code/Ordinance Sec: 16-13-0520(A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Donkevis Jones on 4-22-2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
528 Monument Street
Room 114
Greenwood, SC 296462623

ORIGINAL

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ORIGINAL

Greenwood

Personally appeared before me the affiant John Long

who

being duly sworn deposes and says that defendant Donkevis Durell Jones

did within this county and state on or about 04/22/2011

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenwood)

in the following particulars:

DESCRIPTION OF OFFENSE Malicious injury to real property, injury value more than \$2,000, but less than \$10,000

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:

In that Donkevis Durell Jones did on April 22, 2011 along with Lamar Dontrell Lockhart enter into the business of Lakeland cycles and detailing. The two, acting in concert, gained entry to the business by prying open the door. Once inside, they took, stole, and carried away approximately \$10,000.00 of the victim's belongings to include but not limited to several ATV's, dirt bikes, one pressure washer, and one black utility trailer. Deputy JB Smiley and Deputy M. Young arrived at the incident location and noticed the crime in progress. Jones then drove the truck threw a garage door, towards the deputies, damaging the door beyond repair to get away from the deputies. The deputies being in fear for their lives, both fired shots into the truck containing Jones. The two caused approximately \$3,300.00 in damage the building. This incident occurred at 2048-B highway 72-221 E, at night, in Greenwood County.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address 528 Edgefield Street
Greenwood, SC 29646-

Affiant's Telephone (864)942-8600

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/22/2011 defendant Donkevis Durell Jones

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Malicious injury to real property, injury value more than \$2,000, but less than \$10,000

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 04/22/2011

(L.S.)

Signature of Issuing Judge

C. Ryan Johnson

Judge Code: 7129

Judge's Address Greenwood County Courthouse

Greenwood, SC 29646-2634

Judge's Telephone (864)942-8655

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

FILED
GENERAL SESSIONS
SOUTH JUDICIAL CIRCUIT
GREENWOOD, SC
APR 25 AM 7:11 10

M-078172

11-1608

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of

Greenwood

THE STATE

11-12465

against

Donkevis Durell Jones

Address:

2116

Phone:

SSN:

Sex: M Race: B Height: 5 7 Weight: 165

DL State: SC DL #: 101636502

DOB: Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: John Long - 0103

Offense: Breaking into motor vehicle

Offense Code: 0258

Code/Ordinance Sec: 16-13-0160(1)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant
onDonkevis Jones
4-21-2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
528 Monument Street
Room 114
Greenwood, SC 296462623

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ORIGINAL

ORIGINAL

☒ County/ ☐ Municipality of)

Greenwood)

AFFIDAVIT

SCCA 518

Personally appeared before me the affiant John Long who

being duly sworn deposes and says that defendant Donkevis Durell Jones

did within this county and state on or about 04/22/2011 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenwood)

in the following particulars:

DESCRIPTION OF OFFENSE Breaking into motor vehicle

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:In that Donkevis Durell Jones did on April 22, 2011 along with Lamar Dontrell Lockhart, Rashcen Akeen Stukes and one other
unidentified black male known only as "Aunt Weezy", act in concert to steal a 1992 Chevrolet Pickup Truck VIN
1GDCD14Z149334. After hot wiring the truck, the four used the truck to load up stolen items taken from a nearby burglary. The
truck was later recovered. This incident occurred in the county of Greenwood.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenwood

Affiant's Address 528 Edgefield Street

Greenwood, SC 29646-

Affiant's Telephone (864)942-8600

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/22/2011 defendant Donkevis Durell Jones

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Breaking into motor vehicle

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me)

on 04/26/2011)

Signature of Issuing Judge

C. Ryan Johnson

Judge Code: 7129

(L.S.)

Judge's Address Greenwood County Courthouse

Greenwood, SC 29646-2634

Judge's Telephone (864)942-8655

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

WITNESSES

John Long
Greenwood County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

August Term, 2011

Indictment # 11GS24-

1608

WARRANT NUMBER

M078172

THE STATE

vs.

Donkevis Durell Jones

True Bill

Phy R. Min A

Foreman of the Grand Jury

Date:

8/19/11

INDICTMENT FOR

BREAKING INTO A MOTOR VEHICLE

16-13-0160

VERDICT

Foreman

Nolle Prosequi on 9/1/11
in consideration of plea.

[Signature]

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

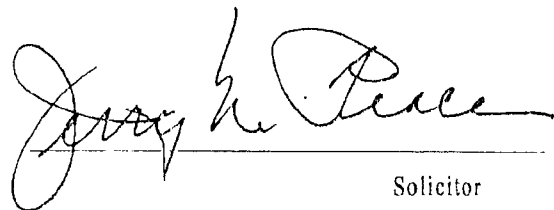
INDICTMENT FOR

BREAKING INTO A MOTOR VEHICLE
16-13-0160

At a Court of General Sessions, convened on the 19th day of August, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Donkevis Durell Jones, did in Greenwood County, state aforesaid, on or about the 22nd day of April, 2011 willfully and unlawfully break or attempt to break into any motor vehicle or any compartment thereof, in the daytime or in the nighttime, with intent to steal the same or anything of value there from or attached or annexed thereto or break any tank, pump or other vessel where kerosene, gasoline or lubricating oil is stored or kept with the intent to steal, the said vehicle being owned by James Ernest Devore, in violation of Section 16-13-160 of the South Carolina Code of Laws, 1976, as amended.

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



Solicitor

WITNESSES

John Long
Greenwood County Sheriff

WARRANT NUMBER

M078173

True Bill

Phyllis R. Nix R

Foreman of the Grand Jury

Date: 8/19/11

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

August Term, 2011

Indictment # 11GS24- 1609

THE STATE

vs.

Donkevis Durell Jones

INDICTMENT FOR

LARCENY
16-13-0030(A)

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

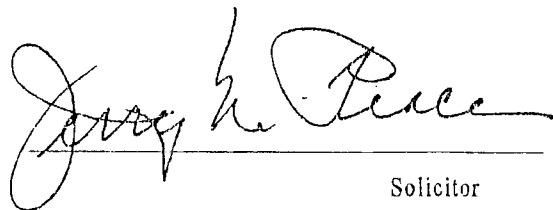
COUNTY OF GREENWOOD

LARCENY
16-13-0030(A)

At a Court of General Sessions, convened on the 19th day of August, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Donkevis Durell Jones, did in Greenwood County, state aforesaid, on or about the 22nd day of April, 2011 feloniously take and carry away the personal goods of James Ernest Devore of the value of less than two thousand (\$2,000.00) dollars described as follows: one (1) 1992 Chevrolet truck, with intent to deprive the owner permanently of such goods, in violation of Section 16-13-30(A) of the South Carolina Code of Laws, 1976, as amended.

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


Solicitor

WITNESSES

John Long
Greenwood County Sheriff

WARRANT NUMBER

M078146

True Bill

Phyllis R. Nunn

Foreman of the Grand Jury

Date: 8/19/11

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

August Term, 2011

Indictment # 11GS24-

1610

THE STATE

vs.

Donkevis Durell Jones

INDICTMENT FOR

BURGLARY

16-11-0312

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

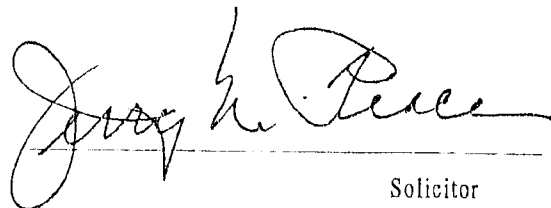
COUNTY OF GREENWOOD

BURGLARY
16-11-0312

At a Court of General Sessions, convened on the 19th day of August, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Donkevis Durell Jones, did in Greenwood County, state aforesaid, on or about the 22nd day of April, 2011 willfully and unlawfully enter a building without consent and with intent to commit a crime therein, when in effecting entry or while in the building or in immediate flight there from; the said defendant(s) was armed with a deadly weapon or explosive; or caused physical injury to a person who was not a participant in the crime; or used or threatened the use of a dangerous instrument; or displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun or other firearm; or the entering or remaining occurred in the nighttime, the said building being owned by Lakelands Custom Cycles, in violation of Section 16-11-312 of the South Carolina Code of Laws, 1976, as amended

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



Solicitor

WITNESSES

John Long
Greenwood County Sheriff

WARRANT NUMBER

M078148

True Bill

Pimp A. Nina

Foreman of the Grand Jury

Date: 8/19/11

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

August Term, 2011

Indictment # 11GS24-1611

THE STATE

vs.

Donkevis Durell Jones

INDICTMENT FOR

GRAND LARCENY

16-13-0030

Nolle Prosequi on 9/1/11
in consideration of plea.

[Signature]

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

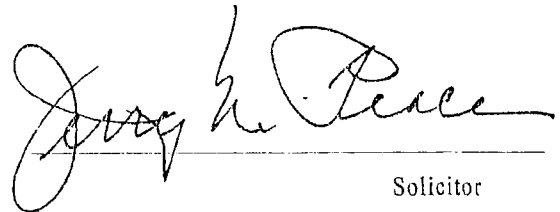
INDICTMENT FOR

GRAND LARCENY
16-13-0030

At a Court of General Sessions, convened on the 19th day of August, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Donkevis Durell Jones, did in Greenwood County, state aforesaid, on or about the 22nd day of April, 2011 feloniously take and carry away the personal goods of Lakelands Custom Cycles of the value of more than ten thousand and NO/100 (\$10,000.00) dollars described as follows: one (1) pressure washer, one (1) trailer, and several ATVs and dirt bikes, with intent to deprive the owner permanently of such goods, in violation of Section 16-13-30 of the South Carolina Code of Laws, 1976, as amended.

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


Solicitor

WITNESSES

John Long
Greenwood County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

August Term, 2011

Indictment # 11GS24-1612

WARRANT NUMBER

M078149

THE STATE

VS.

Donkevis Durell Jones

True Bill

Phyllis R. Nunn

Foreman of the Grand Jury

Date: 8/19/11

VERDICT

Foreman

INDICTMENT FOR

MALICIOUS INJURY TO REAL PROPERTY

16-11-0520

Nolle Prosequi on 9/1/11
in consideration of
plea. *[Signature]*

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

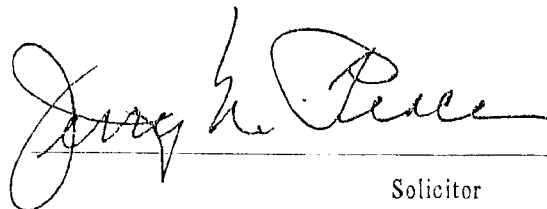
COUNTY OF GREENWOOD

MALICIOUS INJURY TO REAL PROPERTY
16-11-0520

At a Court of General Sessions, convened on the 19th day of August, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Donkevis Durell Jones, did in Greenwood County, state aforesaid, on or about the 22nd day of April, 2011 willfully, unlawfully and maliciously damage, destroy and otherwise injure the real property, to wit: two (2) doors of a building of Lakelands Custom Cycles, the damage to such real property being in the amount of more than two thousand dollars, but less than ten thousand dollars, in violation of Section 16-11-520 of the South Carolina Code of Laws, 1976, as amended.

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


Solicitor

WITNESSES

John Long
Greenwood County Sheriff

WARRANT NUMBER

M078147

True Bill

Phyllis R. Smith

Foreman of the Grand Jury

Date: 8/19/11

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

August Term, 2011

Indictment # 11GS24- 1613

THE STATE

vs.

Donkevis Durell Jones

INDICTMENT FOR

ASSAULT AND BATTERY

FIRST DEGREE

16-03-0600

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

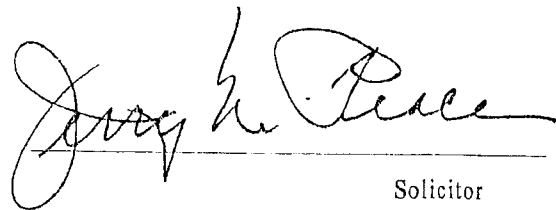
ASSAULT AND BATTERY
FIRST DEGREE

16-03-0600

At a Court of General Sessions, convened on the 19th day of August, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Donkevis Durell Jones, did in Greenwood County, state aforesaid, on or about the 22nd day of April, 2011 willfully and unlawfully injure another person, J. B. Smiley, of the Greenwood Sheriff's Department, and the act involved nonconsensual touching of the private parts of an adult, either under or above the clothing, with lewd and lascivious intent, or occurred during the commission of a robbery, burglary, kidnapping, or theft, to wit; Burglary and/or Grand Larceny, in violation of the provisions of Section 16-3-600 of the South Carolina Code of Laws, 1976, as amended.

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

A handwritten signature in cursive script, appearing to read "J. B. Smiley", is written over a horizontal line.

Solicitor

WITNESSES

John Long
Greenwood County Sheriff

WARRANT NUMBER

M078152

True Bill

Phyllis R. Minch

Foreman of the Grand Jury

Date: 8/19/11

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

August Term, 2011

Indictment # 11GS24-1614

THE STATE

VS.

Donkevis Durell Jones

INDICTMENT FOR

ASSAULT AND BATTERY

FIRST DEGREE

16-03-0600

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

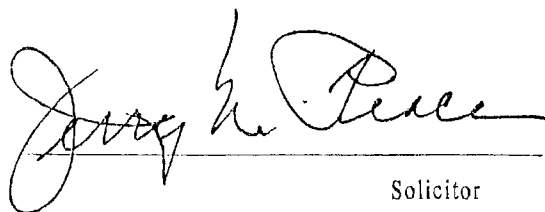
INDICTMENT FOR

ASSAULT AND BATTERY
FIRST DEGREE
16-03-0600

At a Court of General Sessions, convened on the 19th day of August, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Donkevis Durell Jones, did in Greenwood County, state aforesaid, on or about the 22nd day of April, 2011 willfully and unlawfully injure another person, Micheal Young, of the Greenwood Sheriff's Department, and the act involved nonconsensual touching of the private parts of an adult, either under or above the clothing, with lewd and lascivious intent, or occurred during the commission of a robbery, burglary, kidnapping, or theft, to wit; Burglary and/or Grand Larceny, in violation of the provisions of Section 16-3-600 of the South Carolina Code of Laws, 1976, as amended.

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

A handwritten signature in cursive script, reading "Jerry H. Peace", written over a horizontal line.

Solicitor

S OF SOUTH CAROLINA)
C Y OF Greenwood)
STATE VS.)
Donkevis Durell Jones)
AKA:)
Race: BLK Sex: M Age: 21)
DOB: SS#:)
Address: 215 Duncan Avenue)
City, State, Zip:)
DL#: SID#:)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 11GS24-1609
A/W#: M078173
Date of Offense: 4/22/2011
S.C. Code § : 16-13-0030(A)
CDR Code #: 3419

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Larceny / Petit or Simple Larceny \$2,000 or less

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-13-0030(A) of the S.C. Code of Laws, bearing CDR Code # 3419
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST: Hodges, Andrew Michael SC Bar# 11713 Donkevis Jones Defendant Attorney for Defendant SC Bar# 70306

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:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 30 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

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:

☐ Appointed PD or appointed other counsel,
47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 11GS24-1610

A/W#: M078146

Date of Offense: 4/22/2011

S.C. Code § : 16-11-0312(B)

CDR Code #: 0086

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degree

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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

Hodges, Andrew Michael SC Bar# 11113 Defendant *Don't give Jones* Attorney for Defendant *Johnnie Williams* SC Bar# 11316

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ ~~County Detention Center,~~
for a determinate term of 134 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 to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 139

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test: Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

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:

☐ Appointed PD or appointed other counsel,
47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

S1 SOUTH CAROLINA)
C OF Greenwood)
STATE VS.)
Donkevis Durell Jones)
AKA:)
Race: BLK Sex: M Age: 21)
DOB: SS#:)
Address:)
City, State, Zip:)
DL#: 101636502 SID#:)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 11GS24-1613
A/W#: M078147
Date of Offense: 4/22/2011
S.C. Code §: 16-03-0600
CDR Code #: 3412

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault & Battery, 1st degree

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600 of the S.C. Code of Laws, bearing CDR Code # 3412
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The pleas is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: 11713 Donkevis Jones Defendant 70306 Attorney for Defendant SC Bar#
Hodges, Andrew Michael

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of _____ days/months/years or ☒ Under the Youthful Offender Act not to exceed 6 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: 11 GS 24 16/11
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

Heavy armed SPECIAL CONDITIONS:
☒ RESTITUTION: ☒ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$ 130.00

_____ 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: Rec. Shock Incarceration

☐ Appointed PD or appointed other counsel,
47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk Ingram M. M.

Court Reporter: H. Jordan

SCCA/217 (03/2011)

Presiding Judge SCA

Judge Code: 2154

Sentence Date: 9-1-11

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

OF Greenwood

VS.

Donkevis Durell Jones

AKA:

Race: B^W Sex: M Age: 21

DOB: SS#: 101636502

Address:

City, State, Zip:

DL#: 101636502 SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault & Battery, 1st degree

INDICTMENT/CASE#: 11GS24-1614

A/W#: M078152

Date of Offense: 4/22/2011

S.C. Code §: 16-03-0600

CDR Code #: 3412

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0600 of the S.C. Code of Laws, bearing CDR Code # 3412

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY:

Hodges, Andrew Michael

SC Bar# 11713

Donkevis Jones
DefendantJames A. Hill
Attorney for Defendant

SC Bar# 70306

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of _____ days/months/years or ☒ under the Youthful Offender Act not to exceed 6 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: 11GS 24 1614
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL		\$ 130.00

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:

Rec. Shock Incarcerator

☐ Appointed PD or appointed other counsel,
47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF GREENWOOD) EIGHTH JUDICIAL CIRCUIT

	)	2011-GS-24-1610
	)	2011-GS-24-1609
	)	2011-GS-24-1613
State of South Carolina	)	2011-GS-24-1614
	)	
Plaintiff,	)	
	)	
v.	)	Transcript of Record
	)	
Donkevis Durell Jones	)	
	)	
Defendant.	)	
	)	
	)	

September 1, 2011
Greenwood, South Carolina

B E F O R E:

The Honorable Eugene C. Griffith, Jr., Judge

A P P E A R A N C E S:

Andrew M. Hodges, Esquire
Attorney for the State

Janna A. Nelson, Esquire
Attorney for the Defendant

Hilda M. Jordan, CVR-M
Circuit Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
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Plea	
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EXHIBITS:

No exhibits were marked to this proceeding.

Certificate of Court Reporter	24
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1 MR. HODGES: Please the Court, Your Honor.

2 THE COURT: Yes.

3 MR. HODGES: Standing before you is Donkevis Jones. Mr.
4 Jones is entering pleas on four indictments. Those are
5 indictments 2011-1610, charging him with burglary second
6 degree, violent. Indictments 2011-1613 and 1614, charging
7 him with assault and battery, first degree, and 2011-1609,
8 charging him with larceny. The State does not have a
9 recommendation with regard to sentence. However, Your
10 Honor, there is an outstanding matter of restitution in this
11 case. The State had asked for restitution of \$20,000 plus
12 collars. The defense has declined to agree to that, so we
13 will need to schedule a restitution hearing with regard to
14 the restitution to a later day. With regard to sentence,
15 that will be up to the Court.

16 One of the victims in the case, Deputy Young with the
17 Greenwood County Sheriff's Office is present and would like
18 to address the Court at the appropriate time.

19 THE COURT: All right. You are Donkevis Durell Jones?

20 MR. JONES: Yes, sir.

21 THE COURT: I have four indictments; 11-GS-24-1614,
22 assault and battery first degree. That indictment reads in
23 part that you in Greenwood County on or about the 22 day of
24 April 2011 that you willfully and unlawfully injured one
25 Michael Young of the Greenwood County Sheriff's Department.

1 This is the wrong indictment. Unlawful injury of Michael
2 Young by touching private parts and lewd and lascivious
3 intent or occurred during the commission of robbery, murder,
4 kidnap, thief?

5 MR. HODGES: It's the latter.

6 THE COURT: I would hope so.

7 MR. HODGES: It'S a rather broad statute.

8 THE COURT: For the record, it is the latter.
9 Commission of robbery, burglary, kidnaping, particularly a
10 burglary in violations of the provisions of 16-3-600. Upon
11 presentment, it's my understanding that you wish to plead
12 guilty to assault and battery in the first degree; is that
13 right?

14 MR. JONES: Yes, sir.

15 THE COURT: Also, indictment 11-GS-24-1613 reads in part
16 that you in Greenwood County on or about 22 day of April,
17 2011, that you did unlawfully injury Deputy Smiley (sp) at
18 the Greenwood Police Department, this injury occurred during
19 the robbery, burglary, kidnaping in violation of the
20 provisions in 16-3-600. Upon presentment I understand you
21 wish to plead guilty to that indictment as presented and
22 indictment 11-GS-24-1609. The indictment reads in part, you
23 in Greenwood County on or about 22 day of April, 2011,
24 taking away of the person goods of (inaudible) valued at
25 less than \$2,000, a '92 Chevrolet truck with intent to

1 deprive the owners permanently thereof in violation of 16-
2 13-30. Upon presentment, it's my understanding you wish to
3 plead guilty to petty larceny, and, lastly, indictment 11-
4 GS-24-1610, burglary in the second degree, and that
5 indictment reads in part that you in Greenwood County on or
6 about the 22 day of April, 2011, unlawfully entered a
7 building without consent with the intent to commit a crime
8 therein. The building was owned by (inaudible) in violation
9 of 16-11-312 and upon presentment it is my understanding
10 that you wish to plead guilty to the offense of burglary
11 second degree -- if that violent or non-violent?

12 MR. HODGES: Violent.

13 MS. NELSON: Violent.

14 THE COURT: Is that correct?

15 MR. JONES: Yes, sir.

16 THE COURT: Ms. Nelson, do you represent Mr. Jones?

17 MS. NELSON: Yes, sir, Your Honor.

18 THE COURT: You've explained to him the penalties of
19 these four offenses and the potential punishment he faces?

20 MS. NELSON: I have.

21 THE COURT: Do you believe the State has sufficient
22 evidence -- do you believe that if the State has sufficient
23 evidence that if your client were to go to trial he would
24 more probably than not receive a conviction?

25 MS. NELSON: Yes, sir, Your Honor.

1 THE COURT: All right. Madam Clerk, will you place him
2 under oath?

3 THE CLERK: Yes, sir.

4 (WHEREUPON, Donkevis Durell Jones
5 was sworn to tell the truth.)

6 THE COURT: Mr. Jones, in the last 24-hours have you
7 taken any drugs or alcohol or medication of any type?

8 MR. JONES: No, sir.

9 THE COURT: Do you suffer any disabilities; either
10 mental, physical or emotional which would affect your
11 hearing of my questions?

12 MR. JONES: No, sir.

13 THE COURT: Do you understand if you wish to plead
14 guilty you give up and waive your constitutional right to a
15 jury trial in this matter; do you understand that?

16 MR. JONES: Yes, sir.

17 THE COURT: Also, during a jury trial the state would
18 have the burden of proving you guilty. To meet that burden
19 the state would call witnesses and present evidence
20 sufficient to convince all 12 jurors unanimously of your
21 guilt; do you understand that?

22 MR. JONES: Yes, sir.

23 THE COURT: Your attorney can cross-examine any of the
24 state's witnesses and challenge any of the state's evidence
25 and even present defenses for you; do you understand that?

1 MR. JONES: Yes, sir.

2 THE COURT: In addition you would have an absolute right
3 to remain silent and you do not have to testify in your own
4 defense. The state cannot call you as a witness. The state
5 cannot comment to the jury that your silence is proof that
6 you're guilty; do you understand that?

7 MR. JONES: Yes, sir.

8 THE COURT: Do you understand these rights that you have
9 under our constitution, do you wish to waive them here today
10 in order to plead guilty?

11 MR. JONES: Plead guilty?

12 THE COURT: Understand your rights as I've explained
13 them to you?

14 MR. JONES: Yes, sir.

15 THE COURT: And do you wish to waive those rights you're
16 allowed under our constitution and plead guilty?

17 MR. JONES: Yes, sir.

18 THE COURT: All right. Listen closely as the state
19 tells me the facts.

20 MR. HODGES: Your Honor, this occurred on April 22,
21 2011, at Lakelands Cycle (sp) which is a business out
22 towards Laurens on Highway 72/221. A neighbor saw a
23 vehicle, saw some suspicious activity, and ended up calling
24 law enforcement. Officer Smiley and Officer Young, just to
25 my right, both arrived on the scene to check on this

1 suspicious activity and discovered that there was a burglary
2 in progress at the building. When they announced their
3 presence, they noticed that one of the rolling doors on the
4 front of the business started to come up and then a truck
5 actually burst through the garage door coming right towards
6 the two deputies. They both, fearing for their own safety
7 fired their service weapons at the vehicle which then
8 proceeded on beyond them.

9 One of the co-defendants who is not before Your Honor
10 right now was caught there on the scene. He did cooperate
11 with law enforcement and gave a statement regarding the
12 individuals that he had conspired with to commit this
13 burglary. Officers were able to develop Mr. Jones as a
14 suspect in the case. He did give a statement to law
15 enforcement admitting to his participation in this event,
16 that he was one of the individuals in the vehicle. The
17 truck was recovered. It was a stolen vehicle. There was a
18 firearm inside the truck which is what elevates this to a
19 violent burglary. This is also a night-time event, early
20 morning hours. The truck also contained a number of stolen
21 items that were taken from the cycle shop; motorcycles and
22 ATVs and that sort of -- that sort of item that was in the
23 truck that had been stolen from the burglary.

24 THE COURT: All right, Mr. Jones, you've heard the
25 summary of the facts, provided by Solicitor Hodges. Is that

1 accurate as far as you remember?

2 MR. JONES: The truck -- yes, sir, but it wasn't a -- a
3 firearm wasn't inside the truck. It was inside the vehicle
4 that we came in.

5 THE COURT: It was in the vehicle y'all got there in?

6 MR. JONES: Yes, sir.

7 THE COURT: With the group of people?

8 MR. JONES: Yes, sir. And truck, they said they got the
9 firearm from the truck, but it was in the car we came in
10 from the passenger side of the seat. Not in the truck that
11 left the scene.

12 THE COURT: So does that clarification of where the gun
13 was, is it accurate?

14 MR. JONES: Yes, sir.

15 THE COURT: Anything else?

16 MR. JONES: No, sir.

17 THE COURT: Have you been promised anything to get you
18 to plead guilty?

19 MR. JONES: Sir?

20 THE COURT: Have you been promised anything to get you
21 to plead guilty?

22 MR. JONES: (No response.)

23 MS. NELSON: Did anybody promise you anything to get you
24 plead guilty; did anybody make you any promises?

25 MR. JONES: No, sir.

1 THE COURT: Is anybody forcing you to plead guilty?

2 MR. JONES: No, sir.

3 THE COURT: You understand upon the sentence for this
4 plea you will have a conviction for burglary on your record.
5 That burglary conviction can be used against you later to
6 enhance future charges such that if you get a second
7 burglary charge on your record, you'll have two. Any
8 further burglaries after that will all be enhanced towards
9 any burglary first offense that will carry 15 years to life;
10 do you understand that?

11 MR. JONES: Yes, sir.

12 THE COURT: Are you pleading guilty because you are, in
13 fact, guilty of these offenses that Mr. Hodges just
14 described for me?

15 MR. JONES: Yes, sir.

16 THE COURT: And you're pleading guilty freely and
17 voluntarily?

18 MR. JONES: Yes, sir.

19 THE COURT: Any complaints against the Eighth Circuit
20 Solicitor's Office or law enforcement in their handling of
21 the investigation and prosecution of this action?

22 MR. JONES: No, sir.

23 THE COURT: Okay. Have you had enough time to speak to
24 Ms. Nelson about all this?

25 MR. JONES: Yes, sir.

1 THE COURT: Has she answered all your questions?

2 MR. JONES: Yes, sir.

3 THE COURT: Has she gone over all the discovery the
4 state provided to you in this matter?

5 MR. JONES: Yes, sir.

6 THE COURT: Are you satisfied with her representation?

7 MR. JONES: Yes, sir.

8 THE COURT: Very well.

9 Regarding indictment 11-GS-24-1609, 1610, 1613 and
10 1614, I find the defendant, Donkevis Durell Jones has pled
11 freely, knowingly and intelligently to two counts of assault
12 and battery first degree, one count burglary second degree,
13 violent, and one count of petit larceny.

14 Mr. Jones has had the advice of counsel, an attorney of
15 whom he states he is satisfied and the state has provided
16 him the facts upon which he has based his plea.

17 All right, Ms. Nelson.

18 MS. NELSON: Thank you very much, Your Honor. Donkevis
19 is 20 years old, Judge, and has no prior record other than a
20 simple possession of marijuana from last year. He -- this
21 is his mother and his grandmother. They have been -- they
22 are a very good support system for him and they have been
23 involved from the time I was assigned this case.

24 Your Honor, I'm asking -- given that Donkevis has no
25 prior substantial criminal record and certainly he has never

1 been in General Sessions Court before, and considering his
2 age, I'm asking that you give this man some sort of
3 probationary sentence and give him a chance to prove that he
4 can be a good contributing member of society.

5 Your Honor, he is obviously eligible for a YOA
6 sentence, but as the Court is well aware if he receives an
7 active YOA he would go to prison for three years, day for
8 day, and I'm asking that you not do that to him. I think
9 under any other circumstances where a burglary was involved
10 that -- that a person is going to be given a chance when
11 it's their first time to try to complete probation and be
12 punished in that fashion. In this situation where law
13 enforcement had been notified more often than not that's --
14 usually not the case, usually people get out of places and
15 all the investigation and arrests happen later. Because the
16 police happened to be there and I think that's the only
17 thing that differentiates this from what you would otherwise
18 be seeing as an automatic probation offer, you know, a case
19 like this.

20 Deputy Young has been nice enough to spend some time
21 talking to me on the phone about this case and I know that
22 he feels that some prison time is appropriate and, you know,
23 felt that his life was in danger that night. I think he and
24 I have enough respect for each other that we can respect
25 each other's opinions on this, and I know that he knows that

1 my opinion on it is that this young man gets a chance.

2 Your Honor, if you give him a YOA sentence suspended to
3 probation and he does not do what he is supposed to do on
4 probation that active Y is going to kick in and he's going
5 to go to prison for three years, every bit of three years,
6 and he knows that. I think that will be a huge incentive
7 for him to do the right thing and not get himself in
8 trouble. He is fully aware of what he needs to do on
9 probation. He's fully aware of what will happen if he
10 messes up if you give him that sentence. So he won't have
11 anybody to blame but himself if he doesn't tow the line,
12 but, Your Honor, I'm asking that you give him this chance.

13 He plans to get back out there and get back to work.
14 His last job was at Amick Farms and he told me if you give
15 him a probationary sentence the first thing he is going to
16 do is go back and see if he can get his job back there. He
17 had also started working on his GED at South Side. So he
18 already had intentions on his own of getting that finished.
19 He finished tenth grade in high school. He's already started
20 working on that.

21 He's been in jail since the incident after he turned
22 himself in on April 22. That 134 days. I think that over
23 four months across the street has been quite a lesson for
24 him, Your Honor, and I'm -- this is totally in your hands.
25 I'm asking that under the circumstances you give him a

1 chance and fashion some sort of sentence that will allow him
2 to go on probation and he can keep himself out of trouble.

3 THE COURT: Does anybody here want to talk?

4 MS. NELSON: Did y'all want to say anything to the
5 Judge? You don't have to, but you can if you want to.
6 You're not required to, but if you want to, you can.

7 UNIDENTIFIED SPEAKER: I am his grandmother, and I am
8 praying that the court will have mercy on him and if he do
9 get probation -- I think that's the right way I need to say
10 it, I would stick with him and make sure he complete his
11 education and get a job to pay back restitution and be able
12 a productive citizen. I pray he would not be in the -- you
13 know, beyond -- I would try to do my best to steer him in
14 the right way. Thank you, Your Honor.

15 THE COURT: Yes, ma'am.

16 MS. NELSON: As far as the restitution goes, I wasn't
17 trying to be contrary on that, but right after I signed on
18 he was up -- I got a \$22,000 restitution order and I just --
19 I didn't know where it was coming from. It was the first
20 time restitution had been mentioned to me. Your Honor, I
21 request that since -- that restitution be held open for a
22 limited amount of time and considering the amount that's
23 being requested that if you do choose to put him on
24 probation that you do it for the full five years to make
25 those payments as low as possible, Your Honor.

1 THE COURT: Solicitor, do you have anything?

2 MR. HODGES: Deputy Young can make an comments, if he'd
3 like.

4 DEPUTY YOUNG: Your Honor, I've 11 years in law
5 enforcement experience. The thing about this case that
6 makes it different from other situations I've been involved
7 in I had to use force or use some type of utility items to
8 subdue a subject. This is the first instance that I feared
9 so much for my life that I had to pull my weapon out and
10 discharge it. Mr. Jones made the decision to go into that
11 business and deprive the owner of that business property. I
12 understand with my career I chose to face certain dangers,
13 but at the same time I think probation would be almost an
14 insult to the citizens of Greenwood and to the business
15 owner and to law enforcement in general, considering the
16 outcome.

17 MS. NELSON: Your Honor, I've told Deputy Young, myself,
18 that I understand and respect what he says, but I don't
19 agree that it would be insulting. I think it would be
20 appropriate under the circumstances and it's often what
21 happens in cases like this where it's the first general
22 sessions offense for someone.

23 MR. HODGES: May I approach.

24 (Off the record bench conference with counsel and the
25 Court.)

1 THE COURT: I want to check on something before I make a
2 decision, so we'll stand down for a second.

3 MS. NELSON: Okay.

4 (Court in recess for short break.)

5 (Court in session after short break.)

6 THE COURT: Everybody have a seat. Thank you.

7 All right. I made a call down to the Youthful Offender
8 Division trying to make a determination of something and
9 I've not yet gotten an answer from the person I want to
10 speak with.

11 I'm going to take this under advisement until we
12 reconvene tomorrow.

13 All right.

14 MS. NELSON: Yes, sir.

15 THE COURT: We'll continue on Friday. I want to get an
16 answer on an issue that has come to my attention before I
17 make a sentence on this. I'll accept the plea and defer
18 sentencing until I receive more information.

19 MS. NELSON: Yes, sir. Thank Your Honor.

20 (This proceeding was recessed on September 1, 2011.)

21 (This proceeding reconvened for sentencing on September 2,
22 2011.)

23 MR. HODGES: Donkevis Jones. This was the plea from
24 yesterday. His sentencing is today.

25 THE COURT: All right. Solicitor.

1 MR. HODGES: Your Honor, we're back on the record on
2 Donkevis Jones, indictments, 2011-1610, 1609 and 1613 and
3 1614. Mr. Jones is represented by Janna Nelson of the
4 Greenwood bar. Mr. Jones was before Your Honor yesterday
5 for a guilty plea. We are back this morning for the purpose
6 of sentencing. The victim on the burglary, Mr. Boggs (sp)
7 was not present yesterday but he is present at the bar with
8 me this morning.

9 THE COURT: Mr. Boggs. Does he want to be heard?

10 MR. HODGES: Yes, Your Honor.

11 THE COURT: All right. I want to make certain that she
12 can hear you and I want to make certain that I can hear you.

13 MR. BOGGS: Your Honor, I'm Brad Boggs, the victim in
14 this case. Being that the economy is like it is this really
15 was a big downfall to me. Not in regards to - the stuff was
16 recovered, but the nature of this crime. It has -- you
17 know, the person didn't take any consideration of the safety
18 of us or hisself or the officers involved. Not only did the
19 officers feel that the danger was there, that they had to
20 pull their weapons, but they had to use their weapons during
21 this.

22 Your Honor, with the economy being what it is, I've
23 been in business 25 years and had the result of this been to
24 try to make ends meet, just started this business prior to
25 this, six months prior to this, put about all my savings

1 into it. Had he been successful in fleeing with all my
2 property it would have had me shut my doors and go home. I
3 have a wife and two kids that I support. This is -- you
4 know, this is something that I feel like he didn't take any
5 consideration of his actions, the safety of himself or the
6 officers or anybody else. I would ask that he get the max,
7 just for your considering.

8 THE COURT: This is kind of the riddle I'm always faced
9 with.

10 MR. BOGGS: Sir?

11 THE COURT: If I give the maximum amount of time he's
12 exposed to do you have any idea -- this is a consideration.
13 They changed the law 18 months ago, severely changed the law
14 regarding your truck.

15 MR. BOGGS: Yes, sir.

16 THE COURT: Two years ago, it was grand larceny, now
17 it's petit larceny. It carries 30 days. It used to carry
18 up to 10 years. They've pushed things down. The reason
19 being is that it costs you, the taxpayer, \$16,000 a year,
20 plus, to house one prisoner.

21 MR. BOGGS: Yes, sir.

22 THE COURT: So what the General Assembly did was made a
23 push to try to give alternative sentencing to get people
24 supervised and not maintained and housed so that maybe they
25 could maybe work and get the money to pay restitution. So

1 if I grant your request and put him away for the max it cost
2 taxpayers more and you never get anything. Your business is
3 billed for damages, so to speak, so that basically it goes
4 away so there's no chance that you ever get restitution if I
5 grant your request for maximum jail time. It's kind of a
6 riddle I'm struggling with with every plea. Punish them or
7 provide an opportunity to get you some more money. It's
8 tough.

9 MR. BOGGS: I do respect that in regards -- you know,
10 I'll trust your judgment on that.

11 THE COURT: We don't handle that today.

12 MR. BOGGS; I can --

13 THE COURT: We will have a full hearing and talk to
14 everybody.

15 MR. BOGGS: What I was going to add, though, that being
16 this time we do not have any insurance on this side of the
17 building so I did not have no coverage at all there. So I'm
18 having to pay for all this out of my pocket beforehand, so
19 --

20 THE COURT: I wish I could fix that for you.

21 I want you to know the judges know exactly what your
22 burden is. Similar people come in here in similar
23 situations every day. Lady in here yesterday, a neighbor
24 stole everything she had while she was at work. I find that
25 worse than him breaking into your place. He was let in.

1 Picking her clean. She didn't realize -- though times for
2 everybody.

3 MR. BOGGS: Yeah.

4 THE COURT; I appreciate your comments.

5 Anything else from the State?

6 MR. HODGES: That's all from the State.

7 MS. NELSON: Your Honor.

8 THE COURT: Ms. Nelson, do you want to be heard further?

9 MS. NELSON; Just briefly, Your Honor. I just want to
10 say that this young man is 20 years old and obviously Mr.
11 Boggs is right and he wasn't thinking about consequences
12 when he chose to go in there and do what he did. We see
13 that a lot of times in young people who -- whose brains are
14 not fully developed to the point where they completely
15 understand consequences.

16 I know -- I know that Mr. Boggs doesn't have any
17 connection to this you man as a person other than the fact
18 that he was victimized by him, but I'm quite certain that if
19 it was his own child he -- and his child made a mistake and
20 got convicted of a crime that he wouldn't want to see that
21 kid go do that max in prison, and I know that because I
22 represent his son on a charge pending in General Sessions
23 Court, and now I think because of what's going on here I'm
24 going to have to move to be relieved and have different
25 counsel appointed on that case, because I don't see how I

1 can zealously cross-examine Mr. Boggs at the restitution
2 hearing . I don't know -- it just feels wrong. I don't
3 know if it's an actual conflict, but it feels wrong in my
4 gut.

5 THE COURT: That would put you in a very serious spot.

6 MS. NELSON: Yes, sir. But I just -- I just ask you to
7 remember that this young man has no prior record other than
8 the simple possession and his older co-defendant who did
9 have more of a record received probation yesterday, and I'm
10 just strongly urging the Court to give Donkevis the same
11 consideration, Your Honor. I understand the circumstances
12 were bad, but again, if this was -- if this was any other
13 kind of business where somebody had been in real trouble for
14 the first time there would have been a probation offer on
15 this case to begin with. I still think that is appropriate,
16 Your Honor, and would ask the Court to please give this
17 young man a chance.

18 THE COURT: All right. Anything else?

19 MS. NELSON: Nothing further, Your Honor.

20 MR. HODGES: That's all for the State.

21 THE COURT: All right. I accepted his plea yesterday.
22 He waived his rights to plead to these charges voluntarily.
23 At this time, I'm not going to sign the restitution order
24 because a restitution hearing is required. The schedule --
25 hopefully October term -- subject to everybody availability.

1 On the petit larceny, sentence of the Court is that he
2 is sentenced to 30 days, credit for the 30 days he's already
3 done. On the indictment 1610, burglary second, sentence of
4 the Court is that he be committed to the Department of
5 corrections for a term of 134 days and credit for the 134
6 days he's done. On the assault and battery, sentence is the
7 same. He is to be committed to the Department of
8 Corrections under the Youthful Offender Act not to exceed
9 six years. These are to run concurrently with one another.
10 Restitution can be paid while on Youthful Offender parole
11 she he make parole and as are all youthful offender inmates
12 are available for shock he will be available for shock if he
13 meets the criteria and then when he's done come back and
14 we'll have the restitution hearing.

15 MS. NELSON: Your Honor, can I ask you to consider
16 something. I fully expect that Donkevis will make it into
17 the shock program. Would you consider retaining
18 jurisdiction of this case in the event he is not deemed
19 eligible for shock and potentially revisit --

20 THE COURT: I don't have any issue with that. I'll be
21 glad to.

22 MS. NELSON: You would revisit it if he doesn't get it.
23 Thank Your Honor.

24 THE COURT: Be glad to.

25 MS. NELSON: Thank Your Honor. I appreciate that.

1 THE COURT: All right.

2 MS. HODGES: Thank Your Honor.

3 THE COURT: Anything else?

4 MS. NELSON: Nothing further. Thank you very much, Your
5 Honor.

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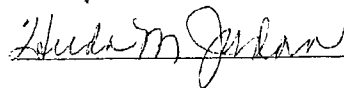
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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE HEARING IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR GREENWOOD COUNTY, SOUTH CAROLINA, ON THE 1 DAY OF SEPTEMBER, 2011.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



Hilda M. Jordan, CVR-M

November 29, 2013

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSION
COUNTY OF GREENWOOD) FOR THE EIGHTH JUDICIAL CIRCUIT
THE STATE) Warrant Number(s):
M078147; M078152; M078172; M078146;
M078148; M078149; M078173
v.) Indictment Number(s):
Donkevius Durell Jones)
Order Amending Sentence

This matter came before the court on the motion of the defendant, Donkevius Durell Jones, for an order amending the sentence. On September 1, 2011, Defendant pled guilty before this Court on charges of Burglary 2nd (Violent), Assault and Battery in the First Degree (two counts), and Petit Larceny. Defendant received a sentence of time served on the Burglary and Petit Larceny charges, and a sentence under the Youthful Offender Act, not to exceed six years, on the two Assault and Battery charges, to run concurrently, and with a recommendation that Defendant be screened for the Shock program. On request of counsel for Defendant, the Court agreed to retain jurisdiction of the case in the event Defendant was not accepted into the Shock program. The issue of restitution was held in abeyance.

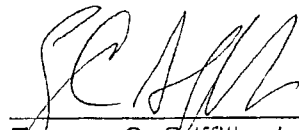
Defendant was subsequently screened for Shock and the Department of Corrections determined that he was ineligible for the program due to the conviction for Burglary 2nd (Violent). Based on Defendant not being admitted into the Shock program, this matter came before the Court requesting that Defendant's sentence be amended. After hearing from the Defendant, his attorney, and two of the three victims in the case, the Court finds that Defendant's motion should be granted and his sentence is amended as follows:

FA

1. The time served sentences for Burglary 2nd (Violent) and Petit Larceny remain unchanged.

2. The Youthful Offender Act sentences for the two counts of Assault and Battery in the First Degree are hereby vacated and amended to a six (6) year term in the Department of Corrections, suspended upon the service of 15 months and 36 months probation, credit for 134 days served, with probation to terminate after Defendant complies with all conditions of probation, including payment of court costs, fees, and any restitution that may be ordered at a future date. These two sentences are to run concurrently with one another and with the time served sentences on the Burglary and Petit Larceny charges.

IT IS SO ORDERED.



Eugene C. Griffith, Jr.
Presiding Judge, Eighth Judicial Circuit

Oct 26, 2011
Hawley, South Carolina

State of South Carolina)
) Court of General Sessions
County of Greenwood) 2011-GS-24-1613

State of South Carolina)
) Transcript of Record
)
Donkevis D. Jones)
) DEFENDANT

December 18, 2012
Greenwood, South Carolina

B E F O R E:

Honorable Frank R. Addy, Jr., Judge

A P P E A R A N C E S:

Andrew Hodges, Assistant Solicitor
Attorney for the State

Janna Nelson, Public Defender
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

I N D E X O F W I T N E S S E S

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(IC) - Denotes In Camera
(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

(SW) Michelle Boggs

Direct examination by Mr. Hodges: 18
Cross-examination by Ms. Nelson: 29

(DW) Donkevis Jones

Direct examination by Ms. Nelson: 34
Cross-examination by Mr. Hodges: 40

Certificate of Reporter 53

E X H I B I T S2 State's

3	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
4	1	Damage		X	28
5	2	Receipt		X	28
6	3	Receipt		X	28
7	4	Receipt		X	28
8	5	Invoice		X	28
9	6	Estimate		X	28
10	7	Receipt		X	28
11	8	Invoice		X	28
12	9	Scooters Form Walmart		X	28
13	10	Invoice		X	28
14	11	Photo		X	28
15	12	Photo		X	28
16	13	Photo		X	28
17	14	Photo		X	28
18	15	Photo		X	28
19	16	Photo		X	28

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22 Defendant's

23	1	Pay Stub		X	35
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25

1 know that Judge Griffith apparently sentenced Mr. Jones
2 back on September 1st of 2011. He received a sentence
3 under the youthful offender act not to exceed six years.
4 And then under the restitution portion he noted a hearing
5 required and checked the box section.

6 MR. HODGES: Your Honor, just to explain. There was
7 a complication with the youthful offender sentence. Judge
8 Griffith retained jurisdiction, actually he sentenced him
9 to an adult sentence later on in the year, I think in
10 December.

11 MS. NELSON: That happened, Your Honor, they would
12 not screen him for shock and were going to hold him on a
13 three year day for day which was not the intent of the
14 sentence.

15 THE COURT: All right, Ms. Nelson, you had some
16 motions that we need to address.

17 MS. NELSON: Yes sir, Your Honor. It is really, I
18 suppose it is really just one motion that has sort of, has
19 two grounds. I am asking you to make a ruling that the
20 restitution hearing not be held for two reasons. One is
21 because of the obvious delay that you can see from the
22 date of the sentence back in September of 2011. We are
23 looking at about a year and three months in now since
24 Donkevis was sentenced and through no fault of his own
25 this delay has happened. After the resentencing in

1 October of 2011 he was deemed to have finished his time in
2 December of last year. He was arrested on this charge
3 back in April of 2011, was never released from custody,
4 sentenced in September, released from prison in December.
5 On his release from prison he started his three year
6 probationary term, I believe that was going to be
7 probation to terminate upon payment. And he has been out
8 since late December of 2011 with no movement made on this
9 hearing whatsoever. The reason we did not do the hearing
10 at the time of sentencing, my best recollection was on the
11 day of the sentence I was presented with a restitution
12 order that was in excess of \$22,000.00 dollars. And the
13 only documentation that I saw for that was a list that was
14 provided with discovery that the victim, Mr. Boggs, made
15 up and provided to law enforcement. At least half of that
16 amount was for property that had been recovered and
17 returned. This was a, just for some background, this was
18 a burglary that occurred at Lakeland Cycle, it is a
19 motorcycle shop that Mr. Boggs owns. And there were
20 several, I guess, dirt bikes, ATV's, small bikes taken and
21 put on the back of a truck. The truck was driven some
22 distance and everything was recovered that same day and
23 all of the stuff was recovered. What Donkevis plead to
24 was the burglary, for going into the building. He plead
25 to a petty larceny for taking the truck that they drove

1 off in that had the vehicles on, the ATV's and bikes on
2 the back and a trailer. And he plead to two counts of
3 assault and battery that are unrelated to this restitution
4 hearing, that was based on an allegation that the officers
5 were in the path of the vehicle as it was being driven out
6 of the business. And so the assault charges were against
7 the officers who arrived on the scene before the burglary,
8 while the burglary was in the process of being committed.
9 So there is nothing on those charges that would be
10 presented here at this hearing. The problem that I have
11 with the delay, Your Honor, is that Donkevis has now
12 already been on probation for a year, has been paying his
13 fees, doing what he is suppose to do, has not been in
14 additional trouble since he was released. And he has now
15 had a year when if restitution had been ordered in a
16 timely fashion he could have been paying and now that year
17 is lost. And if he is now ordered to pay a full amount of
18 restitution he is prejudiced by that loss. I know there
19 is a provision now where people can be extended for
20 administrative supervision and it is our opinion that that
21 prejudices him as well because who is to say he couldn't
22 have paid things off if restitution is appropriate without
23 having his probation extended. So for all of those
24 reasons I believe his due process rights and fairness
25 rights have been violated by this delay. So that is one

1 ground for asking you not to hold this hearing. Mr. Boggs
2 would still be left with a civil remedy, the time for that
3 has not elapsed. He could certainly file suit against Mr.
4 Jones. There is also another codefendant who has not had
5 his restitution hearing, that is Lamar Lockhart. He was
6 represented by Ms. Patricia Bolen who is now at our office
7 but she was in private practice at the time that she
8 represented him. There is a third codefendant, Mr.
9 Nasrollahi represented who was not put on notice of this
10 hearing and who has already been, he just agreed to some
11 restitution at the time of sentencing is my understanding.
12 So, Your Honor, that is one basis is I just believe this
13 delay that was no fault of Mr. Jones has violated the
14 fairness that should be inherent in this system.
15 Restitution according to the statute is suppose to be a
16 part of sentencing and that sentencing occurred a year and
17 three months ago.

18 The other basis for not holding the hearing is that
19 we believe that the restitution statute itself is
20 unconstitutional because it does not provide for jury
21 trial, for a determination of the amount of restitution.
22 It simply allows a hearing to be held. Case law says on
23 the one hand restitution is not suppose to be punitive but
24 how can it not be punitive if it is a part of sentencing,
25 sentencing is punishment. There is other case law that

1 says restitution is not intended to be a civil remedy and
2 it doesn't seem to me that the legislature can and the
3 court's can have it both ways. If it is a civil and
4 certainly it is akin to a civil proceeding because
5 somebody is seeking money for their losses as a result of
6 someone's actions. And with a civil remedy, under your
7 due process rights would call for a right to have a jury
8 determine the amount of that, of that restitution with all
9 of the evidence rules and everything else that goes along
10 with having a right to a fair trial.

11 THE COURT: At the time of the plea you requested the
12 restitution hearing, did you request a jury trial?

13 MS. NELSON: I did not. And so maybe Mr. Jones, I
14 think he has got a PCR action against me already and you
15 just added another reason that if this is a valid argument
16 that he would have more grounds for a PCR. I did not, I
17 have tried to become much more cognizance of this when
18 this kind of thing goes on and we are not prepared to go
19 forward on restitution hearings by asking for a time limit
20 because this does make something that is already punitive
21 even more punitive. And I have tried to get better about
22 that but I don't believe I asked for a time limit. Ms.
23 Bolen tells me that when Lamar Lockhart, one of the
24 codefendants, plead guilty she did ask Judge Griffith to
25 put a time limit on it and his response was, I am not

1 going to put a time limit but it has to be done within a
2 reasonable time. And, you know, subjective minds are
3 going to argue about what is reasonable. But I certainly
4 don't think a year and three months is going to be
5 considered by most people to be a reasonable amount of
6 time. There was not, as far as I can tell, what has been
7 provided to me, all of that has been available for quite a
8 while. It is not like this delay was caused by some piece
9 of information that did not become available until
10 recently. And again I prepared the order amending the
11 sentence when he was resentenced, that is my work and
12 again I could have very easily put in a provision that a
13 hearing needed to be held within X amount of days after
14 his release from prison and I did not.

15 THE COURT: All right. Solicitor, what is the
16 State's position with regard to the arguments by Ms.
17 Nelson.

18 MR. HODGES: Well, I guess the State disagrees, Your
19 Honor, with regard to the reasonableness argument. I
20 would point out that the sentencing sheet just says a
21 hearing needs to be held, it does not set any particular
22 timeframe for that hearing to be held. And Ms. Nelson
23 says a year and three months. Well, it is actually a year
24 because he didn't get out of prison until December of last
25 year and put on supervision in December of last year. And

1 certainly the State will use the statute as
2 constitutional. I think that has been tested. I think
3 there is case law that indicates that this is
4 constitutional. I don't have any cite's before me but it
5 is my understanding.

6 MS. NELSON: I didn't find that, Your Honor. I would
7 like to see it if it has been upheld on appeal. And the
8 other comment I will make as to him being in prison, that
9 would not have precluded a restitution hearing. They can
10 get folks brought back from SCDC all the time and that
11 would have given him more time to be planning to begin
12 making payments. He could have potentially had family
13 members that would have been willing to help. So, just
14 because the probation wasn't started doesn't mean a
15 restitution could not have been held. I would also state
16 that there is, probably should be some consideration given
17 to, you know, that Mr. Nasrollahi's client has been
18 ordered to pay restitution jointly and several as
19 codefendants. So it potentially could be prejudiced to
20 his client if Mr. Jones is not held accountable for his
21 share of the restitution. That is another consideration.
22 He consented to pay the entire thing.

23 THE COURT: All right.

24 MS. NELSON: Arguably they have got their order at
25 this point for the entire amount that they are claiming.

1 THE COURT: My clerk is assisting in finding me, he
2 has reviewed the Dudley case from the Fourth Circuit Court
3 of Appeals that found this procedure and it is
4 constitutional and researching some additional aspects of
5 this. I would note for the record that in terms of the
6 civil aspect of the restitution hearing, to the extent
7 that there is a civil aspect to it, as far as the passage
8 of time is concerned. Of court, the Court is aware that
9 many cases on the civil side of the docket take much
10 longer than a year and three months to resolve, sometimes
11 they take two, three, maybe even four years before a trial
12 can be had.

13 MS. NELSON: Your Honor, may I comment on that?

14 THE COURT: Sure. Go ahead, Ms. Nelson.

15 MS. NELSON: My comment on that would just be, if
16 there was a civil action pending that would be fine that
17 it took a while. He wouldn't be forced to remain on
18 probation while that was being determined. But the way
19 this works with restitution being granted as part of the
20 sentence he is forced to stay on supervision and go on
21 supervision and have the extra additional costs that go
22 along with all of that.

23 THE COURT: Not to cut you off, Ms. Nelson, I
24 appreciate your position. He is forced to be on
25 supervision because he admitted to committing a crime.

1 So, that is why he is on supervision. I don't think it is
2 terribly substantial or very important that there has been
3 a delay in scheduling this hearing. I don't see where
4 there has been any prejudice from a factual standpoint to
5 Mr. Jones and none has been outlined or explained to me
6 that would constitute prejudice under either a civil
7 standard or a criminal standard. I understand that he is
8 probably anxious to finish up his period of supervision
9 but apparently the restitution hearing was requested
10 because he had issues with the amount that was sought by
11 the State. Having requested the restitution hearing,
12 certainly he could have sought, Mr. Jones could have
13 sought to have this matter heard more expediently than it
14 was. He request the hearing, it is held when, he
15 requested the hearing at the time of the plea. If I had
16 been in your position, Ms. Nelson, I probably would have
17 done the exact same thing. I don't see where he has been
18 prejudiced. I don't see where the fact that he was simply
19 on probation with this matter, hanging in abeyance, I
20 don't see where that in and of itself constitutes the
21 level of prejudice that the defendant's, of due process.
22 So for those reasons and in light of the case I gave first
23 -- my clerk was telling me that his research in the case
24 that the Courts in the Eleventh Circuit and the Fourth
25 Circuit by extension have essentially ruled that this in

1 the nature of a criminal proceeding primarily and even
2 though it has civil aspects to it the right to a jury
3 trial, because the amount of controversy exceeds \$20.00
4 dollars does not necessarily attach. So apparently that
5 is the explicit ruling in the Eleventh Circuit and an
6 inferential ruling in the Fourth Circuit, if I looked at
7 those cases correctly. So, it has not been definitively
8 been ruled upon I think in the Fourth but apparently in
9 the Eleventh it has. So that is where we are.

10 MS. NELSON: May I just have one more comment.

11 THE COURT: Sure.

12 MS. NELSON: I understand your ruling. The only
13 other thing that I want to add is that, I don't think it
14 is Donkevis' responsibility to ask for a hearing. The way
15 the statute reads is that the hearing will be held unless
16 the defendant agrees in open court to the amount. We
17 couldn't agree to \$22,000.00 dollars plus that was
18 unsubstantiated. And I just have to take issue with it
19 being presented as his responsibility then to followup and
20 see that this thing happens more quickly.

21 THE COURT: I understand. Please don't take comments
22 to indicate that I found that Mr. Jones has the obligation
23 of being the moving party on this one. Obviously the
24 State has the obligation to be the moving party. At the
25 same time I am well aware that when matters like this are

1 outstanding sometimes one party is more anxious than the
2 other to have it resolved. And just by making the
3 request, even though Mr. Jones was obviously not in a
4 position to control the docket or insist that the matter
5 be held, certainly he could have made the request and it
6 could have been ignored by the State and certainly if had
7 of made the request and it had been made over and over and
8 over again and then we get to this point and he has been
9 prejudiced substantially or if he was closer perhaps of
10 the termination of his probation I think your argument
11 would be a lot stronger. That is kind of what I am
12 getting at. But I agree with you, it is not necessarily
13 his job to come forward and move for the actual hearing to
14 be held. We are where we are. Call your first witness.

15 MR. HODGES: Your Honor, one thing.

16 THE COURT: Sure.

17 MR. HODGES: There has mention of a third individual,
18 Mr. Lockhart, he has apparently had his probation
19 transferred to Richland County. We were endeavoring to go
20 forward on his case today as well. Agent Reeder may be
21 able to inform the Court, put on the record of what
22 efforts they have gone through to get ahold of him. I
23 don't want there to be an argument down the road if the
24 State is trying to have a restitution hearing on him, the
25 delay between now and whenever that happens is the fault

1 of the State because he has not appeared. So I just
2 wanted the record to be clear on that.

3 THE COURT: Who is his attorney.

4 MR. HODGES: Ms. Bolen who was in private practice
5 and now is with the public defenders office, there was a
6 potential conflict issue that needed to have been resolved
7 today. But he is not here so we can't resolve that. I
8 just want the record to be clear, I don't want there to be
9 an argument six months from now, well, it has been a year
10 and nine months and don't, that could have been resolved
11 today if he were here.

12 THE COURT: Let's approach it this way. Was Mr.
13 Lockhart noticed of this hearing, Mr. Reeder?

14 MR. REEDER: Your Honor, may it please the Court. I
15 left a note on our, what we call our schedule report in
16 the probation department to inform him that I was trying
17 to get in contact with him. I also called a number of
18 people in his family and left a message for the lady to
19 inform him to be here today. I never told him personally
20 but I tried to contact him.

21 THE COURT: Okay. Do you need to interject here. Go
22 ahead.

23 MS. NELSON: We do have I suppose a potential
24 waveable conflict since I represented Donkevis at
25 sentencing and Ms. Bolen represented Mr. Lockhart who, and

1 she is now with our office. I was prepared if Mr.
2 Lockhart showed up and both he and Mr. Jones agreed I was
3 prepared to go forward for both of them. I don't know
4 whether they would have both agreed and I haven't even
5 asked Donkevis about it since Lamar didn't show up. But
6 we received notice of this hearing last week, Ms. Bolen
7 and I. I am not positive what day it was, Thursday,
8 Wednesday, we were told to do it on Tuesday. There is no
9 way he has been notified. Ms. Bolen has made efforts at
10 the numbers that she had and was unable to reach him. And
11 so I just would say, I think, I don't know that I
12 represent Mr. Lockhart but the prejudice argument I think
13 would still be there for him when he hasn't been notified
14 of this hearing.

15 THE COURT: All right. Under the civil rules, when
16 you are dealing with the rule, under 5 of the rules of
17 Civil Procedure for an unliquidated damages hearing notice
18 has to be given, notice is prescribed I believe under Rule
19 4. Notice has to be given to the person against him,
20 judgments sought and that rule prescribed how notices are
21 to be given. I am unaware from my memory of the
22 restitution hearing code section if there is any similar
23 provision on providing notice. My recollection is merely
24 that it says, okay, if there is a dispute hold a hearing.
25 And there is not really a lot of the manner that notice

1 has to be given. So, as much as I appreciate Mr. Reeder's
2 efforts to get in touch with Mr. Lockhart that probably is
3 not proper notice because obviously he has got a right to
4 be present. Therefore, Solicitor, as far as going forward
5 today, if we were to go forward I think that the matter
6 would be binding only upon or the ruling today would only
7 be binding upon Mr. Jones and not Mr. Lockhart.

8 MR. HODGES: I would agree with that, Your Honor. I
9 am not seeking to go forward on Mr. Lockhart. All I
10 wanted to do is, for the record, reflect that the State
11 made efforts to contact the defendant, both by notifying
12 his counsel and by contacting or attempting to contact him
13 through the probation office. Just so the record is clear
14 the State has made efforts to involve him in today's
15 hearing and to avoid further delay in having a hearing on
16 him at a later date. That is all I was trying to do.

17 THE COURT: Call your first witness.

18 MR. HODGES: The State would call Michelle Boggs.

19 MICHELLE BOGGS, being
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Hodges:

23 Q Ms. Boggs, are you one of the owners of the business
24 that is involved in this hearing today?

25 A I am sorry, I didn't hear you.

1 Q Are you one of the owners of the business that is
2 involved in this hearing today?

3 A Yes.

4 Q Are you seeking restitution in this matter around
5 \$6,959.37?

6 A Yes.

7 Q I am going to hand you what has been previously
8 marked as State's exhibit number 1 and ask if you
9 recognize this document?

10 A Yes, I do.

11 Q What is that?

12 A That is a list that we went back through from the
13 original list we had submitted to make sure we did not ask
14 for damages that really were not there.

15 Q Now originally the claim was for in excess of
16 \$20,000.00 dollars, is that correct?

17 A Almost \$23,000.00, yes.

18 Q Can you explain what you did to whittle that down to
19 the figure that you are seeking today?

20 A The 4-wheelers and everything that was originally on
21 the trailer that was stolen, they were brand new, they
22 dumped them off into the building. We had pictures
23 showing that. We were just asked to get together what the
24 damages were and they had just told us the purchase
25 prices, we just used that originally. When we went back

1 and prepared this we did not want to make them pay for
2 things that were not damaged. So we went back through
3 every item and wasn't really damaged or wasn't repaired
4 and just done the repair if it was repaired. And that is
5 how we came to this amount.

6 Q So you were able to go back through and sort of
7 mitigate what the damages were by repairing things as
8 opposed to completely totaling them out?

9 A Correct.

10 Q I am going to hand you a number of different
11 receipts. First of all, State's exhibit number 2. Well,
12 before I ask you that, the first item on your list. Can
13 you explain what that is in reference to?

14 A That was a repair for the electricity where they were
15 inside and had took, I assuming cleaning solution, beer
16 and everything poured in the outlets. It had messed with
17 the electrical box so we had to have an electrician to
18 come back out and correct the wiring for that part because
19 the breakers in that side of that building kept tripping
20 on and off and they said it would possibly be a fire
21 hazard.

22 Q How much was that repair?

23 A \$100.00 dollars.

24 Q You don't have a receipt for that?

25 A No. No, I may have originally when we had got this

1 together back in October of last year but when I looked
2 through them this morning I could not find that receipt.

3 Q All right. How about item number two, tell us what
4 that is about?

5 A That is for the commercial roll up door that Mr.
6 Jones drove the truck out of and we have pictures of that
7 as well.

8 Q I am going to hand you State's exhibit number 2 which
9 is a receipt.

10 MS. NELSON: Which one is it, please.

11 MR. HODGES: It says Lakelands, well, here.

12 Q Is this an invoice pertaining to item number two on
13 your list?

14 A Yes, it is.

15 Q How much restitution is there owed for the
16 replacement of this door?

17 A The full \$840.00 dollars.

18 Q What is the additional \$400.00 dollars that is listed
19 in item two?

20 A That would be the difference in the doors. You can
21 see in the picture that we have the door that he busted
22 out of had the windows across it and it was a better
23 quality door than the one that we could afford to replace
24 it with.

25 Q You had to pay for that out of your pocket?

1 A Yes.

2 Q I am going to show you State's exhibit number 16,
3 what is that a photograph of?

4 A That is the door that he had drove out of.

5 Q That is the door that we are talking about?

6 A Yes. And these places here where this writing is,
7 that is where the windows are, they were just blackened so
8 you couldn't see in.

9 Q Let's move on to item number three then, explain to
10 us what that is for.

11 A For that side of the building that is the actual
12 entry door that you would go into, walk into the building.

13 Q Is the damage to that entry door pictured in this
14 photograph?

15 A It is.

16 Q What was the amount of damage to that particular
17 door, monetary damage?

18 A To replace the door it was going to cost \$800.00
19 dollars and then they were going to charge \$250.00 to
20 install it.

21 Q Have you actually replaced that door?

22 A No, I have not been able to afford to replace it. We
23 put a cover over this.

24 Q A plate?

25 A Yes, a plate over it just to conceal the damage.

1 Q What about item number seven. Explain that to us, if
2 you would.

3 A That was one of the scooters that they had thrown off
4 of the trailer. Originally we thought it was total loss
5 but I believe he put a new switch in it because the switch
6 was broke and a muffler and replaced some of the plastic.

7 Q Now, those are items you actually, that was the cost
8 to you to make those repairs?

9 A Yes. Yes and that does not include any labor for
10 doing it, that is just actual parts.

11 Q And explain item number eight, explain that to us if
12 you would.

13 A That was also a small dirt bike that was on the
14 trailer and again I am assuming the rain, with the
15 carburetor, it had to have a new carburetor put on there
16 and I have that receipt where we had to buy that from
17 Performance Cycle as tell.

18 Q I hand you State's 4, is that the receipt for that
19 particular item?

20 A Yes.

21 Q I will move on now to number nine. If you would tell
22 us what that is about.

23 A That is for the damage where they had tried to steal
24 a truck that was sitting out front and they completely
25 tore up the steering column in the truck and that is what

1 it actually cost to have that fixed.

2 Q And I am going to hand you a photograph, State's
3 exhibit 11. Is that a photograph of the damage to the
4 truck?

5 A Yes, it is.

6 Q State's exhibit number 5. Is this a receipt
7 pertaining to the damage that you just explained regarding
8 to the steering column in item nine?

9 A Yes, it is.

10 Q I move on to item ten, what is the damage that is
11 listed there on item ten?

12 A That is for the actual body damage for the door on
13 the side where it was pried open. The hood and all that
14 is on that truck.

15 Q I will show you State's exhibit number 12. Is this
16 showing the damage to the door?

17 A Yes.

18 Q State's exhibit number 6. Is this a receipt to the
19 repair to that damage to the body of the truck?

20 A Yes.

21 Q And that damage was all done at the time of this
22 burglary?

23 A Yes.

24 Q I will move then to item number eleven. Tell us
25 about that.

1 A That is just from being in that one room where you
2 would go on that side at the main door, just completely
3 trashing it and black all over the carpet, that is
4 cleaning the carpet actually. And it is just. \$12.96 for
5 the cleaning that went into the carpet cleaning. We spent
6 about two hours cleaning the carpet and figured that
7 should be worth at least \$50.00 dollars.

8 Q So y'all did that yourself?

9 A Yes.

10 Q I am going to hand you another Lowe's receipt,
11 State's exhibit number 7. Is that a receipt for the
12 cleaning supplies?

13 A Yes.

14 Q Move on then to item number twelve, what is that?

15 A That was two electric scooters that we had bought
16 from an individual that needed batteries. That was also
17 on the trailer that they had taken, and the rain and
18 electrical doesn't mix so they did not run even with the
19 batteries when we got those back.

20 Q So you have got an invoice for actual repairs to the
21 scooters?

22 A For the batteries I believe is what that one was.

23 Q I hand you State's exhibit number 8, is that a copy
24 of the invoice regarding repairs or for the batteries?

25 A For the batteries, yes.

1 Q And what was the replacement cost of the scooters?

2 A They were \$199.00 each, I believe.

3 Q Is that represented on State's exhibit number 9?

4 A Yes.

5 Q Let's move on to item number thirteen. Can you tell
6 what the damage was there?

7 A I am assuming with tossing the items in this specific
8 dirt bike had transmission issues. It needed a specific
9 gear and it was going to take more to repair it than to
10 completely replace it.

11 Q I will hand you State's exhibit number 10. Is that
12 an invoice regarding the damage?

13 A It is.

14 Q Tell us about item number fourteen.

15 A That was basically just where they were trying to
16 take the bikes in and out, I guess through the walk in
17 door instead of the roll up doors to start with, just
18 scuffing up the walls and everything. We did clean that
19 up and repaint that and we don't have any charge to charge
20 them for that.

21 Q What about item number fifteen?

22 A That was another scooter that had plastic that was
23 broken and the windshield that was broken that they had
24 also tossed over.

25 Q What was the amount of damage there?

1 A That was \$250.00 in parts and then \$240.00 for the
2 labor to replace those.

3 Q I will show you two other photographs, State's
4 exhibit 13 and 14. Does that describe the, examples of
5 the damage that you are talking about?

6 A Number 13 you can see like where the transmission and
7 things, it is leaking the oil out onto the floor where it
8 looks like they apparently tried to start it and were
9 unsuccessful. And then in 14 were some of the units that
10 were actually tossed off the trialer upside down, still in
11 crates, brand new which probably would have been worth
12 more than what they actually took.

13 Q So is this estimate \$6,959.37 pretty conservative
14 estimate in terms of the damages?

15 A Yes.

16 MR. HODGES: Your Honor, I would offer State's 1
17 through 16 into evidence for purposes of this hearing.

18 THE COURT: Any objection?

19 MS. NELSON: No objection, Your Honor.

20 THE COURT: State's 1 through 16 will be in evidence
21 without objection.

22 (Whereupon, State's Exhibit numbers 1 through 16 were
23 admitted into evidence.)

24 MR. HODGES: Please answer any questions Ms. Nelson
25 may have for you.

1 MS. NELSON: Your Honor, I can tell you just off the
2 bat, as to number two, the \$840.00 dollars to replace the
3 garage door, we will stipulate to that. As to number
4 four, the lock set on the door, we will stipulate to that.
5 We don't have any issues with, we would not agree to the
6 additional \$400.00 dollar cost that is listed in number
7 two but the actual cost that they paid to replace that
8 garage door we would stipulate to.

9 THE COURT: Okay.

10 CROSS-EXAMINATION

11 By Ms. Nelson:

12 Q How much did your insurance cover, Ms. Boggs?

13 A None.

14 Q Do you have insurance on the building?

15 A No, I do not.

16 Q So not having insurance, you didn't have anything
17 there to cover it?

18 A No. I could not afford it. We had originally taken
19 everything that we had in savings and purchased that
20 business into something that neither one of us had ever
21 done previously.

22 Q All I was asking was, if you didn't have insurance on
23 the building then you couldn't file a claim, right?

24 A Right.

25 Q In part of the documents that Mr. Hodges provided to

1 me there is some sort of document from Foremost Insurance
2 Group. Do you know what that is?

3 A That is where the \$1,221.00 for the truck that they
4 paid, that truck has collectors insurance. The insurance
5 we had on that truck is \$25,000.00 because completely
6 restored that is what that truck is worth.

7 Q That was just for the vehicle?

8 A Yes. When the insurance paid it they dropped what my
9 truck was worth. Every time they have to pay me something
10 for damages on that truck they drop the amount that it is
11 worth. And to get it back to my \$25,000.00 I have to pay
12 what they paid me back to it to where if it is total loss
13 or anything like that it would pay the full \$25,000.00.
14 Like right now it is down, less the \$12,021.00.

15 Q And when you are talking about that truck you are
16 talking about the 1971 Chevrolet that Mr. Hodges showed
17 you a picture of?

18 A Yes.

19 Q You mentioned as to number three the cost of
20 replacing your entry door. You mentioned putting a cover
21 on that to cover up the damage. Was there some cost to
22 you for that?

23 A Yes.

24 Q That is in the \$5,344.00?

25 A Yes.

1 Q Okay. We have already said we don't dispute that.

2 And the carpet cleaning in number eleven, you said you did
3 that cleaning yourself?

4 A Yes.

5 Q That wasn't something that you hired out to anybody?

6 A No.

7 Q And number twelve, regarding the Razor Electric
8 Scooters. Mr. Hodges introduced a printout of the
9 replacement cost of those. Did y'all actually replace
10 those two scooters?

11 A No, I have not. I have not had the funds available
12 to replace those but I do still have the batteries that go
13 in them.

14 Q Were those two scooters actually part of the things
15 that were taken from the business?

16 A Yes.

17 Q Okay. I would like to show you, if I brought it up
18 here with me. I have got a supplemental incident report
19 here that Investigator Jeff Long prepared and I know you
20 didn't prepare this but back at the back of it all of the,
21 my understanding is that all of the stolen and recovered
22 property was listed in the property report. I would like
23 to hand that to you and ask you if you can find those
24 Razor Scooters on those last two pages for me?

25 A Okay. They are right here.

1 Q Okay. And the loss value listed on the incident
2 report for those is \$150.00 each?

3 A Yes.

4 Q Thank you. I just couldn't find those before, I was
5 marking each one and I couldn't find those. Then I have
6 one more to ask you about. Number fifteen, I don't know
7 how to pronounce that. Alias Scooters?

8 A Alias.

9 Q Are those listed on there, I couldn't find those
10 either.

11 A Let's see. It is not listed on here but I do have my
12 list over there of everything that I turned into them
13 originally but I don't see it, and they could have it
14 listed as piece instead of Alias because the Alias is one
15 that was dumped over in the shop, I believe which is this
16 right here. Picture thirteen, this is the Alias that is
17 completely dumped over.

18 Q Did it stay in the shop or did they actually move
19 that from the shop?

20 A Yes, it is sitting right here. You can see it right
21 here in this picture.

22 Q Is this inside of the shop, this photograph?

23 A Yes.

24 Q And was this, I am just trying to get it straight.
25 You are telling me this scooter was taken and returned or

1 it never left the shop, which one?

2 A This one I am not sure but I know this one didn't
3 because they did not take any in the crates, they dumped
4 all of those in the shop. Those are the ones, when you
5 take a Moped and you turn it upside down you let the oil
6 and gas, any of that stuff all mixes. That is what this
7 is, it broke the plastic that is on it, even though it is
8 in a crate, it is not in a full crate, it is just bars.
9 That is why it is broke in plastic, the windshield got
10 broken.

11 Q So that might explain why it was broken but may not
12 have been taken?

13 A Right. And there was probably five or six of these
14 as well that was in there.

15 Q When was this list of fifteen items prepared, Ms.
16 Boggs?

17 A The last time we came to court they had them then
18 along with, I had left pictures and copies of all of these
19 receipts.

20 Q And how long ago was that, the last time you came to
21 court?

22 A When he had his resentencing and we did not get to do
23 the restitution hearing then because of that.

24 Q So you had this list, if his resentencing was in
25 October of 2011 you had the list at least since then?

1 A Yes. And we have called, we have emailed trying to
2 get this hearing done. And the docket would not allow it
3 to be heard.

4 Q I see. That is all I have.

5 MR. HODGES: Nothing further.

6 THE COURT: Thank you, Ma'am, you can step down.

7 MR. HODGES: That is all I have.

8 THE COURT: Anything, Ms. Nelson.

9 MS. NELSON: I call Donkevis Jones, Your Honor.

10 THE COURT: Mr. Jones, if you will come up, please.

11 DONKEVIS JONES, being

12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Nelson:

15 Q Donkevis, will you give your name, please.

16 A Yes. Donkevis Durell Jones.

17 Q What do you do for a living?

18 A I work at Carolina Pride, I drive forklifts.

19 Q You work at Carolina Pride driving a forklift?

20 A Yes, ma'am.

21 Q How long have you been doing that?

22 A I have been working there since June, I have been
23 there almost eight months now, eight months.

24 Q You started working there shortly after you got out
25 of prison?

1 A Yes, ma'am. Since March, like the end of March I
2 started working there.

3 Q And how much do you make?

4 A \$7.25.

5 Q Have you got your most recent check stub with you,
6 Donkevis?

7 A Yes ma'am, I do.

8 Q And how much does that cover at work?

9 A Twenty-eight hours.

10 Q Is that for a week or two weeks?

11 A A week.

12 Q So that is your stub for one week?

13 A Yes, ma'am.

14 Q Is that a copy of the same stub you are holding right
15 now?

16 A Yes, ma'am.

17 MS. NELSON: Your Honor, I would like to introduce
18 that as defendant's exhibit 1.

19 THE COURT: Without objection.

20 (Whereupon, Defendant's Exhibit 1 was admitted into
21 evidence.)

22 Q So is approximately 28 hours a week, is that about as
23 much Carolina Pride can give you right now?

24 A Yes, ma'am.

25 Q And you, I am sorry, you said you make \$7.25 an hour?

- 1 A Yes, ma'am.
- 2 Q Do they take anything out of your check?
- 3 A Yes, ma'am. They take child support out.
- 4 Q How much is that?
- 5 A \$64.86 a week.
- 6 Q Every week?
- 7 A Yes, ma'am. Plus service fee of \$3.00 dollars every
- 8 week.
- 9 Q So what was your net pay on your most recent check
- 10 then?
- 11 A \$126.40.
- 12 Q The child support that is taken out of your check, is
- 13 that for how many children?
- 14 A Just one. My other child, I just give her money
- 15 every month.
- 16 Q So you have two children?
- 17 A Yes, ma'am.
- 18 Q And one of them, the support is taken out of your
- 19 check?
- 20 A Yes, ma'am.
- 21 Q And the other one, you just directly give that
- 22 child's mother money?
- 23 A Yes, ma'am.
- 24 Q About how much do you give that child's mother a
- 25 month?

1 A I give her \$100.00 a month, \$50.00 dollars every two
2 weeks.

3 Q And you are currently on probation?

4 A Yes, ma'am.

5 Q You are paying a \$50.00 dollar a month supervision
6 fee?

7 A Yes, ma'am.

8 Q Do you have other probation cost you have to pay?

9 A I just have to pay, well I have to pay, along with
10 the probation I have to pay my clerk fees and all of that,
11 the clerk of court fees and that is, I owe like, they tell
12 me to pay what I can on it but I owe for both of my
13 charges that I was in here for. I owe \$105.00 dollars on
14 overcharges.

15 Q You owe \$210.00 still to the clerk?

16 A Yes, ma'am.

17 Q And then you have other probation costs that you have
18 to pay as well?

19 A Yes, ma'am.

20 Q So we have talked about your probation cost, your
21 child support cost, who do you live with?

22 A I live with my mother.

23 Q Do you have any living expenses as a result of living
24 with your mother?

25 A Yes, ma'am.

1 Q What are those?

2 A I give her money every two weeks to help her out with
3 the groceries and the bills she has to pay.

4 Q So you don't just freeload off of your mama?

5 A No, ma'am.

6 Q How much money do you try to give her?

7 A I usually try to give her about \$50.00 dollars a
8 week, every two weeks I give her \$50.00 dollars and I give
9 my baby's mother the other \$50.00 dollars.

10 Q So you just kind of, you split up, essentially you
11 are splitting up your paycheck between your mother and
12 your child's mother?

13 A Yes, ma'am.

14 Q And you were sentenced to do three years of
15 probation, you have about two years left?

16 A Yes, ma'am.

17 Q And I need to switch to asking you some stuff about
18 the actual incident. And you don't dispute that y'all
19 damaged that garage door at the business, do you?

20 A No ma'am, I did.

21 Q You heard Ms. Boggs talk about some damage to an
22 electrical box or a breaker box or something like that.
23 Did you do any damage to a breaker box?

24 A No, ma'am. I went in there and we tried to get what
25 we could. We wasn't thinking about tearing up no

1 building. We were just getting what we wanted and get out
2 of there. And we weren't in the building no longer than
3 ten minutes, you know what I am saying. So it wasn't no
4 go in the building and tear up this and tear up that. It
5 was go in the building and get this and get that and get
6 out of there. If something was tore up we ain't grabbed
7 that, we got what we could get and get out of there. It
8 wasn't a fixing to go in here and terrorize this place
9 because, we just got what we could and got out of there.
10 And by that period of time before we got ready to get out
11 of there the police was out there.

12 Q Do you have any idea how long it was between the time
13 you left the business and the time the truck was found
14 with the bikes on it?

15 A It was not longer than like, it wasn't, it probably
16 was four minutes or five minutes at the max. Because the
17 police, they seen which way I went and they, it was like,
18 it wasn't even a mile up the road where they found the
19 truck at. It wasn't like this is going to be my getaway
20 car, I am going to take this where ever I am going. It
21 was I am going up here and I am getting out of this car
22 and I am going to get on with my business, get away on
23 feet.

24 Q Did you hear Ms. Boggs talk about some damage to a
25 1971 Chevrolet truck?

1 A Yes, ma'am.

2 Q You did not plead guilty to doing anything to that
3 truck, did you?

4 A No, ma'am.

5 Q What you plead guilty to was burglary for going into
6 the building?

7 A Yes, ma'am.

8 Q And you plead guilty to assault on the two police
9 officers?

10 A Yes, ma'am.

11 Q That doesn't have anything to do with any of this?

12 A No, ma'am.

13 Q And you plead guilty to a petty larceny for taking
14 the truck that y'all actually drove off in?

15 A Yes, ma'am.

16 Q Which was not the same truck, this 71 Chevy?

17 A Truck that she was talking, Yes, ma'am.

18 Q And you didn't have any opportunity to profit in any
19 way from taking any of this stuff, did you?

20 A No, ma'am.

21 Q I don't have anything else. Please answer any
22 questions Mr. Hodges may have.

23 CROSS-EXAMINATION

24 By Mr. Hodges:

25 Q Just a couple of questions, Mr. Jones. Would it be

1 fair to say when y'all were doing this burglary and y'all
2 were nervous and didn't want to get caught I assume.

3 A I mean, I ain't going to say we were nervous because
4 we know what we were going in there to do. It was a go in
5 here and do this and get out of here. I mean, it wasn't
6 like, I mean I am not sitting up in a brag way, it wasn't
7 my first time doing something like that.

8 Q Were y'all in a hurry to get in and get out?

9 A Yes, get in and get out. I mean, but like I say, we
10 ain't go in there and no computers, no drinking or
11 anything like that, didn't have time to do that. If you
12 are doing something you are going to do in a matter of a
13 time, you set an appointed time.

14 Q Would it be fair to say, I guess, that y'all were in
15 a hurry to get in there and get out. You are not being
16 real careful as far as what you are doing in there, I mean
17 you are trying to get it done and get out of there, right?

18 A I mean, like I said, I ain't going to say I was in a
19 rush but we had a time of how long we wanted to be in
20 there.

21 Q Y'all weren't being very careful about other stuff
22 that might have been in the way. You are getting it
23 loaded up and going, right?

24 A We got what we wanted and put it on the truck and got
25 out of there, anything that was in there that we didn't

1 want it we didn't touch it.

2 Q You said you had been working for, what did you say,
3 about?

4 A Since March.

5 Q What is that, about eight months, nine months?

6 A About seven or eight months.

7 Q You make about \$7.25 an hour and about 28 hours a
8 week?

9 A Yes, sir.

10 Q So you are expecting to get a tax return this year?

11 A Probably not because when I was in prison I was on
12 child support so I am behind on that and they are probably
13 going to take what they want out of that.

14 Q Do you have any idea of how much your tax return is
15 going to be?

16 A No, sir.

17 Q You haven't filed it yet, haven't done the paper work
18 yet?

19 A No sir, I haven't filed. I haven't got my W-2 forms.
20 yet.

21 Q That is all I have.

22 A Thank you, sir.

23 MS. NELSON: Nothing further, Your Honor.

24 THE COURT: You came step down. Any additional
25 witness, Ms. Nelson?

1 MS. NELSON: Nothing else, Your Honor.

2 THE COURT: Anybody want to point out anything to me
3 that I may have misused or briefly argue the question?

4 MS. NELSON: I do need to make a few comments, Your
5 Honor.

6 THE COURT: Go ahead, please.

7 MS. NELSON: I just would, I am asking that you
8 obviously consider Donkevis' ability to pay. You have
9 seen the amount of money he makes. I am asking you to
10 also to consider the fact that he has only got two years
11 of probation left. And again I am asserting through no
12 fault of his own, he has lost the opportunity to be paying
13 the court anything at least the past nine months since he
14 has been working. I would also ask that you consider,
15 Your Honor, the restitution statute provides that the
16 amount of restitution is supposed to be paid by the time
17 the person has done a percent of their probationary
18 sentence. I would submit that that should also affect or
19 reduce the amount that is being requested. There is a
20 substantial part of the money that is being requested for
21 damage to a truck that Donkevis did not plead guilty to
22 have anything, to having anything to do with. I don't
23 think that you can consider items number nine and ten in
24 awarding restitution because he has not been convicted or
25 done anything to that 1971 Chevrolet truck. The other

1 thing I would say, Your Honor, is that it was a very brief
2 amount of time between the time these items were taken and
3 the time that they were recovered. There has been no
4 evidence presented at all on whether any of these things
5 were in working order, any of the things that damage is
6 being claimed to, whether they were in working order ahead
7 of time. Without any evidence to show that the repairs
8 were not already needed I don't think that you can hold
9 Donkevis responsible for those amounts either, Your Honor.
10 Finally I would ask you to consider that there are two
11 other codefendants in this matter and I would ask that you
12 adjust the amount of restitution to reflect Donkevis'
13 one-third share rather than to hold him jointly and
14 several liable for whatever you feel the total correct
15 amount of restitution is which we certainly submit is much
16 less than the \$7,000.00 dollars claimed. And that is all
17 I have, Your Honor.

18 THE COURT: All right.

19 MR. HODGES: Your Honor, I ask you to recognize that
20 the victims in this case did everything that they could to
21 mitigate the damage, to fix things themselves as opposed
22 to inflating the amount of restitution by hiring out,
23 having other people to do the work. And it would just be
24 the State's position that this is a conservative request
25 for their part of the restitution. Other than that Your

1 Honor can certainly consider what you have heard from the
2 stand.

3 MS. NELSON: Your Honor, one final thing as far as
4 mitigation by the victims. I know this whole thing is not
5 their fault but the main things folks do to mitigate
6 losses is to have insurance. And there isn't, I know the
7 restitution statute, if there was insurance does that
8 necessarily prohibit a double recovering but Mr. Hodges
9 brought up mitigation. I just add that for the record.

10 THE COURT: So I assume that your client was covered
11 by a liability policy that they could go against?

12 MS. NELSON: Well, no sir. He is not but usually--

13 THE COURT: But wouldn't wise people, I mean, I am
14 covered by a million dollar umbrella. I also have auto
15 insurance and things of that nature and typically it is a
16 good idea to have such insurance so that if you even
17 inadvertently or negligently cause damage to someone else
18 there is a possibility of them being made whole. So I
19 guess perhaps your client could not afford insurance just
20 as they could not afford it.

21 MS. NELSON: I was about to say, you have seen the
22 amount of money he makes and that would cut into any
23 restitution you might order.

24 THE COURT: I understand. May I see State's 1,
25 please. One quick housekeeping matter, Solicitor. On the

1 restitution order that was submitted with the indictment
2 attached to the original sentencing sheet, there is a
3 victim, James Devore listed there who is owed \$750.00
4 dollars. Does that ring any bell for anybody.

5 MR. HODGES: I think in regard to the pickup truck
6 that was taken, not from their truck but the other truck
7 that was used to haul the merchandise.

8 THE COURT: I mean we haven't heard about that, do we
9 need to address that at this point. Ms. Nelson.

10 MS. NELSON: Your Honor, I just submit there has been
11 no evidence presented to substantiate that. I don't think
12 we should order any restitution for that.

13 THE COURT: This was a separate victim and a
14 different, I don't know how this happened.

15 MR. HODGES: It is a separate victim.

16 MS. NELSON: Your Honor, if there is going to be the
17 possibility of additional restitution I am asking that you
18 please set a very short time limit on that. If this
19 hearing is going to be supplemented asking him for more
20 money at this point.

21 THE COURT: As seeing how Mr. Hodges will no longer
22 be an employee of the State.

23 MR. HODGES: I will endeavor to contact him this
24 week.

25 THE COURT: Very good.

1 MS. NELSON: I am still asking you to give a time
2 limit.

3 THE COURT: I will. All right. I have reviewed the
4 requirements of 17-25-322 which requires the Court to take
5 into consideration the number of things and ruling on a
6 restitution request or a restitution hearing the financial
7 resources first of which is the financial resources of the
8 defendant and the victim and the burden that the manner or
9 method of restitution will impose upon the victim or the
10 defendant. I interpret this as somewhat of a balancing
11 type of an assessment where I would account for the
12 varying degrees of poverty of both individuals. In this
13 particular case it is apparent that this business, by the
14 testimony that was given, this business was purchased by
15 using every bit of the Boggs' savings. Clearly, based on
16 the testimony, she did not have insurance to insure the
17 building. At the same time the defendant, Mr. Jones, is
18 not making a great deal of money at this particular point
19 and time. I do note that he is only working 28 hours per
20 week and that follows into the second question. The
21 ability of the defendant to pay restitution on an
22 installment basis or have other conditions, on other
23 conditions to be fixed by the Court. I will address when
24 I ultimately rule on this question. The third thing is
25 the anticipated rehabilitated effects on the defendant

1 regarding the manner of restitution or the method of
2 payment. Clearly I believe just as confession is good for
3 the soul, restitution is good for the soul. It certainly
4 puts the parties in equal position and it is a way for an
5 individual to offer contrition for his acts and penitence
6 for the wrong that he has done. So I do believe that
7 there are definite rehabilitative effects that can, that
8 one can enjoy if they are required to pay restitution.
9 The fourth, any burden or hardship upon the victim as a
10 direct or indirect result of the defendant's criminal
11 acts, clearly this business was disrupted for a period of
12 time without insurance. The victim's were left to deal
13 with this on their own. I have no doubt that this
14 affected overall the business' ability to operate. And
15 finally the mental, physical and financial wellbeing of
16 the victim, perhaps mental and physical don't play into
17 this here, certainly the financial wellbeing is what the
18 Court is concerned with. I have had an opportunity to
19 review the witnesses and pass upon the credibility of all
20 concerned. Of course Mr. Jones having been convicted of
21 burglary and the assault charges and the petty larceny the
22 Court is permitted to take that into account in weighing
23 his credibility or accessing his credibility. I have also
24 had a full and fair opportunity to access the credibility
25 of the State's witness, Ms. Boggs. And I have reviewed

1 the fifteen item tick list submitted by the State. The
2 defense does take issue with the body damage to the truck
3 which Mr. Jones' asserts he did not cause. Clearly is the
4 hand of one, hand of all type of situation and I do
5 believe or I choose to believe the credibility of Ms.
6 Boggs with respect to that damage that was incurred to
7 that truck. As far as the commercial door, clearly they
8 replaced the door that was busted out with a door that was
9 not as good, it was not as well insulated. So in order to
10 make the victim whole it is only appropriate that I access
11 the difference between the value of that which was
12 destroyed and the value of what they could afford to
13 replace it with. So I think the \$400.00 dollars is
14 certainly appropriate there. Now the defendant's
15 assertions concerning ability to pay are perhaps are the
16 most relevant in this particular case. I did the math and
17 if Mr. Jones were to devote every penny that he earned at
18 Carolina Pride, assuming a 28 hour work week it would take
19 basically every cent that he earns to pay this in the
20 course of one year. Fortunately there are other
21 codefendants involved in this case. And I think,
22 Solicitor, you said there were two other people who are
23 convicted of this, is that correct?

24 MR. HODGES: That's correct. One has agreed to,
25 around \$7,000.00 dollars. I don't remember the exact

1 amount. And the other is Mr. Lockhart who we have
2 discussed earlier.

3 THE COURT: Certainly, Mr. Jones, if he ends up
4 paying the full amount of restitution of \$6,900.00 dollars
5 he can sue his codefendants as joint tort fees as a
6 contribution. He has a cause of action on the civil level
7 against them if he pays something in excess of his fair
8 share. But ideally I see no reason why all three should
9 not be held responsible for what has taken place here.
10 Therefore even though liability is joint and several, on a
11 realistic level, assuming all things are equal and that
12 all individuals are able to make similar type of payments
13 it would be reasonable that one or that this restitution
14 would be split three ways. And if it is not then
15 certainly Mr. Jones has the right to seek contribution in
16 a civil action against his codefendants. So based upon my
17 review of the evidence and my review of the law I do find
18 that the State has met its burden of proving that the
19 victim in this case is entitled to the full amount that
20 she was seeking of \$6,959.37. If this figure is divided
21 by three clearly Mr. Jones will be able to make sufficient
22 payments assuming the other two are also making sufficient
23 payments the victim should be paid in full. I also note
24 that Mr. Jones is not working a full 40 hour week, nor
25 apparently has he sought a second job that could be used

1 to meet his financial obligations. I do find that he is
2 underemployed or at least he is not working a full 40 hour
3 week like the rest of us and certainly I know that there
4 are several people in this room including myself who at
5 one point and time in their lives, if they were short on
6 money, they picked up a second job in addition to going to
7 college and law school. So there is nothing that prevents
8 him from picking up a second job and using that money to
9 make these people whole. So I do find that he is fully
10 capable of paying and the amount sought by the victims is
11 accurate. That would be my order if you can prepare me a
12 brief one.

13 MR. HODGES: Thank you, Your Honor.

14 MS. NELSON: I have one more thing for the record.

15 THE COURT: Sure.

16 MS. NELSON: You mentioned hand of all, the hand of
17 one, hand of all on the truck. I have just checked with
18 the court records, none of the three defendants who were
19 in this offense plead guilty to doing anything to that
20 truck. And I just need that to be in the record.

21 THE COURT: I understand that but based upon the
22 amount of damage that was done, we are talking about, it
23 looked like the front of the building was absolutely
24 ram-sacked, that rolltop door, the commercial door,
25 practically ripped off. This was a smash and grab

1 situation but instead of going after jewelry or coins or
2 something else they were going after bikes. It would not
3 surprise me at all and I think the State has proven that
4 the damages to the truck are related to this particular
5 burglary. So I am satisfied that even though he did not
6 plead to malicious injury they definitely went in there,
7 they are responsible for what happened after they went in
8 there, that includes the damage to the truck. I
9 appreciate your position though. Prepare me a brief
10 order, please.

11 MR. HODGES: Thank you, Your Honor.

12 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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CERTIFICATE OF REPORTER

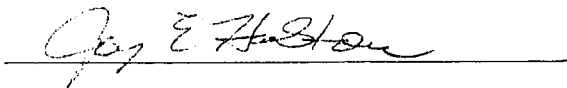
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State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the
Eighth Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete transcript of record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the County of Greenwood, South
Carolina on the 18th day of December, 2012.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

June 9, 2013



Joy E. Holston, Court Reporter

My Commission expires: March 13, 2016

not qualify under the YOA, the court re-sentenced him to a term of 6 years, suspended upon the service of fifteen (15) months and three (3) years of probation.

3. The sentencing judge marked on the sentencing sheet for one ABHAN count that a hearing on restitution was required, but deferred. This court held a hearing on the restitution issue on December 18, 2012. The State was represented by Andrew Hodges of the Eighth Circuit Solicitor's Office. Defendant was represented by Jana Nelson of the Eighth Circuit Public Defender's Office.
4. Based on the testimony of the co-owner of the property, Ms. Boggs, the testimony of Defendant, and exhibits introduced at the hearing, the following damage was caused during the burglary:
 - a. \$100 for electrical repairs
 - b. \$840 for a replacement metal roll-down garage bay door
 - c. \$1,050 for replacement personnel door
 - d. \$53.55 for replacement door locks
 - e. \$150 value of Honda pressure washer
 - f. \$140 for repairs to a Peace Sports scooter
 - g. \$155.97 for repairs to a Suzuki JR80
 - h. \$3,061.50 for repairs to a Chevrolet truck
 - i. \$62.96 for carpet cleaning
 - j. \$398 to replace 2 Razor scooters
 - k. \$258 for repairs to a Coolster dirt bike
 - l. \$490 for repairs to an Aelous scooter
 - m. \$199.39 costs for repairs to the premissis
5. The total pecuniary damages or loss to Victims is \$6,959.37.
6. Defendant makes minimum wage. He has mandatory deductions from his pay for child support and court costs. However, his most recent pay stub indicates that he only works 28 hours a week.

CONCLUSIONS OF LAW

1. South Carolina's victim restitution statute, S.C. Code Ann. § 17-25-322 does not violate the Seventh Amendment's guarantee of a jury trial in a civil action where the amount in controversy exceeds twenty (20) dollars. A proceeding under the restitution statute is an extension of sentencing and is therefore in the nature of a criminal proceeding. See State v. Gulledge, 326 S.C. 220, 220, 487 S.E.2d 590, 594-95 (1997). A criminal proceeding is not subject to Seventh Amendment scrutiny. Cf. United States v. Dudley, 739 F.2d 175, 178 (4th Cir. 1984) ("It is not enough simply to point out that money may pass hands automatically to make a new remedy the equivalent, for Seventh Amendment purposes, of a suit at common law." (citing Slack v. Havens, 522 F.2d 1091, 1096 (9th Cir.1975))).
2. The victim restitution statute does not violate the Sixth Amendment requirement that a defendant "be entitle[d] ... to 'a jury determination that [he] is guilty of every element of the crime with which he is charged, beyond a reasonable doubt.'" Apprendi v. New Jersey, 530 U.S. 466, 477 (2000) (citing United States v. Gaudin, 515 U.S. 506 (1995)). The line of cases regarding judicial fact finding in sentencing only addresses situations where a judge seeks to impose punishment that exceeds a statutory maximum. See United States v. Booker, 543 U.S. 220 (2005); Blakely v. Washington, 542 U.S. 296 (2004); Ring v. Arizona, 536 U.S. 584 (2002); Apprendi, *supra*. As the Nebraska Supreme Court stated in a case examining Nebraska's restitution statute, "all the facts found by trial judges that rendered the sentences unconstitutional were facts that made the defendant's offense more serious or culpable and hence exposed the defendant to a greater sentencing range." State v. Clapper, 732 N.W.2d 657, 663 (Neb. 2007). In the case of a restitution hearing, it is the conviction or plea that authorizes restitution. Id. The court merely determines the amount of damage caused by the Defendant's wrongful acts. Thus, the fixing of a restitution amount merely comports with section 17-25-322's requirement that a defendant's punishment include payment of the full amount of his damage. Id. ("[B]ecause a defendant's conviction authorizes restitution for the full amount of the victim's losses, a judge's fact-finding to determine restitution does not result in punishment that exceeds any statutory maximum

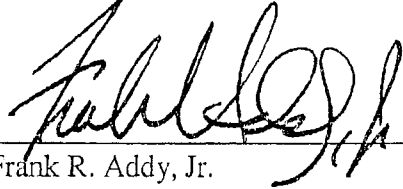
imposed on the defendant's punishment."'). Therefore, the Sixth Amendment does not apply to restitution ordered by this court. United States v. Rattler, 139 F. App'x 534, 536 (4th Cir. 2005) (citing United States v. Flaschberger, 408 F.3d 941, 942 (7th Cir. 2005), cert denied 546 U.S. 996 (2005)). The court's position comports with the majority of jurisdictions that have addressed this issue. See, e.g., People v. Smith, 181 P.3d 324 (Colo. Ct. App. 2007); State v. Maxwell, 802 N.W.2d 849 (Minn. Ct. App. 2011), review denied (Oct. 26, 2011); Clapper, supra. Accord United States v. Leahy, 438 F.3d 328 (3d Cir. 2006) (analyzing the federal Mandatory Victims Restitution Act and Victim and Witness Protection Act); United States v. Milkiewicz, 470 F.3d 390 (1st Cir. 2006) (same); United States v. Carruth, 418 F.3d 900 (8th Cir. 2005) (same).

3. Defendant owes restitution jointly and severally with his co-defendants. Even though Defendant claims he was not directly responsible for some of the damage caused, he is jointly liable for any damage caused during the burglary. State v. Thompson, 374 S.C. 257, 263-64, 647 S.E.2d 702, 706 (Ct. App. 2007) ("[U]nder the hand of one is the hand of all theory of accomplice liability, acts committed by [one defendant] are imputed to [a codefendant] making him guilty of any acts done incidental to the execution of the common design or scheme of the crime." (citing State v. Curry, 370 S.C. 674, 636 S.E.2d 649 (Ct. App. 2006))). Therefore, Defendant should be held jointly and severally liable to assure that Victims are fully compensated. See State v. Cox, 326 S.C. 440, 443, 484 S.E.2d 108, 110 (Ct. App. 1997) (upholding a trial court order where defendants who received lighter sentences were held jointly and severally liability with a third defendant who received a harsher punishment).
4. Although Defendant has limited financial resources, he is currently underemployed and capable of working additional jobs to supplement his income. He is therefore capable of paying restitution on an installment basis. Payment of restitution on an installment basis will be a burden Victims, as they have already incurred the above listed expenses. However, installment payments best ensure that victims will receive full compensation.

5. Victims have suffered a severe financial and emotional burden and hardship because of this burglary. They have invested significant personal resources into the business.
6. Compensating Victims for their damages will further Defendant's rehabilitation.

WHEREFORE, Defendant Donkevis Jones is hereby ordered to pay restitution to Victims as outlined in the attached form Order of Restitution. The Department of Probation, Parole, and Pardon Services shall impose a payment schedule which complies with section 17-25-322.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Circuit Court Judge
Eighth Judicial Circuit

December 21, 2012
Greenwood, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF Greenwood)

IN THE COURT OF GENERAL SESSIONS
EIGHTH JUDICIAL CIRCUIT

The State,)

v.)

Donkevis Jones)

Defendant.)

Order of Restitution

11 -GS- 24-1613 -GS-
-GS-
-GS-
-GS-

SC Code Section 17-25-322(A) provides "in addition to any other sentence which it may impose, the Court shall order the defendant make restitution or compensate the victim..." unless the Court finds a substantial and compelling reason not to order restitution.

Therefore, this Court finds

() Restitution should not be ordered for the following reasons:

~~() Restitution hearing is waived by Defendant, restitution agreed to as shown below.~~

☒ Restitution should be paid by Defendant as a condition of his/her sentence to the designated Victims in the Court-ordered amounts.

() Restitution should be paid by Defendant to the State Office of Victim Assistance (SOVA), provided payment is made by SOVA on behalf of the listed victim(s) in any subrogated amounts paid.

1. Victim: Brad Buggs
Address: 2425 Hwy 246S
Ninety Six SC 29666
Phone: 864-980-7803
Restitution: \$ 6959.37

3. Victim: _____
Address: _____
Phone: _____
Restitution: \$ _____

2. Victim: _____
Address: _____
Phone: _____
Restitution: \$ _____

4. Victim: _____
Address: _____
Phone: _____
Restitution: \$ _____

TOTAL AMOUNT OF RESTITUTION ORDERED: \$ 6959.37

AND IT IS SO ORDERED this 21st day of Dec., 2008, Greenwood, SC.

(See attached)

[Signature]
Presiding Judge

I SO MOVE:

[Signature]
Attorney for the State

I HAVE RECEIVED A COPY:

Defendant

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

THE STATE

v.

Donkevious Durell Jones

) IN THE COURT OF GENERAL SESSIONS
) FOR THE EIGHTH JUDICIAL CIRCUIT

) Warrant Number(s):

) Indictment Number(s): 2011-GS-24-1613

) Motion to Reconsider Restitution Order

TO: ANDREW HODGES, DEPUTY SOLICITOR, EIGHTH JUDICIAL CIRCUIT

The Defendant moves the Honorable Frank R. Addy, Jr. to reconsider the Restitution Order imposed in this case on December 21, 2012. This motion is based on the following:

1. The restitution hearing was held over objection of Defendant after over one year and three months had passed since the date of Defendant's guilty plea. The extreme delay in holding the hearing prejudiced Defendant since he could have begun paying restitution upon his release from prison in January 2012. Due to the prejudicial delay in holding a hearing, the Order should be rescinded and Defendant should not be required to pay restitution.
2. Even if the delay in holding the restitution hearing were determined not to be prejudicial and therefore harmless, the procedure for holding restitution hearings as outlined in S.C. Code Ann. Sec. 17-25-322 is unconstitutional because it deprives the Defendant of the right to a jury trial to determine the amount in controversy. Due to the unconstitutionality of the statute, the Order should be rescinded and Defendant should have the right to a jury trial to determine appropriate restitution.
3. Defendant has been ordered to pay restitution for damages to certain items for which no evidence was offered to show that the damage was not present prior to the crimes for which

Defendant was convicted. Defendant admits to participating in activity which caused damage to a garage door and an entry door to the business, but denies damaging any of the victims' other property, and moreover, did not plead guilty to any offense relating to property damage. It is improper for Defendant to pay restitution for damages to property when he is not convicted of any malicious injury to property charges and it has not been substantiated that certain of the alleged damages occurred due to the burglary charge to which Defendant did plead guilty.

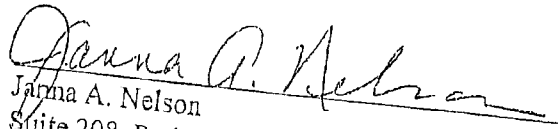
4. Defendant has been ordered to pay restitution for damage to a Chevrolet truck when neither he nor any of his co-defendants were convicted of any charges whatsoever relating to the truck, which was parked in the parking lot of the business. It is improper for Defendant to be ordered to pay restitution for damages to property when neither he nor any of his co-defendants he were convicted of causing said damage.

5. Defendant's ability to pay was not properly considered, as he was characterized as being "underemployed and capable of working additional jobs to supplement his income." Defendant has no education beyond high school and is currently employed as a forklift operator at Carolina Pride, where he works as many hours as the company is willing to give him. Our current national unemployment rate is approximately 7.8%, but in Greenwood County, where Defendant resides, the unemployment rate is much higher, at approximately 9.5%. Based on Defendant's limited skills and the high levels of unemployment our country has experienced since the economic downturn in 2008, Defendant's current income should be considered as the most he is currently able to earn, and the amount of restitution should be adjusted downward based on his ability to pay and the fact that he has only two years remaining to serve on probation.

Therefore, for the foregoing reasons, Defendant respectfully requests that the Court reconsider its Restitution Order and either rescind it in its entirety or reduce the amount Defendant has been ordered to pay to be consistent with the charges for which Defendant is actually convicted and to accurately reflect the evidence presented at the hearing.

IT IS SO MOVED.

Respectfully submitted,


Janna A. Nelson
Suite 208, Park Plaza
600 Monument Street, Box P-133
Greenwood, SC 29646
(803) 229-9505

December 31, 2012
Greenwood, South Carolina

Donkevius Durell Jones

Acceptance of Service

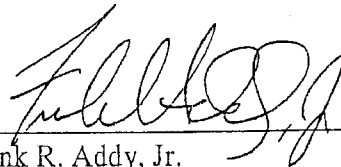
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during this burglary. In weighing the credibility of the witnesses, the court found that all property damage was the proximate result of the commission of the burglary.

4. The court considered Defendant's ability to pay only insofar as it is required by Section 17-25-322(B) in ordering periodic restitution payments. The total amount of restitution is based on the damage caused during the burglary. Defendant's limited skills and the high levels of unemployment in our country have no effect on the cost of the damage to the victims. Furthermore, the amount of the monthly restitution payment is left to the discretion of the Department of Probation, Parole, and Pardon Services pursuant to Section 17-25-322(C). The Department shall determine the monthly amount due to ensure Defendant meets his obligation of \$6,959.37.

WHEREFORE, Defendant Donkevius Jones's Motion to Reconsider is **DENIED**.

IT IS SO ORDERED.

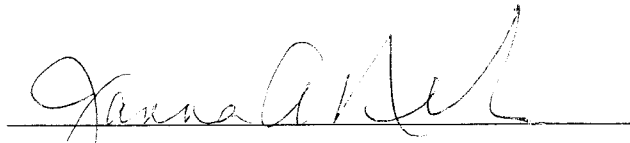


Frank R. Addy, Jr.
Circuit Court Judge
Eighth Judicial Circuit

February 23, 2013
Greenwood, South Carolina

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Janna A. Nelson
600 Monument St., Suite 208
Park Plaza, Box P-133
Greenwood, SC 29646
(864) 229-9505
Attorney for Appellant

December 17, 2014

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JAN 20 2015

SC Court of Appeals

PUBLIC DEFENDER

Circuit Defender for the Eighth Judicial Circuit
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Suite 208, Park Plaza
600 Monument Street
Greenwood, South Carolina 29646
Phone: 864-229-9505 Fax: 864-227-1104

Janna A. Nelson
Circuit Defender

January 14, 2015

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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SC Court of Appeals

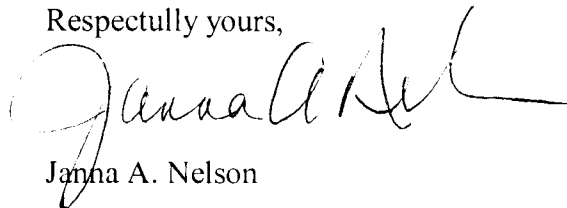
Re: The State v. Donkevious Durell Jones
Appellate Case No. 2013-000548

Dear Ms. Kitchings:

I am forwarding the fifteen copies of the Final Brief of Appellant and fifteen copies of the Record on Appeal. These documents will arrive under separate cover since they are too large for one mailing envelope, and I will provide a copy of this letter in each envelope. I am also enclosing a certification that the brief complies with Rule 211(b), SCACR.

This letter will also certify that on this date I have served J. Benjamin Aplin with three copies of the Final Brief of Appellant.

Respectfully yours,



Janna A. Nelson

cc: J. Benjamin Aplin

Enclosures