



UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH CAROLINA

POST OFFICE BOX 835
CHARLESTON, SOUTH CAROLINA 29402

RICHARD MARK GERGEL
UNITED STATES DISTRICT JUDGE

TELEPHONE (843) 579-2610

RECEIVED

October 11, 2015

OCT 13 2015

The Honorable Daniel E. Shearouse
Clerk of Court, South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

S.C. SUPREME COURT

Re: *James Bowers vs. Warden Joseph McFadden*
S.C. App. Case No. 2015-1946

Dear Mr. Shearouse:

Please find enclosed a Certification Order Supplementation of Record in the above referenced matter.

Sincerely,

Richard Mark Gergel
United States District Judge

cc: Matthew Anderson Nickles, Esq.
Donald John Zalenka, Esq.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

RECEIVED

OCT 13 2015

James Bowers, #279049,)
)
 Petitioner,)
)
 vs.)
)
 Warden Joseph McFadden,)
)
 Respondent.)
)
 _____)

C.A. No. 0:14-358-RMG

S.C. SUPREME COURT

S.C. App. Case No. 2015-1946


**CERTIFICATION ORDER
SUPPLEMENTATION OF RECORD**

This matter comes before the Court on Petitioner's motion to include additional material in the record provided to the South Carolina Supreme Court to address proposed certified questions presented the South Carolina Supreme Court by order of this Court dated September 11, 2015. (Dkt. No. 68). Petitioner seeks to have added to the record the indictment referenced in the South Carolina Supreme Court's decision in *State v. Lindsey*, 583 S.E.2d 740 (S.C. 2003), which this Court made reference to in its Certification Order. (Dkt. No. 64 at 4-5). Respondent has consented to Petitioner's motion. (Dkt. No. 68).

South Carolina Appellate Court Rule 244(b) provides that if a party in a matter certified to the South Carolina Supreme Court "believes that additional materials from the record before the certifying court are necessary," the party may move before the certifying court "to determine if the additional materials will be submitted." The additional material requested, the indictment of the defendant in *State v. Lindsey*, is explicitly addressed by the South Carolina Supreme Court in its decision. The availability of the *Lindsey* indictment for review by the Supreme Court and for comparison to the indictment in this matter may be helpful to the South Carolina Supreme

Court in addressing the certified questions. Therefore, the Court finds the *Lindsey* indictment is appropriate to include in the record and grants the unopposed motion to supplement the record to include the document, which is referenced as Exhibit E.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Judge

October 7, 2015
Charleston, South Carolina

EXHIBIT E

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WITNESSES

Box 2461, City
Jewell Hendrick
Dr. Thompson
General Hospital

Foreman

VERDICT

County of Spartanburg
The State of South Carolina,
COURT OF GENERAL SESSIONS
SEPTEMBER Term, 19 76

THE STATE
VS.
WED. LINDSEY WM 31
vs. Bill
Blendle, S.C.

INDICTMENT FOR RAPE

JOHN H. NOLEN
Solicitor

Bill

Foreman of Grand Jury
For Colton

Arranged 12-13-76

I Jed Lindsey
hereby appear in my own name and plead
guilty to Rape

On the within in...

Witness:

Kathryn Sullivan
Clerk of Court



The sentence of the Court is that you

Jed Lindsey
be confined upon the public work of Spartan-
burg County or in the U. S. Department of Cor-
rections at hard labor for a period of 10 yrs
or pay a fine of

Reuben Moon
President Judge

MAILED COPY
BY: Mack Hammen
CLERK OF COURT
SPARTANBURG COUNTY
DATED 11/28/80

00.207

33427

The State of South Carolina,
Spartanburg

B. C. - INDICTMENT FOR RAPE.
The State Commercial Printing Co., Columbia, S. C.

County of _____

At a Court of General Sessions, begun and holden in and for the County of _____
Spartanburg in the State of South Carolina, at
Spartanburg Court House, in the County and State
aforesaid, on the Fourth Monday of September
Seventy - six
in the year of our Lord one thousand nine hundred and _____

The Jurors of and for the County aforesaid, in the State aforesaid, upon their oath, Present:

That Ted Lindsey

_____ late of the County and State aforesaid,
on the 21st day of May
in the year of our Lord one thousand nine hundred and Seventy-six with force
and arms, at Spartanburg C.H. in the County and State
aforesaid, in and upon one _____ in the peace of God
and of the said State, then and there being, violently and feloniously did make an assault, and her the said
_____ then and there violently and
against her will, feloniously did ravish and carnally know, against the form of the Statute in such case made
and provided, and against the peace and dignity of the State.

And the Jurors aforesaid, upon their oath aforesaid, do further Present: That the said

Ted Lindsey

on the 21st day of May
in the year of our Lord one thousand nine hundred and Seventy-six with force, and
arms, at Spartanburg C. H. in the County and State
aforesaid in and upon one _____ in the peace of God
and of the said State, then and there being, did make an assault on her the said
_____ then and there did beat, bruise, wound and ill-treat,
with intent her the said _____ violently and

CC 208

against her will, then and there feloniously to ravish and carnally know, and other wrongs to the said _____
_____ then and there did, to the great damage of the said _____
_____ against the form of the Statute in such case
made and provided, and against the peace and dignity of the State.

And the Jurors aforesaid, upon their oath aforesaid, do further Present: That the said _____

Ted Lindsey

on the _____ **21st** _____ day of **MAY** _____
in the year of our Lord one thousand nine hundred and **Seventy-six** _____ With force
and arms, at _____ **Spartanburg C. H.** _____ in the County and State
aforesaid, in and upon one _____ in the peace of God
and of the said State, then and there being, did make an assault, and the said _____

Ted Lindsey

then and there did beat, bruise, wound and ill-treat, and
other wrongs to the said _____
then and there did _____

to the great damage of the said _____
against the form of the Statute in such case made and provided, and against the peace and dignity of the
State.

A CERTIFIED COPY
Mack Hammond
M. HAMMOND
CLERK OF COURT
SPARTANBURG COUNTY
BY: _____ D.C.
DATED *1/28/2002*

John H. Wode Solicitor.

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STATE OF SOUTH CAROLINA
County of Spartanburg

Docket No. _____

THE STATE

vs.

Ted Lindsey

Defendant.

Indictment for Rape

I, Ted Lindsey hereby appear in
my own proper person and plead guilty to Rape
on the within indictment.

Witness:
Kathryn Anderson
D - Clerk of Court

Ted Lindsey

The sentence of the Court is that you

Ted Lindsey
be confined upon the public works of Spartan-
burg County or in the S. C. Department of Cor-
rections at hard labor for a period of _____
or pay a fine of _____

10 years

12-13-76

Paul W. Moore
Presiding Judge

THE STATE OF SOUTH CAROLINA
County of Spartanburg

I, Wallace G. Lovelace, Clerk of the Court of Common Pleas, General Sessions, County Criminal in
and for the County and State aforesaid, do hereby certify that the foregoing is a true and correct copy of
the sentence in the case as herein stated, as appears from the original now on file in this office.

Witness my hand and the seal of the said Court, at Spartanburg County Court House, Spartanburg,
South Carolina, this the 13 day of December A. D. 1976

Wallace G. Lovelace
Clerk of Court

By Kathryn W. Anderson
Deputy Clerk

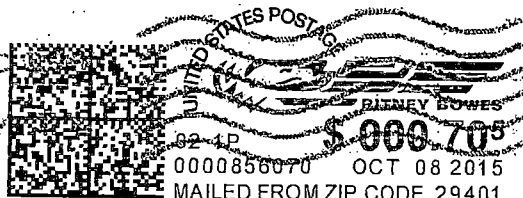
UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Richard Mark Gergel

UNITED STATES DISTRICT JUDGE
POST OFFICE BOX 835
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CHARLESTON SC

08 OCT 2015 PM



The Honorable Daniel E. Shearouse
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