

THE STATE OF SOUTH CAROLINA
In the Appellate Court

RECEIVED

MAR 10 2016

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

SC Court of Appeals

Hon. Brian Gibbons, Circuit Court Judge

FILED CLERK OF COURT
PAUL B. WICKENS
MAY 11 2016
GREENVILLE CO. SC

2016
MAR - 8 PM 3: 22

Indictments: 2014GS2302745, 2014GS2302746

The State,

Respondent.

v.

Raymond L. Roberson,

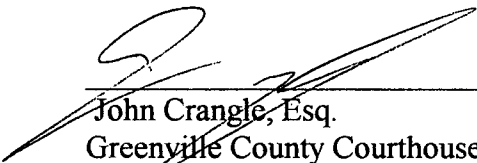
Appellant.

NOTICE OF APPEAL

Raymond L. Roberson appeals the entry of a permanent restraining order, with respect to his minor child after entering in a guilty plea.

Mr. Roberson does not challenge the guilty plea or his sentence. The sentence was imposed by the Honorable Judge Gibbons on March 1, 2016

Date: March 08, 2016


John Crangle, Esq.
Greenville County Courthouse
Greenville, SC 29601
Attorney for Appellant

Other Counsel of Record:
Barbara Tiffin, Esq.
305 East North Street
Suite 123
Greenville, SC 29601,
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
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APPEAL FROM GREENVILLE COUNTY
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SC Court of Appeals

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The State,

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Raymond L. Roberson,

Appellant.

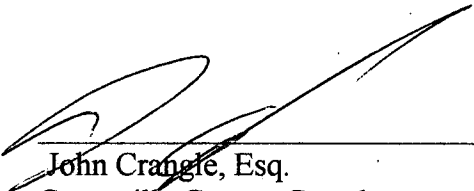
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the below listed respondents by depositing a copy of it in the United States Mail, postage prepaid, on March 08, 2016, addressed to:

Barbara Tiffin, Esq.
305 East North Street
Suite 325
Greenville SC 296011

Alan Wilson, Esq.
Attorney General
P.O. Box 11549
Columbia, SC 29211

Date: March 08, 2016



John Crangle, Esq.
Greenville County Courthouse
Greenville, SC 29601
Attorney for Appellant

THE STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
THE STATE)
v.)
RAYMOND L. ROBERSON,)
DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT
Indictment Nos.: 2014GS2302745,
2014GS2302746

Rule 203(d)(1)(B)(iv) Certification

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SC Court of Appeals

Issue

Whether it violates Defendant's procedural and substantive due process rights for a Circuit Court to enter a Permanent Restraining Order, restraining Defendant from communicating with his minor child, without notice to the Defendant or a hearing with fact finding on the record?

Facts

Defendant entered a guilty plea to CDVHAN (under the old CDV law) and Child Neglect. After the entry of a guilty plea and sentencing, the State moved for entry of a Permanent Restraining Order (PRO) pursuant to SC Code of Laws 16-3-1910. Defense counsel was not given a copy of the proposed PRO. Defense counsel was orally informed that the State would be seeking a PRO; the parties of the PRO were not discussed.

The Honorable Judge Gibbons signed the PRO, which prohibits Defendant from having any contact with three parties;

1. The victim of the CDV. (Ms. Lipscomb)
2. Defendant's minor child. (D.R.)
3. A witness to the incident (M.P.)

Defendant was not given an opportunity to contest the PRO, by a hearing, with respect to the minor child.

Argument

A PRO is in-effect a termination of parental rights. Section 16-3-1910 permits a PRO to be entered into in Common Pleas or General Sessions Court.

Section 16-3-1910 does not require notice or a hearing with respect to entry of a PRO at a General Sessions plea. This is a violation of due process.

A PRO implicates Defendant's procedural and substantive due process rights with regard to his minor child.

"Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment of the United States Constitution." *Kurschner v. City of Camden Planning Comm'n*, 376 S.C. 165, 171, 656 S.E.2d 346, 350 (2008). Fundamentally, due process requires notice, a meaningful opportunity to be heard, and judicial review. *Id.*

Conclusion

The imposition of a PRO between a Defendant and a minor child implicates Defendant's fundamental parental rights. To prevent Defendant from having any communication without notice or an opportunity to contest the PRO is a violation of his due process rights.

Respectfully submitted,

GREENVILLE COUNTY PUBLIC DEFENDER

By: 

John Crangle, Esq.

Bar No. 100515

Attorney for Defendant

305 E. North Street, Suite 123

Greenville, SC 29601

(864) 467-8522

Greenville, SC

Date: March 08, 2016

COUNTY OF Greenville
STATE VS.

Raymond L Roberson

INDICTMENT/CASE#: 2014GS2302746

A/W#: 2014A2330201415

Date of Offense: 2/18/2014

Code §: 63-05-0070

CDR Code #: 2481

AKA:
Race: WHITE Sex: M Age:
DOB:
Address:
City, State, Zip: Greenville, SC 29617-6817
DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Unlawful Conduct Towards a Child

CONVICTED OF or PLEADS

in violation of § 63-05-0070 of the S.C. Code of Laws, bearing CDR Code # 2481
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.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Tiffin, Barbara Heape 2887 SC Bar#
Raymond Roberson Defendant
John Cook Attorney for Defendant 102515 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
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 PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 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 \$13390.

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:

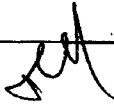
RECEIVED
MAR 10 2016
SC Court of Appeals

WITNESSES

Rebecca A Sulligan

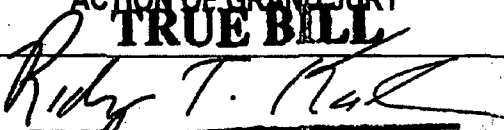
Greenville County Sheriffs Office

2/23/2014



ARREST WARRANT NUMBER
2014A2330201415

ACTION OF GRAND JURY
TRUE BILL



FORMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

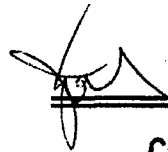
Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-23-
BHT

002746

The State of South Carolina

County of Greenville



COURT OF GENERAL SESSIONS

April TERM 2014

THE STATE

vs.

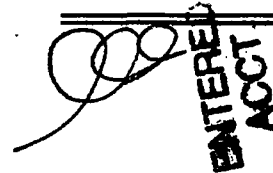
RAYMOND L ROBERSON

Indictment for

2481

UNLAWFUL CONDUCT TOWARDS A CHILD

VIOLATION § 63-05-0070



FILED

APR 02 2014

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS. Raymond L Roberson
AKA:
Race: Sex: Age:
DOB: SS#
Address:
City, State, Zip:
DL#: SID#
*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: CDVHAN

INDICTMENT/CASE#: 2014GS2302745
A/W#: 2014A2330201414
Date of Offense: 2/18/2014
S.C. Code § : 16-25-0065
CDR Code #: 2988

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-25-0065 of the S.C. Code of Laws, bearing CDR Code # 2988
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.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Tiffin, Barbara Heape SC Bar# 2887
Raymond Roberson Defendant
John C. H. Attorney for Defendant
102515 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 22-13-40 to be calculated and applied by the State Department of Corrections. (since 2/18/14)
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
PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Table with 3 columns: Description, Amount, Total. Includes items like Assessments 107.5%, Conv. Surcharge, DUI Surcharge, DUI Assessment, DUI Breath Test, Public Def/Prob, Law Enforce. Funding, Drug Court Surcharge, BUI Breath Test Fee, Vehicle Assessment, SCCJA Surcharge, County fee, and TOTAL \$133.90.

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: c/o from victim ->

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

Clerk of Court/ Deputy Clerk M. Wathuis
Court Reporter: Paul B. Wickens
SCCA/217 (03/2011)

Presiding Judge
Judge Code:
Sentence Date: 3/11/14

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED
NATURE

At a Court of General Sessions, convened on **APR 22 2014** the Grand Jurors of Greenville
County present upon their oath:

That RAYMOND L ROBERSON did in Greenville County, on or about the 18th day of February, 2014,
intentionally commit an assault and battery which involved the use of a deadly weapon or resulted in serious
bodily injury to a household member, DIANE ANNETTE LIPSCOMB, and/or RAYMOND L ROBERSON did
intentionally commit an assault with or without an accompanying battery, which would reasonably cause a person
to fear imminent serious bodily injury. This is in violation of §16-25-65 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 case made and provided.

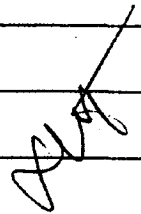

SOLICITOR

WITNESSES

Rebecca A Sulligan

Greenville County Sheriffs Office

2/23/2014



ARREST WARRANT NUMBER
2014A2330201414

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-23-
BHT

002745

The State of South Carolina

County of Greenville



COURT OF GENERAL SESSIONS

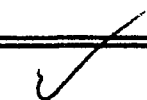
April

TERM 2014

THE STATE

vs.

RAYMOND L ROBERSON

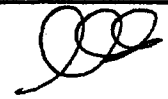


Indictment for

2988

**DOMESTIC VIOLENCE OF A HIGH AND
AGGRAVATED NATURE**

VIOLATION § 16-25-0065



**INTERE
ACCT**

FILED

APR 02 2014

Clerk of Court
Greenville County

OFFICE OF THE PUBLIC DEFENDER

13th JUDICIAL CIRCUIT

Greenville County Courthouse

305 East North Street (Rm 123)

GREENVILLE, SOUTH CAROLINA 29601

John I. Mauldin
Public Defender

TEL (864) 467-8522
FAX (864) 467-8521

March 08, 2016

Via Regular Mail

The Honorable Jenny Abbott Kitchings
Clerk, The S.C. Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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MAR 10 2016

SC Court of Appeals

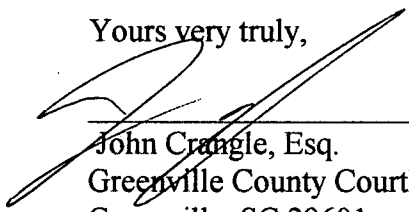
Re: State v. Raymond L. Roberson
Indictment **2014GS2302745, 2014GS2302746**

Dear Ms. Kitchings:

Enclosed you will find the original Notice of Appeal in the above matter along with Proof of Service upon the Respondents. The Notice has been filed with the Greenville County Clerk of Court. Also enclosed is a copy of the indictment, sentencing sheet, Rule 203 certification, Motion to Reconsider, and Permanent Restraining Order. These matters are being referred to the Office of Appellate Defense in that we were participating as Court appointed counsel at *the plea*.

Thank you for your attention to this matter.

Yours very truly,



John Crangle, Esq.
Greenville County Courthouse
Greenville, SC 29601
Attorney for Appellant

Enclosure

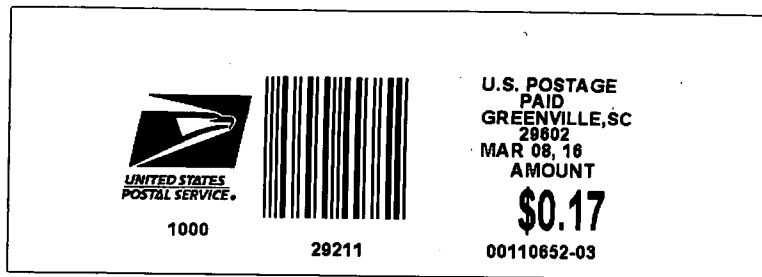
cc: Office of the Thirteenth Circuit Solicitor
Office of the Attorney General
Office of Appellate Defense

JV5C

13th Circuit Public Defender

305 E. North St. RM 123

Greenville, SC 29601



LEGAL MAIL

13TH CIRCUIT
PUBLIC DEFENDER

RECEIVED
MAR 10 2016
SC Court of Appeals

SC Court of Appeals
Clerk
PO Box 11629
Columbia, SC 29211

