

STATE OF SOUTH CAROLINA

Volume II of II

In The Court of Appeals

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APPEAL FROM ORANGEBURG COUNTY

MAR 25 2016

Deadra L. Jefferson, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TYKEEM KALANI MAY,

APPELLANT

APPELLATE CASE NO. 2014-001827

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #23 (STORE VIDEO SURVEILLANCE)**

State v. Tykeem May
Polling of the Jury
August 15, 2014

1 seated.

2 Juror Number 155, is this your verdict?

3 JUROR NUMBER 155: Yes.

4 THE CLERK OF COURT: Is it still your verdict?

5 JUROR NUMBER 155: Yes.

6 THE CLERK OF COURT: Thank you.

7 Juror Number 17, is this your verdict?

8 JUROR NUMBER 17: Yes.

9 THE CLERK OF COURT: Is it still your verdict?

10 JUROR NUMBER 17: Yes.

11 THE CLERK OF COURT: Thank you.

12 Juror Number 174, is this your verdict?

13 JUROR NUMBER 174: Yes.

14 THE CLERK OF COURT: Is it still your verdict?

15 JUROR NUMBER 174: Yes.

16 THE CLERK OF COURT: Thank you.

17 Juror Number 200, is this your verdict?

18 JUROR NUMBER 200: Yes.

19 THE CLERK OF COURT: Is it still your verdict?

20 JUROR NUMBER 200: Yes.

21 THE CLERK OF COURT: Thank you.

22 Juror Number 22, is this your verdict?

23 JUROR NUMBER 22: Yes.

24 THE CLERK OF COURT: Is it still your verdict?

25 JUROR NUMBER 22: Yes.

State v. Tykeem May
Polling of the Jury
August 15, 2014

1 THE CLERK OF COURT: Thank you.
2 Juror Number 101, is this your verdict?
3 JUROR NUMBER 101: Yes.
4 THE CLERK OF COURT: Is it still your verdict?
5 JUROR NUMBER 101: Yes.
6 THE CLERK OF COURT: Thank you.
7 Juror Number 81, is this your verdict?
8 JUROR NUMBER 81: Yes.
9 THE CLERK OF COURT: Is it still your verdict?
10 JUROR NUMBER 81: Yes.
11 THE CLERK OF COURT: Thank you.
12 Juror Number 14, is this your verdict?
13 JUROR NUMBER 14: Yes.
14 THE CLERK OF COURT: Is it still your verdict?
15 JUROR NUMBER 14: Yes.
16 THE CLERK OF COURT: Thank you.
17 Juror Number 121, is this your verdict?
18 JUROR NUMBER 121: Yes.
19 THE CLERK OF COURT: Is it still your verdict?
20 JUROR NUMBER 121: Yes.
21 THE CLERK OF COURT: Thank you.
22 Juror Number 65, is this your verdict?
23 JUROR NUMBER 65: Yes.
24 THE CLERK OF COURT: Is it still your verdict?
25 JUROR NUMBER 65: Yes.

State v. Tykeem May
Polling of the Jury
August 15, 2014

1 THE CLERK OF COURT: Thank you.

2 Juror Number 90, is this your verdict?

3 JUROR NUMBER 90: Yes.

4 THE CLERK OF COURT: Is it still your verdict?

5 JUROR NUMBER 90: Yes.

6 THE CLERK OF COURT: Thank you.

7 THE COURT: The record shall reflect that the
8 jury has been polled and the verdict stands.

9 Ladies and gentlemen, we thank you for your time
10 and your attention to this case. I know that jury
11 service is thankless, but I hope that it has been an
12 educational experience for you. I hope that you've
13 learned that it is nothing like television.
14 Television is far more dramatic, far more bells and
15 whistles and technology. But I hope that y'all have
16 learned firsthand how the system works, how very
17 essential you are to its operation.

18 Orangeburg County is a little smaller than
19 Charleston County, which is my resident circuit, which
20 is Charleston and Berkeley. Berkeley is probably a
21 little more like Orangeburg than Charleston. But in
22 Charleston, we hold four trial courts every week in
23 the circuit court, two civil and two criminal. And so
24 as you can well imagine, just as in Orangeburg during
25 a jury trial term, while there are many things that a

State v. Tykeem May
Polling of the Jury
August 15, 2014

1 circuit judge hears where I am the fact-finder, which
2 means I find the facts and render verdicts in cases,
3 it is more -- the majority of the time it -- I require
4 a jury to hear the facts of the case and apply the law
5 to those facts and render verdicts. So I hope you
6 know how very essential you are to the operation of
7 the process and that we could not have jury trials
8 without your willingness really to donate your time to
9 us.

10 South Carolina is one of the busiest states in
11 the nation. We only rank second to one other state in
12 terms of case filings per capita per judge, at 5,000
13 per judge. We have -- and with that, we still dispose
14 of cases faster than most states. We have forty-nine
15 circuit judges. We travel throughout the state and
16 hear cases.

17 Pursuant to our constitution, we're actually
18 supposed to live in another county for six months of
19 the year and then come home for six months of the
20 year. But because -- and that's another unique
21 feature of our system. It is really the envy of the
22 nation when I meet other judges. They think that it
23 really keeps the system healthy rotating judges
24 throughout your state. But because of significant
25 budget cuts, for a while we didn't have any travel at

State v. Tykeem May
Polling of the Jury
August 15, 2014

1 all. But we've resumed some limited travel where each
2 of us travel about a week a month which really,
3 frankly, is kind of a really good balance in terms of
4 being home and being away.

5 Just to give you some point of reference, I have
6 several friends who are judges in the city of
7 Philadelphia. In the city of Philadelphia, they have
8 nine judges who only hear homicide and murder cases.
9 That's all they do all year long. Nine for one city.
10 We have forty-nine for our entire state. So that
11 should give you some idea really just of the sheer
12 caseloads that are handled throughout our country.

13 But, again, even with that, we still dispose of
14 most cases civically in eighteen months and most
15 criminal cases in less than a year, where other states
16 who have far greater resources than we do often take
17 four to five years to dispose of cases.

18 So, again, I just give you these statistics
19 antidotally so you'll know how very important you are
20 to us and to our ability to dispose of caseloads
21 throughout the state.

22 If you need a work excuse, we will provide that
23 for you in the clerk's office. Otherwise, we will
24 mail those to you along with your checks.

25 You are welcome to discuss this case if you

State v. Tykeem May
Polling of the Jury
August 15, 2014

1 would like, now that I'm going to dismiss you.
2 Lawyers will often contact you because they want to
3 get your feedback. We call it the practice of law
4 because it is never perfected. And so oftentimes
5 lawyers will contact you because they want to know how
6 they could have done something better. And as I was
7 talking with the lawyers earlier, I was telling them
8 that as lawyers, when we go to law school they kind of
9 erase all of our common sense. We tend to look at
10 things in a real sterile kind of a way in what we call
11 a -- there's a method that they teach us how to think.
12 And so we tend to ignore lots of things that the
13 average layperson pays attention to.

14 And so oftentimes lawyers will contact you so
15 that they can get your feedback so that they can
16 perfect their craft and do it a little bit better. So
17 if someone should contact you and you wish to discuss
18 the case, you are welcome to. If you don't want to,
19 you don't have to. And if someone should intrude into
20 your privacy and it makes you uncomfortable, please
21 contact the clerk's office so that we can take the
22 appropriate action to protect your privacy.

23 We're going to move into sentencing of Mr. May.
24 If you would like to remain for that process, you are
25 welcome to. Please just let the bailiffs know. We'll

State v. Tykeem May
Polling of the Jury
August 15, 2014

1 allow you to remain in the jury box for that process.

2 However, if you do not wish to remain, you are
3 excused with the Court's profound thanks.

4 We'll hear post-trial motions and sentencing in
5 a moment.

6 [Off the record momentarily.

7 THE COURT: Do we have a sentence sheet?

8 MR. BELL: Yes, Your Honor.

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State v. Tykeem May
Sentencing
August 15, 2014

SENTENCING

1
2 THE COURT: And as I understand it, on the armed
3 robbery it's a minimum of ten years, a maximum of
4 thirty years, classified as most serious and violent,
5 no probation, no suspension of sentence. Correct?

6 MR. BELL: That's correct, Your Honor.

7 THE COURT: On possession of a weapon, zero to
8 five, which is mandatory, however it is not mandatory
9 that it be run consecutively. Correct?

10 MR. BELL: I believe so. That's correct.

11 MR. STEVENS: That's my understanding, as well,
12 Judge.

13 MR. BELL: Here are the sentencing sheets.

14 THE COURT: Do you know what? And we also --
15 Madam Forelady, before you leave today, we will need
16 you to sign the indictments. So if you would -- even
17 once the jury is excused, if you would remain so that
18 we could complete that process.

19 Okay. As I understand it, the defendant does
20 not have any record; correct?

21 MR. BELL: I'm reviewing --

22 THE COURT: Doesn't have any criminal record.
23 At least as an adult.

24 - - -

25 - - -

State v. Tykeem May
Motion for Directed Verdict and New Trial
August 15, 2014

1 MOTION FOR A DIRECTED VERDICT AND NEW TRIAL

2 THE COURT: And are there any post-trial motions
3 while we are reviewing that, Mr. Stevens?

4 MR. STEVENS: I simply renew our motions for
5 directed verdict and also make a motion for new trial,
6 Judge.

7 THE COURT: Does the State wish to respond to
8 that motion?

9 MR. BELL: Your Honor, I think our response is
10 the same as before. I think there was sufficient
11 evidence for the jury to find -- reach a verdict.

12 THE COURT: The Court would rely on its previous
13 ruling, and incorporate those in the record for
14 purposes of the motion, and deny the motion.

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State v. Tykeem May
Sentencing, Continued
August 15, 2014

SENTENCING, CONTINUED

1 THE COURT: Does the State have any position
2 regarding sentencing --

3 MR. BELL: Your Honor, I --

4 THE COURT: -- or want to be heard on
5 sentencing?

6 MR. BELL: Your Honor, I would -- I've gone back
7 to review the defendant's record. I do note that
8 there are a couple of misdemeanor convictions out of
9 Tennessee.

10 THE COURT: For what?

11 MR. BELL: It looks like possession of
12 marijuana. I assume it's our simple possession of
13 marijuana and --

14 THE COURT: Magistrate level?

15 MR. BELL: Magistrate.

16 -- and a possession with altered or missing ID
17 plate and an unlawful possession of a weapon. They're
18 all misdemeanor, Tennessee misdemeanor, charges.

19 THE COURT: Is that your understanding of your
20 client's previous record?

21 MR. STEVENS: Judge, my understanding is that
22 it's simple possession and a misdemeanor charge
23 offense.

24 I'm not certain if it was a conviction or not

State v. Tykeem May
Sentencing, Continued
August 15, 2014

1 for the altered plates, Judge.

2 THE COURT: Was it missing or altered? I
3 thought I heard him just say that it was a missing --

4 MR. BELL: Altered slash missing, is how it's
5 printed on the --

6 THE COURT: All right. Does the State have any
7 argument regarding sentencing?

8 MR. BELL: Your Honor, the only thing the State
9 would say is this is a serious crime and our
10 legislatures made it a serious crime and he used a
11 serious weapon to commit this crime, force and
12 intimidation. We think that the punishment ought to
13 be severe. We understand he has no serious criminal
14 record but, you know, armed robbery is serious. And,
15 you know, it's -- there's always the potential it
16 could have gotten worse. And that's the State's
17 position. We think that it ought to be a fairly stiff
18 sentence, just to send a message, as well, to the
19 community, that Orangeburg County won't tolerate this.

20 THE COURT: When you say stiff, I need you to
21 quantify that for me, please.

22 MR. BELL: The State would ask somewhere in the
23 range of twenty to thirty years.

24 THE COURT: Anything further from the State?

25 MR. BELL: No, Your Honor.

State v. Tykeem May
Sentencing, Continued
August 15, 2014

1 THE COURT: All right. Be glad to hear from
2 you, Mr. Stevens.

3 MR. STEVENS: Thank you, Judge. If I may?

4 THE COURT: Yes, sir.

5 MR. STEVENS: I would like to talk a little bit
6 about my client's past and his family, as well. I'll
7 be brief, but I still would like to talk about it.

8 First of all, Tykeem is twenty-four years of
9 age, Judge. He's single, although he does have a
10 long-term girlfriend. He also has no children. He
11 was born in the Norfolk area of Virginia, where he
12 does have his parents over in the Tidewater area
13 there, Judge. His mother lives there. She's a
14 caretaker. His father lives in Norfolk. He's a
15 handyman and caretaker of his great aunt.

16 I've had a chance to hear from his great aunt.
17 She's ninety-three years of age, Judge, and extremely
18 supportive. In fact, it was the great aunt who was
19 actually helping pay his way through South Carolina
20 State University.

21 He also has aunts and uncles and cousins in the
22 Bamberg area here in South Carolina, Judge. In the
23 way of siblings, he has six brothers and four sisters.

24 Regarding his education, Judge, Tykeem, I've
25 gotten to know him. He's a smart young man, he's --

State v. Tykeem May
Sentencing, Continued
August 15, 2014

1 and our position is that should the Court be willing
2 to show mercy, he does have a future and a way to help
3 contribute to society in a positive manner, Judge.

4 He graduated high school in Chesapeake,
5 Virginia. He's attended South Carolina State
6 University. Business and economics is his major.
7 And, in fact, he only had about nine to twelve classes
8 left, is my understanding after reviewing his records
9 as well as speaking with him.

10 He was a hardworking man, Judge, when he was not
11 incarcerated in pre-trial incarceration. He worked at
12 Dollar General for over two years. He worked for TKL
13 Security at nights, as well. And even before that, he
14 worked at Cook Out and he worked at Wendy's. He's not
15 afraid of work, Judge.

16 Regarding his priors, they're minor, Judge.

17 We understand the jury has spoken. We simply
18 ask for whatever mercy this Court may be willing to
19 show. We specifically request that if possible, the
20 Court sentence to the mandatory minimum of ten years,
21 knowing full well it's not parolable. We believe that
22 ten years would be sufficient for correction. We
23 believe --

24 Actually, I've also had the chance to speak with
25 some folks in law enforcement in this community, as

State v. Tykeem May
Sentencing, Continued
August 15, 2014

1 well. I think when we actually gauge it in comparison
2 to some other actions -- activity in the area,
3 although, yes, it is a serious offense, even the
4 mandatory minimum indicates that ten years is serious
5 time for such a serious offense, Judge. And I don't
6 think that it would be out of line for a mandatory
7 minimum sentence on a charge like this, given his
8 background, given his lack of a serious record, given
9 all the factors that make Tykeem May a young man that
10 can contribute positively to society. He's not
11 disposable, Judge, and we ask that the Court show
12 mercy. Thank you.

13 THE COURT: You're welcome.

14 Sir, is there anything you would like to say for
15 the record on your own behalf?

16 MR. MAY: I would like everyone to know, the
17 jurors --

18 THE COURT: Sir, I can't hear you.

19 MR. MAY: I would like everyone to know, the
20 jurors, and everyone in the court, that I am innocent,
21 that I didn't do this. There are such things as
22 coincidents. There are such things as this person
23 looks like that person.

24 And I feel like I have a lot of vows, that I
25 vowed to God, that I have failed in the lines of

State v. Tykeem May
Sentencing, Continued
August 15, 2014

1 helping other people like my great aunt, which Mr.
2 Stevens talked about. She is ninety-two. Her
3 birthday is the 31st of this month. She's going to be
4 ninety-three. And I would have took a plea for seven
5 and a half, or whatever, ten, a long time ago but I
6 had the intention of getting back to my great aunt.
7 So I told her and I vowed to myself I would fight this
8 so that I could win so I could go back to her and help
9 her, because she doesn't have anybody to help her.

10 And I just feel like I'm not a bad person, I'm
11 not an evil person. I never did anything to hurt
12 anybody. I always seek to help people. That was my
13 intention. I even, on the lines of helping people,
14 put myself in trouble and hurt myself by helping
15 others. And I just ask for mercy.

16 THE COURT: Where are your parents?

17 MR. MAY: In Chesapeake, Virginia. Well, my
18 father was in Chesapeake after my aunt -- I just
19 talked to her before we came and they deliberated.
20 And my aunt reassured me that my father isn't around
21 anymore, and that she isn't getting around the way she
22 needs to. And that was my intention of fighting this
23 so I can get back and help her.

24 My mother, she never really was around, so I
25 don't really know too much where she is right now.

State v. Tykeem May
Sentencing, Continued
August 15, 2014

1 But my whole intention was just to get back and
2 help my aunt, finish my college.

3 To be honest, Judge, as far as prison goes, I
4 don't think I'll make it. I'm just being honest from
5 my heart. This is not just an opinion, because I've
6 never been to prison. I don't know anything about
7 prison. But this is just an opinion from others that
8 have been around in jail that told me, you know, you
9 too kindhearted, you too green. I was told this just
10 the other day, you too green, they'll use you in
11 prison, soon as they see that you doing something,
12 they'll come to you and get whatever they want from
13 you, they'll ask you -- they see your kindheartedness
14 within the first couple of weeks, the first couple of
15 months. I just -- I just ask for mercy.

16 THE COURT: Thank you very much.

17 Anything further from the defense or the State?

18 MR. BELL: Your Honor, I would just like to say
19 I was looking up the statute, the possession of a
20 weapon. It reads it's five years. It's no less than
21 five years.

22 THE COURT: Well, yeah. It's a mandatory
23 imposition. It used to be consecutive but it's not
24 anymore.

25 MR. BELL: It can be done consecutively or

State v. Tykeem May
Sentencing, Continued
August 15, 2014

1 concurrently, but it's five years.

2 THE COURT: Yes. Exactly.

3 MR. BELL: Nothing further from the State.

4 THE COURT: Anything further from the defense?

5 MR. STEVENS: No, Your Honor. Thank you.

6 THE COURT: You're welcome.

7 Based on what has been presented to the Court,
8 sir, you are sentenced on indictment --

9 Sir, if you would stand for pronouncement of
10 sentence.

11 [Whereupon, Mr. May complies]

12 THE COURT: On the armed robbery, sir, you are
13 sentenced to fifteen years. On the possession of a
14 weapon during the commission of a violent crime,
15 you're sentenced to five years. These sentences are
16 concurrent with one another. You'll get credit for
17 any time that you've served, to be calculated and
18 applied by the Department of Corrections pursuant to
19 24-13-40.

20 The Court is taking into consideration, as
21 mitigation, your age and your lack of substantial
22 criminal history.

23 Thank you-all very much.

24 MR. STEVENS: Judge, for the record, he was
25 taken into custody on the evening of September 15th,

State v. Tykeem May
Sentencing, Continued
August 15, 2014

1 2013.

2 THE COURT: They'll calculate it.

3 MR. STEVENS: Yes, ma'am.

4 THE COURT: I don't calculate it. That's why
5 they have the statute.

6 MR. STEVENS: Thank you, Judge.

7 THE COURT: Because I might give him less time
8 than he's entitled to. They'll get his records and
9 they'll give him -- he'll meet with his counselor at
10 Corrections and they'll go over every day he's
11 entitled to.

12 MR. STEVENS: Thank you, Judge.

13 THE COURT: If I write a time on here they're
14 going to honor it, and if he's entitled to more, he
15 won't get it.

16 MR. STEVENS: Yes, ma'am. Thank you, Judge.

17 THE COURT: You're welcome.

18 THE COURT: Ladies and gentlemen, you're excused
19 with the Court's profound thanks.

20 Madam Forelady, if you could -- we'll get you a
21 pen and I just need you to write guilty, the date, and
22 sign. Thank you so much.

23 [Off the record momentarily]

24 THE COURT: Any further business? From the
25 State? Mr. Bell, is there any further business from

State v. Tykeem May
Sentencing, Continued
August 15, 2014

1 the State?

2 MR. BELL: No, Your Honor.

3 THE COURT: Court is adjourned.

4 [JURY TRIAL CONCLUDES AT 11:34 A.M.]

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Orangeburg County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Deadra L. Jefferson

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : 2013A3820800492

DESCRIPTION : State of South Carolina vs. Tykeem K. May Trial

COURTROOM CTRM

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	GRT	REMARKS
1 Crosby, Ida M	36	N	F	()	()	()	1.
2 Sharrow, Makeisha M	155	B	F	()	()	()	2.
3 Briggman, Aaron J	15	B	M	(X)	()	()	
4 Pelzer, Tracy	133	B	F	()	(X)	()	
5 Brown, Ladeidra S	17	B	F	()	()	()	3.
6 Dantzler, Laurie S	39	W	F	()	(X)	()	
7 Sweatman, Kathleen V	174	W	F	()	()	()	4.
8 Stephens, Xavier P	164	B	M	(X)	()	()	
9 Arant, Wilford P Jr.	2	W	M	()	(X)	()	
10 Eaddy, Stephen L	50	B	M	(X)	()	()	
11 Zimmerman, Jacquetta L	200	B	F	()	()	()	5
12 Carr, John D	29	W	M	()	(X)	()	
13 Butler, Kayla B	22	B	F	()	()	()	6.
14 Kennerly, Kathryn M	101	W	F	()	()	()	7.
15 Hollis, Dorothy J	81	B	F	()	()	()	8.
16 Brenn, Laurie J	14	W	F	()	()	()	9.
17 Moorer, Larry L	121	B	M	()	()	()	10.
18 Williams, Roy R Jr.	193	W	M	()	(X)	()	
19 Gantt, Franks A Jr.	65	B	M	()	()	()	11.
20 Jeffcoat, Elaine F	90	W	F	()	()	()	12.
21 Blocker, Anthony	7	B	M	()	()	()	1A
22 Steele, Tammie G	163	W	F	()	()	()	2A
23 Moultrie, Jacqueline V	122	B	F	()	()	()	
24 Barden, Mindy D	4	W	F	()	()	()	

Orangeburg County Courthouse
RANDOM STRIKE SHEET

521

JUDGE NAME : Deadra L. Jefferson

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : 2013A3820800492

DESCRIPTION : State of South Carolina vs. Tykeem K. May Trial

COURTROOM CTRM

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Jeffords, Ronnie W	91	W	M	()	()	()	
26 Houser, Marcus M	82	B	M	()	()	()	
27 Johnson, Clay D	93	B	M	()	()	()	
28 Frazier, Arnetra N	63	B	F	()	()	()	
29 Perry, Diane	134	B	F	()	()	()	
30 Proveaux, Ameia M	138	W	F	()	()	()	
31 Gavins, Wallace	67	W	M	()	()	()	
32 Dickson, Dorothy C	49	W	F	()	()	()	
33 Robinson, Bruce L	145	W	M	()	()	()	
34 Pam, Dorothy A	129	B	F	()	()	()	
35 Felder, James E Jr.	53	B	M	()	()	()	

Total Number of Jurors:

35

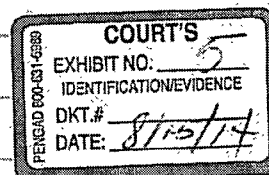
** END OF REPORT **

8/15/14

We want to see the video
of the robbery again and
of the car.

We want to be able to stop
the video at certain points.

Laurie Brenn



STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYKEEM K. MAY,

APPELLANT

APPELLATE CASE NO. 2014-001827

PETITION FOR ORDER TO RECONSTRUCT THE RECORD OF THE PORTION OF
APPELLANT'S TRIAL CONTAINING THE PARTIES' ARGUMENTS AND THE TRIAL
COURT'S RULING ON MOTIONS PURSUANT TO BATSON V. KENTUCKY, 476 U.S. 79
(1986)

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, undersigned counsel requests an order requiring the parties to reconstruct the record of the arguments made in support of motions by both the State and appellant pursuant to Batson v. Kentucky, 476 U.S. 79 (1986) and the trial judge's rulings denying both the State and appellant's motions. The trial was held before the Honorable Deadra L. Jefferson in Orangeburg County. Breen Richard Stevens represented appellant. Harrison Bell and Ashley Cornwell represented the State.

In accordance with Rule 240(c), SCACR, Counsel submits the following exhibits to support his motion:

1. Pages 192 - 202 of the trial transcript.
2. Jury Strike Sheet
3. Affidavit of trial counsel, Breen Richard Stevens
4. Affidavit of undersigned counsel, David Alexander, with attached exhibits.

The facts supporting this motion are contained in the affidavits of the undersigned and Breen Richard Stevens. Soon after being assigned the case, I discussed the possible issues for appeal with trial counsel, Mr. Stevens, a former appellate defender. He told me that he believed the denial of a motion made pursuant to Batson v. Kentucky, 476 U.S. 79 (1986) would be one of the significant issues in Mr. May's appeal. Upon reviewing the transcript, I saw that it contained nothing about a Batson motion by appellant but indicated a motion by the State and a bench conference after jury selection.

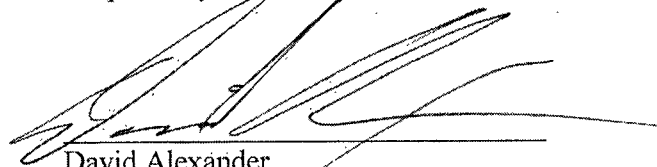
I contacted Mr. Stevens. He confirmed both the State and appellant's motions took place at the bench. Mr. Stevens recalled that Judge Jefferson placed a recording device on the bench to hear argument on the motions. During the bench conference the State made a Batson motion that was denied. Appellant also made a Batson motion that was denied. Undersigned counsel contacted the court reporter but was informed that the recordings for this trial were destroyed. It is my belief that it is necessary to reconstruct the arguments and ruling on the Batson motion in order to prepare this ground for appeal.

When a trial transcript has been lost or destroyed, the Court may remand to have the record reconstructed. Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002); China v. Parrott, 251 S.C. 329, 162 S.E.2d 276 (1968); Koon v. State, 358 S.C. 359, 367, 595 S.E.2d 456, 460 (2004); Dolive v. J.E.E. Developers, Inc., 308 S.C. 380, 383, 418 S.E.2d 319, 321 (Ct. App.

1992); State v. Ladson, 373 S.C. 320, 325, 644 S.E.2d 271, 273-274 (Ct. App. 2007). An important portion of appellant's trial transcript has been lost and is no longer available through no fault of appellant. Therefore, meaningful review of the record below is not possible with the current transcript. Appellant seeks reconstruction of the record to permit meaningful appellate review of his trial. Appellant believes that since what must be reconstructed are primarily arguments of counsel and rulings by the trial judge, reconstruction should not be difficult nor involve extraordinary delay.

WHEREFORE, the undersigned counsel requests an order for the reconstruction of the portion of appellant's trial transcript as described above in order to perfect appellant's direct appeal in the case. While this petition is pending, appellant asks this Court to hold the deadlines for filing his initial brief and designations in abeyance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David Alexander', is written over a horizontal line.

David Alexander
Appellate Defender

Attorney for Petitioner

This 5th day of June, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg CountyDeadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

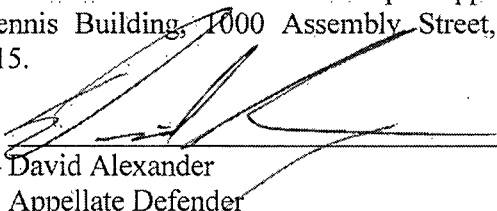
V.

TYKEEM K. MAY,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Motion To Remand For a Reconstruction of the Record in the above referenced case has been served upon opposing counsel, Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 5th day of June, 2015.


David Alexander
Appellate Defender

Attorney for Petitioner

SUBSCRIBED AND SWORN TO before me
this 5th day of June, 2015.

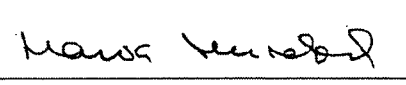
 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

Exhibit 1

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 person doing it, when the computer does it it's almost
2 exactly duplicated. Funniest thing to me. I'm sure
3 that, again, there's some mathematical or statistical
4 explanation, but it's far beyond my mental acumen to
5 figure that one out. But it's really interesting to
6 have observed this.

7 In Charleston we had a huge barrel that was
8 probably almost as big as two of those podiums. And
9 we would turn it and hear all the capsules making
10 noise. And, literally, we had a person from the
11 Commission for the Blind who came and picked the
12 names. But it's just really interesting how it still
13 turns out the same way when we do it with a computer.

14 So if you would just give us a few moments to do
15 those strike sheets, we'll then begin the process.

16 [Off the record momentarily]

17 THE COURT: Okay. If you would -- once the
18 first one is done, if you will give her your attention
19 she will begin the selection process.

20 And then, again, if your name is called, please
21 come forward with all of your belongings and we'll
22 either seat or excuse you.

23 [Off the record momentarily]

24 THE CLERK OF COURT: Juror number 36, Ida
25 Crosby.

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 [Whereupon, Ms. Crosby comes forward]

2 THE CLERK OF COURT: What says the State?

3 MR. BELL: Present the juror.

4 THE CLERK OF COURT: What says the defense?

5 MR. STEVENS: Please seat the juror.

6 [Whereupon, Ms. Crosby is seated in the jury box
7 as a juror]

8 THE CLERK OF COURT: Juror Number 155, Makeisha
9 Sharrow.

10 [Whereupon, Ms. Sharrow comes forward]

11 THE CLERK OF COURT: What says the State?

12 MR. BELL: Present the juror.

13 THE CLERK OF COURT: What says the defense?

14 MR. STEVENS: Please seat the juror.

15 THE CLERK OF COURT: Have a seat in the jury
16 box. Thank you.

17 [Whereupon, Ms. Sharrow is seated in the jury
18 box as a juror]

19 THE CLERK OF COURT: Juror Number 15, Aaron
20 Briggman.

21 [Whereupon, Mr. Briggman comes forward]

22 THE CLERK OF COURT: What says the State?

23 MR. BELL: Excuse the juror from this trial.

24 THE CLERK OF COURT: You may return to your
25 seat, sir.

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 THE BAILIFF: You may be seated back in the
2 panel. Thank you.

3 [Whereupon, Mr. Briggman returns to the
4 audience]

5 THE CLERK OF COURT: Juror Number 133, Tracy
6 Pelzer.

7 [Whereupon, Ms. Pelzer comes forward]

8 THE CLERK OF COURT: What says the State?

9 MR. BELL: Present the juror.

10 THE CLERK OF COURT: What says the defense?

11 MR. STEVENS: Please excuse the juror.

12 THE CLERK OF COURT: You may return to your
13 seat.

14 [Whereupon, Ms. Pelzer returns to the audience]

15 THE CLERK OF COURT: Juror Number 17, Ladeidra
16 Brown.

17 [Whereupon, Ms. Brown comes forward]

18 THE CLERK OF COURT: What says the State?

19 MR. BELL: Present the juror.

20 THE CLERK OF COURT: What says the defense?

21 MR. STEVENS: Please seat the juror.

22 THE CLERK OF COURT: You may have a seat in the
23 jury box. Thank you.

24 [Whereupon, Ms. Brown is seated in the jury box
25 as a juror]

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 THE CLERK OF COURT: Juror Number 39, Laurie
2 Dantzler.

3 [Whereupon, Ms. Dantzler comes forward]

4 THE CLERK OF COURT: What says the State?

5 MR. BELL: Present the juror.

6 THE CLERK OF COURT: What says the defense?

7 MR. STEVENS: Please strike the juror.

8 THE CLERK OF COURT: You may return to your
9 seat, ma'am.

10 [Whereupon, Ms. Dantzler returns to the
11 audience]

12 THE CLERK OF COURT: Juror Number 174, Kathleen
13 Sweatman.

14 [Whereupon, Ms. Sweatman comes forward]

15 THE CLERK OF COURT: What says the State?

16 MR. BELL: Present the juror.

17 THE CLERK OF COURT: What says the defense?

18 MR. STEVENS: Please seat the juror.

19 THE CLERK OF COURT: You may have a seat in the
20 jury box.

21 [Whereupon, Ms. Sweatman is seated in the jury
22 box as a juror]

23 THE CLERK OF COURT: Juror Number 164, Xavier
24 Stephens.

25 [Whereupon, Mr. Stephens comes forward]

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 THE CLERK OF COURT: What says the State?

2 MR. BELL: Excuse the juror from this trial.

3 THE CLERK OF COURT: You may return to your
4 seat, sir.

5 [Whereupon, Mr. Stephens returns to the
6 audience]

7 THE CLERK OF COURT: Juror Number 2, Wilford
8 Arant.

9 [Whereupon, Mr. Arant comes forward]

10 THE CLERK OF COURT: What says the State?

11 MR. BELL: Present the juror.

12 THE CLERK OF COURT: What says the defense?

13 MR. STEVENS: Please strike the juror.

14 THE CLERK OF COURT: Please return to your seat.

15 [Whereupon, Mr. Arant returns to the audience]

16 THE CLERK OF COURT: Juror Number 50, Stephen
17 Eaddy.

18 [Whereupon, Mr. Eaddy comes forward]

19 THE CLERK OF COURT: What says the State?

20 MR. BELL: Please excuse the juror from this
21 trial.

22 THE CLERK OF COURT: You may return to your
23 seat.

24 [Whereupon, Mr. Eaddy returns to the audience]

25 THE CLERK OF COURT: Juror Number 200, Jaquetta

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 Zimmerman.

2 [Whereupon, Ms. Zimmerman comes forward]

3 THE CLERK OF COURT: What says the State?

4 MR. BELL: Present the juror.

5 THE CLERK OF COURT: What says the defense?

6 MR. STEVENS: Present the juror.

7 THE CLERK OF COURT: You may have a seat in the
8 jury box, ma'am.

9 [Whereupon, Ms. Zimmerman is seated in the jury
10 box as a juror]

11 THE CLERK OF COURT: Juror Number 29, John Carr.

12 [Whereupon, Mr. Carr comes forward]

13 THE CLERK OF COURT: What says the State?

14 MR. BELL: Present the juror.

15 THE CLERK OF COURT: What says the defense?

16 MR. STEVENS: Please strike the juror.

17 THE CLERK OF COURT: You may return to your
18 seat.

19 [Whereupon, Mr. Carr returns to the audience]

20 THE CLERK OF COURT: Juror Number 22, Kayla
21 Butler.

22 [Whereupon, Ms. Butler comes forward]

23 THE CLERK OF COURT: What says the State?

24 MR. BELL: Present the juror.

25 THE CLERK OF COURT: What says the defense?

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 MR. STEVENS: Please seat the juror.

2 THE CLERK OF COURT: You may have a seat in the
3 jury box.

4 [Whereupon, Ms. Butler is seated in the jury box
5 as a juror]

6 THE CLERK OF COURT: Juror Number 101, Katheryn
7 Kennerly.

8 [Whereupon, Ms. Kennerly comes forward]

9 THE CLERK OF COURT: What says the State?

10 MR. BELL: Present the juror.

11 THE CLERK OF COURT: What says the defense?

12 MR. STEVENS: Please seat the juror.

13 THE CLERK OF COURT: Have a seat in the jury
14 box. Thank you.

15 [Whereupon, Ms. Kennerly is seated in the jury
16 box as a juror]

17 THE CLERK OF COURT: Juror Number 81, Dorothy
18 Hollis.

19 [Whereupon, Ms. Hollis comes forward]

20 THE CLERK OF COURT: What says the State?

21 MR. BELL: Present the juror.

22 THE CLERK OF COURT: What says the defense?

23 MR. STEVENS: Please seat the juror.

24 THE CLERK OF COURT: You may have a seat in the
25 jury box.

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 [Whereupon, Ms. Hollis is seated in the jury box
2 as a juror]

3 THE CLERK OF COURT: Juror Number 14, Laurie
4 Brenn.

5 [Whereupon, Ms. Brenn comes forward]

6 THE CLERK OF COURT: What says the State?

7 MR. BELL: Present the juror.

8 THE CLERK OF COURT: What says the defense?

9 MR. STEVENS: Please seat the juror.

10 [Whereupon, Ms. Brenn is seated in the jury box
11 as a juror]

12 THE CLERK OF COURT: Juror Number 121, Larry
13 Moorer.

14 [Whereupon, Mr. Moorer comes forward]

15 THE CLERK OF COURT: What says the State?

16 MR. BELL: Present the juror.

17 THE CLERK OF COURT: What says the defense?

18 MR. STEVENS: Please seat the juror.

19 THE CLERK OF COURT: Have a seat in the jury
20 box.

21 [Whereupon, Mr. Moorer is seated in the jury box
22 as a juror]

23 THE CLERK OF COURT: Juror Number 193, Roy
24 Williams.

25 [Whereupon, Mr. Williams comes forward]

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 THE CLERK OF COURT: What says the State?

2 MR. BELL: Present the juror.

3 THE CLERK OF COURT: What says the defense?

4 MR. STEVENS: Please strike the juror.

5 THE CLERK OF COURT: You may return to your
6 seat.

7 [Whereupon, Mr. Williams returns to the
8 audience]

9 THE CLERK OF COURT: Juror Number 65, Frank
10 Gantt.

11 [Whereupon, Mr. Gantt comes forward]

12 THE CLERK OF COURT: What says the State?

13 MR. BELL: Present the juror.

14 THE CLERK OF COURT: What says the defense?

15 MR. STEVENS: Please seat the juror.

16 THE CLERK OF COURT: You may have a seat in the
17 jury box.

18 [Whereupon, Mr. Gantt is seated in the jury box
19 as a juror]

20 THE CLERK OF COURT: Juror Number 90, Elaine
21 Jeffcoat.

22 [Whereupon, Ms. Jeffcoat comes forward]

23 THE CLERK OF COURT: What says the State?

24 MR. BELL: Present the juror.

25 THE CLERK OF COURT: What says the defense?

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 MR. STEVENS: Please seat the juror.

2 THE CLERK OF COURT: You may have a seat in the
3 jury box, ma'am.

4 [Whereupon, Ms. Jeffcoat is seated in the jury
5 box as a juror]

6 THE COURT: Two alternates. Strikes are one and
7 two.

8 THE CLERK OF COURT: Juror Number 7, Anthony
9 Blocker.

10 [Whereupon, Mr. Blocker comes forward]

11 THE CLERK OF COURT: What says the State?

12 MR. BELL: Present the juror.

13 THE CLERK OF COURT: What says the defense?

14 MR. STEVENS: Please seat the juror.

15 THE CLERK OF COURT: You may have a seat in the
16 jury box, sir.

17 [Whereupon, Mr. Blocker is seated in the jury
18 box as an alternate juror]

19 THE CLERK OF COURT: Juror Number 163, Tammie
20 Steele.

21 [Whereupon, Ms. Steele comes forward]

22 THE CLERK OF COURT: What says the State?

23 MR. BELL: Present the juror.

24 THE CLERK OF COURT: What says the defense?

25 MR. STEVENS: Please present the juror.

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 THE CLERK OF COURT: You may have a seat in the
2 jury box, ma'am.

3 [Whereupon, Ms. Steele is seated in the jury box
4 as an alternate juror]

5 THE COURT: The jury has been selected. Are
6 there any motions from the State?

7 MR. BELL: Yes, Your Honor, the State does.

8 THE COURT: Please approach.

9 [Whereupon, an off-the-record bench conference
10 is held]

11 THE COURT: Ladies and gentlemen, we thank you
12 for your patience. We have selected the panel for
13 this case. If you would call the jury information
14 line after six o'clock, there will be a message to let
15 you know if we have further need of your services.

16 Again, we appreciate your patience. I hope
17 everyone has a wonderful day. You're excused with the
18 Court's appreciation.

19 [Whereupon, the jury panel exits at 11:35 a.m.]

20 THE COURT: Ladies and gentlemen, please stand
21 and raise your right hand so that the clerk can
22 administer the oath to you.

23 [Whereupon, the jury is duly sworn by the clerk
24 of court as follows: do you solemnly swear or affirm
25 that you shall well and truly try and true deliverance

Exhibit 2

Orangeburg County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Deadra L. Jefferson

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : 2013A3820800492

DESCRIPTION : State of South Carolina vs. Tykeem K. May Trial

COURTROOM CTRM

NAME	JUROR NBR	RACE	SEX	ST/PL	DEF	GRT	REMARKS
1 Crosby, Ida M	36	N	F	()	()	()	1.
2 Sharrow, Makeisha M	155	B	F	()	()	()	2.
3 Briggman, Aaron J	15	B	M	(X)	()	()	
4 Pelzer, Tracy	133	B	F	()	(X)	()	
5 Brown, Ladeidra S	17	B	F	()	()	()	3.
6 Dantzler, Laurie S	39	W	F	()	(X)	()	
7 Sweatman, Kathleen V	174	W	F	()	()	()	4.
8 Stephens, Xavier P	164	B	M	(X)	()	()	
9 Arant, Wilford P Jr.	2	W	M	()	(X)	()	
10 Eaddy, Stephen L	50	B	M	(X)	()	()	
11 Zimmerman, Jacquetta L	200	B	F	()	()	()	5
12 Carr, John D	29	W	M	()	(X)	()	
13 Butler, Kayla B	22	B	F	()	()	()	6.
14 Kennerly, Kathryn M	101	W	F	()	()	()	7.
15 Hollis, Dorothy J	81	B	F	()	()	()	8.
16 Brenn, Laurie J	14	W	F	()	()	()	9.
17 Moorer, Larry L	121	B	M	()	()	()	10.
18 Williams, Roy R Jr.	193	W	M	()	(X)	()	
19 Gantt, Franks A Jr.	65	B	M	()	()	()	11.
20 Jeffcoat, Elaine F	90	W	F	()	()	()	12.
21 Blocker, Anthony	7	B	M	()	()	()	1A
22 Steele, Tammie G	163	W	F	()	()	()	2A
23 Moultrie, Jacqueline V	122	B	F	()	()	()	
24 Barden, Mindy D	4	W	F	()	()	()	

Orangeburg County Courthouse RANDOM STRIKE SHEET

JUDGE NAME : Deadra L. Jefferson

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : 2013A3820800492

DESCRIPTION : State of South Carolina vs. Tykeem K. May Trial

COURTROOM CTRM

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Jeffords, Ronnie W	91	W	M	()	()	()	
26 Houser, Marcus M	82	B	M	()	()	()	
27 Johnson, Clay D	93	B	M	()	()	()	
28 Frazier, Arnetra N	63	B	F	()	()	()	
29 Perry, Diane	134	B	F	()	()	()	
30 Proveaux, Ameia M	138	W	F	()	()	()	
31 Gavins, Wallace	67	W	M	()	()	()	
32 Dickson, Dorothy C	49	W	F	()	()	()	
33 Robinson, Bruce L	145	W	M	()	()	()	
34 Pam, Dorothy A	129	B	F	()	()	()	
35 Felder, James E Jr.	53	B	M	()	()	()	

Total Number of Jurors:

35

** END OF REPORT **

Exhibit 3

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County
Deadra L. Jefferson, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

TYKEEM K. MAY,

APPELLANT

APPELLATE CASE NO. 2014-001827

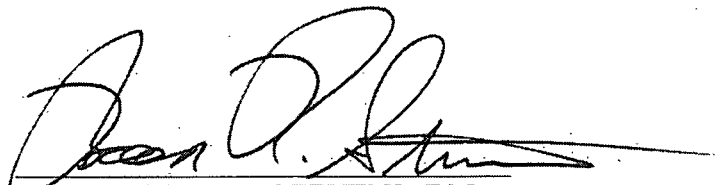
AFFIDAVIT OF BREEN RICHARD STEVENS, ESQUIRE

PERSONALLY appeared before me the Affiant, Breen Richard Stevens, Esq., who being duly sworn, does depose and state as follows:

1. I am an attorney licensed to practice in South Carolina.
2. I represented Tykeem K. May in his trial. The Honorable Deadra L. Jefferson presided. Harrison Bell and Ashley Cornwell represented the State.
3. I have reviewed pages 192-202 of the trial transcript, which is the record of jury selection. I have also reviewed the jury strike sheet.
4. Page 202 of the trial transcript omits motions made pursuant to Batson v. Kentucky, 476 U.S. 79 (1986).

5. As is reflected in the transcript, the trial judge asked the State if there were any motions regarding jury selection. Mr. Bell indicated he had a motion and both he and I approached the bench. Mr. Bell then made a Batson motion, and I argued a separate Batson motion for Mr. May.
6. Judge Jefferson took one of the court reporter's recording devices and moved it from one place on the bench closer to the attorneys. Judge Jefferson then heard argument from Mr. Bell and me on our respective Batson motions. The court denied both motions.
7. It was my belief that these motions were recorded.
8. The basis of the Batson motion for the defense was that the State used all of its peremptory strikes against black males. Mr. May is a black male. Mr. Bell stated that he struck them because they were unemployed. However, Mr. Bell did not exercise strikes on other white jurors who were unemployed. It is my belief that Judge Jefferson's denial of the defendant's Batson motion constitutes a significant issue for appeal.

FURTHER AFFIANT SAYETH NOT.



GREEN RICHARD STEVENS, ESQ.

SWORN to before me on this
4 day of June, 2015.
Notary Public for South Carolina
My Commission Expires: 2-2-25.

Exhibit 4

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County
Deadra L. Jefferson, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

TYKEEM K. MAY,

APPELLANT

APPELLATE CASE NO. 2014-001827

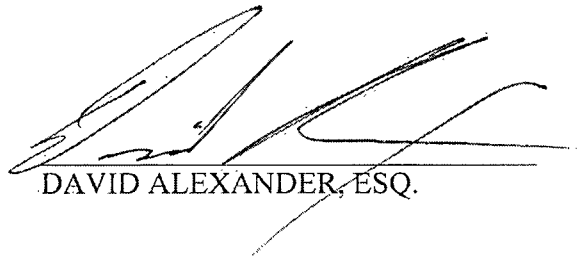
AFFIDAVIT OF DAVID ALEXANDER, ESQUIRE

PERSONALLY appeared before me the Affiant, David Alexander, Esq., who being duly sworn, does depose and state as follows:

1. I am an attorney licensed to practice in South Carolina.
2. I represent Tykeem K. May in his appeal.
3. Soon after being assigned the case, I discussed the possible issues for appeal with trial counsel, Breen Stevens, a former appellate defender. He told me that he believed the denial of a motion made pursuant to Batson v. Kentucky, 476 U.S. 79 (1986) would be one of the significant issues in Mr. May's appeal.
4. Upon reviewing the transcript, I saw that it contained nothing about a Batson motion but indicated a motion by the State and a bench conference after jury selection.

5. I contacted Mr. Stevens and he confirmed the motions took place at the bench and that Judge Jefferson had placed a recording device on the bench to hear argument on the motions.
6. On April 30, 2015, I emailed the court reporter, Mia Perron, page 202 of the transcript and alerted her to Mr. Stevens' memory of a recorder used by Judge Jefferson. A copy of this email is attached as Exhibit A.
7. On May 11, 2015, court reporter Mia Perron responded that "I'm sorry, but we destroy after 30 days. I do not have the bench conference." A copy of this email is attached as Exhibit B.
8. It is my belief that it is necessary to reconstruct the arguments and ruling on the Batson motion in order to prepare this ground for appeal.

FURTHER AFFIANT SAYETH NOT.



DAVID ALEXANDER, ESQ.

SWORN to before me on this
5th day of June, 2015.

Mavis Henderson (L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

Exhibit A

David Alexander

From: David Alexander
Sent: Thursday, April 30, 2015 1:57 PM
To: 'MPerron@sccourts.org'
Subject: State v. Tykeem May, 2014-GS-38-00189

Ms. Perron:

I am the appellate defender representing Tykeem May. Below I have cut-and-pasted a page from the transcript. The trial lawyer tells me that at the bench conference indicated at lines 9-10, the State and the defense made Batson motions related to jury selection. He also says that the trial judge put a voice recorder on the bench during this conference. Any chance you still have the recording of this conference?

Any help you can provide would be much appreciated. If you would like to give me a call, my direct dial is 803-734-1573.

State v. Tykeem May
Striking of the Jury
August 12, 2014

1 THE CLERK OF COURT: You may have a seat in the
2 jury box, ma'am.

3 [Whereupon, Ms. Steele is seated in the jury box
4 as an alternate juror]

5 THE COURT: The jury has been selected. Are
6 there any motions from the State?

7 MR. BELL: Yes, Your Honor, the State does.

8 THE COURT: Please approach.

9 [Whereupon, an off-the-record bench conference
10 is held]

11 THE COURT: Ladies and gentlemen, we thank you
12 for your patience. We have selected the panel for
13 this case. If you would call the jury information
14 line after six o'clock, there will be a message to let
15 you know if we have further need of your services.

16 Again, we appreciate your patience. I hope
17 everyone has a wonderful day. You're excused with the
18 Court's appreciation.

19 [Whereupon, the jury panel exits at 11:35 a.m.]

20 THE COURT: Ladies and gentlemen, please stand
21 and raise your right hand so that the clerk can
22 administer the oath to you.

23 [Whereupon, the jury is duly sworn by the clerk
24 of court as follows: do you solemnly swear or affirm
25 that you shall well and truly try and true deliverance

MIA PEARON, CVR-CN-M

-202-

David Alexander
Appellate Defender
SCCID

Exhibit B

David Alexander

From: Perron, Mia <MPerron@sccourts.org>
Sent: Monday, May 11, 2015 8:58 PM
To: David Alexander
Subject: RE: State v. Tykeem May, 2014-GS-38-00189
Attachments: image001.png

Please forgive my taking so long to give you an answer. I was out of the country for two weeks and am just beginning to take normal breaths again. I'm sorry, but we destroy after 30 days. I do not have the bench conference.

Mia Perron
PO Box 31865
Charleston, SC 29417

From: David Alexander <dalexander@sccid.sc.gov>
Sent: Thursday, April 30, 2015 1:56 PM
To: Perron, Mia
Subject: State v. Tykeem May, 2014-GS-38-00189

Ms. Perron:

I am the appellate defender representing Tykeem May. Below I have cut-and-pasted a page from the transcript. The trial lawyer tells me that at the bench conference indicated at lines 9-10, the State and the defense made Batson motions related to jury selection. He also says that the trial judge put a voice recorder on the bench during this conference. Any chance you still have the recording of this conference?

Any help you can provide would be much appreciated. If you would like to give me a call, my direct dial is 803-734-1573.

[cid:image001.png@01D0834D.8000A230]

David Alexander
Appellate Defender
SCCID

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.



ALAN WILSON  
ATTORNEY GENERAL

June 15, 2015

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

RE: State v. Tykeem K. May  
Appellate Case No: 2014-001827

Dear Ms. Kitchings:

I received Appellant's Motion for an Order to Reconstruct the Record in the above-referenced case. Respondent has no objection to Appellant's motion.

Sincerely,

Salley W. Elliott  
Senior Assistant Deputy Attorney General  
S.C. Bar No: 1871

SWE/ab

cc: ~~David Alexander, Esquire~~  
Ms. Trisha Allen

JUN 15 2015

RECEIVED  
OFFICE OF THE ATTORNEY GENERAL

# The South Carolina Court of Appeals

The State, Respondent,

v.

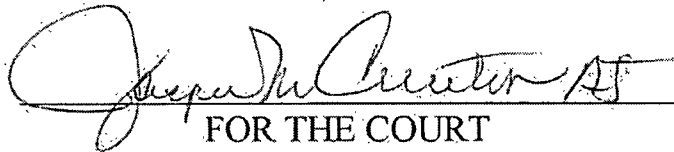
Tykeem Kalani May, Appellant.

Appellate Case No. 2014-001827

JUL 16 2015

## ORDER

Appellant has filed a motion to remand to the circuit court for reconstruction of the missing portions of the record. Respondent has filed a letter consenting. The motion is granted and this case is partially remanded to the Orangeburg County Court of General Sessions. Counsel for Appellant is ordered to contact counsel for Respondent and the circuit court judge, the Honorable Deadra L. Jefferson, within ten days of this order to schedule such hearings as the circuit court judge deems appropriate. Counsel for Appellant shall provide an update to the clerk of this court no later than fifteen days from the date of this order, with a copy to counsel for Respondent.

  
FOR THE COURT

Columbia, South Carolina

**FILED**  
7/16/15

cc:

Salley W. Elliott, Esquire

Alan McCrory Wilson, Esquire

David Alexander, Esquire

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|-------------------------|---|-----------------------|
| STATE OF SOUTH CAROLINA | ) | GENERAL SESSIONS      |
|                         | ) |                       |
| COUNTY OF ORANGEBURG    | ) | CASE NO. 2014-001827  |
|                         |   |                       |
| The State,              | ) |                       |
|                         | ) |                       |
| Plaintiff,              | ) | Transcript of Record  |
|                         | ) |                       |
| vs.                     | ) |                       |
|                         | ) |                       |
| Tykeem K. May,          | ) | Date: August 31, 2015 |
|                         | ) |                       |
| Defendant.              | ) |                       |

\* \* \* \* \*

B E F O R E:

The Honorable DEADRA JEFFERSON

\* \* \* \* \*

Denise J. Lauder, RPR  
Ninth Judicial Circuit

1                                   A P P E A R A N C E S

2

3       REPRESENTING THE STATE:

4               HARRISON BELL, ESQUIRE

5               First Circuit Solicitor's Office

6               Post Office Box 1525

7               Orangeburg, SC 29116

8

9

10       REPRESENTING THE APPELLANT:

11              DAVID ALEXANDER, ESQUIRE

12              SCCID

13              1330 Lady Street, Suite 401

14              Columbia, SC 29201

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## 1 I N D E X

|   |                                     |      |
|---|-------------------------------------|------|
| 2 |                                     | Page |
| 3 | BREEN STEVENS                       | 11   |
| 4 | DIRECT EXAMINATION BY MR. ALEXANDER | 11   |
| 5 | CROSS-EXAMINATION BY MR. BELL       | 13   |
| 6 | CERTIFICATE OF REPORTER             | 23   |

7

## 8 E X H I B I T S

|    |                                           |           |
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| 9  |                                           | Page/Line |
| 10 | APPELLANT EXH. 1 Strike sheet in evidence | 4 4       |
| 11 | APPELLANT EXH. 2 Transcript excerpt in    | 4 5       |
| 12 | evidence                                  |           |

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1                   (The following proceedings were held,  
2   August 31, 2015, Orangeburg County Courthouse,  
3   Orangeburg, SC, in re the State vs. Tykeem K. May.)

4                   (APPELLANT EXH. 1 in evidence.)

5                   (APPELLANT EXH. 2 in evidence.)

6                   MR. ALEXANDER: Your Honor, I'm sorry  
7   to pull you up here for something like this.

8                   THE COURT: Well, that's okay. I was  
9   going to tell you all, in the future just ask the  
10   Court Reporter to transcribe it. I took a minute  
11   to schedule this hearing because I had her track  
12   down her records and she had it; you all just  
13   didn't request it.

14                  Once she produces the transcript, she  
15   waits 30 days, and once you didn't request it, she  
16   destroyed the tapes.

17                  MR. ALEXANDER: Okay.

18                  THE COURT: And so what happened was,  
19   if Hilda had -- Hilda had to -- and I don't mean to  
20   be informal calling her by her first name.

21                  MR. ALEXANDER: That's all right.

22                  THE COURT: She had to give some of her  
23   typing away, so she gave it to Miss Mia. If Miss  
24   Hilda had it, she would have automatically  
25   transcribed it, but since she gave her tapes to

1 somebody else who didn't know, she just didn't  
2 transcribe it.

3               So I had them both tracking down --  
4 trying to find it, and since Mrs. Hilda was like,  
5 no -- she thought on the outside chance she may  
6 have kept her original notes and sent a copy to  
7 Mia, but she sent her originals to Mia.

8               So then I had Miss Mia track down hers.  
9 And she said, once I produced it, I gave them  
10 30 days to request anything else, and once they  
11 didn't, I destroyed it because I didn't have the  
12 room to store it.

13              But I always -- I don't ever have bench  
14 conferences that are not recorded, so that you know  
15 that for the future for this very reason.

16              MR. ALEXANDER: That's what Mr. Stevens  
17 had told me.

18              THE COURT: Yeah, just because -- I  
19 think -- well, you know every courthouse is  
20 designed differently, and in Charleston, it's  
21 easier for me than other places to send a whole  
22 panel out and hear a motion and bring them back in.  
23 In places that are small, you don't have that  
24 luxury, so I always instruct the court reporter to  
25 put a mic on the bench to record everything.

1 MR. ALEXANDER: Right.

2 THE COURT: So that -- because we just  
3 don't have the luxury of sending people in and out,  
4 but I kept -- I always keep good notes just on the  
5 outside chance that something happens, something  
6 gets destroyed, or otherwise. So I have my notes  
7 from the Batson hearing.

8 MR. ALEXANDER: Your Honor, one quick  
9 note, are we on the record?

10 THE COURT: Oh, yes.

11 MR. ALEXANDER: Let me have my client  
12 come in. Get Mr. May.

13 THE COURT: Oh, I apologize. Yeah, you  
14 can go ahead and get Mr. May.

15 And you can communicate to him what  
16 I've said, unless you want me to repeat it again.

17 MR. ALEXANDER: Exhibit 1 is the strike  
18 sheet that came up with the transcript, Your Honor.

19 THE COURT: Okay.

20 MR. ALEXANDER: I had that marked as  
21 Exhibit 1 for purposes of this hearing, and the  
22 jury selection is Exhibit 2 in case the attorneys  
23 need it.

24 THE COURT: I'm not sure that we're  
25 going to need to take testimony because, again, I

1 have my notes, and I will tell you all what my  
2 notes reflected took place. And if we agree on  
3 that, I think we'll be done.

4 You can take your seats. And as I  
5 understand it, you all have had marked -- is this  
6 without objection, Mr. Bell?

7 MR. BELL: Yes, Your Honor.

8 THE COURT: And Number 1, which is the  
9 clerk's strike sheet, which I assume she has her  
10 own methods to doing this, and -- oh, I guess I see  
11 what she did. And then Number 2, is the transcript  
12 of the actual jury selection; is that correct?

13 MR. BELL: Yes, Your Honor.

14 MR. ALEXANDER: Yes, Your Honor.

15 THE COURT: And you all have marked  
16 that as 2 without objection; is that correct?

17 MR. BELL: That is correct, Your Honor.

18 THE COURT: Okay. And, for the record,  
19 this is the State v Tykeem Kalani May,  
20 2014-GS-38-189 and 190. This trial originally took  
21 place August 12th through August 14, 2014. The  
22 jury selection was conducted from 10:55 to 11:40 on  
23 August 12th.

24 The original court reporter was Hilda  
25 Jordan; however, her records were transcribed by

1 Mia Perron. Mr. Harrison Bell and Ashley Cornwell  
2 represented the State and Doug Miller and Breen  
3 Stevens represented the Defendant.

4 My record reflects that we selected a  
5 jury of 12 with two alternates, that both the State  
6 and the defense made a Batson motion. My records  
7 reflect that the State struck juror number 15,  
8 juror number 164, and juror number 50. And that  
9 the defense struck jurors 133, 39, 2, 29, and 193,  
10 with the level of offence the State had five  
11 strikes and the defense had ten strikes.

12 Again, at the conclusion of jury  
13 selection, the Court asked if there were any  
14 motions, both sides indicated they did. The State  
15 had a Batson motion which was heard first, and then  
16 the defense likewise had a Batson motion which was  
17 held subsequently.

18 The following reasons were given in  
19 support of the defense's strikes. Number 133 was a  
20 black female. He indicated he struck her because  
21 she was a school employee. Number 39 was a white  
22 female. He indicated that he struck her because  
23 she worked at a bank. Number 2 was a white female,  
24 and I have that the reason they struck her was  
25 because she was a wife and a teacher. Number 29.

1 was a white male, they indicated they struck him  
2 because he was a bank supervisor. And number 193  
3 was a white male, and they said they struck him  
4 because it appeared he did not want to be here.

5 The State then conceded that those were  
6 race neutral reasons and withdrew its Batson  
7 motion.

8 We then moved to the defense's Batson  
9 motion and the State indicated they struck number  
10 15 who was a black male, because he was unemployed  
11 and single, number 164 because he had a record for  
12 shoplifting in Georgia, and number 50, a black male  
13 because he was unemployed and single.

14 The burden then shifted to the defense  
15 to show that these reasons were not race neutral  
16 and they were pretext, and my records reflect that  
17 there was no representation regarding pretext and,  
18 therefore, the motion was denied, as they could not  
19 meet that burden of showing that the State's  
20 strikes were anything other than race neutral and  
21 were not pretextual.

22 MR. ALEXANDER: Your Honor, do your  
23 records reflect Mr. Stevens making any argument  
24 about pretext at all?

25 THE COURT: He could not meet the

1 burden on pretext. He could not show that there  
2 were similarly-laterally situated people on the  
3 panel. And so once he could not, the burden  
4 shifted to him at that point. And once he could  
5 not show that there were similarly jurors, the  
6 inquiry ends.

7 MR. ALEXANDER: I think I have to call  
8 Mr. Stevens at this point because what he told me  
9 is he made an argument concerning similarly  
10 situated.

11 THE COURT: I mean, I'll be glad to  
12 hear his testimony, but, you know, hindsight is  
13 20/20. I don't know how much weight I can give  
14 that in light of hindsight and the fact now that  
15 he's had a chance to study the venire. Again, I  
16 take meticulous notes for a reason. If he had made  
17 an argument, I would have noted it.

18 MR. ALEXANDER: I would still like to  
19 call him, Your Honor.

20 THE COURT: Sure.

21 And I guess I need to ask, Mr. Bell,  
22 what is your -- are my notes an accurate recitation  
23 of what took place?

24 MR. BELL: Yes, Your Honor, according  
25 to my notes. Honestly, I'm sure we're not worried

1 about the State's motion. We're more worried about  
2 the defense's motion, and those reasons are what is  
3 reflected of my notes from the time that I have  
4 them kept as well; that's why I struck those  
5 individual jurors.

6 THE COURT: Thank you. You may  
7 proceed.

8 MR. ALEXANDER: Call Breen Stevens.

9 THE COURT: Sir, if you would come to  
10 the stand to be sworn.

11 BREEN STEVENS,  
12 being first duly sworn, testified as follows:

13 THE COURT: You can put your right hand  
14 down. If you will be seated and state your full  
15 name and spell your last name for the Court  
16 Reporter.

17 THE WITNESS: Breen Richard Stevens,  
18 S-T-E-V-E-N-S.

19 THE COURT: You may proceed.

20 MR. ALEXANDER: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. ALEXANDER:

23 Q. Mr. Stevens, you represented Mr. May?

24 A. Yes, sir.

25 Q. And you were just sitting here for

1 Judge Jefferson's recitation of the events at the  
2 bench conference?

3 A. That's correct.

4 Q. And up to the point where the  
5 discussion about pretext and similarly situated,  
6 did Judge Jefferson's recitation match your memory  
7 of what occurred at the bench conference?

8 A. Yes, sir.

9 Q. What can you tell me about the argument  
10 you made concerning pretext?

11 A. What I did was, I just pointed out that  
12 there were two -- at least two white females that  
13 were also on the jury that were unemployed, to  
14 which my recollection was the Judge said, well,  
15 they're not -- she found that they weren't  
16 similarly situated and ruled, and I asked to be  
17 noted.

18 She's really good about making sure  
19 that all of our conversations at the bench are  
20 typically recorded for judicial economy to make  
21 sure that the case keeps rolling. She's usually  
22 really good about that, not just from the trials  
23 I've been in with her, but also from many  
24 transcripts I've seen. She's very efficient.

25 Q. Do you remember which two white females

1 that you made an argument about?

2 A. Let's see, I think one was an  
3 unemployed housewife and -- let's see here, Ms.  
4 Sweatman I think was one and Ms. Jeffcoat was the  
5 other, 174 and 190.

6 Q. Do you remember any response from  
7 Mr. Bell?

8 A. Not that I can recall.

9 Q. Did Judge Jefferson rule immediately  
10 after that argument?

11 A. Yeah. I mean, she was quite clear  
12 about her ruling, that they weren't similarly  
13 situated. And once Judge Jefferson makes the  
14 ruling, she's -- she means it; Rule 18 is in full  
15 force and effect in Judge Jefferson's court, and I  
16 respect that.

17 Again, it's how she moves cases along  
18 very efficiently.

19 MR. ALEXANDER: I don't think I have  
20 any more questions.

21 THE COURT: Any questions, Mr. Bell?

22 MR. BELL: Yes, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. BELL:

25 Q. Mr. Stevens, you stated that one said

1 was an unemployed housewife. Was that her terms or  
2 your terms? Didn't you just say she was a  
3 housewife?

4 A. I think that's what I had noted on my  
5 notes, but, in fact, when we were at the bench I  
6 remember, you know, saying that my wife might  
7 disagree with me, but I don't think a housewife is  
8 employed officially when it comes to it.

9 Q. Well, I mean, I think there's -- well,  
10 it's semantics, too, but --

11 A. Well, I don't think the IRS considers  
12 them to be gainfully employed in the workforce.

13 Q. But it's how they also present  
14 themselves as well, isn't it?

15 A. I don't understand your question.

16 Q. I'll withdraw that.

17 If I remember correctly, according to  
18 my notes, number 90 stated that they were  
19 retired --

20 A. Yes.

21 Q. -- is that correct?

22 A. Which, again, means you're out of the  
23 work force.

24 Q. But it doesn't mean they're unemployed,  
25 it means they have taken themselves out of the work

1 force, correct?

2 A. Well, regardless, if someone is out of  
3 the work force, I think they're unemployed.

4 Q. But there's a difference between  
5 unemployed, somebody seeking a job, and somebody  
6 that is taken voluntarily themselves out of the  
7 work force to be retired or to be a housewife;  
8 isn't that correct?

9 A. I think that would be semantics. In my  
10 view, unemployed is unemployed. You're --

11 Q. It's a life choice, too, isn't it?

12 A. Well, I think that a person not holding  
13 a steady job, they're unemployed.

14 Q. Okay. All right.

15 A. And, finally, there was also Ms. Steel,  
16 I think, but she was an alternate, 163, alternate  
17 juror.

18 Q. Who also said she was a housewife?

19 A. Okay.

20 MR. BELL: Nothing further, Your Honor.

21 THE COURT: Any redirect?

22 MR. ALEXANDER: Nothing, Your Honor.

23 THE COURT: Sir, you may step down.

24 THE WITNESS: Thank you, Judge.

25 THE COURT: You're welcome. Anything

1 further?

2 MR. ALEXANDER: Nothing, Your Honor. I  
3 would just ask the Court to find that the record is  
4 adequately reconstructed and Court of Appeals can  
5 conduct meaningful appellate review on this record.

6 THE COURT: And just for the benefit of  
7 Mr. May, because he was not in here when we first  
8 began talking, Mr. May, I took additional time to  
9 reconvene this hearing because I typically -- not  
10 typically, I mandate that my court reporters record  
11 all bench conferences. And so what I did was track  
12 down the Court Reporters to find out where their  
13 original records were so that that hearing could be  
14 transcribed.

15 Ms. Hilda, who did the original  
16 transcript, had to -- the Chief Justice is very  
17 adamant about people getting their typing done  
18 quickly so that people's can be heard quickly. So  
19 if a court reporter has more typing than she can  
20 handle, she's required to give that typing away.

21 So Ms. Hilda had to give her typing  
22 away to Ms. Mia Perron, who was required to  
23 transcribe the record. And what happened was she  
24 didn't transcribe the bench conferences because she  
25 wasn't asked to. And her general position is, she

1 transcribes them if she's asked to, whereas, Ms.  
2 Hilda probably would have went ahead and  
3 transcribed it because she knew.

4 And Ms. Mia used to be my court  
5 reporter, so she -- and that had been years, so she  
6 probably just forgot, but, nonetheless, in doing  
7 that for somebody else she just didn't look at the  
8 bench conferences.

9 So I had them track down their records,  
10 but, unfortunately, what happens under the court  
11 reporter rules, is that once a record is  
12 transcribed, in other words, once the State and the  
13 defense have requested whatever portions of the  
14 transcript, or requested the whole transcript, they  
15 have 30 days after that to request anything else.  
16 And if they don't request anything else, then the  
17 court reporter can destroy the original records,  
18 because technically she has already transcribed the  
19 record, certified it.

20 And most court reporters don't have the  
21 room to maintain all of those records, so they are  
22 allowed to destroy them and that's what happened in  
23 this case. And what Ms. Mia indicated to me was,  
24 she wished it had been requested during the 30 days  
25 because she would have transcribed it. It is her

1 memory that it was available, but since nobody  
2 requested it she didn't transcribe it. So it was  
3 destroyed within that 30 days and so as a result we  
4 had to reconstruct the hearing today.

5 And I just wanted to share that with  
6 you because that's what I shared with the lawyers  
7 prior to you coming into the courtroom.

8 THE WITNESS: Thank you, Judge.

9 THE COURT: You're welcome. Okay. The  
10 Court will stand by the original records regarding  
11 the hearing, which is that the reasons given by the  
12 State in support of its strikes -- that being  
13 number 15, a black male, unemployed and single;  
14 number 164, black male had a record for shoplifting  
15 in Georgia; and number 50, a black male,  
16 unemployed, the Court finds as it did at that time,  
17 that these were race neutral reasons, that there  
18 was no argument that rose to the level of -- and I  
19 don't have a record of pretext, no harm, no foul,  
20 I'll rule on it alternatively, although my records  
21 do not reflect the argument was made, but,  
22 nonetheless, the Court would find that the  
23 arguments raised by defense counsel do not rise to  
24 the level of creating a situation where the State's  
25 reasons given were pretextual and, therefore, would

1 not have been able to sustain its burden once it  
2 shifted to them regarding pretext.

3                   Number 36 -- and my notes -- this is  
4 weird. 36 says, N-F. I don't know what that  
5 means. I would have known at the time I guess. I  
6 don't know what N-F means. I guess female. I  
7 don't have any recollection -- let's see, 36 N-F.

8                   MR. BELL: That's what's on the strike  
9 sheet, Your Honor.

10                  THE COURT: Yeah. I don't know --

11                  MR. BELL: I think it means none.

12                  THE COURT: She may not have listed  
13 anything, and I don't have an independent  
14 recollection of what her race was, but she was  
15 female. I tend to think probably white female or I  
16 would have made some other designation on my note  
17 sheets -- on my jury strike sheet regarding that.

18                  Number 155 was a black female employed  
19 with South Carolina; number 17 was a black female  
20 who ran a Methodist program at a church; number 174  
21 was a white female who was a housewife, number 200  
22 was a black female who worked in family health  
23 care, number 22 was a black female who worked at  
24 the veterans medical center, number 7 was a black  
25 male who worked in a trucking occupation, 101 was a

1 white female who worked at Daniel's Pharmacy, 81  
2 was a black female who worked as an administrative  
3 assistant in state government, number 14 was a  
4 white female employed at Zeus as an accountant;  
5 number 121 was a black male employed at Sedexo;  
6 number 65 was a black male employed at Husquavana;  
7 number 90 was a white female retired teacher; and  
8 number 163 was a housewife, white female.

9               In total, there were eight black  
10 citizens who served on the jury and five white,  
11 five black females and three black males, five  
12 white females and no white males. Which, quite  
13 frankly, proportionally is very unusual for the  
14 makeup of a jury under these circumstances.

15               Taking into account Mr. Stevens'  
16 argument that there were other similarly situated,  
17 that being those unemployed, I find that that  
18 argument, again, does not shift pretext.

19               I do not believe or find that a  
20 housewife falls into the category of being  
21 unemployed. Generally, a person who is in the  
22 unemployed population is someone who was employed  
23 and who is actively seeking employment, who is able  
24 bodied and capable of employment, and a man is  
25 generally very dissimilarly situated from a woman

1 who is home, acting in a housewife capacity, taking  
2 care of her children, and in my estimation, is  
3 employed. She's just employed in her house taking  
4 care of her kids.

5           She may not receive monetary  
6 compensation -- although, there could be some  
7 argument regarding that, too; I don't know. Some  
8 women receive stipends and other things from their  
9 family budget for the week for whatever purpose.  
10 So I don't know that that necessarily would be a  
11 valid argument, but I certainly would not find for  
12 the record that that would be such that they would  
13 be considered similarly situated to juror number 15  
14 and juror number 50, such that the defense would  
15 have met any burden regarding pretext thus shifting  
16 it back to the State.

17           I find that those reasons given were  
18 appropriate and race neutral under those  
19 circumstances.

20           Is there anything further for the  
21 record, from the State?

22           MR. BELL: Nothing, from the State.

23           THE COURT: From the defense?

24           MR. ALEXANDER: Nothing, Your Honor.

25           THE COURT: Okay. Thank you very much.

1                   Mr. Bell, was there anything that you  
2   wanted to state for the record? I apologize, I  
3   didn't mean to ignore you.

4                   MR. BELL: No, Your Honor.

5                   THE COURT: I wanted to make sure that  
6   -- was there anything you needed to add other than  
7   what I've already stated took place.

8                   MR. BELL: I think what the Court has  
9   characterized is what went on -- is an accurate  
10  reflection of what went on.

11                  THE COURT: And in the future, ask the  
12  court reporter. They usually have it, unless  
13  there's some catastrophic situation where something  
14  is destroyed. Only time I think that happened was  
15  during Hugo.

16                  Thank you, guys. Have a good day.

17                  (The deposition was concluded at 10:29  
18  a.m.)

19

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**WITNESSES**

Kevin Dukes

Orangeburg Police Department

ARREST WARRANT NUMBER  
2013A3820800492

Arrested: September 16, 2013

**ACTION OF GRAND JURY**Foreperson of Grand Jury  
Date:**VERDICT****TRUE BILL**Date **FEB 05 2014**Foreperson of Petit Jury  
Date:

DOCKET NO. 2014GS38-0189

**The State of South Carolina**  
County of ORANGEBURG**COURT OF GENERAL SESSIONS**

February 10, 2014 TERM

**THE STATE**  
vs.

Tykeem Kalami May

**Indictment for****ARMED ROBBERY**

SC Code: 16-11-330(A)

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

BEST TRUE COPY  
Wingia B. Clark  
CLERK OF COURT  
ORANGEBURG COUNTY, SCBEST TRUE COPY  
Wingia B. Clark  
CLERK OF COURT  
ORANGEBURG COUNTY, SCFILED  
WINNIE B. CLARK  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

ARREST WARRANT  
2013A3820800492

STATE OF SOUTH CAROLINA  
☐ County/ ☒ Municipality of  
ORANGEBURG

THE STATE  
against

TYKEEM KALANI MAY

Address: \_\_\_\_\_

Sex: M Race: B Height: 6-1 SSN: \_\_\_\_\_ Weight: 185

L State: VA DL#: \_\_\_\_\_

DOB: \_\_\_\_\_ Agency ORI#: SC0380100

Prosecuting Agency: ORANGEBURG DEPARTMENT OF

Prosecuting Officer: CPL. KEVIN DUKES

Offense: ARMED ROBBERY

Offense Code: 0139

Code/Ordinance Sec. 16-11-0330 (A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of  
ORANGEBURG

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

Signature of Judge (L.S.)

Date: \_\_\_\_\_

RETURN

Copy of this arrest warrant was delivered to  
defendant TYKEEM KALANI MAY

09/16/13  
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:  
ORANGEBURG MUNICIPAL COURT  
PO BOX 1425  
320 MIDDLETON STREET  
ORANGEBURG, SC 29116

STATE OF SOUTH CAROLINA  
☐ County/ ☒ Municipality of  
ORANGEBURG

AFFIDAVIT

Form Approved by  
U.S. Attorney General  
April 13, 2009  
SCCA 518

Personally appeared before me the affiant CPL. KEVIN DUKES who  
being duly sworn deposes and says that defendant TYKEEM KALANI MAY  
did within this county and state on 09/08/2013 violate the criminal laws of the  
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG)  
In the following particulars:  
DESCRIPTION OF OFFENSE: 16-11-0330 (A) / ARMED ROBBERY

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:

ON 09/08/13 BETWEEN 1:50PM AND 2:10PM, TYKEEM MAY, DID VIOLATE SECTION 16-11-0330(A), (ARMED ROBBERY), OF THE  
SOUTH CAROLINA CODE OF LAWS IN THAT HE DID ENTER THE BUSINESS OF THE KEG LOCATED AT 409 JOHN C CALHOUN  
DR. ARMED WITH AN SKS TYPE RIFLE AND DEMANDED MONEY FROM THE CLERK WITH THE INTENT TO DEPRIVE THE  
BUSINESS OF THE MONEY. THE INCIDENT WAS CAPTURED ON THE SURVEILLANCE SYSTEM BELONGING TO THE  
BUSINESS AND CAPTURED IMAGES OF A WHITE DODGE CALIBER THAT WAS USED DURING THE INCIDENT AS WELL AS  
IMAGES OF CLOTHING WORN DURING THE INCIDENT BY THE SUSPECT. DURING THE AFFIANT'S INVESTIGATION A DODGE  
CALIBER WAS STOPPED FOR TRAFFIC OFFENSES AND THE DRIVER OF THE VEHICLE MATCHED THE DESCRIPTION OF THE  
INDIVIDUAL WHO WAS INVOLVED IN THE INCIDENT THAT WAS GIVEN BY THE CLERK. BASED UPON THIS INFORMATION A  
SEARCH WARRANT WAS EXECUTED AT \_\_\_\_\_ WHICH IS THE ADDRESS THAT THE VEHICLE WAS REGISTERED  
THROUGH DMV AT. DURING THE EXECUTION OF THE SEARCH WARRANT THE SKS RIFLE, MUCH OF THE CLOTHING  
SHOWN IN THE SURVEILLANCE, AND THE DODGE CALIBER WERE LOCATED.

Signature of Affiant

STATE OF SOUTH CAROLINA  
☐ County/ ☒ Municipality of  
ORANGEBURG

Affiant's Address 1320 MIDDLETON ST  
ORANGEBURG SC 29115  
Affiant's Telephone (803) 534-2812

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 09/08/2013 defendant TYKEEM KALANI MAY

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

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

DESCRIPTION OF OFFENSE: ROBBERY / ARMED ROBBERY, ROBBERY WHILE ARMED OR ALLEGEDLY  
ARMED WITH A DEADLY WEAPON

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 the 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

09/16/13  
Signature of Judge (L.S.)  
BARNEY M. HOUSER

Judge Code: 6460

Judge's Address 1320 MIDDLETON STREET  
ORANGEBURG SC 29115

Judge's Telephone 803-533-5902

Issuing Court: ☐ Magistrate

☒ Clerk of Court  
ORANGEBURG COURT

ORIGINAL

SCANNED  
DATE: 10/2/13  
INITIALS: [illegible]

## STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg  
STATE VS.Tykeem Kalami May

AKA:

Race: BLACK Sex: M Age: 24DOB: 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: Armed Robbery

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS38-0189A/W#: 2013A3820800492Date of Offense: 9/8/2013S.C. Code §: 16-11-330(A)CDR Code #: 0139**SCANNED**DATE: 8/15/14INITIALS: Jan

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ 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.

ATTEST:

Bell, Harrison

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 15 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: 2014-GS-38-190☒ 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: \$              days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPSObtain 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 FundOther:       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 \$       3% to County (if paid in installments) \$       

TOTAL

ORANGEBURG COUNTY, SC

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

☒ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.**RECEIVED**  
AUG 15 2014  
BY:       

ATTEST: TRUE COPY

**WITNESSES**

Kevin Dukes

Orangeburg Police Department

**ARREST WARRANT NUMBER**

2013A3820800493

Arrested: September 16, 2013

**ACTION OF GRAND JURY**

Foreperson of Grand Jury

Date: January 13, 2014

**VERDICT**

**TRUE BILL**

*Michelle Shaw*

Date **FEB 05 2014**

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS38-0190

**The State of South Carolina**

County of ORANGEBURG

**COURT OF GENERAL SESSIONS**

February 10, 2014 TERM

**THE STATE**

vs.

Tykeem Kalami May

**Indictment for**

**POSSESSION OF A WEAPON DURING  
THE COMMISSION OF AVIOLENT  
CRIME**

SC Code: 16-23-490

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

*Winnie B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

2014 FEB - 5 A 10:19

FILED  
WINNIE  
CLERK  
ORANGEBURG

*Winnie B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

## ARREST WARRANT

2013A3820800493

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of  
ORANGEBURG

 THE STATE  
against

TYKEEM KALANI MAY

Address:

Phone: SSN:

Sex: M Race: B Height: 6-1 Weight: 185

DL State: VA nt #:

DOB: Agency ORI#: SC0380100

Prosecuting Agency: ORANGEBURG DEPARTMENT OF

Prosecuting Officer: CPL. KEVIN DUKES

Offense: POSS. / WEAPON DURING COMMISSION

OF VIOL. CRIME Offense Code: 0549

Code/Ordinance Sec. 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of  
ORANGEBURG

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

Signature of Judge

(L.S.)

Date:

## RETURN

 A copy of this arrest warrant was delivered to  
defendant TYKEEM KALANI MAY

on 09/16/13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 ORANGEBURG MUNICIPAL COURT  
PO BOX 1425  
1320 MIDDLETON STREET  
ORANGEBURG, SC 29116

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

## AFFIDAVIT

 Form Approved by  
S.C. Attorney General  
April 13, 2003  
SCCA 318

 Personally appeared before me the affiant CPL. KEVIN DUKES who  
being duly sworn deposes and says that defendant TYKEEM KALANI MAY  
did within this county and state on 09/08/2013 violate the criminal laws of the  
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG )  
In the following particulars:  
DESCRIPTION OF OFFENSE: 16-23-0490 / POSS. / WEAPON DURING COMMISSION OF VIOL. CRIME

 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:

 ON 09/08/13 BETWEEN 1:50PM AND 2:10PM, TYKEEM MAY, DID VIOLATE SECTION 16-23-0490, (POSS. WEAPON DURING  
COMMISSION OF VIOL. CRIME), OF THE SOUTH CAROLINA CODE OF LAWS IN THAT HE DID ENTER THE BUSINESS OF THE  
KEG LOCATED AT 409 JOHN C CALHOUN DR. ARMED WITH AN SKS TYPE RIFLE AND DEMANDED MONEY FROM THE CLERK  
WITH THE INTENT TO DEPRIVE THE BUSINESS OF THE MONEY. THE INCIDENT WAS CAPTURED ON THE SURVEILLANCE  
SYSTEM BELONGING TO THE BUSINESS AND CAPTURED IMAGES OF A WHITE DODGE CALIBER THAT WAS USED DURING  
THE INCIDENT AS WELL AS IMAGES OF CLOTHING WORN DURING THE INCIDENT BY THE SUSPECT. DURING THE AFFIANTS  
INVESTIGATION A DODGE CALIBER WAS STOPPED FOR TRAFFIC OFFENSES AND THE DRIVER OF THE VEHICLE MATCHED  
THE DESCRIPTION OF THE INDIVIDUAL WHO WAS INVOLVED IN THE INCIDENT THAT WAS GIVEN BY THE CLERK. BASED  
UPON THIS INFORMATION A SEARCH WARRANT WAS EXECUTED AT 123 WILKINSON ST WHICH IS THE ADDRESS THAT THE  
VEHICLE WAS REGISTERED THROUGH DMV AT. DURING THE EXECUTION OF THE SEARCH WARRANT THE SKS RIFLE,  
MUCH OF THE CLOTHING SHOWN IN THE SURVEILLANCE, AND THE DODGE CALIBER WERE LOCATED.

Signature of Affiant

 Affiant's Address 1320 MIDDLETON ST  
ORANGEBURG SC 29115

Affiant's Telephone

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of  
ORANGEBURG

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 09/08/2013 defendant TYKEEM KALANI MAY

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

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

 DESCRIPTION OF OFFENSE: WEAPONS / POSS. WEAPON DURING VIOLENT CRIME, IF NOT ALSO  
SENTENCED TO LIFE WITHOUT PAROLE OR DEATH

 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 the 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 9/16/13  
BARNEY M. HOUSER (L.S.)

Judge Code: 8460

 Judge's Address 1320 MIDDLETON STREET, COPY  
ORANGEBURG, SC 29115

Judge's Telephone 803-533-5902

 Issuing Court: ☐ Magistrate ☐ Municipal ☒ Circuit

 CLERK OF COURT  
ORANGEBURG COUNTY

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg  
STATE VS.Tykeem Kalami May

AKA:

Race: BLACK Sex: M Age: 24

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 ☒ CONVICTED OF or ☐ PLEADSTO: Poss. Weapon During Violent Crime, If not Also Sentenced to Life without Parole or Deathin violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ 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.

ATTEST:

Bell, Harrison

SC Bar# \_\_\_\_\_

Defendant

Attorney for Defendant

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: 2014-GS-38-189  
☒ 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   | \$ <u>100.00</u> |
| § 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    | \$ <u>25.00</u>  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$               |
| § 50-21-114 (BUI Breath Test Fee)      | \$50    | \$               |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ca | \$               |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ <u>5.00</u>   |
| 3% to County (if paid in installments) |         | \$ <u>3.90</u>   |
| TOTAL                                  |         | \$ <u>238.90</u> |

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: \_\_\_\_\_

**RECEIVED**  
AUG 15 2014  
BY: \_\_\_\_\_

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

Clerk of Court/ Deputy Clerk

Court Reporter: Hilda Jordan

SCCA/217 (03/2011)

Presiding Judge

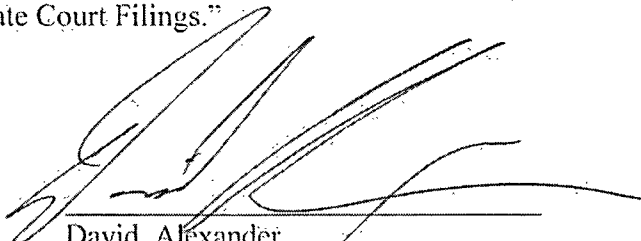
Judge Code: 2128Sentence Date: 8-15-14

ORANGEBURG COUNTY, SC

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

March 25th, 2016



David Alexander  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED  
583

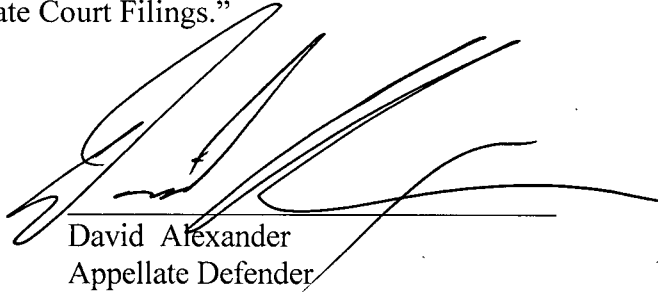
MAR 25 2016

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

March 25th, 2016



David Alexander  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT