

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In the Supreme Court]

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas  
The Honorable Ed Dickson, Circuit Court Judge

**RECEIVED**

MAY 11 2012

Case No: 2010-CP-38-00314

**S.C. SUPREME COURT**

The State . . . . . Respondent

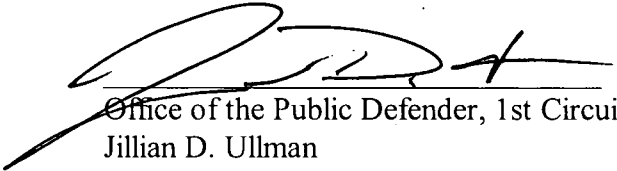
vs.

Henry Haygood . . . . . Appellant

**NOTICE OF APPEAL**

Henry Haygood appeals the order of the Honorable Ed Dickson dated May 4, 2012, which affirmed his conviction in magistrates court. Appellant received written notice of the order on May 4, 2012.

May 9, 2012



Office of the Public Defender, 1st Circuit  
Jillian D. Ullman  
Assistant Public Defender  
P.O. Box 1112  
Orangeburg, SC 29116-1112  
803-531-7090  
Attorney for Appellant

Other Counsel for Record:  
Bryan Jefferies  
Assistant Solicitor  
P.O. Box 1525  
Orangeburg, SC 29115  
(803) 533-6252  
Attorney for Respondent

STATE OF SOUTH CAROLINA, )  
)  
COUNTY OF ORANGEBURG. )  
)  
State of South Carolina, )  
)  
vs. )  
)  
)  
Henry Haygood )  
Appellant. )

IN THE SOUTH CAROLINA COURT OF  
APPEALS

ACCEPTANCE OF SERVICE


**RECEIVED**

MAY 11 2012

**S.G. SUPREME COURT**

---

Due and legal service of the within *Notice of Appeal* by the attorney for the above defendant, in the above entitled action is hereby accepted and a copy retained by Solicitor, Bryan Jefferies, in Orangeburg, South Carolina, this 9th day of May 2012.

  
Solicitor

RECEIVED  
MAY - 9 2012

STATE OF SOUTH CAROLINA )  
COUNTY OF ORANGEBURG )

IN THE COURT OF COMMON PLEAS )  
FIRST JUDICIAL CIRCUIT )

HENRY HAYGOOD, )  
Appellant )

Case Number: 2010-CP-38-00314

vs. )

ORDER DENYING APPEAL

The State of South Carolina )  
Respondent )

This matter comes before me upon Motion of Jillian D. Ullman, Esq., representing the Appellant, to reverse and remand a conviction resulting from a bench trial held on September 25, 2009 in Orangeburg County Central Court. A hearing upon this Motion took place on September 16, 2011 with Bryan Jeffries representing the State. The Defendant was also present with his attorney, Ms. Ullman. Based on testimony offered during the hearing and the arguments made by both Counsel for the Defendant and for the State, I make the following findings:

1. This appeal is based on the lower court allowing into evidence a statement by the victim testified to by the responding officer. This statement was taken upon the officer's arrival to the scene. Appellant claims that this statement should be excluded based on the fact that it is hearsay. This Court disagrees and finds that the statement was admissible based on the hearsay exception found in Rule 803(2), which states that a statement can be admissible if it is an excited utterance. There are three elements that must be met to find a statement to be an excited utterance: (1) the statement must relate to a startling event or condition; (2) the statement must have been made while the declarant was under the stress of excitement; and (3) the stress of excitement must be caused by the startling event.

ATTEST: TRUE COPY

1/2 *Wingja B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

or condition. The statement in question was taken directly after the incident of being threatened. The officer's testimony shows that the victim was still very upset when she gave the statement, and the excitement or stress was caused by the assault that had occurred.

2. The Crawford case provided by defense counsel is distinguishable from these facts because the statement in that case was a recorded taken in a custodial interrogation. Further, the Supreme Court overturned the statement that was deemed admissible by the lower court, not because it fell within the excited utterance hearsay exception, but because it bore a "particularized guarantee of trustworthiness." The Supreme Court determined that was in violation of the Confrontation Clause. This Court finds that the statement testified to by the officer is admissible under the excited utterance exception and that there was no error by the lower court. Because this statement was falls within a long established exception to hearsay, its admission does not violate the Confrontation Clause.

**THEREFORE, IT IS ORDERED THAT** the defendant's Appeal in the above-captioned matter is denied.

**AND IT IS SO ORDERED.**



Honorable Judge Edgar Warren Dickson  
Presiding Circuit Court Judge  
First Judicial Circuit

Orangeburg, South Carolina  
This 4<sup>th</sup> day of ~~April~~, 2012

*May*

*2/25*

Will pay 40  
June 6

# DEFENSE OF INDIGENT APPOINTMENT SHEET

IN THE COURT OF GENERAL SESSIONS

STATE OF S.C. VS Henry Haygood

THE DEFENDANT ABOVE AFTER APPLYING UNDER INDIGENT  
STATUS HAD BEEN FOUND TO QUALIFY FOR A PUBLIC  
DEFENDER. IT IS THEREFORE ORDERED THAT

(CIRCLE ONE OF THE FOLLOWING)

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- MICHAEL CULLER
- PEGGY HINDS
- ANDREW BROWN
- R. DOUGLAS MELLARD
- JILLIAN ULLMAN
- RACHAEL SYLVESTER
- JASON TURNBLAD

2008 MAY 23 P 3:05  
FILED FOR RECORD  
LISA W. MIZELL  
CLERK OF COURT  
ORANGEBURG, SC

IS HEREBY APPOINTED TO REPRESENT SAID DEFENDANT THIS

23 DAY OF May, 2008.

SS#

Lisa W. Mizell  
CLERK OF COURT

CHARGE(S): CDU High & Aggravated

APPOINTMENT MADE IN PERSON /IN JAIL (CIRCLE ONE)

\$40.00 FEE PAID/DUE (CIRCLE ONE)

FIRST APPEARANCE DATE: June 2, 08

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Wingie B. Clark  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA )

COUNTY OF ORANGEBURG )

STATE OF SOUTH CAROLINA )

V. )

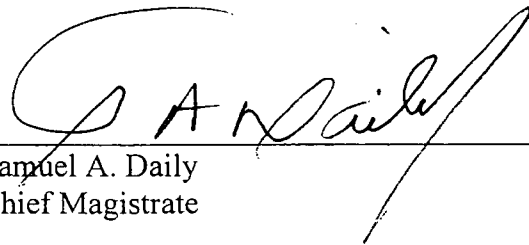
HENRY HAYGOOD )  
421 TECZA DRIVE )  
ORANGEBURG, SC 29115 )

APPELLANT )

IN THE CIRCUIT COURT

WARRANT NO: K-238481

RETURN



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Samuel A. Daily  
Chief Magistrate

January 11, 2009

ATTEST: TRUE COPY  
*Wingja B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC.

STATE OF SOUTH CAROLINA  
COURT

IN THE CIRCUIT

COUNTY OF ORANGEBURG

WARRANT NO: k-238481

THE STATE OF SOUTH CAROLINA

MAGISTRATE'S RETURN  
OF CRIMINAL APPEAL

v.

HENRY HAYGOOD

  
ORANGEBURG, SC 29115  
DEFENDANT

THIS MATTER IS ON APPEAL FROM REGIONAL MAGISTRATE  
CRIMINAL DOMESTIC VIOLENCE COURT OF ORANGEBURG COUNTY,  
SOUTH CAROLINA, THE HONORABLE JUDGE SAMUEL A. DAILY,  
PRSIDING JUDGE.

THE DEFENDANT, HENRY HAYGOOD, WAS CHARGED WITH  
VIOLATING S.C. CODE ANN. 16-25-0065, WHICH IS COMMONLY  
REFERRED TO AS CRIMINAL DOMESTIC VIOLENCE HIGH &  
AGGRAVATED NATURE. (CDVHAN), ON APRIL 1, 2008.

ON JUNE 8, 2009 THE CHARGE WAS REMANDED AND CHARGED WITH  
VIOLATING S.C. CODE ANN. 16-25-0020, WHICH IS COMMONLY REFERRED  
TO AS CRIMINAL DOMESTIC VIOLENCE 1<sup>ST</sup>. (CDV 1<sup>ST</sup>.)

ON JUNE 22, 2009 A JURY TRIAL WAS REQUESTED BY ASSISTANT PUBLIC  
DEFENDER, JILLIAN D. ULLMAN ON BEHALF OF DEFENDANT.

ON SEPTEMBER 4, 2009 THE REQUEST FOR A JURY STRICKING AND JURY  
TRIAL WAS CANCELED AND THE REQUEST WAS MADE FOR A BENCH  
TRIAL.

THIS MATTER WAS HEARD IN A BENCH TRIAL ON SEPTEMBER 25,  
2009 AND THE NOTICE OF APPEAL FILED ON OCTOBER 2, 2009.

**THE PROCEEDINGS WERE:**

{ X } RECORDED ELECTRONICALLY.

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

**LIST OF STATES WITNESS (ES):**

(1) LT. LACRA JENKINS (ORANGEBURG COUNTY SHERIFF'S OFFICE)

**LIST OF DEFENDANT'S WITNESS (ES):**

1. THE DEFENSE OFFERED NO WITNESS, TESTIMONY OR EVIDENCE AT TRIAL.

**A SUMMARY OF THE STATE'S WITNESS TESTIMONY AT TRIAL:**

1. THE STATED CALLED LT. LACRA JENKINS AS THE ONLY WITNESS PRESENT FOR THE ABOVE TRIAL. AFTER BEING PUT UNDER OATH, TESTIFIED AS TO WHAT TOOK PLACE DURING HIS INITIAL INVESTIGATION AFTER HE RESPONDED TO AN ALLEDGED CDV CALL AT 421 TECZA DRIVE, ORANGEBURG, SC 29115 ON MARCH 31, 2008. UPON ARRIVAL HE STATED THAT THE VICTIM TOWANNA HAYGOOD WAS VERY UPSET. DURING HIS INVESTIGATION HE STATED THAT THE ALLEDGE VICTIM, TOWANNA HAYGOOD STATED TO HIM THAT HER HUSBAND BEGIN FIGHTING HER IN THE BEDROOM AND HE STATED TO HER THAT HE WAS GOING TO KILL HER. LT. JENKINS THEN TESTIFIED THAT MRS. HAYGOOD STATED THAT MR. HAYGOOD WENT TO THE BEDROOM CLOSET AND RETRIEVED A BROWN IN COLOR SHOTGUN AND THAT HER 14 YEARS OLD SON STRUGGLE WITH HIM TO TAKE THE SHOTGUN AWAY FROM HIM. MRS. HAYGOOD THEN TOLD HIM THAT MR. HAYGOOD REACHED IN HIS PANTS POCKET WHERE HE KEEPS A SMALL HANDGUN AT TIMES. SHE THEN GRABED HIS PANTS POCKET CAUSING SOME SMALL BULLETS TO FALL TO THE FLOOR. SHE STATED TO HIM THAT MR. HAYGOOD THEN WENT OUTSIDE THE RESIDENT BUT CAME BACK AND PUNCH A HOLE IN THE BEDROOM CLOSET. LT. JENKINS STATED THAT WHEN HE ARRIVED ON THE SECENE HE OBSERVED MR. HAYGOOD BEING HIGHLY INTOXICATED. WHEN HE TRIED TO TALKING TO HIM HE BEGIN USING PROFANITY, STATING THAT THIS WAS HIS HOUSE AND THAT HE WOULD DO ANYTHING HE WISHES. LT. JENKINS FURTHER TESTIFIED THAT HENRY AND TOWANNA HAYGOOD WERE MARRIED AT THE TIME OF THE INCIDENT AND HAS A CHILD IN COMMON.

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

**THE DEFENDANT MADE THE FOLLOWING MOTIONS OR OBJECTIONS THROUGH HIS ATTORNEY:**

1. DURING THE TRIAL OBJECTIONS WERE MADE BY THE DEFENSE ATTORNEY AS TO THE STATE'S INTRODUCTION OF VERBAL STATEMENTS MADE BY THE ALLEDGED VICTIM TO THE INVESTIGATING OFFICER.
2. OBJECTED TO STATEMENTS PERTAINING TO ALLEGATIONS OF WHAT THE DEFENDANT'S DID ON THE DATE OF QUESTION.

**A SUMMARY OF THE STATES' POSITION ON EACH MOTION:**

1. THE STATE ARGUMENT TO THE MOTION IS THAT, THE OFFICER WAS DISPATCHED TO AN ALLEDGED CRIMINAL DOMESTIC VIOLENCE INCIDENT AND DID FOLLOWING PROCEDURE AS IT RELATES TO THE CDV STATUE IN SOUTH CAROLINA. HIS DUTY WAS TO DO AN INVESTIGATION OF THE INCIDENT AND BE PREPARED TO TESTFY AS TO THE FACTS (DURING HIS INVESTIGATION) AT TRIAL.
2. THE STATE ARGUED THAT THE ALLEGED INCIDENT WAS A PART OF THE OFFICE'S INVESTIGATION IS ANY CDV CASE IN SC AND THAT THIS WA AN ACT OF EXCIDED UTTERANCE AND WAS NOT AN EXCEPTION TO THE HEARSAY RULE.

**THE COURT'S RULING TO THE MOTIONS ARE AS FOLLOWS:**

1. THE COURT OVERRULED THE DEFENDANTS OBJECTIONS AND AGREED WITH THE STATE THAT IN SOME CRIMINAL DOMESTIC VIOLENCE THE INVESTIGATING OFFICER OF THE ALLEDGED INCIDENT SHOULD BE ALLOWED TO TESTIFY AS TO THE FINDING OF FACTS DURING HIS INVESTIGATION.

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

**THE STATE OFFERED THE FOLLOWING ITEMS INTO EVIDENCE:**

1. ONE BROWN IN COLOR SHOTGUN AS STATES EXHIBIT #1 AND TAGGED AS ITEM # 2008-004815.
2. TESTIMONY OF LT. LACRA JENKINS OF THE ORANGEBURG COUNTY SHERIFF'S OFFICE.
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

**THE DEFENDANT RAISED THE FOLLOWING OBJECTIONS OF THE ITEMS THAT STATE SOUGHT TO INTRODUCE INTO EVIDENCE:**

1. THE DEFENSE RAISED NO OBJECTIONS AS TO THE SHOTGUN BEING INTRODUCED INTO EVIDENCE.
2. THE DEFENSE OBJECTED TO THE STATE VERBAL STATEMENT OF THE INVESTIGATING OFFICER.
3. THE DFENSE OBJECTED TO THE STATEMENT PRETAINING TO WHAT THE ALLEGEDLY DID ON THE DATE OF QUESTION.
4. \_\_\_\_\_
5. \_\_\_\_\_

**THE STATE RAISED THE FOLLOWING OBJECTIONS TO THE ITEMS THAT THE DEFENDANT SOUGHT TO INTRODEUCE INTO EVIDENCE:**

1. THE DEFENSE INTRODUCED NO EVIDENCE.
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

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

**A SUMMARY OF THE STATE'S AND DEFENDANT'S POSITION AND THE COURT'S RULING ON THE OBJECTION IS ATTACHED.**

THE DEFENDANT WAS FOUND GUILTY OF VIOLATING S.C. CODE ANN. 16-25-0020, COMMONLY KNOWN AS CRIMINAL DOMESTIC VIOLENCE 1<sup>ST</sup>. (CDV 1<sup>ST</sup>.), AND THE COURT IMPOSED THE FOLLOWING SENTENCE:

30 DAYS IN JAIL OR \$2,130.00 SUSPENDED UPON COMPLETION OF THE CASA BATTERER'S INTERVENTION PROGRAM.

THE DEFENDANT THROUGH HIS ATTORNEY REQUESTED TO SERVE THE 30 DAYS SENTENCE ON THE WEEKEND AND TO BE (CREDITED WITH 7 DAYS). ALSO, SENTENCING WAS TO BEGIN IN 30 DAYS FROM 9/25/09 WAS "**GRANTED**".

ON OCTOBER 23, 2009 AN ORDER STAYING SENTENCE WAS FILED BY THE DEFENDANT'S ATTORNEY AND "**GRANTED**" BY THE COURT.

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*Wingja B. Clark*

CLERK OF COURT  
ORANGEBURG COUNTY, SC

**ATTACHED ARE COPIES OF THE ITEMS WHICH ARE CHECKED.**

- { X } ARREST WARRANT NO. K-238481 AND ALL BONDING PROCEEDING PAPERS.
- { X } COURT DISPOSITION SHEET
- { X } LIST OF WITNESS AND A SUMMARY OF THEIR TESTIMONY.
- { X } LIST OF MOTIONS, A SUMMARY OF THE PARTIES' POSITIONS, AND THE COURT'S RULING.
- { X } LIST OF ITEMS OFFERED INTO EVIDENCE , A SUMMARY OF OBJECTIONS, AND THE COURT RULING.
- { X } EXIBITS PUT INTO RECORD.
- { X } THE NOTICE OF APPEAL.
- { X } ACCEPTANCE OF SERVICE
- { X } WRIT OF MANDAMUS
- { X } ORDER STAYING SENTENCE

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

# COURT DISPOSITION

Court Date: SEPTEMBER 25, 2009 @ 10:00 AM

Defendant Name: HENRY HAYGOOD III

Present:  Not Present:

Defendant Attorney: Jill Ullman

Case #: K238481

Charge: CRIMINAL DOMESTIC VIOLENCE

Affiant Name: L. JENKINS

Present:  Not Present:

Victim Name: TAWANNA HAYGOOD

Present:  Not Present:

Victim/Affiant Attorney: \_\_\_\_\_

Presiding Judge: S.A. Daily (L.S.)

## Dispositions

Pled Guilty  Bench Trial  Tried in absence

Forfeited Bond  Dismissed

Nolo Contendere

Not Guilty

Guilty (30 Days Suspended / \$2130 ~~Suspended~~)

CASA of New Directions)

Guilty (Time Served)

Guilty (Committed to jail for 30 days)

Other \_\_\_\_\_

ATTEST: TRUE COPY

*Wingja B. Clark*

CLERK OF COURT

BERNARD COUNTY, SC

Notes: 9 shot gun was found in evidence

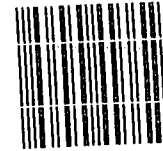
2008 00415

\* Appeal by Attorney Ullman = defendant wants to do  
time - Judge Daily granted - ~~order~~ time to be served  
on weekends starting Friday @ 6pm - Sunday @ 6pm  
time to be served is 23 days (Credit time served 7 days)  
⊗ This is to begin 30 days from today (9-25-09)

the Public Defender  
t Judicial Circuit  
bson Street Room 110  
PO Box 1112  
eburg, SC 29116-1112



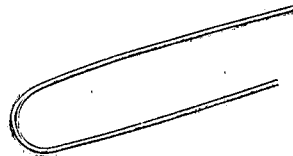
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**\$1.50**  
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The Honorable Dan Shearouse  
Clerk of Court  
SC Supreme Court  
P.O. Box 11330  
Columbia, SC 29211



STATE OF SOUTH CAROLINA, )  
 )  
COUNTY OF ORANGEBURG. )

IN THE SOUTH CAROLINA COURT OF  
APPEALS

State of South Carolina, )

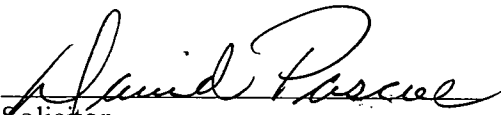
vs. )

ACCEPTANCE OF SERVICE

Henry Haygood )  
Appellant. )

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Solicitor

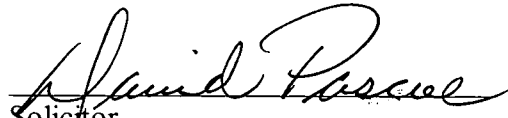
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IN THE SOUTH CAROLINA COURT OF  
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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In the Supreme Court]

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APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas  
The Honorable Ed Dickson, Circuit Court Judge

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Case No: 2010-CP-38-00314

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The State . . . . . Respondent

vs.

Henry Haygood . . . . . Appellant

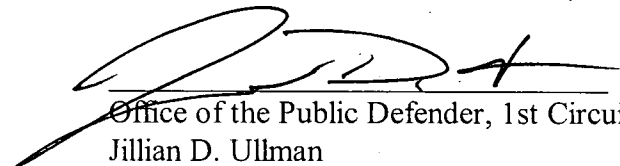
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**NOTICE OF APPEAL**

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May 9, 2012



Office of the Public Defender, 1st Circuit  
Jillian D. Ullman  
Assistant Public Defender  
P.O. Box 1112  
Orangeburg, SC 29116-1112  
803-531-7090  
Attorney for Appellant

Other Counsel for Record:  
Bryan Jefferies  
Assistant Solicitor  
P.O. Box 1525  
Orangeburg, SC 29115  
(803) 533-6252  
Attorney for Respondent

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In the Supreme Court]

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APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas  
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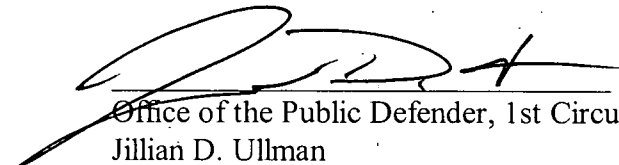
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**NOTICE OF APPEAL**

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May 9, 2012



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Jillian D. Ullman  
Assistant Public Defender  
P.O. Box 1112  
Orangeburg, SC 29116-1112  
803-531-7090  
Attorney for Appellant

Other Counsel for Record:  
Bryan Jefferies  
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(803) 533-6252  
Attorney for Respondent

Courthouse Office  
190 Gibson Street  
(803) 536-5682  
Fax: 536-9986

Office of the Public Defender  
First Judicial Circuit  
PO Box 1112  
Orangeburg, South Carolina 29116  
(803) 536-4858

Covington Office  
372 Saint Paul Street  
(803) 531-7090  
Fax: 531-0977

April 19, 2012

**VIA CERTIFICATE OF MAILING**

The Honorable Dan Shearouse  
Clerk of Court  
South Carolina Supreme Court  
PO Box 11330  
Columbia, SC 29211

**RECEIVED**

MAY 11 2012

**S.C. SUPREME COURT**

**Re:** *State v. Henry Haygood*  
Charge(s): CDV-1st  
Warrant/Ticket No(s): K-237481

Dear Mr. Shearouse:

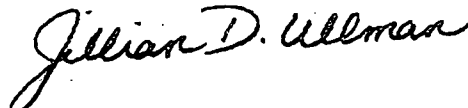
Enclosed please find the original Notice of Appeal and proof of service together with two copies. Also enclosed you will find certified true copies of the Order Denying Appeal, assignment sheet, Magistrate's return sheet in this case.

Please file the original and have the copies clocked in and returned to me in the enclosed, stamped, self-addressed envelope. As you can see, the defendant is indigent and accordingly there should be no docketing fee.

Should you have any questions, please do not hesitate to contact my office.

Sincerely,

ORANGEBURG COUNTY PUBLIC DEFENDER



Jillian D. Ullman, Esq.  
Assistant Public Defender

JDU/ldk

Enclosures: As stated.