

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Greenville County  
G. Edward Welmaker, Circuit Court Judge  
\_\_\_\_\_

 ORIGINAL

RECEIVED  
OCT 02 2012  
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHRISTOPHER G. ROBERTS,

APPELLANT.

\_\_\_\_\_  
MOTION TO REMAND  
FOR RECORD RECONSTRUCTION  
\_\_\_\_\_

Appellant Christopher G. Roberts respectfully moves this Court for an Order placing his appeal in abeyance, and remanding this case to the Greenville County Court of General Sessions for a reconstruction hearing of the July 23, 2010, trial testimony in this matter, and for appointment of counsel to represent Appellant for the reconstruction hearing. In support of this motion, Appellant alleges the following:

- (1) That Appellant was indicted by the Greenville County grand jury during the January 2010 term for Assault and Battery with Intent to Kill (ABWIK) and Domestic Violence of a High and Aggravated Nature (CDVHAN). See Exhibit A (Indictments). Appellant's case proceeded to trial on July 21, 2010, before the Honorable G. Edward Welmaker and a

jury. Thomas M. Hoskinson (Counsel) represented Appellant, while the State was represented by Kris Hodge. The trial court declared a mistrial due to the introduction of improper character evidence. See Exhibit B (Transcript I, p. 1; Tr. I, p. 126, line 5—Tr. I, p. 133, line 17).

- (2) That a new trial was held from July 22 through 23, 2012 before Judge Welmaker and a jury, and with the same counsel. All pretrial motions and rulings from the first trial were incorporated into the second. See Exhibit C (Tr. II, p. 1; Tr. II, p. 6, lines 2-21). According to the sentence sheets, Appellant was found guilty of the lesser included offenses of Assault and Battery of a High and Aggravated Nature (ABHAN), and Criminal Domestic Violence, first offense (CDV); the sentence sheets also indicate Appellant was sentenced to ten years for ABHAN, and thirty days for CDV. See Exhibit D (Sentence Sheets). Notice of Appeal was served on July 26, 2010. See Exhibit E (Notice of Appeal and Proof of Service).
- (3) That the certified court reporter, Ms. Mary E. DiGirolamo, parenthetically indicated she experienced malfunctions in her primary recording equipment, and that no backup was in use at the time: "(REPORTER'S NOTE: This was all I was able to transcribe. My machine malfunctioned and there was no backup.)" See Exhibit F (Tr. II, p. 324, lines 8-10). As a result, no record of the trial was made starting from a point during Appellant's testimony through to the end of the trial. See Exhibit F (Tr. II, p. 324, lines 1-11).

- (4) That the non-recorded portion of the trial contained critical phases of Appellant's jury trial, including: (a) the remainder of cross-examination and any redirect testimony of Appellant; (b) the jury charge conference, (c) the closing arguments of both parties; (d) the jury instructions by the trial court; (e) any specific instructions by the court to the jury in response to the questions the jury submitted; (f) the entire penalty phase; and (g) any objections and arguments made by Counsel to ensure the issues in Appellant's record were preserved for meaningful appellate review during these critical trial phases. See Exhibit G (Tr. II, p. 2-3); see also Exhibit F (Tr. II, p. 324, lines 8-10).
- (5) That this Court has the authority to remand a case for a reconstruction hearing where a transcript has been lost or destroyed. Whitehead v. State, 352 S.C. 215, 221, 574 S.E.2d 200, 203 (2002); China v. Parrott, 251 S.C. 329, 162 S.E.2d 276 (1968). Remand for record reconstruction is appropriate in instances where "a reconstructed record on appeal would allow for meaningful appellate review." State v. Ladson, 373 S.C. 320, 325, 644 S.E.2d 271, 274 (Ct. App. 2007) (internal quotations omitted).
- (6) That a full and complete transcript of the July 22 through 23, 2010 trial, including the missing portion from July 23, 2010, containing critical trial phases is necessary in the interests of due process and fundamental fairness in Appellant's case to allow for meaningful appellate review.

Accordingly, in order to allow meaningful appellate review, Appellant respectfully requests that this Court remand his case to the Greenville County Court of General Sessions for reconstruction of the missing portion of Appellant's trial, and that counsel be appointed to represent Appellant for the reconstruction hearing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Breen R. Stevens", written over a horizontal line.

Breen R. Stevens  
Appellate Defender

ATTORNEY FOR PETITIONER

October 2, 2012

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER G. ROBERTS,

APPELLANT.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Motion to Remand for Record Reconstruction in the above case has been served upon Salley W. Elliott, Esquire, this 2nd day of October, 2012.



Breen R. Stevens  
Appellate Defender

ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 2nd day  
of October, 2012.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: August 23, 2014

# **Exhibit A**

WITNESSES

DOCKET NO. 2009-GS-23-  
KBF

003972

The State of South Carolina

B. Griffin

County of Greenville

Greenville County Sheriffs Office

COURT OF GENERAL SESSIONS

3/11/2009

January TERM 2009-10

THE STATE

vs.

ARREST WARRANT NUMBER

CHRISTOPHER GEORGE ROBERTS

1803919

ACTION OF GRAND JURY

TRUE BILL

*Ann Swerdtke*

REMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

0014

ASSAULT AND BATTERY WITH INTENT TO  
KILL

*Guilty*

*Assault + battery high and aggravated  
nature  
Stephanie Thompson 7/23/10  
Foreperson of Petit Jury Date:*

VIOLATION § 16-03-0620

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ASSAULT AND BATTERY WITH INTENT TO KILL

At a Court of General Sessions, convened on  
County present upon their oath:

JAN 05 2010

the Grand Jurors of Greenville

That CHRISTOPHER GEORGE ROBERTS did in Greenville County, on or about the 2nd day of February 2009, willfully, unlawfully and with malice aforethought, either express or implied, commit an assault and battery upon ANDREA ROBERTS. This is in violation of §16-3-620 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

WITNESSES

DOCKET NO. 2009-GS-23-  
KBF

003973

The State of South Carolina

Shannon McMakin

County of Greenville

Greenville County Sheriffs Office

COURT OF GENERAL SESSIONS

3/11/2009

January TERM 2009/10

THE STATE

vs.

ARREST WARRANT NUMBER

CHRISTOPHER GEORGE ROBERTS

M176015

ACTION OF GRAND JURY

TRUE BILL

*Ann Sewerick*

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

2988

DOMESTIC VIOLENCE OF A HIGH AND  
AGGRAVATED NATURE

VIOLATION § 16-25-0065

*Guilty*

*Criminal Domestic Violence*

*Stephane Thompson* 7/23/10  
Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

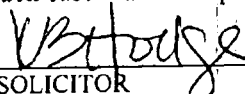
INDICTMENT FOR  
DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED  
NATURE

At a Court of General Sessions, convened on **JAN 05 2010** the Grand Jurors of Greenville

County present upon their oath:

That CHRISTOPHER GEORGE ROBERTS did in Greenville County, on or about the 7th day of March 2009, intentionally commit an assault and battery which involved the use of a deadly weapon or resulted in serious bodily injury to a household member, ANDREA ROBERTS, and/or CHRISTOPHER GEORGE ROBERTS did intentionally commit an assault with or without an accompanying battery, which would reasonably cause a person to fear imminent serious bodily injury. This is in violation of §16-25-65 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

**Exhibit B**

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STATE OF SOUTH CAROLINA  
IN THE COURT OF GENERAL SESSIONS  
COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA :  
:  
-vs- : TRANSCRIPT OF RECORD  
:  
CHRISTOPHER G. ROBERTS :

July 21, 2010  
Greenville, South Carolina

B E F O R E:  
HONORABLE G. EDWARD WELMAKER, Judge.

A P P E A R A N C E S:  
KRIS HODGE, ESQ.  
Attorney for the Plaintiff  
TOM HOSKINSON, ESQ.  
Attorney for the Defendant

MARY E. DIGIROLAMO  
Court Reporter

1 of that to come and that may not trigger that, oh, that  
2 had to be the defendant, that must be what they're  
3 talking about. Or there could be -- I mean, your basic  
4 strike from the record, please disregard the witness'  
5 last answer to the question, move on. I mean, I just  
6 don't know that you want to do that right now when they  
7 come back in, but you could, that's the other  
8 alternative.

9 THE COURT: Let's take a short break. You may step  
10 down, Ms. Roberts. Don't discuss your testimony.

11 (A short recess was taken, after which, the trial  
12 continued as follows:)

13 THE COURT: We'll give Mr. Hoskinson some more time  
14 for his clients. We don't need them here -- we don't  
15 need them here yet. Just -- wait just a moment.

16 (Mr. Hoskinson talked with his client.)

17 All right. I've had a chance to review the law  
18 concerning this matter. And I've tried to grapple with  
19 the opportunity to somehow make a curative instruction.  
20 But understand from the defense that he's not requested  
21 that, he's requested a mistrial. And so my issue then is  
22 whether or not this is of such a prejudicial effect that  
23 it would affect the jury even without a curative  
24 instruction. And he's going all or nothing with the  
25 mistrial.

1 I'm well aware of the hesitancy with which our Court  
2 has said that a motion for a mistrial should be granted  
3 only in extreme circumstances, even if on my own or the  
4 State's motion to do the curative instruction. And I've  
5 read State v. Creech and State v. Counsel that are -- are  
6 good cases that the State has presented to me. However,  
7 I believe that, first of all, Counsel I think is not  
8 dispositive based upon the fact situation there, and  
9 particularly the factors that the trial judge entered  
10 into. I think the distinction with Creech is that the  
11 attorney, defense attorney did ask for the motion for a  
12 curative instruction, which the judge gave, which the  
13 Court said was adequate under the prior law. But here I  
14 have a motion for the curative instruction being made  
15 from the State not from the defense, which perhaps there  
16 is no significance to that but I find there is.

17 I feel compelled to grant a motion for a mistrial.  
18 As much I hate to do it I realize this case has already  
19 been mistried once already. I believe that the statement  
20 made by the witness, although inadvertent, certainly  
21 tried to be corrected by the solicitor, very admirably I  
22 might add. I think the fact that reporting to a  
23 prohibition officer really can't be cured. And I think  
24 it is prejudicial to the defendant. So with great  
25 reluctance I'm going to grant the mistrial.

1           Understand from the jury coordinator that we have a  
2 panel of 33 jurors left that will be reporting tomorrow.  
3 While there's other cases on the docket for tomorrow it's  
4 my inclination that we have witnesses here, we have  
5 already qualified the jury. Those remaining would be --  
6 would go through the qualifying process briefly for them  
7 again. There will be a few additional ones tomorrow,  
8 five or six maybe, that did not hear this, that this case  
9 could perhaps be retried tomorrow. I don't know of any  
10 hindrances that you have as far as arranging witnesses or  
11 witness unavailability tomorrow on either side, but I  
12 think it would be in everyone's best interest, certainly  
13 the victim and certainly the defendant, to go ahead and  
14 get this matter resolved and with all due speed to -- so  
15 that each of them could go on with their -- their lives,  
16 whatever the jury may decide.

17           So with 33 -- I think it's 33, plus one of those  
18 jurors was excused from the trial which would leave 32,  
19 even if we have to go without an alternate. I think that  
20 you would still be a sufficient number of jurors without  
21 any of these panel -- these on the present panel serving  
22 to -- to get us a jury tomorrow to try the case. Is  
23 there any problems scheduling wise with the State on --  
24 starting a new case in the morning at nine o'clock.

25           MS. HODGE: No, sir, the State's ready to proceed

1 tomorrow morning at 9:00.

2 THE COURT: Mr. Hoskinson?

3 MR. HOSKINSON: I know that one of my witnesses gets  
4 paid by the hour. He's a working man. He's given me a  
5 lot of grief about that.

6 THE COURT: Okay. Well, we'll certainly try to  
7 accommodate him scheduling wise, but if he's under  
8 subpoena then we'll do what we have to do.

9 MR. HOSKINSON: And it might even be Friday. I  
10 don't know.

11 THE COURT: I certainly would think he wouldn't be  
12 needed in the morning, so he can ---

13 MR. HOSKINSON: As long as we can somehow work  
14 around that if your Honor ---

15 THE COURT: I'll certainly work with you on that,  
16 get him scheduled as best we can and hopefully we can get  
17 the testimony in -- in tomorrow on everybody, not the  
18 entire trial.

19 All right. I'm going to bring this jury back and  
20 just dismiss them for the week. And our other jury will  
21 be here at nine o'clock in the morning. We'll be ready  
22 to start at 9:00 in the morning.

23 MS. HODGE: Yes, sir.

24 THE BAILIFF: Your Honor.

25 THE COURT: All right. Let's have order in the

1 court, please. The jury is coming in. Okay. Y'all  
2 don't need to be here if you don't want to. If you want  
3 to stay, that's fine too.

4 (The jury entered the courtroom at 5:15 p.m.)

5 THE COURT: Ladies and gentlemen, thank you very  
6 much for your patience with us. I hate keeping you tied  
7 up back there. I hope it's not been a total waste of  
8 time for you. We've tried to make some progress out here  
9 with some legal issues that we have. But unfortunately a  
10 legal issue is involved in this case now that I'm not  
11 going to be able to allow the trial to continue. I'm  
12 going to have to have a mistrial. We'll have to try it  
13 another time.

14 I hope you don't feel cheated in any way. I  
15 appreciate your conscience efforts so far. But  
16 unfortunately sometimes legal matters come up with --  
17 with different matters and we have to try to make sure  
18 our record is protected so we're not going to be able to  
19 hear this case today. We -- you spent the day here. I'm  
20 certainly not going to -- we have some other jurors, as  
21 you saw the panel, and some more that were not on the  
22 panel that will be trying -- there's cases on the docket  
23 and we'll certainly have trials to take care of tomorrow.  
24 But rather than you having to come back I think we'll  
25 have enough jurors without you so that will excuse you

1 for the week. We don't have any cases down for Friday.  
2 The ones we have for tomorrow, if they need to be tried,  
3 I think we'll have enough for that remaining panel to do  
4 that. So don't know if that's good news or bad news.  
5 Your week has really been short. But thank you very much  
6 for your participation today. Again, I hated to keep you  
7 waiting but we needed to get these matters resolved in a  
8 fair way to both sides.

9 Some of you may need a statement from your employers  
10 if you -- for your employer that you've been on jury  
11 service today and for Monday. If that's the case the  
12 clerk's office has that information for you to give them  
13 to verify that you were here. Otherwise you're excused  
14 for the week.

15 If you remember what we talked about on Monday that  
16 really excuses you for the next two years. You can claim  
17 your exemption if you're called upon to serve as a juror  
18 in state court. Hopefully you'll want to waive that  
19 exemption and serve with us in the future. I hope that  
20 will be the case if you're called.

21 Thank you very much for your participation today,  
22 lady and gentlemen. You're dismissed for the rest of the  
23 week. You don't need to call in tonight. You're free to  
24 go. We'll be working tomorrow in another trial. And  
25 that won't necessitate your presence and neither will

1 Friday as we've got some other matters we need to take  
2 care of if we finish the trial tomorrow that will not  
3 involve a jury. You're dismissed at this time. Thank  
4 you very much for your patience.

5 (The jury exited the courtroom at 5:18 p.m.)

6 MR. HOSKINSON: Your Honor?

7 THE COURT: Yes, sir.

8 MR. HOSKINSON: 9:30?

9 THE COURT: Nine o'clock.

10 MR. HOSKINSON: Nine o'clock.

11 THE COURT: Nine o'clock tomorrow. We're going to  
12 try to hit the ground running. The jury will be here. I  
13 don't know of anything else we're going to need to do  
14 other than qualify them again. There will be some new  
15 jurors here that weren't here today. Again, it's not me,  
16 I think we'll have 32 so -- I don't know if we -- I guess  
17 worse scenario we could lose seven of them because of a  
18 conflict and then we wouldn't have enough unless the  
19 State wants to waive its -- because we'll need 27. We'll  
20 need 27 to have a trial if every uses all of their  
21 strikes. That gives us five to -- and I think there were  
22 seven maybe that didn't come today.

23 MS. HODGE: Okay.

24 THE COURT: If we don't lose any those five we can  
25 get an alternate, otherwise we'll just get down to 25 and

1 I'll be asking the State what they want to do about that.

2 MR. HOSKINSON: Yeah, the State thinks that they may  
3 be done around -- what time do you think?

4 MS. HODGE: Hopefully about 3:00, 3:30 because we  
5 still had two more witnesses after this, but those  
6 witnesses were going to be shorter than Ms. Roberts.  
7 She's obviously ---

8 THE COURT: Yeah, I believe we'll probably move a  
9 little quicker tomorrow.

10 MR. HOSKINSON: I think I might tell my witnesses to  
11 be here at 2:00. Would that be okay? If we end early we  
12 can come back from lunch and start mine.

13 THE COURT: Yeah, that would be fine. Okay.

14 MS. HODGE: Yeah.

15 THE COURT: We'll take an early lunch or whatever we  
16 need to do there. Okay. We'll see if we can have  
17 greater success tomorrow.

18 MS. HODGE: Yes, sir.

19 - - -END OF TRANSCRIPT OF RECORD- - -  
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# Exhibit C

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STATE OF SOUTH CAROLINA  
IN THE COURT OF GENERAL SESSIONS  
COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA :  
:  
-vs- : TRANSCRIPT OF RECORD  
:  
CHRISTOPHER G. ROBERTS :

July 22-23, 2010  
Greenville, South Carolina

B E F O R E:  
HONORABLE G. EDWARD WELMAKER, Judge.

A P P E A R A N C E S:  
KRIS HODGE, ESQ.  
Attorney for the Plaintiff  
TOM HOSKINSON, ESQ.  
Attorney for the Defendant

MARY E. DIGIROLAMO  
Court Reporter

1 yesterday, we can deal with those ---

2 THE COURT: Those will be -- do you have any  
3 different ones than yesterday?

4 MR. HOSKINSON: None that are different.

5 THE COURT: Okay. We'll just -- my ruling yesterday  
6 will be affirmed on all those today, for the severance,  
7 evidentiary matters, and the prior record. I'll reaffirm  
8 what I did yesterday. If you have different arguments  
9 I'll be glad to look to those from either side.

10 MS. HODGE: Nothing from the State, Your Honor.

11 THE COURT: Okay.

12 MR. HOSKINSON: So all pretrial motions will be  
13 incorporated into this record in full from yesterday and  
14 my client will be protected on all those rulings?

15 THE COURT: Yes, sir. Those motions that were made  
16 yesterday are fully made for this record. I presume if  
17 there's an appeal they'll probably want -- ask Mary to  
18 type them both up so we'll have everything there, even  
19 the matters that we had at the end of the day yesterday.  
20 All right, Renee, let's have our jury come up.

21 THE CLERK: Okay.

22 MR. HOSKINSON: Judge, for -- I understand you're  
23 going to tell the pool a reason.

24 THE COURT: I'm going to tell them that a legal  
25 matter came up yesterday that necessitated that we try

# Exhibit D

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

STATE VS.

Christopher George Roberts

INDICTMENT/CASE#: 2009GS2303972

A/W#: 1803919

Date of Offense: 2/2/2009

S.C. Code §: 16-03-0620

CDR Code #: 0014

AKA:

Race: Sex: M Age: 39

DOB: 03-27-1971 SS#: 250-31-1231

Address: 305 Iris Court

City, State, Zip: Greenville, SC 29611

DL#: 004276121 SID#:

\*CDL Yes [ ] No [ ] CMV Yes [ ] No [ ] Hazmat Yes [ ] No [ ]

In disposition of the said indictment comes now the Defendant who was TO: ABHAN

SENTENCE SHEET

X CONVICTED OF or PLEADS

in violation of § CL of the S.C. Code of Laws, bearing CDR Code # 0013

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

The charge is: [ ] As Indicted, [X] 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:

W. Hodge

8245

Hodge, Kris B.

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 10 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ provided that upon the service of days/months/years and/or payment of \$ plus costs and assessments as applicable\*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

[ ] RESTITUTION: [ ] Deferred [ ] Def. Waives Hearing [ ] Ordered PTUP 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:

Recipient:

\*Fine:

|  |         |        |
|--|---------|--------|
| § 14-1-206 (Assessments 107.5%)        | \$      |        |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$     |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$     |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$     |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$     |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$     |
| § 50-21-114 (DUI Breath Test Fee)      | \$50    | \$     |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$     |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5   |
| § 44-53-450(C) (Conditional Discharge) | \$350   | \$     |
| 3% to County (if paid in installments) | \$      | \$     |
| TOTAL                                  | \$      | \$     |

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:

[ ] Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition [ ] Appointed PD or appointed other counsel. § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2157

Sentence Date: 7-23-10

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

Paul B. Dickerson M. Aquilante

[Signature]

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.

INDICTMENT/CASE#: 2009GS2303970

Christopher George Roberts

A/W#: M176015

AKA:

Date of Offense: 3/7/2009

Sex: M Age: 39

S.C. Code §: 16-25-0065

DOB: 03-27-1971 SS#: 250-31-1231

CDR Code #: 2988

Address: 40 Tammy Trail

City, State, Zip: Travelers Rest, SC 29690

DL#: 0004276121 SID#:

SENTENCE SHEET

\*CDI. Yes [ ] No [ ] CMV Yes [ ] No [ ] Hazmat Yes [ ] No [ ]
In disposition of the said indictment comes now the Defendant who was
TO: Criminal Domestic Violence 1st offense

X CONVICTED OF or [ ] PLEADS

in violation of § 16-25-0020(A) of the S.C. Code of Laws, bearing CDR Code # 2671
[X] NON-VIOLENT [ ] VIOLENT [ ] SERIOUS [ ] MOST SERIOUS [ ] Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

The charge is: [ ] As Indicted, [X] 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: [Signature] Hodge, Kris B. SC Bar# [Signature] 8245 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the [ ] State Department of Corrections, [X] County Detention Center,
for a determinate term of 30 (day) 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.

[X] CONCURRENT or [ ] CONSECUTIVE to sentence on: 7-23-10
[ ] 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: 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:

Recipient:

\*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like 14-1-206 (Assessments 107.5%), 14-1-211(A)(1) (Conv. Surcharge) \$100, 14-1-211(A)(2) (DUI Surcharge) \$100, 56-5-2995 (DUI Assessment) \$12, 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, 14-1-212 (Law Enforce. Funding) \$25, 14-1-213 (Drug Court Surcharge) \$150, 50-21-114 (DUI Breath Test Fee) \$50, 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, § 44-53-450(C) (Conditional Discharge) \$350, 3% to County (if paid in installments), TOTAL.

Clerk of Court/ Deputy Clerk: [Signature] Paul B. Wachsenseme
Court Reporter: [Signature] M. Regalano
SCCA/217 (06/2010)

Presiding Judge: [Signature]
Judge Code: 2137
Sentence Date: 7-23-10

# Exhibit E

THE STATE OF SOUTH CAROLINA  
In the Appellate Court

---

APPEAL FROM GREENVILLE COUNTY  
Court of General Sessions

G. Edward Welmaker, Circuit Court Judge

---

Case No(s): 2009 GS 23 03970  
2009 GS 23 03972

The State,

Respondent.

v.

Christopher G. Roberts,

Appellant.

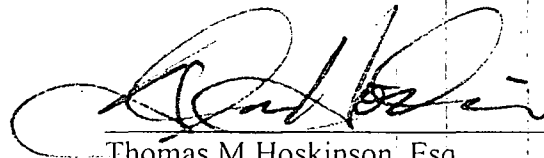
---

NOTICE OF APPEAL

---

Christopher G. Roberts appeals his conviction and sentence in this case. The sentence was imposed by the Honorable G. Edward Welmaker on July 23, 2010.

Date: July 26, 2010



Thomas M. Hoskinson, Esq.  
Greenville County Courthouse  
Greenville, SC 29601  
Attorney for Appellant

Other Counsel of Record:  
Kris Hodge, Esq.  
Assistant Solicitor  
13th Circuit Solicitor's Office  
305 E. North Street, Suite 325  
Greenville, SC 29601  
Attorney for Respondent

THE STATE OF SOUTH CAROLINA  
In the Appellate Court

---

APPEAL FROM GREENVILLE COUNTY  
Court of General Sessions

G. Edward Welmaker, Circuit Court Judge

---

Case No(s): 2009 GS 23 03970  
2009 GS 23 03972

The State,

Christopher G. Roberts,

v.

Respondent.

Appellant.

---

PROOF OF SERVICE

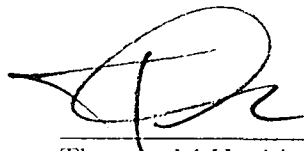
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I certify that I have served the Notice of Appeal on the below listed respondents by depositing a copy of it in the United States Mail, postage prepaid, on July 26, 2010, addressed to:

Kris Hodge, Esq.  
Assistant Solicitor  
13th Circuit Solicitor's Office  
305 E. North Street, Suite 325  
Greenville, SC 29601

Henry McMaster, Esq.  
Attorney General  
P.O. Box 11549  
Columbia, SC 29211

Date: July 26, 2010



---

Thomas M. Hoskinson, Esq.  
Greenville County Courthouse  
Greenville, SC 29601  
Attorney for Appellant

# Exhibit F

1 and explained the situation of what happened. He said,  
2 Chris, whenever you're ready to turn yourself in call me  
3 and I'll be there with you.

4 Q So the police just let -- just chose whenever you  
5 wanted to just turn yourself in?

6 A No. They knew where I was. I didn't know  
7 whether ---

8 (REPORTER'S NOTE: This was all I was able to  
9 transcribe. My machine malfunctioned and there was  
10 no backup.)

11 - - -END OF TRANSCRIPT OF RECORD- - -

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**Exhibit G**

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I N D E X

WITNESSES

DIRECT      CROSS      REDIRECT      RECROSS

BRAD GRIFFIN

Ms. Hodge                      43

Mr. Hoskinson                      56

LUKE WILKINSON

Ms. Hodge                      62                      69

Mr. Hoskinson                      68

ANDREA ROBERTS

Ms. Hodge                      72                      196

Mr. Hoskinson                      158

EMILE ROBERTS

Ms. Hodge                      202

Mr. Hoskinson                      216

SHANNON McMAKIN

Ms. Hodge                      217

Mr. Hoskinson                      228

DANNY BAGWELL

Mr. Hoskinson                      252                      265

Ms. Hodge                      260

CHRISTOPHER ROBERTS

Mr. Hoskinson                      265

Ms. Hodge                      307

|    | <u>EXHIBITS</u>                          | <u>MARKED</u> | <u>FILED</u> |
|----|--|---------------|--------------|
| 1  |  |               |              |
| 2  | S1 - Photo                               | 4             | 48           |
| 3  | S2 - Photo                               | 4             | 48           |
| 4  | S3 - Photo                               | 4             | 48           |
| 5  | S4 - Photo                               | 4             | 48           |
| 6  | S5 - Photo                               | 4             | 48           |
| 7  | S6 - Photo                               | 4             | 48           |
| 8  | S7 - Photo                               | 4             | 48           |
| 9  | S8 - Photo                               | 4             | 51           |
| 10 | S9 - Photo                               | 4             | 51           |
| 11 | S10- Texts                               | 4             | 135          |
| 12 | S11- Letter                              | 4             | 153          |
| 13 |  |               |              |
| 14 | C1. - Orig. Letter (from previous trial) |               |              |
| 15 | C2 - Orig. Jury list                     | 7             | 7            |
| 16 | C3 - Question                            |               |              |
| 17 | C4 - Question                            |               |              |
| 18 | C5 - Question                            |               |              |
| 19 |  |               |              |
| 20 |  |               |              |
| 21 | CHARGE OF THE COURT                      |               |              |
| 22 |  |               |              |
| 23 |  |               |              |
| 24 |  |               |              |
| 25 |  |               |              |