

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Honorable Maite Murphy, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DANIEL YOUNG,

APPELLANT

APPELLATE CASE NO 2016-001185

RECORD ON APPEAL

ROBERT M. PACHAK
Appellate Defender

ALAN WILSON
Attorney General

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

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)	GENERAL SESSIONS
)	
County of Orangeburg)	2015-GS-38-01246
)	
STATE OF SOUTH CAROLINA,)	
)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
DANIEL YOUNG,)	
)	
DEFENDANT,)	

May 31, 2016
Orangeburg, South Carolina

BEFORE:

THE HONORABLE MAITE MURPHY, JUDGE.

APPEARANCES:

SARAH FORD, ASSISTANT SOLICITOR
Attorney for the State

MITCHELL FARLEY, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 MS. FORD: Your Honor, this is Daniel Young. He is
2 pleading guilty to one count of domestic violence on true
3 billed indictment 2015-GS-38-1246.

4 DANIEL YOUNG, after being duly sworn,
5 testified as follows:

6 THE COURT: Mr. Farley, you represent Mr. Young in
7 this matter?

8 MR. FARLEY: I do, Your Honor.

9 THE COURT: And have you explained to your client the
10 charges contained in the indictment, the possible
11 punishment, and his Constitutional Rights?

12 MR. FARLEY: I have.

13 THE COURT: In your opinion, does he understand the
14 charge, the punishment, and his rights?

15 MR. FARLEY: I believe he does.

16 THE COURT: And how does he indicate to you he wishes
17 to plead?

18 MR. FARLEY: Guilty, Judge.

19 THE COURT: Do you agree with your client's decision
20 to plead guilty?

21 MR. FARLEY: I do.

22 THE COURT: Based upon your investigation of the
23 facts and circumstances of the case, do you feel the State
24 could produce sufficient evidence to convince a jury of
25 your client's guilt, and if he were to stand trial, his

1 conviction would be probable?

2 MR. FARLEY: Yes, Your Honor.

3 THE COURT: All right. Mr. Young, I have certain
4 questions for you to ensure that your plea is freely,
5 knowingly, and intelligently made. At any point, if you
6 don't understand something, please stop to ask me, okay.

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: All right. How old are you?

9 THE DEFENDANT: Twenty-nine.

10 THE COURT: And how far did go in school?

11 THE DEFENDANT: Eleventh grade.

12 THE COURT: Did you get a GED?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: What type of work do you do?

15 THE DEFENDANT: I was -- I was going to school for
16 Industrial Electronics, but in the meantime I was working
17 at LI Air making AC units, air conditioning units.

18 THE COURT: Are you married?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Do you have any children?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Have you ever been treated for the abuse
23 of alcohol, drugs, or mental illness?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: Within the last 24 hours have you had any

1 drugs, alcohol or prescription medications?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: You're pleading guilty to domestic
4 violence first offense. This charge carries the potential
5 penalty of how much, Solicitor?

6 MS. FORD: Ten years.

7 THE COURT: Ten years, up to ten years in prison. Do
8 you understand that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And although the State is recommending
11 that you receive a 90-day sentence, I don't have to do
12 that. I can give you ten years. Do you understand that?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And knowing all of that, you wish to
15 proceed with your guilty plea here today?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. Solicitor?

18 MS. FORD: Your Honor, this incident occurred on
19 July 12th, 2015 at [REDACTED] here in the City
20 of Orangeburg. On that date, this defendant arrived home
21 at the residence that he shares with the victim, Ms.
22 Shanika Moore. He was upset because she would not return
23 his calls.

24 The victim was asleep in her bed. This defendant
25 entered the room, removed the victim's shorts, proceeded

1 to smell between her legs. He became upset when she
2 smelled like soap and accused her of cheating with another
3 man.

4 At this time, this defendant began striking her about
5 her person near her stomach and shoulder several times.
6 The victim asked the defendant to leave multiple times.

7 She ran out of the house towards her father's
8 residence who called law enforcement. There were also
9 three children present in the home when this altercation
10 occurred, Your Honor.

11 The victim was eventually transported to TRMC after
12 complaining of pain in her right side and difficulty
13 breathing. She was evaluated, and it was determined she
14 had a fractured rib as a result of this assault, Your
15 Honor.

16 THE COURT: Was she notified of today's proceeding?

17 MS. FORD: Your Honor, we have had multiple attempts
18 at contacting her. We have been unable to contact her.
19 She was not notified of this today as we were not able to
20 get in touch with her. Her interest in this case has been
21 a roller coaster, if you will.

22 THE COURT: All right. Mr. Young, do you agree with
23 the facts as stated by the State?

24 THE DEFENDANT: I got to say something to him.

25 THE COURT: Yes, sir.

1 (Pause.)

2 (Consulting with counsel.)

3 MR. FARLEY: Judge, we just had a question of the way
4 that the facts were read on the record and what we would
5 say had we gone to trial. Obviously, we would say
6 something different happened, and he was concerned about
7 what she said and what our trial strategy has been for
8 several months now so...

9 THE COURT: All right. Mr. Young, why don't you tell
10 me what you did then.

11 THE DEFENDANT: You said what I did?

12 THE COURT: Right, that would make you guilty of
13 domestic violence first.

14 THE DEFENDANT: Well, I went -- I went in the house,
15 you know. We was arguing and stuff, and I am -- the kids
16 was in there, and I was -- I was guilty of, you know,
17 striking her. I didn't intend on hurting her, you know.
18 That's -- that's what happened, you know. It just -- it
19 just happened. I am guilty of that. I've learned my
20 lesson.

21 THE COURT: So you agree that you struck her. She
22 fractured a rib, and the kids were in the house; is that
23 correct?

24 THE DEFENDANT: The rib -- yes; yes, ma'am, the rib
25 wasn't fractured. It was just a bruise on the side and --

1 and --

2 MR. FARLEY: What he is saying, Judge, is that our
3 allegation would be that it was not a true fracture, but
4 that has nothing to do with whether or not there was
5 the -- the battery occurred.

6 THE DEFENDANT: Yeah.

7 MR. FARLEY: He was -- he would argue more in
8 mitigation at trial or to the jury -- or a red herring
9 that the State likes to call some of our defense
10 strategies to try to throw the jury off.

11 We've had that discussion at length, and I -- he's --
12 we've been geared for trial. It's our issue. We have
13 worked out every single possible contingency that we could
14 do.

15 He is trying to argue -- he is saying yes, I did
16 this, I think, you know, but he is also trying to work in
17 some of the mitigation and some of the arguments we would
18 make to the jury. So I think that's what he is saying.

19 THE COURT: Well, Mr. Young, I want to hear from you
20 what you're saying. You're saying that you struck her,
21 correct?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And you caused the injuries that she
24 complained of; is that correct?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And the children were in the house; is
2 that correct?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: She was a household member, basically
5 your girlfriend?

6 THE DEFENDANT: Yes.

7 THE COURT: And you think by her actions, she was in
8 reasonable fear for her safety?

9 THE DEFENDANT: Yes, ma'am; yes, ma'am.

10 THE COURT: So you understand that you're pleading
11 guilty to each of those allegations just as she said.

12 THE DEFENDANT: Yeah.

13 THE COURT: Is that correct?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And are you, in fact, guilty of criminal
16 domestic violence first?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you understand by pleading guilty,
19 you're waiving certain Constitutional Rights? You're
20 waiving your right to have a trial by jury, but the State
21 would have the burden of proving your guilt beyond a
22 reasonable doubt.

23 You're also waiving your right to remain silent
24 during that trial which the judge would instruct the jury
25 they could not use that against you. You're waiving the

1 right to challenge the State's evidence as well as
2 cross-examine witnesses and any defenses you may have.

3 You're also waiving your right to challenge any
4 potentially incriminating statements that you may have
5 made. Do you understand you're waiving each of those
6 rights?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you understand that there are
9 collateral consequences to a conviction to domestic
10 violence convictions? Have you discussed those with your
11 attorney?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Such as also this is considered a violent
14 serious offense. Have you discussed with your attorney?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Do you have any questions about those
17 potential collateral consequences of your plea?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: You've been represented by Mr. Farley in
20 this matter? Have you been satisfied with how he has
21 advised and represented you in this case?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Have you spoken with him for as often and
24 as long as you feel is necessary for him to properly
25 represent you?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Have you understood your talks with your
3 attorney?

4 THE DEFENDANT: Say it again.

5 THE COURT: Have you understood your talks with your
6 attorney?

7 THE DEFENDANT: Yes, ma'am; yes, ma'am.

8 THE COURT: Do you have any complaints against your
9 attorney?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Has anyone promised you anything or held
12 out any hope of reward to get you to plead guilty?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Has anyone threatened or coerced you in
15 any way to get you to plead guilty?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Has anyone associated with your case
18 whatsoever mistreated you in any way?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Have you had enough time to make up your
21 mind as to whether or not you want to plead guilty?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Are you pleading guilty of your own free
24 will?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Have you understood all of my questions?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Is there anything you'd like to ask me
4 about what we've just been over?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Has each and every answer you've given
7 the Court been completely truthful and honest?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Do you understand that you have ten days
10 to appeal the guilty plea and the sentence of the Court,
11 and if you cannot afford an attorney, one will be
12 appointed to represent you?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: I do find that there is a substantial
15 factual basis for the plea; that the defendant's decision
16 to plead guilty is freely, knowingly, and intelligently
17 made with the advice of counsel with whom he says he is
18 satisfied. I formally accept his plea.

19 Mr. Farley?

20 MR. FARLEY: Thank you, Judge. If it pleases the
21 Court. As my client told you, he is 29 years old. He
22 does not have any children. He only went through the 11th
23 grade, but he did complete his GED and was enrolled at OC
24 Tech basically studying what he was already doing,
25 manufacturing air conditioning but studying so that he

1 could move up the ladder so to speak in the company.

2 He admitted what he has done, but the problems with
3 his -- the State's recitation of the facts is that's what
4 the State was going to say at trial.

5 Obviously, when you're defending somebody, you say
6 something completely different in the hopes that the jury
7 will, you know, not convict. I think that it was hard for
8 Mr. Young to wrap his mind about what he said we were
9 going to do versus what they said they're going to do.

10 Judge, we had a moment to briefly speak about this.
11 Under the State's recommendation of 90 days I believe is
12 premised on the fact that he is on federal parole. They
13 have not violated him yet because this is not a
14 conviction.

15 Because it will be a conviction now, that will create
16 the violation, and after speaking to his parole agent
17 which I believe the State did, as well, this is clearly a
18 violation.

19 He is clearly going to be violated, and according to
20 the Federal Sentencing Guidelines he is going to have to
21 finish out whatever sentence he had. So by keeping him in
22 our county jail for 90 days, that gives the federal
23 government the time that they need to start those warrants
24 to start that process and to get him out of here.

25 Judge, we have worked on this case for a long time.

1 It was geared up for trial. There are obvious problems
2 with the State's witnesses and prosecution, and this is a
3 difficult case.

4 My understanding is they've parted their ways. I
5 don't think that he wishes to have anything else to do
6 with her, and I would assume after this incident that she
7 wouldn't want -- I would hope that she wouldn't want to
8 have anything to do with Mr. Young.

9 Judge, the offer is a fair offer. It's the result of
10 a lot of negotiating, a lot of back and forth on both
11 sides, and we would just ask the Court to accept that
12 offer.

13 THE COURT: Prior record?

14 MS. FORD: He has an assault charge from 2003, and
15 disturbing schools. He's got a conviction for possession
16 with intent to distribute marijuana, disregarding a
17 traffic sign, and simple possession of marijuana; 2006,
18 failure to stop for a blue light; from 2006, he has an
19 assault and battery of a high and aggravated nature from
20 2006, and I believe he has a gun charge from -- a federal
21 gun charge, Your Honor, that he was convicted on, as well.

22 THE COURT: How much time is he looking at on the
23 federal time, Mr. Farley?

24 MR. FARLEY: I think -- I want to say three years is
25 what I heard.

1 MS. FORD: I believe it's 24 to 36 months is what was
2 indicated to me, and Mr. Farley would be correct that the
3 recommendation of the 90 days with no credit for time
4 served, that is the direct result of conversations I've
5 had with his probation agent.

6 MR. FARLEY: And I will point out, Judge, that he has
7 been in the county detention center since July 14th, so
8 that's some, you know, 300-plus days that he has been
9 detained that are part of the recommendation that he would
10 not be getting credit for. So it's not like he is walking
11 out on the state charges having served nothing.

12 THE COURT: All right. On indictment
13 2015-GS-38-1246, you're hereby committed to the State
14 Department of Corrections for a period of five years
15 provided upon the service of 90 days and probation to
16 follow for three years.

17 Your probation is to start once you're released from
18 the federal -- from your federal sentence and pursuant --
19 while you're on probation on these charges, you must
20 attend Voc. Rehab or Job Corp.

21 You must complete Domestic Violence Treatment Program
22 while on probation and pay \$500 to the Clerk of Court
23 pursuant to the statute for your public defender
24 appointment.

25 MR. FARLEY: Thank you, Judge.

1 MS. FORD: Thank you, Your Honor.

2 (Whereupon, the proceedings were concluded.)

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WITNESSES

Stephanie Scott

Orangeburg Police Department

ARREST WARRANT NUMBER
2015A3820800297

Arrested: July 14, 2015

ACTION OF GRAND JURY
TRUE BILL

Edward Brown

Date: MAY 18 2016
Foreperson of Grand Jury
Date: May 18, 2016

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015GS38-1248

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 23, 2016 TERM

THE STATE
vs.

Daniel Young

Indictment for
DOMESTIC VIOLENCE--1ST DEGREE

SC Code: 16-25-20(B)

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

18

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.

ORANGEBURG COUNTY
CLERK OF COURT
ORANGEBURG COUNTY, SC

MAY 23 2016

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)

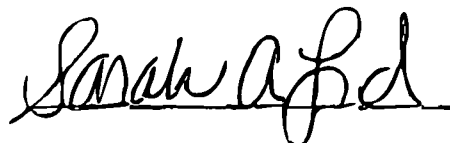
INDICTMENT
 2015GS38-1246

At a Court of General Sessions, convened on May 18, 2016 the Grand Jurors of Orangeburg County present upon their oath:

DOMESTIC VIOLENCE--1ST DEGREE

That Daniel Young did in Orangeburg on or about July 12, 2015 cause physical harm or injury or offer or attempt to cause physical harm or injury, with the present ability to do so under circumstances reasonably creating fear of imminent peril, to Shanicwa Moorer, a household member and great bodily injury resulted or was likely to result, or the defendant committed Domestic Violence in the Second Degree while violating a Protection Order, or has 2 or more convictions of Domestic Violence within the last 10 years, or committed a Domestic Violence in the Second Degree; to wit: the victim did suffer from fractured ribs and three minor children were present, thereby violating Section 16-25-20(B), Code of Laws of South Carolina, 1976, as indicted.

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




Sarah A. Ford, Solicitor

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."

Respectfully Submitted,


Robert M. Pachak
Appellate Defender

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


ATTORNEY FOR APPELLANT

This 12th day of December, 2016.

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."

Respectfully Submitted,


Robert M. Pachak
Appellate Defender

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PO Box 11589
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ATTORNEY FOR APPELLANT

This 12th day of December, 2016.

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SC Court of Appeals

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Appeal from Orangeburg County

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Honorable Maite Murphy, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

DANIEL YOUNG,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of December, 2016.

George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 12th day of December, 2016.

Christian Ford (L.S.)
Notary Public for South Carolina
My Commission Expires March 1, 2026

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