

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

Court of General Sessions
Scott Sprouse, Circuit Court Judge

Appellate Case No. 2016-000527

Case No.: Assault and Battery Of A High And Aggravated Nature 2015-GS-04-00781;
Pointing/Presenting A Firearm 2015-GS-04-00782

JESUS VARGAS MARTINEZ,

Appellant,

Versus

STATE,


Appellee.

RECEIVED

FEB 09 2017

SC Court of Appeals

RECORD ON APPEAL


Fletcher N. Smith, Jr.
Bar #05165
Attorney for Appellant
P.O. Box 10496
Greenville, SC 29603
(864) 232-6541 Office
(864) 232-6756 Fax

February 3, 2017

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IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
ADMINISTRATIVE LAW COURT

The Honorable R. Lawton McIntosh

Case No.: Assault and Battery Of A High And Aggravated Nature 2015-GS-04-00781;
Pointing/Presenting A Firearm 2015-GS-04-00782

JESUS VARGAS MARTINEZ,

Appellant,


Versus

STATE,

Appellee.

NOTICE OF INTENT TO APPEAL

Comes now the Appellant, Jesus Vargas Martinez, by and through his undersigned attorney hereby appeals from a decision and order of the Honorable R. Lawton McIntosh rendered on February 24, 2016 and filed with the Clerk of Court on February 24, 2016.


Fletcher N. Smith, Jr.
Attorney for Appellant
P.O. Box 10496
Greenville, SC 29603
(864) 232-6541 Office
(864) 232-6756 Fax

Anderson, South Carolina
March 2, 2016

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
ADMINISTRATIVE LAW COURT

The Honorable R. Lawton McIntosh

Case No.: Assault and Battery Of A High And Aggravated Nature 2015-GS-04-00781;
Pointing/Presenting A Firearm 2015-GS-04-00782

JESUS VARGAS MARTINEZ,

Appellant,

Versus

STATE,

Appellee.

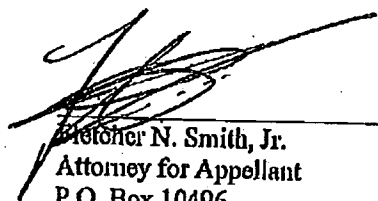
CERTIFICATE OF SERVICE

I, Fletcher N. Smith, Jr., hereby certify that I have this 2, day of March, 2016, served a copy of the herein below listed documents to the addressees listed below by depositing a copy of same in the United States Postal System postage prepaid, and mailing same to:

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals Clerk of Court
P.O. Box 11629
Columbia, SC 29211

The Honorable Richard A. Shirley
Tenth Judicial Circuit Clerk of Court
P.O. Box 8002
Anderson, SC 29622

Catherine T. Huey, Esquire
Sr. Career Prosecutor
Tenth Judicial Circuit Solicitor's Office
100 South Main Street
Anderson, SC 29624



Fletcher N. Smith, Jr.
Attorney for Appellant
P.O. Box 10496
Greenville, SC 29603
(864) 232-6541 Office
(864) 232-6756 Fax

Anderson, South Carolina
March 2, 2016

WITNESSES

Anderson Police Dept.
Blake Vaughn

ARREST WARRANT NUMBER

2015A0420700129

TRUE BILL
ACTION OF GRAND JURY
MAY 12 2015
[Signature]

Foreperson of Grand Jury
Date:

VERDICT

Guilty-

Kimberly A. Edwards
Foreperson of Grand Jury

Date: *2/24/14*

DOCKET NO. 2015-GS-04-00781

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

MAY 12 2015

TERM

THE STATE

VS.

JESUS V MARTINEZ

INDICTMENT FOR

ASSAULT & BATTERY OF A HIGH AND
AGGRAVATED NATURE

SC Code: § 16-03-0600(B)(1)
CDR Code: 3411

A TRUE COPY
FEB 26 2016
[Signature]
ANDERSON COUNTY COURT

WITNESSES

Anderson Police Dept.
Blake Vaughn

ARREST WARRANT NUMBER

2015A0420700130

TRUE BILL
ACTION OF GRAND JURY
MAY 12 2015
Shanda L. [Signature]

Foreperson of Grand Jury
Date:

VERDICT

Guilty -

1

Kimberly Edwards

Foreperson of Grand Jury

Date: *2/24/16*

DOCKET NO. 2015-GS-04-00782

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

MAY 12 2015, TERM

THE STATE

VS.

JESUS V MARTINEZ

INDICTMENT FOR

POINTING/PRESENTING A FIREARM

SC Code: § 16-23-0410
CDR Code: 0122

TRUE COPY
FEB 26 2016
Blaine [Signature]
ANDERSON CLERK OF COURT

STATE OF SOUTH CAROLINA.

COUNTY OF ANDERSON

INDICTMENT

MAY 12 2015.

At a Court of General Sessions, convened on _____, the
Grand Jurors of Anderson County present upon their oath:

POINTING/PRESENTING A FIREARM

The defendant, Jesus V Martinez, did in Anderson County, on or about February 12, 2015, point and/or present a firearm at the victim, Floyd Mills. This is in violation of §16-23-410 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.

Catherine T. Huey
CATHERINE T. HUEY
SR. CAREER PROSECUTOR

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON
STATE VS.

JESUS V MARTINEZ

AKA: Jesus Martinez
Race: Unknown Sex: M Age: 48
DOB: SS#: 251
Address:
City, State, Zip: _____
DL# _____ SID# SC01290208

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Pointing/Presenting a Firearm (5)
In violation of § 16-23-0410 of the S.C. Code of Laws, bearing CDR Code # 0122

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015-65-04-00782
A/W: 2015A0420700130
Date of Offense: 02/12/2015
S.C. Code §: 16-23-0410
CDR Code #: 0122

SENTENCE SHEET



CONVICTED OF or PLEADS

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory OPS §17-25-45
(CSC w/minor 1st or Lowd Act)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, _____ (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Catherine T. Huey 68416
Catherine T. Huey, Sr. Career Prosecutor 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 3 days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2015 GS04781
 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 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: \$ _____ days/hours Public Service Employment
Payment: _____ Obtain CED

Set by SC _____
Recipient: _____
*Fine: ANDERSON CLERK OF COURT

Attend Voc. Rehab. Or Job Corp. _____
May serve W/B 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: No contact with victims
including all members
of Trammell at Smith Law firm

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

§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/ca	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 130.00
TOTAL		

Clerk of Court/Deputy Clerk: _____
Court Reporter: R. Tolson
SCCA/217 (03/2011)

Presiding Judge: _____
Judge Bar ID: _____ Judge Code: #2752
Sentence Date: 2/24/16

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

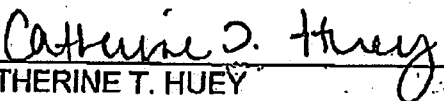
INDICTMENT

At a Court of General Sessions, convened on MAY 12 2015, the
Grand Jurors of Anderson County present upon their oath:

ASSAULT & BATTERY OF A HIGH AND AGGRAVATED NATURE

The defendant, Jesus V. Martinez, did on or about February 12, 2015 in Anderson County, injure Floyd Mills and did accomplish that injury by means likely to produce death or great bodily injury. All in violation of 16-03-0600(B)(1), Code of Laws of South Carolina, (1976), as amended).

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


CATHERINE T. HUEY
SR. CAREER PROSECUTOR

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON
STATE VS.

JESUS V MARTINEZ

AKA: Jesus Martinez
Race: Unknown Sex: M Age: 48
DOB: _____
Address: _____
City, State, Zip: _____
DL# _____ SID# SC01290208

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
TO: Assault & Battery Of A High And Aggravated Nature (20)

In violation of § 16-03-0600(D)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015-65-04-0078
A/W: 2015A0420700129
Date of Offense: 02/12/2015
S.C. Code §: 16-03-0600(D)(1)
CDR Code #: 3411

SENTENCE SHEET



CONVICTED OF or PLEADS

- NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45 (CSC w/minor 1st or Lowd Act)
- The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)
- The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Catherine T. Huey 68416
Catherine T. Huey, Sr. Career Prosecutor 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 3 days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

- CONCURRENT or CONSECUTIVE to sentence on: 2015-65-04-00782
- 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 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
- Total \$ _____ plus 20% fee \$ _____ Obtain QED

Payment Terms: _____

Set by CDJ FEB 26 2016

Recipient: _____

*Fees: _____

§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 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL		\$ 1300.00

- Attend Voc. Rehab. Or Job Corp. _____
- May serve W/B 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: No contact with victims including all members of Trammell and Willis Law firm.

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

Clerk of Court/Deputy Clerk: Richard S. Stanley
Court Reporter: R. Tolson
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Bar ID: _____
Sentence Date: 2/24/16
Judge Code: #2752

WITNESSES

Anderson Police Dept.
Blake Vaughn

ARREST WARRANT NUMBER

2015A0420700130

TRUE BILL
ACTION OF GRAND JURY
MAY 12 2015
Shada Bell
Foreperson of Grand Jury
Date:

VERDICT

Guilty -

Kimberly Edwards
Foreperson of Grand Jury
Date: *2/24/16*

DOCKET NO. 2015-GS-04-00782

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

MAY 12 2015, TERM

THE STATE

VS.

JESUS V MARTINEZ

INDICTMENT FOR

POINTING/PRESENTING A FIREARM

SC Code: § 16-23-0410
CDR Code: 0122

A TRUE COPY
FEB 26 2016
Blair M. King
ANDERSON CLERK OF COURT

STATE OF SOUTH CAROLINA.

COUNTY OF ANDERSON

INDICTMENT

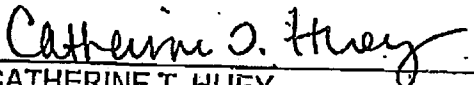
MAY 12 2015

At a Court of General Sessions, convened on _____, the
Grand Jurors of Anderson County present upon their oath:

POINTING/PRESENTING A FIREARM

The defendant, Jesus V Martinez, did in Anderson County, on or about February 12, 2015, point and/or present a firearm at the victim, Floyd Mills. This is in violation of §16-23-410 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.



CATHERINE T. HUEY
SR. CAREER PROSECUTOR

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON
STATE VS.

JESUS V MARTINEZ

AKA: Jesus Martinez
Race: Unknown Sex: M Age: 48
DOB: 02/12/2015 SS#: _____
Address: _____
City, State, Zip: Anderson, SC
DL#: _____ SID# SC01290208

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Pointing/Presenting a Firearm (5)
In violation of § 16-23-0410 of the S.C. Code of Laws, bearing CDR Code # 0122

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015-GS-04-00782
A/W: 2015A0420700130
Date of Offense: 02/12/2015
S.C. Code §: 16-23-0410
CDR Code #: 0122

SENTENCE SHEET



CONVICTED OF or PLEADS

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
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The plea is: Without Negotiations or Recommendation, Defendant Waives Presentation to Grand Jury, _____ (def.'s initials)
 Negotiated Sentence, Recommendation by the State.

TEST: Catherine T. Huey 68416
Catherine T. Huey, Sr. Career Prosecutor SC Bar # _____

Defendant _____ Attorney for Defendant _____ SC Bar # _____

WHEREFORB, 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 3 days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

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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.

RESTITUTION: Deferred Def. Waives Hearing

SPECIAL CONDITIONS:

TOTAL \$ _____ plus 20% fee: \$ _____
Payments: TRUE COPY
Set by SCB: FEB 26 2016
Recipient: Richard S. Shirley
Title: ANDERSON CLERK OF COURT

Ordered PTUP _____
_____ days/hours Public Service Employment
Obtain OBD
Attend Voc. Rehab. Or Job Corp. _____
May serve W/B 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

§14-1-206 (Assessments 107.5%)	\$	
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§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 130.00
TOTAL		

Other: No contact with victims
including all members
of Transwell at the Law Firm

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

Clerk of Court/Deputy Clerk: Richard S. Shirley
Court Reporter: R. Tolson
SCCA/217 (03/2011)

Presiding Judge: _____
Judge Bar ID: _____ Judge Code: #2750
Sentence Date: 2/24/16

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
Scott Sprouse Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JESUS V. MARTINEZ,

APPELLANT


**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) February 23-24, 2016 Transcript: Transcript cover page; Tr. 2-4;
- (3) February 23-24, 2016 Transcript: Tr. 25-27; Tr. 35-37; Tr. 77; Tr. 132,137-138;
- (4) February 23-24, 2016 Transcript: Tr.37; Tr. 45; Tr. 35-37; Tr. 137-138.

I certify that this designation contains no matter which is irrelevant to this appeal.

September 23, 2016



Fletcher N. Smith, Jr.
Attorney At Law
112 Wakefield Street
Greenville, S.C. 29601
864-232-6541
ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

Court of General Sessions
Scott Sprouse, Circuit Court Judge

Appellate Case No. 2016-000527

THE STATE,

Respondent,

v.

JESUS V. MARTINEZ,

Appellant.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

In addition to the matter designated by Appellant, Respondent proposes the following to be included in the Record on Appeal:

Trial transcript pages 28-34, 38-60, 65-75, 84, 86-91, 94-95,
97-130.

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

Court of General Sessions
Scott Sprouse, Circuit Court Judge

Appellate Case No. 2016-000527

THE STATE,

Respondent,

v.

JESUS V. MARTINEZ,

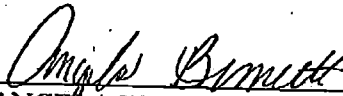
Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the within Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Fletcher N. Smith, Jr., Esquire
112 Wakefield Street
Greenville, SC 29601

I further certify that all parties required by Rule to be served have been served.
This 9th day of January, 2016.

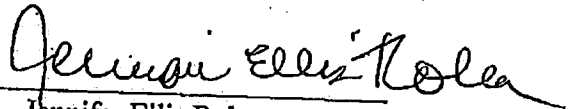


ANGELA BENNETT
Administrative Coordinator

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

JENNIFER ELLIS ROBERTS
Assistant Attorney General

CATHERINE HUEY
Acting Solicitor, Tenth Judicial Circuit

BY: 
Jennifer Ellis Roberts
Bar # 79818

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

January 9, 2016

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WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
Floyd Simpson "Trey" Mills, III				
Huey	25		50	
Smith		43		
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Smith		62		
Ashley Reese				
Huey	65			
Smith		70		
Lisa Hunt				
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Smith		75		

<<...>>

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EXHIBITS

No	DESCRIPTION	ID	EV
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S-3	Photograph	5	37
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S-9	Check #140682	5	40
S-10	Check #141420	5	40
S-11	Victim's Usual Signature	42	42
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Juror#	Name	Race	Sex	Strikes			Accept
				Ct	Pl.	Def.	
77	Gregory P. Moss	W	M				X
21	Rachael M. Christian	W	F				X
115	Larry C. Sellers	W	M				X
38	Kimberly A. Edwards	W	F				X
130	John R. Stubblefield	W	M				X
60	Don A. Jameson	W	M				X
114	Stephen K. Sanders	W	M				X
93	Marvin A. Owens	W	M				X
134	Alison L. Taylor	W	F				X
54	John M. Hayes	W	M				X
70	Takisha J. Lewis	B	F				X
19	Louise A. Calvanese	W	F				X
100	Kassandra T. Penland	W	F	A	L	T	X

*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

1 proven their case beyond a reasonable doubt, you get to
2 say guilty. But we believe that during the course of
3 this trial we're going to show you that Mr. Vargas should
4 be found not guilty.

5 Thank you very much.

6 THE COURT: All right. Ms. Huey, call your
7 first witness.

8 MS. HUEY: Your Honor, the State calls Trey
9 Mills to the stand.

10 **FLOYD SIMPSON "TREY" MILLS III**

11 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

12 **DIRECT EXAMINATION**

13 BY MS. HUEY:

14 Q. Mr. Mills, what is your occupation?

15 A. I'm a civil trial attorney. I've been practicing
16 since January 6th of 2006 here in Anderson County with
17 Ernie Trammel.

18 Q. And what's the name of your firm?

19 A. It's Trammel and Mills now. It was Trammel Law Firm
20 when I first started.

21 Q. And so how long have you been an attorney all
22 together?

23 A. Going on eleven years.

24 Q. And a partner for how many?

25 A. Five.

1 Q. Generally, what does your practice consist of?

2 A. We're a civil trial practice. We do worker's
3 compensation and personal injury claims when you're hurt
4 by the negligence, ignorance or omissions of others. We
5 sue insurance companies.

6 Q. You sue insurance companies?

7 A. Yes.

8 Q. And generally how and when do you earn your fee?

9 A. I only earn my fee -- it's a contingency fee. I
10 don't get paid up-front, by the hour or a retainer fee.
11 I get paid based on a percentage of what I get my
12 clients. A third, one-third, minus any costs or liens or
13 third-party liens for health bills and things of that
14 nature. If I get them nothing, I get nothing.

15 Q. And that's just generally how it works; is that
16 correct?

17 A. That's correct.

18 Q. Are you familiar with the defendant in this case,
19 Jesus Martinez?

20 A. Yes.

21 Q. And how are you familiar with him?

22 A. I first became familiar with him from a June 9th,
23 2013, motor vehicle collision his son Jesse was in who's
24 seated behind him in the red checkered shirt. Jesse was
25 involved in a motor vehicle collision. He and Jesus came

1 to my office to represent him. I represented Jesse on
2 that claim and resolved it for him for a settlement that
3 he received.

4 And then I became their attorney on a second
5 occasion when they were involved in a second motor
6 vehicle collision on October 20th of 2013. And they were
7 in my office the next day on October 21st of 2013.

8 Q. And is Mr. Martinez, Jesus Martinez, in the
9 courtroom today?

10 A. Jesus Martinez is wearing the jacket and the blue
11 shirt seated between Mr. Smith and the interpreter.

12 Q. And sitting at the defense table?

13 A. Correct. He's wearing the blue shirt.

14 Q. So was Jesus a client of yours then to start with or
15 someone else's?

16 A. He was my client. Each time he was my client. I am
17 the only one at the office who does the personal injury
18 work.

19 Q. So what was the nature of your representation with
20 Mr. Jesus Martinez then, generally speaking?

21 A. A contingency-fee basis. He was my client I was
22 representing for an injury claim.

23 Q. This was a motor vehicle collision?

24 A. Correct. This was a motor vehicle collision. First
25 it was him as guardian for his son's injury. And then

1 reaction because I'd just got punched in the back of the
2 head with a gun being held to me.

3 I stood up. And when I did that, he tried to hit me
4 with the butt of the gun. I'm six two; he's not. He hit
5 me in the back of the head and the back of my right
6 shoulder. When he did that, he also put the gun to my
7 temple and said, "Sign the fucking check or I'll kill you
8 and everybody in the office."

9 I signed the check. I did so though -- I'm very
10 narcissistic about my signature. I sign Trey. It's
11 really long to sign Floyd Simpson Mills III. I sign my
12 name a lot. I sign Trey. That's how I sign everything.
13 I was hoping that somebody would realize when I signed it
14 like that, there's a reason I did it.

15 Q. Okay. Let me back you up just a bit. He hit you
16 with his fist first?

17 A. Left fist first.

18 Q. He then hit you with the gun?

19 A. After I began to react and stand up and pushing away
20 with my right hand, he came down with his right hand and
21 the gun in his right hand to the back of my head and to
22 the right shoulder. It wasn't ...

23 Q. He didn't get a good lick in, so to speak? Was he
24 able to really hit you hard?

25 A. I've been hit harder. Not with a gun.

1 Q. But you felt it nonetheless?

2 A. Yes, I felt it.

3 Q. He then put the gun to your head. Was the gun
4 touching your head?

5 A. Yes. Yes.

6 Q. And he threatened you and everyone in your office?

7 A. He threatened to kill me if I didn't sign the check
8 and everybody in my office.

9 Q. And you signed the checks; is that correct?

10 A. I signed the checks.

11 Q. What did he then do?

12 A. He then asked me to sit down and put my head on the
13 table. And I said, "No." I was standing at this point.
14 I backed away from the door, the only entrance going into
15 the board room. And I said, "Just leave. Just go." You
16 know, I'm not putting my head on the table. I asked him
17 just to leave. And he grabbed everything off the table,
18 all the paperwork.

19 Q. Including the checks?

20 A. Yes, including the checks, including the index card.
21 Grabbed everything, tucked it in his leather jacket and
22 walked out like nothing happened.

23 Q. What did you do once he left?

24 A. I followed right behind him. And Ashley Reese was
25 coming in my direction headed to Ernie's office. And I

1 told her once he was clear, once he was at least towards
2 the front of the office, I said, "Call 9-1-1. He just
3 pulled a gun on me." At that time, you know, I went back
4 to my office to call 9-1-1.

5 Q. Now, did you require any medical treatment?

6 A. No. No.

7 Q. Did you ever have any bruising of you?

8 A. No.

9 Q. Would your hair have been covering one of the spots
10 that he would have hit?

11 A. Yes.

12 Q. And I don't think I asked you the address of your
13 law firm. Do you know?

14 A. 1650 East Greenville Street on Highway 81 there
15 beside the Zaxby's.

16 Q. And is that in the city limits of Anderson?

17 A. Yes.

18 MS. HUEY: Your Honor, it's my understanding
19 that the Defense does not object to State's 1 through 8,
20 so at this time we'd seek to admit them into evidence.

21 THE COURT: Any objection?

22 MR. SMITH: No objection, Your Honor.

23 THE COURT: State's Exhibits 1 through 8 would
24 be admitted without objection.

25 (WHEREUPON, State's Exhibits Number 1 through 8 were

1 THE COURT: Okay.

2 MR. SMITH: I move for directed verdict of
3 acquittal, Your Honor. We don't believe that looking at
4 the evidence in the light most favorable to my sister,
5 the State, that she has made a case, a prima facia case,
6 that he's guilty of any of the charges that she's
7 charging him with under those two indictments.

8 THE COURT: Mr. Smith, I've heard the
9 testimony, and I believe there's sufficient testimony in
10 the record to make this a factual issue. Therefore, it's
11 a jury question, so I have to deny your motion.

12 MR. SMITH: Thank you, Your Honor.

13 THE COURT: All right. Mr. Jesus Vargas
14 Martinez ...

15 Please put him under oath.

16 (WHEREUPON, the defendant was duly sworn.)

17 THE COURT: Mr. Martinez, at this time I am
18 going to explain to you some of your rights. If you do
19 not understand anything that I say, please let me know,
20 and I will explain it again in more detail. If you
21 answer the question, I will assume that you understood
22 the question. Do you understand?

23 THE DEFENDANT: (By the Interpreter) Yes.

24 THE COURT: We have reached the stage in the
25 trial where you may present your defense. You have the

1 party before I dismiss the jury?

2 MS. HUEY: Nothing from the State, Your Honor.

3 MR. SMITH: Nothing from the Defense, Your
4 Honor.

5 THE COURT: All right. Ladies and gentlemen,
6 thank you for your service on this case. You will be
7 dismissed now. However, the entire pool is to report
8 back at two o'clock. So thank you for your service.
9 You're dismissed until two o'clock.

10 (WHEREUPON, the jury exited the open court at
11 approximately 11:16 a.m.)

12 THE COURT: Okay.

13 MR. SMITH: Your Honor, may I make my motions?

14 THE COURT: So noted for the record. Go ahead.

15 MR. SMITH: Judgment notwithstanding the
16 verdict, a new trial.

17 THE COURT: That would be denied.

18 MR. SMITH: Thank you, Your Honor.

19 THE COURT: Okay. Mr. Smith, would you and
20 your client come forward, please, sir?

21 MR. SMITH: Yes, Your Honor.

22 (WHEREUPON, counsel and the defendant approached the
23 bar after which court stood at ease.)

24 THE COURT: All right. We're back on the
25 record here where Jesus V. Martinez has been convicted of

1 through.

2 And then he had a workers' compensation claim, and
3 all of that got discombobulated. But I think he used a
4 different law firm in that.

5 THE COURT: Okay. All right. I've reviewed
6 the photographs and documents, Mr. Smith. I'm giving
7 your originals back.

8 MR. SMITH: Thank you, Your Honor. So if
9 there's any compassion the Court can offer, we would ask
10 that benefit be given to Mr. Vargas. And his son and
11 daughter are seated ---

12 THE COURT: Do they wish to address the Court?

13 MR. SMITH: Do y'all wish to say anything to
14 the Court?

15 That's his son.

16 THE COURT: Yes, sir. State your name.

17 (WHEREUPON, the defendant's son approached and held
18 the microphone but did not speak.)

19 THE COURT: Does Mr. Martinez wish to tell me
20 anything?

21 THE DEFENDANT: (By the Interpreter) No, sir.

22 THE COURT: Okay.

23 All right. I've heard the testimony in the case,
24 and this is a serious incident. On assault and battery
25 of a high and aggravated nature, he could get up to

1 twenty years on that offense. Pointing and presenting a
2 firearm, he'd get five additional on that.

3 I understand certainly emotions take control of
4 people, but it can't be a defense to this. And this is a
5 serious, serious offense. So this is going to be the
6 sentence of the Court.

7 On indictment 781, the defendant will be confined to
8 the Department of Corrections for a term of ten years.
9 That would be suspended on the service of three years,
10 followed by probation for five years.

11 MR. SMITH: Thank you, Your Honor.

12 THE COURT: And a condition of probation, no
13 contact with the victims.

14 And then pointing and presenting a firearm, 782,
15 he'd be sentenced to five years, suspended on three years
16 followed by five years probation. No contact with the
17 victims. That would be concurrent.

18 Good luck to you, sir. I hope you can put all of
19 this behind you.

20 MS. HUEY: And Your Honor -- I'm sorry, Your
21 Honor. May I ask for no contact with the law firm in and
22 of itself?

23 THE COURT: Okay. All right. I'll put victims
24 including the Trammel and Mills Law Firm, including all
25 members of the Trammel and Mills Law Firm.

1 told her once he was clear, once he was at least towards
2 the front of the office, I said, "Call 9-1-1. He just
3 pulled a gun on me." At that time, you know, I went back
4 to my office to call 9-1-1.

5 Q. Now, did you require any medical treatment?

6 A. No. No.

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8 A. No.

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10 that he would have hit?

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13 law firm. Do you know?

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1 check. At that time, Mills said ..." Let me see. Let
2 me go back up. "Mills advised Martinez then passed him a
3 note that said, 'Sign the check or I will kill you.'
4 Mills said he refused at which time Martinez hit him in
5 the head with a closed fist. Mills said he pushed
6 Martinez back." Do you remember giving the police that
7 statement that you pushed him back?

8 A. I remember -- yeah, I remember very vividly what
9 happened.

10 Q. Okay. So as I understand it, the man hit you, then
11 you pushed him back; correct?

12 A. No. What you're doing is like a swipe. He was
13 standing right at my right shoulder. I pushed him that
14 way and stood up.

15 Q. All right. So that was a good stiff arm like in a
16 football thing?

17 A. No. I wish I'd got a good stiff arm in on him.

18 Q. Okay. Now, in your statement you never said that he
19 tried to kill everybody in your office, did you?

20 A. I'm glad he didn't. But I didn't have any more room
21 to write anything.

22 Q. I understand. But your law partner had three pages.
23 They can give you as many pages as you wanted.

24 A. No, it's not in my statement signed right here, but
25 he said it to me because I was there.

1 reaction because I'd just got punched in the back of the
2 head with a gun being held to me.

3 I stood up. And when I did that, he tried to hit me
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IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

Court of General Sessions
Scott Sprouse, Circuit Court Judge

Appellate Case No. 2016-000527

Case No.: Assault and Battery Of A High And Aggravated Nature 2015-GS-04-00781;
Pointing/Presenting A Firearm 2015-GS-04-00782

JESUS VARGAS MARTINEZ,

Appellant,

Versus

STATE,

Appellee.

CERTIFICATE OF SERVICE

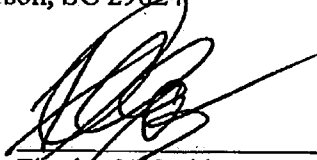
I, Fletcher N. Smith, Jr., hereby certify that I have this 3, day of February, 2017, served the within Record on Appeal to the addressees listed below by depositing a copy of same in the United States Postal System postage prepaid, and mailing same to:

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals Clerk of Court
P.O. Box 11629
Columbia, SC 29211

The Honorable Richard A. Shirley
Tenth Judicial Circuit Clerk of Court
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Anderson, SC 29622

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P.O. Box 10496
Greenville, SC 29603
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(864) 232-6756 Fax

February 3, 2017

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RECEIVED

FEB 09 2017

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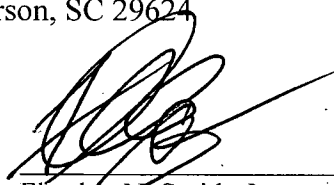
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