

**ORIGINAL**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Spartanburg County

Honorable Roger L. Couch, Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**

APR 20 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TONY RANDALL LEWIS,

APPELLANT

APPELLATE CASE NO 2016-001407  
\_\_\_\_\_

RECORD ON APPEAL  
\_\_\_\_\_

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STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG ) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, ) TRANSCRIPT  
PLAINTIFF, ) OF  
vs. ) RECORD  
TONY RANDALL LEWIS, ) 2015-GS-42-3014  
DEFENDANT. )

March 16<sup>th</sup>, 2016  
Spartanburg, South Carolina

B E F O R E:  
THE HONORABLE ROGER L. COUCH, Judge.

A P P E A R A N C E S:  
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Attorney for the State  
  
HOWARD ANDERSON  
ESQ.  
Attorney for the Defendant

PAMELA E. GREEN  
Circuit Court Reporter  
Seventh Judicial Circuit

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>State's Exhibits</u>		
S-1	Sex Offender Office Hours	6	15
S-2	Sex Offender Registry	6	

1	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2		<u>Defendant's Exhibits</u>		
3				
4	D-1	Offender Information Form	6	10
5	D-2	Offender Information Form	6	10
6	D-3	Affidavit	6	35
7	D-4	Waiver of Right	6	35
8	D-5	Summons	6	24
9	D-6	Publix Index		38
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1	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2		<u>Court's Exhibits</u>		
3				
4	C-1	Sentencing Sheet		9
5	C-2	Magistrate Court Document		9
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## P R O C E E D I N G S

1  
2  
3 (WHEREUPON, State's Exhibit Nos. 1 and 2 were marked at  
4 this time. Defendant's Exhibit Nos. 1 through 5 were marked  
5 at this time. All were for identification purposes only at  
6 this time.)

7 THE COURT: All right. Ms. Mabbs, you may call the  
8 case.

9 SOLICITOR MABBS: Thank you, Your Honor.

10 Before -- and I believe -- does Your Honor already have  
11 the indictment?

12 THE COURT: It's not been handed up yet.

13 SOLICITOR MABBS: The clerk has the indictment.

14 Yes, Your Honor.

15 Before you is Tony Lewis represented by Howard Anderson  
16 of the private bar. Your Honor, this is Indictment  
17 2015-GS-42-3014 for violation of the Sex Offender Registry,  
18 second offense.

19 THE COURT: All right. My understanding, Mr. Anderson,  
20 is that your client has agreed to a bench trial in the case.

21 Is that correct?

22 MR. ANDERSON: Yes, Your Honor. It is.

23 THE COURT: All right. Now, if you would, Mr. Lewis,  
24 if you'd stand briefly.

25 (Defendant complies.)

1 THE COURT: To the best of your ability, raise your  
2 right-hand.

3 Madam Clerk, place Mr. Lewis under oath.

4 (WHEREUPON, the defendant was placed under oath at this  
5 time.)

6 THE COURT: You can put your hand down, Mr. Lewis.  
7 (Defendant complies.)

8 THE COURT: Mr. Lewis, I have been presented with an  
9 indictment indicating that you have violated the Sex  
10 Offender Registry, Registry laws.

11 Are you aware of that indictment, sir?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: It is in Case Number 15-GS-42-3014. My  
14 understanding, from your attorney, is that you were agreeing  
15 to a bench trial in this case. That is the case would be  
16 tried before me without a jury being present.

17 Did you hear your lawyer indicate that that's what  
18 you're requesting?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And is, in fact, that what you are  
21 requesting?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Now, you understand that, by doing that,  
24 you are waiving one of your Constitutional rights. That is  
25 the Constitutional right to have your case heard by a jury.

1 Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And have you discussed that with your  
4 lawyer?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And do you need to discuss it with him any  
7 further at this point in time?

8 THE DEFENDANT: No, sir, I don't.

9 THE COURT: Okay. Then I'll, I'll agree to hear the  
10 case as a bench trial.

11 Thank you, sir. You can be seated.

12 (Defendant complies.)

13 THE COURT: All right. State can proceed.

14 SOLICITOR MABBS: Thank you, Your Honor.

15 First and foremost, Your Honor, I do have certified  
16 copies of Mr. Lewis conviction both for the underlying sex  
17 offender charge as well as his first failure to register. I  
18 believe that Mr. Anderson and I are---

19 MR. ANDERSON: Yeah.

20 SOLICITOR MABBS: ---willing to basically stipulate to  
21 those facts --

22 THE COURT: All right.

23 SOLICITOR MABBS: -- if Your Honor would like to make  
24 the certified convictions part of the record we certainly  
25 can.

1 MR. ANDERSON: Yes, this can go in.

2 THE COURT: So this will be a stipulation that those  
3 are true and accurate copies of the prior convictions of  
4 your client.

5 Is that right, Mr. Anderson?

6 MR. ANDERSON: Yes, Your Honor.

7 THE COURT: All right. We'll accept the stipulation.  
8 They'll be made Court's Exhibit for purposes of this trial.

9 SOLICITOR MABBS: Thank you, Your Honor.

10 THE COURT: Give her a moment to mark those.

11 (WHEREUPON, the sentencing sheets were marked as  
12 Court's Exhibit No. 1 and 2 and received into evidence at  
13 this time.)

14 THE COURT: You ready?

15 THE COURT REPORTER: Yes, sir.

16 THE COURT: All right. Ms. Mabbs, she has gotten those  
17 marked.

18 SOLICITOR MABBS: Yes, Your Honor, and we also have two  
19 exhibits that I believe currently are marked as Defense  
20 Exhibits.

21 Is it 1 and 2?

22 MR. ANDERSON: Yes.

23 SOLICITOR MABBS: Your Honor, we are also stipulating  
24 to those.

25 THE COURT: All right. You want to have those marked?

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 They're already marked as Exhibits 1 and 2?

2 SOLICITOR MABBS: Already marked, Your Honor.

3 THE COURT: You're agreeing to those, Mr. Anderson?

4 MR. ANDERSON: Yes, Your Honor.

5 THE COURT: All right. They'll be made a part of the  
6 record as Defense Exhibits 1 and 2.

7 If you'll pass them up to the court reporter.

8 (Solicitor Mabbs complies.)

9 THE COURT: Thank you very much.

10 (WHEREUPON, Defendant's Exhibit Nos. 1 and 2 were  
11 received into evidence at this time.)

12 SOLICITOR MABBS: And Your Honor?

13 THE COURT: Yes, ma'am.

14 SOLICITOR MABBS: Your Honor, as far as we are at this  
15 point, the State would waive any opening statement.

16 THE COURT: Okay.

17 MR. ANDERSON: Likewise, judge.

18 THE COURT: Defense wish to make an opening statement?

19 MR. ANDERSON: No, thank you, judge.

20 THE COURT: All right. You may call your first  
21 witness.

22 SOLICITOR MABBS: Thank you, Your Honor.

23 The State calls Deborah Blanton.

24 THE COURT: Ma'am, if you'll come forward to my left  
25 and be sworn please.

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 (Witness complies.)

2 THE COURT: Thank you.

3 DEBORAH BLANTON, being first duly  
4 sworn, testified as follows:

5 THE COURT: Ma'am, have a seat in the witness stand and  
6 please state your name once you're comfortable.

7 THE WITNESS: Deborah Blanton.

8 THE COURT: Thank you.

9 Ms. Mabbs, your witness.

10 THE COURT: Thank you; Your Honor.

11 DIRECT EXAMINATION

12 BY SOLICITOR MABBS:

13 Q Deputy Blanton, where do you work?

14 A I work at Spartanburg County Sheriff's Office.

15 Q And how long have you worked there?

16 A Thirty-one and a half years.

17 Q And what's your role at the Sheriff's Office?

18 A Now I am the Sex Offender Registry coordinator.

19 Q And how long have you been doing that?

20 A Six and a half years.

21 Q And as far as the registry goes, what are your general  
22 practices when someone first, I guess, would move into  
23 Spartanburg County and is a second offender?

24 A They would be brought into my office. We would  
25 register them, run a criminal history. I usually spend

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 approximately 45 minutes explaining what is expected of them  
2 in our office. We get their fingerprints, their photo, and  
3 then advise them when they have to come back into the  
4 office.

5 SOLICITOR MABBS: Your Honor, permission to retrieve, I  
6 believe, Defense Exhibits---

7 THE COURT: Yes, ma'am, you may.

8 SOLICITOR MABBS: ---1 and 2 of the defendant?

9 THE COURT: You may retrieve the evidence.

10 SOLICITOR MABBS: If I may approach the witness?

11 THE COURT: Yes, ma'am.

12 Q Deputy Blanton, what have I handed you?

13 A You have handed me the sex offender registration  
14 offender information form.

15 Q And who is that specific form for?

16 A This one is for Tony Randall Lewis.

17 Q An do you see Mr. Lewis in the courtroom?

18 A I do.

19 Q Can you please point him out?

20 A He is sitting at the defense table.

21 Q All right. And, Deputy Blanton, why did Mr. Lewis have  
22 to register?

23 A He is a convicted sex offender.

24 Q What was the underlying charge?

25 A Lewd act on a minor.

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 Q And how, how is it determined whether or not a, an act  
2 or a crime would qualify, require somebody to register?

3 A Based on our statute in this State. They fall under a  
4 statute. If they fall under that, then they have to come to  
5 my office and register.

6 Q Does it matter if the underlying offense occurred in  
7 this State or---

8 A No. No, it does not.

9 Q And if, if the crime is from out-of-state, how do we  
10 determine if, if, under South Carolina, how would you be  
11 able to determine, under South Carolina law, they would have  
12 to register?

13 A Well, there's a couple of things that could happen. I  
14 either -- SLED is notified that they're moving into our  
15 State from the State that they may of been registered in,  
16 and they will send a notification to our office. If they're  
17 coming out of jail or whatever from another state, SLED is  
18 also notified and our office is notified.

19 Q And how often would someone have to register?

20 A It depends what their conviction is.

21 Q All right. And how often did Mr. Lewis have to  
22 register?

23 A Twice a year.

24 Q And how long, after the original underlying sex  
25 offender conviction, would a person have to continue to

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 register?

2 A In the State of South Carolina, for the rest of their  
3 life.

4 Q And how do you determine the schedule when somebody  
5 would have to register if it's required?

6 A It actually works on their birthdate. So, when they  
7 come out, let's say their birthdate is February and they  
8 come in in January to register, they would have to come back  
9 in February to get them on the cycle to register, and they  
10 would either have to register two or four times a year  
11 depending on what their conviction is.

12 Q And when they have to register, what requirements do  
13 they have as far as the timeframe during a specific month  
14 that they would have to register?

15 A They have that month to come in and register.

16 Q Are there any specific time limitations throughout the  
17 day?

18 A Yes, we have a time that is posted not only in the  
19 office, in the lobby of the Sheriff's Office, but every time  
20 that they come in they are handed a sheet of paper that  
21 gives them the hours and the days of the week that they have  
22 to -- that the office is open.

23 SOLICITOR MABBS: Your Honor, permission to approach?

24 THE COURT: You may approach.

25 Q Handing up what's been premarked as State's Exhibit 1.

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 Deputy Blanton, do you recognize what I've handed you?

2 A Yes.

3 Q And what is that?

4 A That is the office hours for the sex offender office.

5 Q And who, who receives that?

6 A Every sex offender that comes into the office every  
7 time they report into the office they will leave with a copy  
8 of that.

9 Q And that's -- is that a general practice?

10 A Yes.

11 SOLICITOR MABBS: Your Honor, at this time we would  
12 move State's Exhibit 1 into evidence.

13 THE COURT: Any objection?

14 MR. ANDERSON: Just -- well, one question for the  
15 witness?

16 THE COURT: Yes, ma'am. Yes, sir.

17 MR. ANDERSON: You don't have anything showing that Mr.  
18 Lewis signed for that form, correct?

19 THE WITNESS: That's correct.

20 MR. ANDERSON: No objection, judge.

21 THE COURT: Okay. It will be received into evidence.  
22 Has it been marked?

23 SOLICITOR MABBS: Yes, it has, Your Honor.

24 THE COURT: As it's marked.

25 (WHEREUPON, State's Exhibit No. 1 was received into

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 evidence at this time.)

2 THE COURT: You may proceed.

3 SOLICITOR MABBS: Thank you, Your Honor.

4 Deputy Blanton, when was the last time Mr. Lewis came  
5 in to register?

6 A January the 16<sup>th</sup>, 2014.

7 Q And when is his -- I guess when would be the next time  
8 he---

9 A He should of registered in July of 2014.

10 Q And was that his first failure?

11 A That's correct.

12 Q So when was the next time he was suppose to register?

13 A He should of been back right after he was found guilty  
14 in court. He should of been back into my office to  
15 register.

16 Q And did he ever return to your office?

17 A No, he has not.

18 Q How is he suppose to know that he should of gone to  
19 register?

20 A well, he should of known that, in the State of South  
21 Carolina, that he has to register twice a year. After he  
22 was convicted in Magistrate Court, he came back and made a  
23 payment plan with the magistrate. When he had not reported  
24 to my office, I requested that they put a note so that when  
25 he came in for his payment that he would be told to come to

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 my office.

2 Q And even without him going to the Clerk of Court's  
3 office, was there any other way that he would of been given  
4 notice of his, his schedule to---

5 A There -- with the exception of the last paperwork that  
6 he would have that shows that the two times of year that he  
7 reports.

8 Q So that -- I believe the Defense Exhibits I think it's  
9 2, is that the form where he initials?

10 A Yes.

11 Q And when he filled out that form, were you present?

12 A Yes.

13 Q And can you just briefly explain the process of going  
14 through that form with Mr. Lewis?

15 A Through the first few pages is his basic information we  
16 go through to make sure height, weight, where he lives,  
17 works, what he drives. All of that information is gone  
18 over. If there's any corrections that need to be, such as  
19 phone number change or whatever, we make those corrections.  
20 The second part of that is the -- I basically call it the  
21 rules and regulations. They go -- we go through each one  
22 that -- as far as like they know that they have to come to  
23 the office if they move, if they get a job, change their  
24 phone number. Any changes that they make they know that  
25 they have to make those changes with us. That if they

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 travel out of the country, they have to come to our office  
2 and advise that. It tells them that, if they move, they  
3 have to come into our office and change that. They only  
4 have three business days to do all of that, any changes that  
5 they make. We go through that. He initials by each.

6 The final page actually, or the next to the final page,  
7 breaks down the times of years that they register or it  
8 shows the birth month, and this, this one is not  
9 highlighted, but it's normally highlighted, their copy is  
10 highlighted, showing the months that they have to come in.  
11 And there is a line here that tells them the next time that  
12 they are due. In this instance, it was July and he signs  
13 for it, I sign for it, he gets a copy, and I keep a copy in  
14 his file.

15 Q Now -- and, and, Your Honor, I believe I have no  
16 further questions at this time.

17 THE COURT: All right. You may cross-examine her.

18 MR. ANDERSON: No questions, judge.

19 THE COURT: You may step down.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: State have any other witnesses?

22 SOLICITOR MABBS: No, Your Honor.

23 THE COURT: All right. Defense wish to offer any  
24 testimony?

25 MR. ANDERSON: I guess, judge, yes, we do, and we have

1 two very brief witnesses and have some exhibits.

2 THE COURT: All right.

3 MR. ANDERSON: Our first witness will be Margaret  
4 Morris.

5 THE COURT: All right.

6 SOLICITOR MABBS: I'll get her. She's outside, Your  
7 Honor.

8 THE COURT: That will be fine.

9 (Pause.)

10 MR. ANDERSON: Judge, is there any objection to my  
11 other witness coming in or have we invoked the rule?

12 THE COURT: Beg your pardon?

13 MR. ANDERSON: Is there an objection to having my other  
14 witness come in just to speed things up?

15 THE COURT: No, there's no problem with that person  
16 coming in.

17 SOLICITOR MABBS: I have no objection, Your Honor.

18 MR. ANDERSON: I'm gonna ask you to come forward.

19 THE COURT: Ma'am, if you'll step down front please.

20 Is she gonna be able to get between that projector and  
21 the table?

22 SOLICITOR MABBS: I certainly don't need that, Your  
23 Honor. I'm just --.

24 THE COURT: Ma'am, you'll need to come around over here  
25 where the officer is.

1 (Witness complies.)

2 THE COURT: Thank you. Take your time.

3 THE WITNESS: I go right here?

4 THE COURT: She can sit down and take the oath. That  
5 will be fine.

6 THE WITNESS: I'll sit down.

7 THE COURT: Just come on in and have a seat.

8 (Witness complies.)

9 THE COURT: Thank you, ma'am.

10 MARGARET MORRIS, being first duly  
11 sworn, testified as follows:

12 THE COURT: And please state your name, ma'am.

13 THE WITNESS: Margaret Morris.

14 THE COURT: Thank you very much.

15 Mr. Anderson, your witness.

16 DIRECT EXAMINATION

17 BY MR. ANDERSON:

18 Q Good morning.

19 Mrs. Morris, do you know Tony Lewis?

20 A Yes.

21 Q How do you know Mr. Lewis?

22 A He's my son.

23 Q I'm gonna hand you what has already been marked as  
24 Defendant's Exhibit 1.

25 Okay. And I'm gonna, I'm gonna direct your attention

Margaret Morris - Direct examination  
by Mr. Anderson

1 down here to the bottom of the form where it asked about Mr.  
2 Lewis' medical conditions.

3 A Uh-huh. (Affirmative).

4 Q Okay. And you see here where one of the medical  
5 conditions listed is delusional?

6 A Uh-huh. (Affirmative).

7 Q Can you explain to us a little bit about your  
8 interactions with Mr. Lewis regarding his mental state?

9 A Well, he was in a bad car wreck and it crushed his face  
10 and his legs. He's got screws and he's got wires from his  
11 jawbone in his bone and teeth, and the doctor said the --  
12 half of his brain is just working. And, and so he's been --  
13 he's got to have more surgery on his face and --.

14 Q But in speaking about sort of his mental abilities, are  
15 there, are there sometimes when maybe he -- you have noticed  
16 that he may be experiencing things that you have not  
17 experienced?

18 A Yes.

19 Q Okay. And so what sorts of things are we talking  
20 about?

21 A I'm sorry. I can't think.

22 Q Well, so are, are there times when he appears to  
23 believe things that you know for a fact can not be true?

24 A Well, some of it, yes.

25 Q Okay. All right. Thank you.

Margaret Morris - Direct examination  
by Mr. Anderson

1 Do you recall a time when Mr. Lewis was arrested for,  
2 for failure to register as a sex offender?

3 A Yes.

4 Q As a first offense?

5 A Yes.

6 Q Okay. And can you tell me a little bit about that?

7 A Well, it's not true.

8 Q Well, I --.

9 A And he's already -- I don't know why it's---

10 Q Mrs. Morris, if, if we could focus on just answering my  
11 questions because we're trying to---

12 A Yeah.

13 Q ---only focus on what's relevant here. So --.

14 A I'm sorry. I can't think too good.

15 Q I understand.

16 A Right.

17 Q Do you recall a time that he was arrested for---

18 A Yeah.

19 Q ---not registering as a first offense?

20 A Yes.

21 Q Okay. When was he arrested, in the morning or the  
22 night?

23 A He was -- they come and picked him up in the middle of  
24 the night.

25 Q Okay.

Margaret Morris - Direct examination  
by Mr. Anderson

- 1 A My husband had just died.
- 2 Q And so---
- 3 A Okay.
- 4 Q And so after, after he was arrested, was there a time  
5 when he later got out of jail?
- 6 A Yes.
- 7 Q Okay. Were, were you there when he got out of jail?
- 8 A Yes.
- 9 Q Okay. And did you later learn that Mr. Lewis was tried  
10 for that offense?
- 11 A Yes, he was.
- 12 Q Okay. How did you, how did you first learn about the  
13 trial in his case?
- 14 A I can't, I can't -- I'm sorry. I can't think, judge.
- 15 Q You need some water?
- 16 THE COURT: That's okay.
- 17 Would you repeat the question for her?
- 18 MR. ANDERSON: Yes, sir.
- 19 THE WITNESS: Thank you.
- 20 Q Mr. Morris, when or how did you first learn that  
21 your -- about your son's trial in Magistrate Court for that  
22 first sex offender offense?
- 23 A Oh, they, they put him in jail. They come put him in  
24 jail.
- 25 Q Okay.

Margaret Morris - Direct examination  
by Mr. Anderson

1 A But they -- he served time.

2 Q Well, let me ask you this.

3 So are, are you aware now that, at some point, he had a  
4 trial for not registering down at the Sheriff's office?

5 A Yes.

6 Q Okay. Were you present at that trial?

7 A No.

8 Q Why were you not present at that trial?

9 A Cause I didn't know about it.

10 Q Okay. I'm now gonna show you what's been marked as  
11 Defense Exhibit 5.

12 And, judge, I'm gonna offer this in. This is a  
13 certified copy of the summons from the Magistrate's Court  
14 case, and I understand there's no objection from the State.

15 THE COURT: Any objection?

16 SOLICITOR MABBS: No, Your Honor.

17 THE COURT: All right. It will be admitted as marked.

18 (WHEREUPON, Defendant's Exhibit No. 5 was received into  
19 evidence at this time.)

20 Q All right. Mrs. Morris, I'm gonna show you this, which  
21 is the summons for the trial in the Magistrate's Court case  
22 about Mr. Lewis' failure to register for the first time, and  
23 I'm gonna ask, did you receive a copy of this in the mail?

24 A No.

25 Q Do you live at ---

Margaret Morris - Direct examination  
by Mr. Anderson

1 A Yes.

2 Q ---with Mr. Lewis?

3 A Yes.

4 Q Okay. Do you think that, if it would of come in the  
5 mail, you probably would of seen it?

6 A Yes.

7 Q Okay. At, at some point did you learn that your son  
8 was convicted at -- in Magistrate's Court?

9 A Yes.

10 Q Is that a yes?

11 A Yes.

12 Q Okay. And so, after he was convicted, do you know  
13 whether Mr. Lewis attempted to go register at the, at the  
14 Spartanburg Sheriff's Office?

15 A Yes, me and my husband carried him all the time.

16 Q Okay. So --

17 A And then, when I got where I couldn't and my husband  
18 had a heart attack, my son was carrying him.

19 Q Okay. And so, so towards the end, it was your son, who  
20 we're gonna hear from in a minute---

21 A Yes.

22 Q ---would take him?

23 Okay.

24 A Yes.

25 Q Can you tell me about the registration process, what

Margaret Morris - Direct examination  
by Mr. Anderson

1 y'all had to do?

2 A well, we had to carry him down to -- there to register,  
3 and we had a -- we went just -- excuse my expression. But I  
4 went with -- we went through hell having to carry him down  
5 there and -- cause we'd carry that -- they would say that,  
6 you know, he suppose -- they told us, to start with, that he  
7 was suppose to be there and -- before -- by five o'clock and  
8 no later. All right. Then they changed it. Said he had to  
9 be there at 12:00 and it was hard for me and my husband. We  
10 done got to where we couldn't go hardly to take him, and we  
11 was taking him down there and I carried him down there and  
12 she wouldn't be there at twelve o'clock.

13 we -- I had to -- and we lived in Greer and, and I'd --  
14 we'd go to a restaurant and stay until -- and then go back  
15 down there to see if she was there. I think it was a lady.  
16 I didn't meet her. But that, that was said it was lady.  
17 And so -- and she wouldn't be there for us. We had to wait  
18 all them hours, and, and, and then, one time, I, I had just  
19 got out of the hospital and my husband carried him down  
20 there, and on the way down there my husband was trying to  
21 hurry and get him there by twelve o'clock.

22 And so she called -- they was a lady, she said she was  
23 a police officer, and she started threatening me and said  
24 she was gonna put him in jail if he don't have him in there  
25 by twelve o'clock. I said let me tell you. He's --

Margaret Morris - Direct examination  
by Mr. Anderson

1 she's -- he's on the way. My husband is bringing him down  
2 there.

3 Q Okay. All right. So, Mrs. Morris, you and your family  
4 have helped Mr. Lewis register a couple of times with the  
5 Sheriff's Office I guess?

6 A Yes, all the time.

7 Q Okay.

8 A We had to take him all the time cause he couldn't  
9 drive.

10 Q Okay. All right.

11 A I'm sorry, sir.

12 MR. ANDERSON: No further questions, judge.

13 THE COURT: All right.

14 SOLICITOR MABBS: No cross-examination.

15 THE COURT: Ma'am, you may step down. Let's -- take  
16 your time getting down please, ma'am.

17 MR. ANDERSON: Mr. Ransom is gonna be our next witness.

18 THE COURT: Okay. Sir, if you'll come forward please.

19 THE WITNESS: Thank you.

20 THE COURT: Thank you.

21 BOBBY RANSOM, being first duly  
22 sworn, testified as follows:

23 THE COURT: Sir, if you'd have a seat. State your name  
24 please.

25 THE WITNESS: Bobby Ransom.

Bobby Ransom - Direct examination  
by Mr. Anderson

1 THE COURT: Thank you.

2 Yes, sir, Mr. Anderson.

3 DIRECT EXAMINATION

4 BY MR. ANDERSON:

5 Q Mr. Ransom, do you know Mr. Lewis here?

6 A Yes, I do.

7 Q How do you know him?

8 A He's my brother.

9 Q Where do you live?

10 A I live also at the same address.

11 Q As your mother?

12 A Yeah.

13 Q And as Mr. Lewis?

14 A Yes. Yeah.

15 Q And, and how long have the three of y'all lived  
16 together?

17 A Well, off and on since the time I can't, I don't  
18 remember the time, but it's been a while.

19 Q So it's been at least a couple years?

20 A Yeah.

21 Q Okay. Do you, do you recall a time when Mr. Lewis was  
22 arrested for failure to register as a first offense?

23 A Yes, I do.

24 Q Okay. And can you tell me a little bit about the  
25 arrest, sort of -- when was it?

Bobby Ransom - Direct examination  
by Mr. Anderson

1 A At the first of the year when I take it -- I take him  
2 down there because my mom and dad's health got real bad. I  
3 would take him down to the Sheriff's Office and he would go  
4 in. Sometimes I would go in with him. Sometimes I'd just  
5 sit in the car. well, he went in. The deputy there at the  
6 desk---

7 Q well---

8 A I'm sorry?

9 Q I was asking do you recall a time in March, I guess,  
10 and about August of 2014 when Mr. Lewis was arrested for not  
11 registering the first time?

12 A Right.

13 Q Okay. And so was he arrested in the morning or, or the  
14 night?

15 A He was arrested at nighttime at that time.

16 Q Okay. And then after he was arrested at night, at some  
17 point did he get out of jail?

18 A Yes, he did.

19 Q Okay. At some point, after he got out of jail, did you  
20 learn that he had been convicted of not registering for the  
21 first time?

22 A I knew he went to jail the first time. That was the  
23 only thing I knew.

24 Q Okay.

25 A But, when he was in jail, when he seen the judge then,

Bobby Ransom - Direct examination  
by Mr. Anderson

1 I don't know nothing then.

2 Q But, at some point in -- after say September, did you  
3 learn that he had been convicted and had to either pay some  
4 money or go to jail?

5 A Right.

6 Q Okay. I'm gonna show you what's been marked as  
7 Defendant's Exhibit 5, which is the summons for the trial in  
8 his case.

9 Did you appear at the, at the trial in, in Magistrate's  
10 Court?

11 A No.

12 Q Okay. Did you know about the trial in Magistrate's  
13 Court?

14 A No.

15 Q Okay. So have, have you ever seen a -- did you receive  
16 a copy of this in the mail, Defendant's Exhibit 5?

17 A As far as I know, no, cause usually I'm the one getting  
18 the mail out of the mailbox---

19 Q Okay.

20 A ---and all and what mail's his, I give it to him and  
21 what's my mom's I give it to hers.

22 Q So, you don't recall seeing anything from the  
23 Magistrate's Court---

24 A No.

25 Q ---that night containing that summons?

Bobby Ransom - Direct examination  
by Mr. Anderson

1 A No.

2 Q Okay. After he was convicted, did you help Mr. Lewis  
3 go down to the jail to try to register?

4 A Yes, I did.

5 Q Tell me about that.

6 A I would take him down there in the mornings. We'd get  
7 up. I would take him down there to the sheriff's office.  
8 He would go in the sheriff's office. He would sign in. He  
9 would sit down, and a few minutes later, you know, the  
10 officer would tell him she's not in and all, and that was  
11 all they would tell him. They wouldn't tell him to come  
12 back later on that afternoon or nothing and all.

13 Q Okay. And so do you recall approximately when was the  
14 last time you took Mr. Lewis down to the Sheriff's office?

15 A I don't -- I remember taking him. The last time I took  
16 him he went in and all cause I went in with him at the time  
17 to use the restroom. He signed in and all, but they didn't  
18 say nothing at the time. Then I walked back out to the car.  
19 Then it wasn't maybe two, three minutes later he come out  
20 and we left and on that was it.

21 Q All right. what---

22 A And then he -- it was told to me that she wasn't there.

23 Q Okay. Well, again, I'm just trying to zero in a little  
24 bit on the time here.

25 So Mr. Lewis was convicted of his first offense in

Bobby Ransom - Direct examination  
by Mr. Anderson

1 September of 2014.

2 Okay. So some time after September of, of, of 2014  
3 y'all learned that he had to pay some money to the  
4 Magistrate's Court, right?

5 A Yeah.

6 Q Okay.

7 A Cause I, I brought him here to the courthouse to pay  
8 his fine off.

9 Q Okay. So do you recall whether you then took him to  
10 the Sheriff's Office before Christmas or after Christmas in  
11 2014?

12 A I don't remember then.

13 Q Okay. But you know that it was some time---

14 A Usually it's---

15 Q ---after you found out that he had to pay some money  
16 and before he was arrested the second time?

17 A Right.

18 Q Okay. And, at that time when you took him down, you  
19 recall him going inside the Sheriff's Office?

20 A Yeah.

21 Q Yes.

22 Okay. And then, when he came out of the Sheriff's  
23 office, what was his emotional state?

24 A That she wasn't there.

25 Q Was he mad?

Bobby Ransom - Direct examination  
by Mr. Anderson

1           was he sad?

2   A     He was a little angry --

3   Q     Okay.

4   A     -- because they give him a certain time to be there to  
5   report in, then if they not there, and the deputy at the  
6   desk don't tell you and all what to do or if you gone see  
7   another person there or whatever, you know, I would get  
8   angry too.

9   Q     So do you recall him saying anything to you while he  
10   was angry right after he came out of the building?

11           Maybe were some curse words?

12   A     A few words --

13   Q     Okay.

14   A     -- that he said but---

15   Q     And so Mr. -- I'm asking what is it that you recall him  
16   saying while he was angry?

17   A     At the time, you know, he was upset because she wasn't  
18   there.

19   Q     Right.

20   A     And sometime he would tell me that, you know, he'd get  
21   in the car, open the car door, that she wasn't there and  
22   all.

23   Q     Okay.

24   A     And sometimes he said, you know, sometimes a little  
25   small cuss word.

Bobby Ransom - Direct examination  
by Mr. Anderson

1 Q Okay.

2 A I can't remember, you know, which ones it would be.

3 Q All right. So you just recall him, this last time, he  
4 was, he was upset when he came out of the building cause she  
5 wasn't there?

6 A Right.

7 Q Okay. Do you -- can you tell us a little bit about  
8 Mr. Lewis' sort of mental state?

9 Like is he all together all the time?

10 A To me, he is in a way and all. Sometimes, you know, I  
11 think -- well, just my opinion and all, I know what he's  
12 been through and I know all that. To me, some days I hear  
13 that no, it's not true and all. But like meeting the movie  
14 star, Jackie Chan, yes, that is true. He has done that and  
15 all. But other little things all to that, I don't know.

16 Q So are there, are there things that you -- that  
17 Mr. Lewis sometimes believes to be true that you know for a  
18 fact can not be true?

19 A Right.

20 Q Okay. And so you don't think that he is lying. You  
21 think he truly believe what he says.

22 A Right.

23 MR. ANDERSON: Okay. No further questions of the  
24 witness.

25 THE COURT: Ms. Mabbs.

1 SOLICITOR MABBS: Nothing for this witness, Your Honor.

2 THE COURT: All right. You may step down, sir.

3 MR. ANDERSON: All right. Judge, I have two other  
4 exhibits which I'll just go ahead and enter. This certified  
5 copy of the arrest warrant from the Magistrate's Court and  
6 then this from the Magistrate's Court.

7 Judge, I have Defendant's Exhibit 3, which is the  
8 arrest warrant for the first offense, which also shows the  
9 disposition on the back, and then Exhibit 4 is a form that  
10 was presented to him, and, again, these are certified from  
11 the Magistrate Court files and I understand there's no  
12 objection from the State.

13 SOLICITOR MABBS: No objection.

14 THE COURT: Any objection?

15 SOLICITOR MABBS: No, Your Honor.

16 THE COURT: All right. They'll be made a part of the  
17 record.

18 (WHEREUPON, Defendant's Exhibit Nos. 3 and 4 were  
19 received into evidence at this time.)

20 MR. ANDERSON: All right. Judge, if you will give me  
21 one second to confer with my client about whether he wants  
22 to take the stand.

23 THE COURT: All right.

24 (Pause.)

25 MR. ANDERSON: Judge, it is my understanding that

1 Mr. Lewis does not wish to exercise his right to testify.

2 And so, with that, we can, can---

3 THE COURT: All right. Let me just confirm that with  
4 him directly.

5 MR. ANDERSON: Oh, yes, sir.

6 THE COURT: Mr. Lewis, if you'll stand for just a  
7 moment please.

8 (Defendant complies.)

9 THE COURT: This is the part of the trial where you  
10 have the right to present your defense.

11 Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And as part of that defense, you have the  
14 right to testify. Your lawyer's already explained to you,  
15 and I will tell you, that, under the Fifth Amendment to the  
16 U.S. Constitution, you have the right not to testify.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: That amendment states, in part, that no  
19 person can be compelled, in a criminal case, to be a witness  
20 against himself. Your lawyer has indicated to me that you  
21 have chosen to exercise your right to remain silent in this  
22 case and not testify.

23 Is that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: In doing so, have you had an opportunity to

1 confer with your attorney and anyone else you'd like to have  
2 conferred with concerning that decision?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you need to talk with any of them any  
5 further?

6 THE DEFENDANT: No, sir.

7 THE COURT: So is it still your decision not to testify  
8 in this case?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Thank you, sir. You can be seated.

11 (Defendant complies.)

12 MR. ANDERSON: Okay. Judge, one other thing.

13 The conviction from the Magistrate's Court does not --  
14 the sentence on Court's Exhibit 2 says fine or jail time,  
15 and I would just ask the Court to take judicial notice that  
16 the amount of the jail time, there would be 30 days and I  
17 have a printout from the Supreme Court's website if we need  
18 that but---

19 THE COURT: Okay.

20 MR. ANDERSON: So I just ask you take judicial notice  
21 that---

22 THE COURT: Let's just make that a part of the record  
23 as well.

24 MR. ANDERSON: Okay. Okay.

25 SOLICITOR MABBS: No objection.

1 THE COURT: All right. Without objection, it will be  
2 made a part of the record.

3 What number is that, Pam?

4 MR. ANDERSON: Six, Your Honor.

5 THE COURT REPORTER: Six.

6 THE COURT: Six. Okay.

7 (WHEREUPON, the public index document was marked as  
8 Defendant's Exhibit No. 6 and received into evidence at this  
9 time.)

10 THE COURT: All right. Any other matters to go into  
11 the record?

12 MR. ANDERSON: No, Your Honor. I have some legal  
13 argument.

14 SOLICITOR MABBS: And, Your Honor, before that I would  
15 like to recall Deb Blanton as a rebuttal witness.

16 THE COURT: Okay. You may do so.

17 SOLICITOR MABBS: Thank you, Your Honor.

18 THE COURT: Ma'am, come forward, please.

19 I'll remind you that you're under oath already.

20 THE WITNESS: Yes, sir.

21 THE COURT: Do you acknowledge that you're still under  
22 oath?

23 THE WITNESS: Yes, sir.

24 THE COURT: Have a seat please.

25 DEBORAH BLANTON, having been previously

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 sworn, testified as follows:

2 SOLICITOR MABBS: Your Honor, I'm gonna go ahead and  
3 hand back up Defense's Exhibits 1 and 2 and State's Exhibit  
4 1.

5 THE COURT: Yes, ma'am.

6 DIRECT EXAMINATION

7 BY SOLICITOR MABBS:

8 Q Deputy Blanton, State's Exhibit 1, what are the times  
9 listed on that form?

10 A Monday through Friday, 07:00AM in the morning till  
11 11:00AM. We reopen at 1:00PM to 3:00PM.

12 Q So the office is closed at noon everyday?

13 A It's closed from 11:00AM to 1:00PM.

14 Q And what would happen if, if, for some reason, you were  
15 unavailable during these open hours?

16 A If I was with another offender, they would have to sit  
17 there until I was ready to see them.

18 Q All right. And if, for some reason, if you were sick  
19 that day, what would happen?

20 A Now we have someone else working in the office  
21 part-time. At that time, if I were out, they would have to  
22 come back.

23 Q And, Deputy Blanton, when Mr. Lewis came in and filled  
24 out this registrations form and said that he understood all  
25 of the rules and regulations as part of that, what was

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 his -- what was your impression of his mental condition at  
2 that time?

3 A He appeared to me to understand. He put his initials  
4 where he was suppose to and signed the registration form.

5 Q And as it's noted on I believe Page 1 of Defense  
6 Exhibit 1 under the medical conditions, it states that he  
7 had arthritis and was delusional.

8 So you were aware, at that time, of a potential mental  
9 health concern?

10 A Yes.

11 Q And throughout the course of your interaction with him,  
12 I believe you stated about 40 minutes or so, were you ever  
13 concerned, during that time period, about any possible  
14 delusions or problems understanding the documents?

15 A The times that he was in my office registering, he  
16 appeared to understand everything that was said to him.

17 Q And, Deputy Blanton, as far as his first offense for  
18 failure to register, what kind of trial -- what kind of  
19 process went through Magistrate's Court that day?

20 A His name was called. We approached. He was tried in  
21 his absence. I was notified, and I do not remember the  
22 timeframe after the Court, that he showed up and spoke with  
23 the judge and the judge---

24 MR. ANDERSON: Judge, I'll object on hearsay grounds.

25 THE WITNESS: Okay.

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 THE COURT: All right.

2 MR. ANDERSON: Also move to strike.

3 THE COURT: She never got the testimony out. So  
4 there's nothing to strike. She just said that -- you may  
5 proceed.

6 SOLICITOR MABBS: Thank you, Your Honor.

7 Q Deputy Blanton, to your knowledge, has the defense ever  
8 raised an issue of not getting notice about that hearing  
9 until today?

10 A To my knowledge, no.

11 Q And, after, after that TA (sic) trial, did he ever come  
12 into the office during those office hours to register?

13 A No, he has not.

14 Q Were you ever notified that he came by during the  
15 office hours?

16 A No, I have not.

17 Q And as far as when someone's notified for Magistrate  
18 Court, where does that, I guess, summons go to?

19 A I receive a summons and then I -- the process is  
20 usually one is mailed to the defendant.

21 Q And whose responsibility is it to keep updates on their  
22 current address with the, I guess, with Magistrate Court?

23 A With the Magistrate Court, I imagine the clerk at the  
24 Magistrate Court and the defendant.

25 Q And if the defendant were to move, who would he have to

Deborah Blanton - Direct examination  
by Solicitor Mabbs

1 notify?

2 A Well, he'd have to notify our office, but I would  
3 imagine, if he has a pending file, he would also have to  
4 notify the Clerk of Court.

5 SOLICITOR MABBS: And, Your Honor, I'm retrieving  
6 Defense Exhibit 5.

7 Deputy Blanton, the address on that summons, is that  
8 the same address that he has as far as your registration  
9 forms?

10 A It is.

11 Q So, as far as you know, he's still living at that  
12 address?

13 A That is correct.

14 Q And no one's ever contacted your office about him not  
15 getting notice?

16 A No, they haven't.

17 Q Have you ever been contacted about an appeal of the  
18 Magistrate Court charge?

19 A I have not.

20 SOLICITOR MABBS: No further questions at this time,  
21 Your Honor.

22 THE COURT: You may question the witness, Mr. Anderson.

23 MR. ANDERSON: No questions.

24 THE COURT: All right. You may step down, ma'am.

25 THE WITNESS: Thank you.

1 MR. ANDERSON: And, judge, I'm sorry.

2 THE COURT: Any other witnesses?

3 SOLICITOR MABBS: No, Your Honor.

4 THE COURT: Okay.

5 MR. ANDERSON: And, judge, cause it's a bench trial, I  
6 mean I have a, a motion for directed verdict, but what I  
7 would propose to do it just wrap all that up in the, in the  
8 closing argument.

9 THE COURT: That will be fine. Lets do it that way.

10 MR. ANDERSON: Yes, sir, if that's all right with you.

11 SOLICITOR MABBS: No, that's fine with us, Your Honor.

12 THE COURT: All right. Defense has presented evidence.  
13 So you'll be going first.

14 MR. ANDERSON: Okay. Thank you, judge.

15 THE COURT: Yes, sir.

16 MR. ANDERSON: I have a couple of legal issues here,  
17 Your Honor.

18 The, the evidence in this case shows that Mr. Lewis was  
19 tried in absentia. The evidence also shows, via Defendant's  
20 Exhibit 4, that, that he had not waived his right to  
21 counsel. And, Your Honor, the evidence also shows that he  
22 was sentenced to pay a fine or serve 30 days in jail, and  
23 because he'd already served some time, he already had some  
24 credit towards that 30 days.

25 So, Your Honor, I submit to you that, under Scott

1 versus Illinois 440 U.S. 36, and Nichols v. United States,  
2 511 U.S. 738, that an uncounseled criminal conviction may  
3 not serve as the basis for an enhancement of a subsequent  
4 offense.

5       Here again, it was clear that he had a right to  
6 counsel. He's, he's indigent. You see there on the forms  
7 that he's marked as disabled. On the sheriff's form there  
8 where we last registered, he waived the fee cause he was  
9 indigent. So, again, there he said he was trying to obtain  
10 a private attorney. He didn't obtain a private attorney  
11 evidently or maybe he did, I don't know, but the bottom line  
12 is there was a trial that was held, and he wasn't there,  
13 and, and the state did not appoint counsel for him.

14       So I submit that it's unconstitutional, as a matter of  
15 Federal Constitutional Law, and also under the State  
16 Constitution, to use that prior conviction in this case, and  
17 so I don't think that, as a matter of law, he can lawfully  
18 be convicted of a second offense. This would be his first  
19 offense.

20       well, no, actually because he's only been indicted -- I  
21 think he has to be acquitted here because he was tried in  
22 absentia without counsel previously.

23       I also submit that it was unconstitutional for the same  
24 reasons, while the Supreme Court has said that you can't use  
25 a prior uncounseled offense to enhance a prior sentence, I

1 think those same reasons apply. If the person didn't have  
2 counsel, but, but, instead, had somehow waived his right to  
3 counsel, but didn't show up.

4 The evidence here was that he did not receive notice of  
5 the summons. Both his mother and his brother all live in  
6 the same house with Mr. Lewis. They didn't get anything in  
7 the mail. You heard his brother say that he's the one  
8 responsible for getting the mail. Didn't recall seeing  
9 anything from Magistrate Court.

10 So, Your Honor, I would submit that it would be  
11 unconstitutional to convict him on this offense.

12 If you decide this it is Constitutional to convict him  
13 on this offense, I would say, as a, as a factual matter,  
14 that Mr. Lewis tried to register. You know, they went down  
15 there at noon because they thought that was when he had to  
16 go, and I know we've had some testimony here from the  
17 officers saying that there's this form that has their hours  
18 posted. Again, there's nothing in writing showing that he  
19 ever received that, but I think the evidence shows that he,  
20 at least, went down there, tried to do the right thing.

21 So I don't think, as a matter of the mens rea, that he  
22 was willful in not registering. I think he went down there.  
23 And I would also say that, because he went down there,  
24 that's what the statute says. You got to report to the  
25 Sheriff's Office and register. And so I would say that

1 perhaps he complied with the statute just by physically  
2 going down there.

3 And so, with that, Your Honor, again, I would ask that  
4 you either acquit him on Constitutional grounds or acquit  
5 him on statutory grounds, but I just ask you to acquit him.

6 Thank you, judge.

7 THE COURT: I'll hear from the State.

8 SOLICITOR MABBS: Thank you, Your Honor.

9 Firstly, just to go to the statute itself. Your Honor,  
10 it's been submitted as part of the record, he is a sex  
11 offender. His prior conviction is considered part of the  
12 record. You've heard testimony from Deb Blanton that, you  
13 know, again, he was required to register on the Sex Offender  
14 Registry.

15 He failed to register on the Sex Offender Registry.  
16 Your Honor, I don't know if you'd like me to hand up Defense  
17 Exhibits 1 and 2. Basically it's the registration form.  
18 Basically it's a contract, Your Honor, that the defendant  
19 signed saying he was aware of exactly when he needed to  
20 register, what he needed to do to register, the months he  
21 was required to register.

22 As far as State's Exhibit, Your Honor, I believe it's  
23 1, the office hours posted. Deputy Blanton says she gives  
24 that out every single time somebody comes into her office.  
25 It just happened to be that Mr. Lewis only ever come once.

1 But, Your Honor, it clearly states on there the hours of  
2 7:00 to 1:00 and 1:00 to 3:00. That's daily, Your Honor.  
3 So he was notified of that.

4 Your Honor, secondly, as to the notice---

5 THE COURT: That's on a document he signed?

6 SOLICITOR MABBS: No, Your Honor, but it is practiced  
7 that every single time someone comes to register---

8 THE COURT: They are given a copy of that?

9 SOLICITOR MABBS: Yes, Your Honor.

10 THE COURT: Okay. Go ahead.

11 SOLICITOR MABBS: Secondly, Your Honor, as far as the  
12 notice for the summons for his first TIA trial in  
13 Magistrate's Court for the first offense, Your Honor, that's  
14 never been raised before today. He had gone to the Clerk's  
15 office, didn't say a thing about it then, has not appealed  
16 that conviction saying that he did not receive notice, that  
17 he wasn't represented.

18 THE COURT: He's saying -- he's not appealing the  
19 conviction. He's simply saying you can't use it for  
20 enhancement purposes. I haven't read the cases. I'll take a  
21 look at them. But he's saying it's an enhancement issue  
22 whether you can use that for a basis to charge him on the  
23 second offense or not.

24 SOLICITOR MABBS: Yes, sir, well -- and I'm just  
25 clarifying, I believe, that they did raise the fact that he

1 just didn't know about it and that's why he didn't show up,  
2 Your Honor, and I don't believe that to be the case.

3 THE COURT: Well, Mr. Anderson, I think you were  
4 saying, in quoting those cases or using them for the  
5 proposition that if he's uncounseled, and he's not  
6 represented obviously if he's not counseled, that that can  
7 not be used -- that conviction can not be used for  
8 enhancement. That's what you say that case says.

9 MR. ANDERSON: Yes, judge, because he was sentenced to  
10 jail time. So he got -- it was a fine or 30 days. He  
11 already served part of the 30 days cause he'd been arrested.

12 THE COURT: Right.

13 MR. ANDERSON: And---

14 THE COURT: Okay.

15 MR. ANDERSON: So those cases say that if you are  
16 sentenced to imprisonment, an uncounseled conviction can not  
17 be used to an -- for an enhancement.

18 THE COURT: I'll read the cases. I don't know what  
19 they say.

20 SOLICITOR MABBS: And, Your Honor, you know, I believe  
21 the public index form that was submitted to the Court said  
22 fine or jail time. Your Honor, I believe that's separate  
23 from strictly sentencing someone to jail time, and,  
24 furthermore, Your Honor, although he may not have  
25 specifically---

1 THE COURT: Well, did he, in fact, serve time?

2 SOLICITOR MABBS: Your Honor, I believe he did have  
3 that credit for time served---

4 THE COURT: Okay.

5 SOLICITOR MABBS: ---and then paid costs to the  
6 Magistrate Court.

7 Your Honor, if he wanted to invoke his right to  
8 counsel, he needed to show up at that trial and he chose not  
9 to. As Your Honor obviously is well aware, just because you  
10 have a right to have a jury trial---

11 THE COURT: Well, I don't think he's challenging the  
12 conviction. I think he's simply saying you can't use it to  
13 enhance. So the conviction stands. He paid the fine,  
14 served the time, whatever he did. So I mean that's done.

15 SOLICITOR MABBS: Yes, sir.

16 THE COURT: I'm not here to decide an appeal of that  
17 case.

18 SOLICITOR MABBS: Yes, Your Honor.

19 THE COURT: I'm just here to decide if he's guilty of  
20 second offense.

21 SOLICITOR MABBS: Yes, Your Honor, and I believe,  
22 because he did not appear at that trial, he is waived --.

23 THE COURT: All right. I'll take a look at the cases  
24 that have been submitted and he's quoted it. If you wish to  
25 submit any other authority, I'll give you an opportunity to

1 do that.

2 SOLICITOR MABBS: Thank you, Your Honor.

3 THE COURT: What is his status now?

4 I notice he's in an orange jumpsuit.

5 What's going on?

6 MR. ANDERSON: Judge, he has one other case that we  
7 need to take a plea on, but we need to have that done after  
8 the sentence in this case.

9 THE COURT: Okay.

10 MR. ANDERSON: Because if he's acquitted here, he's  
11 gonna go out on time served on the other case. But if  
12 he's---

13 THE COURT: All right. Well, I'm gonna take it under  
14 advisement.

15 MR. ANDERSON: Yes, sir.

16 THE COURT: I'll issue an order this week.

17 MR. ANDERSON: Okay. Well, judge---

18 THE COURT: If you're gonna give me some cases, you  
19 need to do it today or tomorrow.

20 SOLICITOR MABBS: Yes, Your Honor. I'll be happy to do  
21 so.

22 THE COURT: Okay.

23 MR. ANDERSON: Okay. Judge -- okay. I'll go talk to  
24 the solicitor about that.

25 THE COURT: Okay.

1 MR. ANDERSON: Okay.

2 THE COURT: All right. Thank you very much.

3 MR. ANDERSON: Thank you.

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6 \* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

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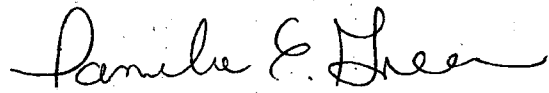
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 16<sup>th</sup> day of March, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

July 18<sup>th</sup>, 2016



PAMELA E. GREEN, Court Reporter

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STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG ) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, ) TRANSCRIPT  
PLAINTIFF, ) OF  
vs. ) RECORD  
TONY RANDALL LEWIS, ) 2015-GS-42-3014  
DEFENDANT. ) 2015-GS-42-5037

March 31<sup>st</sup>, 2016  
Spartanburg, South Carolina

B E F O R E:  
THE HONORABLE ROGER L. COUCH, Judge.

A P P E A R A N C E S:  
ANN-MARIE ODOM  
ASSISTANT SOLICITOR  
Attorney for the State  
  
HOWARD ANDERSON  
ESQ.  
Attorney for the Defendant

PAMELA E. GREEN  
Circuit Court Reporter  
Seventh Judicial Circuit

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INDEX OF WITNESSES

(There were no exhibits marked during this hearing.)

## P R O C E E D I N G S

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3 THE COURT: All right. Ms. Odom, you may proceed.

4 SOLICITOR ODOM: Thank you, Your Honor.

5 Your Honor, Mr. Lewis is before the Court with his,  
6 with his attorney, Mr. Howard Anderson, and, Your Honor, he  
7 is here on one indictment. I apologize. He's here on two  
8 indictments.

9 The first of those is 2015-GS-42-3014, and Your Honor  
10 heard this matter on a bench trial about two weeks ago, and  
11 I just want to put on the record this is a duplicate  
12 indictment. One of Ms. Mabbs indictments went missing, and  
13 I don't think Mr. Anderson has any objection to us---

14 MR. ANDERSON: No objection, judge.

15 THE COURT: Okay. Without objection, it will be  
16 substituted.

17 SOLICITOR ODOM: Thank you, Your Honor.

18 I believe, Your Honor, first and foremost, he needs to  
19 be sentenced on this charge.

20 He's also pleading guilty on 2015-GS-42-5037, which is  
21 a true billed indictment for possession of Phentermine, and  
22 the recommendation on this charge is that it run concurrent  
23 with his sentence on the other charge.

24 THE COURT: All right. Well, let's go ahead and handle  
25 the plea and then we'll handle sentencing in both cases.

1 SOLICITOR ODOM: Yes, sir, Your Honor.

2 THE COURT: Has he been sworn, Madam Clerk?

3 THE CLERK: No, sir.

4 THE COURT: Please do that.

5 THE CLERK: Yes, sir.

6 (WHEREUPON, the defendant was placed under oath at this  
7 time.)

8 THE COURT: All right. You're Tony Randall Lewis.

9 Is that right, Mr. Lewis?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You're here before me today. We'd already  
12 talked about or had a hearing on one of the charges, and I  
13 made a finding in that case, and I believe I have found that  
14 you were guilty of failure to register first offense as  
15 opposed to the second offense they were attempting to charge  
16 you with.

17 As to the second charge, it's possession of a  
18 controlled substance one to five. That carries up to six  
19 months in prison. That's Case Number 15-5087.

20 Are you aware of that charge?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: That case was indicted by the Grand Jury.  
23 The State is presenting it to me without any  
24 recommendations. It is a drug offense and could be used in  
25 the future to enhance sentences in other drug offenses.

1 Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. You're here with your attorney.  
4 Are you satisfied with his services?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you need to talk with him any further?

7 THE DEFENDANT: No, sir.

8 THE COURT: Is there anything else you want him to do  
9 for you before we proceed?

10 THE DEFENDANT: No, sir.

11 THE COURT: All right.

12 MR. ANDERSON: Judge, if I might correct one thing.

13 The recommendation from the State is that any sentence in  
14 this case run concurrent to the sentence in the other case.

15 THE COURT: I'm aware of that.

16 MR. ANDERSON: Oh, okay. I thought you said---

17 THE COURT: She told me that.

18 MR. ANDERSON: Yeah. Okay.

19 THE COURT: All right. Now, Mr. Lewis, there was some  
20 concern I believe that you advanced in the previous case  
21 about your mental capacities at some point in time.

22 Are you today able to handle your plea?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You understand what this hearing is about?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And do you understand the allegations that  
2 have been made?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, have you taken or used any drugs that  
5 would adversely affect your reasoning abilities today?

6 THE DEFENDANT: No, sir.

7 THE COURT: Okay. Now, Mr. Lewis, this charge of  
8 possession of the controlled substance Schedule I to V, how  
9 are you pleading?

10 THE DEFENDANT: Guilty.

11 THE COURT: And, counselor, I'm sure you've gone over  
12 the charge with Mr. Lewis.

13 Am I correct?

14 MR. ANDERSON: Yes, sir, Your Honor.

15 THE COURT: Do you feel certain that he understood your  
16 advice?

17 MR. ANDERSON: Yes, Your Honor.

18 THE COURT: Based on what you know about the case, the  
19 discovery you've received, and what he's told you, do you  
20 agree with his decision to offer this plea?

21 MR. ANDERSON: Yes, Your Honor.

22 THE COURT: And has he been able to assist you in  
23 preparing his case?

24 MR. ANDERSON: As best he can, yes, Your Honor.

25 THE COURT: All right. Now, Mr. Lewis, you are 56

1 years of age.

2 Is that right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: How far did you go with your education?

5 THE DEFENDANT: Finished school.

6 THE COURT: High school?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. Are you married?

9 THE DEFENDANT: No, sir, not now.

10 THE COURT: All right. Do you have any children right  
11 now?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are any of them being supported by you?

14 THE DEFENDANT: No, sir.

15 THE COURT: Okay. Now, Mr. Lewis, has anyone done  
16 anything to you in an effort to force you or make you offer  
17 the plea that you just offered me?

18 THE DEFENDANT: No, sir.

19 THE COURT: So did you do that of your own free will?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did you have sufficient time to consider  
22 that decision?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And have you been -- had enough time to  
25 talk to your lawyer about that decision?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Did anybody offer you anything of value to  
3 get you to plead?

4 THE DEFENDANT: No, sir.

5 THE COURT: Did anyone make any promises, guarantees,  
6 or assurances to you about such matters as pardon, parole,  
7 probation, early release, or length of sentence?

8 THE DEFENDANT: No, sir.

9 THE COURT: Okay. Now, if you plead guilty you give up  
10 your Constitutional rights. One of my jobs is to be sure  
11 you understand those rights.

12 I'm going to go over them with you at this time. If  
13 you have a question, let me know. I'll be glad to go back  
14 over these issues with you.

15 You have a Constitutional right to have your case  
16 presented to a Grand Jury before this Court considers the  
17 case. That has happened. A true bill was issued on this  
18 charge.

19 You have a Constitutional right to an attorney, and  
20 your attorney is here. He's available should you need him.

21 You have a right to have your case tried in front of a  
22 jury. At a jury trial you would be presumed to be innocent.  
23 That presumption would continue throughout the trial. The  
24 only party having a burden of proof in a trial such as that  
25 would be the State, and the State would have the burden of

1 proving your guilt to the jury on every element of the crime  
2 by proof beyond a reasonable doubt.

3 You're not required to prove anything at a trial.  
4 You're presumed innocent.

5 At a trial, if there were witnesses that were in your  
6 favor, you could have the Clerk's Office issue subpoenas to  
7 require their attendance. You would have the right to  
8 confront or question anyone who testified at your trial.  
9 You would have the right to present your defenses at that  
10 time, and you'd be given the opportunity to try to suppress  
11 any evidence the State may have against you. That includes  
12 statements you might have previously made.

13 You, at all times, have the right to remain silent, and  
14 if you chose to remain silent, the judge handling the case  
15 is required to instruct the jury that your silence would not  
16 be used against you at all.

17 Now, did you understand those rights, Mr. Lewis?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Any questions about them?

20 THE DEFENDANT: No, sir.

21 THE COURT: Do you understand that, if I accept your  
22 plea, you, at that time, would have given up those rights as  
23 they relate to these two charges.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Does that fact cause you to want to change

1 your plea --

2 THE DEFENDANT: No, sir.

3 THE COURT: -- the fact that you have to give up your  
4 rights?

5 THE DEFENDANT: No, sir.

6 THE COURT: All right. So then you're still pleading  
7 guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Is that because you are guilty of these two  
10 charges?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Please listen to what Ms.  
13 Odom's going to tell me because I'm gonna ask you about how  
14 she's related these facts.

15 SOLICITOR ODOM: Thank you, Your Honor.

16 THE COURT: Yes, ma'am.

17 SOLICITOR ODOM: May it please the Court.

18 THE COURT: Yes, ma'am.

19 SOLICITOR ODOM: On May the 5<sup>th</sup> of 2015, officers went  
20 to serve an outstanding warrant on Mr. Lewis at

21 . . . Okay.

22 THE COURT: Apalache.

23 SOLICITOR ODOM: Apalache. I apologize. I knew one of  
24 y'all would get me right.

25 Inside the home officers recovered three pills which

1 were identified as Phentermine. Mr. Lewis claimed these  
2 pills.

3 THE COURT: All right. Mr. Lewis, is what she told me  
4 the truth?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Have you been honest with me today?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Anyone tell you how to answer my questions?

9 THE DEFENDANT: No, sir.

10 THE COURT: The answers I've received from you,  
11 therefore, would be your own answers?

12 THE DEFENDANT: That's true.

13 THE COURT: Is that right?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: I'm gonna accept your plea, Mr. Lewis. My  
16 finding is that you've given it to me freely, voluntarily.  
17 You were aware of the charge, the penalties, had the advice  
18 of counsel. You're satisfied with that advice. There's a  
19 factual basis for the plea.

20 I'm gonna hear from your lawyer at this time and then  
21 I'll hear from you.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Yes, sir.

24 MR. ANDERSON: Your Honor, as, as you know, Mr. Lewis  
25 has a, a record, among other things, for the sex offender

1 case that we heard last term of Court. He has been  
2 incarcerated, by my calculations, for 272 days. So he has,  
3 done quite a good bit of time already.

4 THE COURT: 272 days?

5 was that on the failure to register or was that on both  
6 charges?

7 MR. ANDERSON: He, he had one day on the failure to  
8 register. He got out on bond. He was then picked up on  
9 July 4<sup>th</sup> for the drug and the gun charge, which will be  
10 dismissed and -- so he's been held, I guess, on the, the  
11 drug and the gun charge.

12 THE COURT: 276 days?

13 MR. ANDERSON: 272. It was 271 on the, the two  
14 subsequent charges and the one day on the sex offender  
15 charge.

16 THE COURT: Okay.

17 MR. ANDERSON: And Your Honor also heard that  
18 Mr. Lewis, he has some mental issues. Most notably he  
19 appears to have problems with delusions. I will represent  
20 to the Court that I think he does meet the Constitutional  
21 requirements for competency here today, but I know that  
22 sometimes that does alter his decision making, and I think  
23 that might explain some of the issues that we've had with  
24 his criminal record both here and in the past.

25 He lives with his mother, who is very ill. In fact,

1 she's not able to come to Court today. The -- his  
2 incarceration has been harsh upon her in part because of her  
3 illness. He's been helping to help take care of her and  
4 also she's been helping take care of him. So it's a  
5 mutually beneficial arrangement.

6 So, Your Honor, we would ask that you sentence him to  
7 the time served to run concurrent to any sentence that you  
8 impose on the sex offender charge.

9 THE COURT: All right. Anything you'd like to tell me,  
10 Mr. Lewis?

11 THE DEFENDANT: No, sir.

12 THE COURT: Priors?

13 SOLICITOR ODOM: Your Honor, his priors are a 1980  
14 public drunk, malicious injury to personal property, and  
15 armed robbery.

16 1985, DUI.

17 1988, DUI and DUS.

18 2001, lewd act on a child under 16 times four.

19 2014, failure to register.

20 THE COURT: All right. Mr. Lewis, on the drug offense,  
21 Sentence is time served.

22 On the failure to register, the Sentence is six months.  
23 Gets credit for one day?

24 MR. ANDERSON: Yes, sir, judge.

25 THE COURT: Is that what -- my understanding on that

1 charge?

2 MR. ANDERSON: It is, judge.

3 THE COURT: All right. One day credit.

4 Good luck to you, sir.

5 MR. ANDERSON: Thank you, Your Honor.

6 And, judge, are those sentences concurrent or  
7 consecutive?

8 THE COURT: Well, time served, he's already -- he's  
9 maxed out on that.

10 MR. ANDERSON: On the -- okay. I thank you, judge.

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13 \* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

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## C E R T I F I C A T E

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I do further certify that I am neither of kin, counsel nor interest to any party hereto.

July 18<sup>th</sup>, 2016



PAMELA E. GREEN, Court Reporter

1 STATE OF SOUTH CAROLINA )  
 2 COUNTY OF SPARTANBURG ) COURT OF GENERAL SESSIONS

3  
 4 STATE OF SOUTH CAROLINA, ) TRANSCRIPT  
 5 PLAINTIFF, ) OF  
 6 VS. ) RECORD  
 7 TONY RANDALL LEWIS, ) 2015-GS-42-3014  
 8 DEFENDANT. ) 2015-GS-42-5037

9  
 10 June 10<sup>th</sup>, 2016  
 11 Spartanburg, South Carolina

12  
 13 B E F O R E:  
 14 THE HONORABLE ROGER L. COUCH, Judge.

15 A P P E A R A N C E S:  
 16 ALLIE MABBS  
 17 ASSISTANT SOLICITOR  
 18 Attorney for the State  
 19 HOWARD ANDERSON  
 20 ESQ.  
 21 Attorney for the Defendant

22  
 23 PAMELA E. GREEN  
 24 Circuit Court Reporter  
 25 Seventh Judicial Circuit

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I N D E X   O F   W I T N E S S E S

(There were no exhibits marked or testimony taken during this hearing.)

## P R O C E E D I N G S

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3 THE COURT: All right. We're on the record in the case  
4 of the State of South Carolina versus Tony Randall Lewis.

5 Looks like a motion by the defendant under Rule 29.  
6 The State is present.

7 I'll be happy to hear from you, Mr. Anderson.

8 MR. ANDERSON: Thank you, Your Honor.

9 THE COURT: Yes, sir.

10 MR. ANDERSON: As you recall, we had a bench trial in  
11 this case back in March for failure to register as a sex  
12 offender. He was indicted as a failure to register second,  
13 and because the Court found that he had not validly waived  
14 his right to counsel for his first conviction, you decided  
15 to sentence him as a first offense rather than acquitting  
16 him as I argued and I certainly respect that.

17 At the sentencing we did a combined sentencing in this  
18 case and he had two other charges. Those two other charges  
19 were for drugs and, I'm sorry, and the other sentencing was  
20 for a drug offense, the drugs which were discovered when  
21 they had arrested him on the sex offender charge. For  
22 whatever reason the drug charge was not filed at the same  
23 time, and so Mr. Lewis bonded out on the sex offender charge  
24 in May, but then was rearrested in July for the charge. It  
25 was discovered at the same time they arrested him

1 originally, and the long and short, Your Honor, we had  
2 worked out a plea on the, on the drug charge where both the  
3 solicitor and I had agreed to time served cause he'd already  
4 served quite a bit of time.

5 THE COURT: Do you have a copy of the sentencing sheet?

6 MR. ANDERSON: Yes, Your Honor. I have my copy here.

7 THE COURT: Pass it up please.

8 MR. ANDERSON: Yes, make sure this is the right one.

9 I'll pass them both, I'll pass them both up, Your Honor.

10 THE COURT: All right.

11 MR. ANDERSON: In any event, at the, at the sentencing  
12 hearing, you, you sentenced Mr. Lewis to time served on the  
13 drug charge and gave him credit for 276 days, thank you,  
14 time served, and then, on this charge, you gave him credit  
15 for one day time served and ordered a six months sentence.

16 The Rule 29 motion, Your Honor, is, is really concerned  
17 about the, the sentencing credit. As I read the, the case  
18 law, Mr. Lewis is suppose to receive time -- a credit for  
19 all the time that he serves through his conviction, even if  
20 you have multiple charges, if those charges are adjudicated  
21 on the same day, and I will say, Your Honor, back in, in  
22 March, I, I told you that Mr. Lewis had been incarcerated  
23 continuously since July, which is what he tells me. Though  
24 in talking with the sheriff this morning, the sheriff thinks  
25 that Mr. Lewis was actually out from August to November

1 though the sheriff wasn't clear as to how that happened,  
2 and, again, I just -- I put that out there.

3 As Your Honor recalls, my client does suffer from some  
4 mental issues including delusions and so the sheriff thinks  
5 at least that Mr. Lewis served 172 days from July through  
6 sentencing. But I would just ask Your Honor to amend the  
7 sentence in this case to give Mr. Lewis credit for all the  
8 time that he served from July through sentencing, which,  
9 according to the sheriff, is 172 days, but according to my  
10 client's recollection, would be 267 days.

11 I thank you.

12 THE COURT: I'll hear from the State.

13 SOLICITOR MABBS: Your Honor, I don't know if Your  
14 Honor recalls. Ms. Odom was handling the drug charge in  
15 this case. I was originally handling the sex offender  
16 charges. I am now handling Ms. Odom's docket as well.

17 THE COURT: Congratulations.

18 SOLICITOR MABBS: Thank you, Your Honor. So I'm here  
19 on both charges.

20 Your Honor, I was not present for sentencing. I did  
21 speak with Ms. Odom about it and Mr. Anderson. As far as  
22 what my recollection is, Your Honor, I do recall him being  
23 out for a few months as Mr., Mr.---

24 THE COURT: See what I normally do in, and when I do a  
25 plea, I haven't looked at the transcript of this one, but I

1 normally ask about the days credit and write them down. I  
2 know a lot of the judges simply check the blank that says  
3 let the DOC determine it.

4 MR. ANDERSON: Right.

5 THE COURT: I have found that creates another whole set  
6 of issues from, from and -- prisoners. So somehow I was  
7 informed one day on this case. Now I don't know how that  
8 happened.

9 MR. ANDERSON: Well, judge, I---

10 THE COURT: I would not have made that up.

11 MR. ANDERSON: Right, and, judge, I -- he was arrested  
12 in May and then bonded out, and he was rearrested in July  
13 for the drugs that were discovered when they served the  
14 warrant on him that caused the May arrest. And so I think  
15 he served one day before he bonded out in May, and then he  
16 was rearrested in July, and that's where we get from July to  
17 May.

18 THE COURT: Was he rearrested on the second offender  
19 registry charge?

20 MR. ANDERSON: No, he was arrested on the drugs that  
21 were found when they served the warrant on him for the sex  
22 offender charge. So that's how you got the one day on the  
23 one and the 276 on the other.

24 THE COURT: Well, as I say, I normally don't write it  
25 down unless everyone's in agreement with that when I do

1 them: I'll be glad to look at the transcript and see what I  
2 said in this case, but---

3 MR. ANDERSON: Judge, I---

4 THE COURT: That's about, that's about 99 percent of  
5 the time that's the way I do it.

6 MR. ANDERSON: Judge, your, your notes on there are,  
7 are correct based on my recollection as to what you said,  
8 and you had just decided that he was only gonna get one day  
9 for the, for the sex offender charge, and, again, just as I  
10 read the case law---

11 THE COURT: I normally don't decide that. I make  
12 everybody reach an agreement on it and then I write down  
13 that number is the way I normally handle that. I mean---

14 MR. ANDERSON: Well, judge, I---

15 THE COURT: That's the way I do business.

16 MR. ANDERSON: There was not an agreement there in the  
17 Court. Both the State and I had asked for time served on  
18 both cases, and, again, Your Honor exercise your right to  
19 disagree with us, as you're certainly entitled to do, but,  
20 again---

21 THE COURT: well, again, I'll, I'll take a look at the  
22 transcript and see what it says, but let me be sure I  
23 understand what you're saying.

24 When was he served with the warrant on the sex offender  
25 registry case?

1 MR. ANDERSON: He was arrested on May the 15<sup>th</sup>.

2 THE COURT: Okay. And when did he bond out on that  
3 charge?

4 MR. ANDERSON: I'm sorry. The clerk is telling me  
5 that's the 18<sup>th</sup> although my client thought it was one day,  
6 but it was---

7 THE COURT: One day.

8 MR. ANDERSON: It appears to be three.

9 THE COURT: Was he ever rearrested on that charge?

10 MR. ANDERSON: No, Your Honor. He was arrested in July  
11 on the, on drugs that were found when they had arrested him  
12 back in May, and why they didn't present the charges all at  
13 the same time I don't know, but---

14 THE COURT: Well, I don't know either.

15 MR. ANDERSON: Yeah.

16 THE COURT: But you're saying that he should get credit  
17 for the time he served because he was rearrested on the drug  
18 offense?

19 MR. ANDERSON: I'm saying that, as, as I read the case  
20 law---

21 THE COURT: On this charge?

22 MR. ANDERSON: If you are -- he would get credit for  
23 both charges regardless as to whether they were connected so  
24 long as the sentencing was done on the same day as they were  
25 here. That's the case that I cite, the Boggs case, from the

1 Court of Appeals.

2 THE COURT: Well, I'll read the Boggs case.

3 MR. ANDERSON: And, judge, one other small matter.

4 If, if Your Honor decides to not give him anymore  
5 credit than what is already been awarded, I would ask Your  
6 Honor to consider setting a very low appeal bond just  
7 because Mr. Lewis is actually scheduled to get out from SCDC  
8 in July anyway, and if I'm right that he's suppose to get  
9 extra credit, he would be -- to be released today because he  
10 would of served more time than I think he would of had  
11 otherwise.

12 So, again, if Your Honor thinks I have misread the  
13 Boggs case, I would just ask Your Honor to set a low appeal  
14 bond so that Mr. Lewis can decide if he wants to post the  
15 bond because if Your Honor is, is affirmed on appeal, he  
16 would have to go back to Kirkland if he posts out, and some  
17 people don't like to go back to Kirkland. It's not a very  
18 nice place. So I would just ask you to set, you know, a \$10  
19 appeal bond if he decides that he wants to go that route.

20 THE COURT: All right. Can I keep these?

21 MR. ANDERSON: Yes, Your Honor.

22 THE COURT: All right.

23 MR. ANDERSON: And, Your Honor, the clerk has handed me  
24 up what was a bench warrant that was issued that shows that  
25 it was issued on, on November the 10<sup>th</sup>. And so it would

1 appear then that Mr. Lewis was, in fact, out in November  
 2 despite his recollection of being continually incarcerated  
 3 since July. So I think the sheriff's records are probably  
 4 correct, and based on the sheriff's records, it's 172 days  
 5 of credit that I think he would be entitled to.

6 THE COURT: Okay. I'll take a look at it.

7 MR. ANDERSON: Okay.

8 SOLICITOR MABBS: Thank you, Your Honor.

9 MR. ANDERSON: I appreciate your time, Your Honor.

10 THE COURT: Thank you.

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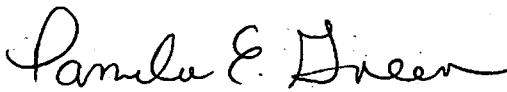
\* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

## C E R T I F I C A T E

1  
2  
3 I, Pamela E. Green, Official Court Reporter for the  
4 Seventh Judicial Circuit of the State of South Carolina, do  
5 hereby certify that the foregoing is a true, accurate and  
6 complete Transcript of Record of the proceedings had and  
7 evidence introduced in the trial of the captioned case,  
8 relative to appeal, in the Court of General Sessions for  
9 Spartanburg County, South Carolina, on the 10<sup>th</sup> day of June,  
10 2016.

11 I do further certify that I am neither of kin, counsel  
12 nor interest to any party hereto.

13  
14  
15  
16 August 15<sup>th</sup>, 2016

17  
18  
19   
20

21 PAMELA E. GREEN, Court Reporter  
22  
23  
24  
25

STATE

WITNESSES

Spartanburg County Sherriff's Office

*C. D. Ad*

ARREST WARRANT NUMBER

2015A4210101715

ACTION OF GRAND JURY

**True Bill**

JUN 25 2015

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO.

**15-GS-42-3014**

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUL 06 2015

TERM

THE STATE

vs.

Tony Randal Lewis

Indictment for  
VIOLATION OF SEX  
OFFENDER REGISTRY

SC Code: 23-03-0460, 23-03-0470 (A), (B)(2)

CDR Code: 2607

Class MIS-C

2015 JUN 30 AM 9:43

M. HOPE BERNLEY

W07

A STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

INDICTMENT

At a Court of General Sessions, convened on June 25, 2015 the  
Grand Jurors of Spartanburg County present upon their oath:

**VIOLATION OF SEX OFFENDER REGISTRY**

That Tony Randal Lewis, did in Spartanburg County on or about February 3, 2015, willfully and unlawfully, after having been convicted of Lewd Act did fail to register a change of address with the Spartanburg County Sheriff's Office as required by law, and this represents the defendants 2<sup>nd</sup> offense for failure to register, in violation of §23-03-0460, 23-3-470 (A), (B)(2) of *THE 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.

Annemarie H Odum  
ASSISTANT SOLICITOR

IN THE COURT OF GENERAL SESSIONS

17099

CAROLINA  
Spartanburg  
VS.  
Tony Randal Lewis

WHITE Sex: M Age: 57

DOB: 59 SS#: \_\_\_\_\_

Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

INDICTMENT/CASE#: 2015GS4203014

A/W#: 2015A4210101715

Date of Offense: 2/3/2015

S.C. Code § 23-03-0470(A)

CDR Code #: 2607

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Sex / Sex Offender Registry Violation, fail to register - 1st offense- 0-365 days and/or \$0-1000

in violation of § 23-03-0470(A) of the S.C. Code of Laws, bearing CDR Code # 2606

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

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Allison Malls 101795 Tony Lewis 100329  
MABBS, ALLISON M 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 6 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. 1 day  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

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	\$ 100.00
§ 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 Enforc. 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 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 5.90
TOTAL		\$ 133.90

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

Clerk of Court/ Deputy Clerk: A. Seary  
 Court Reporter: Green  
 SCCA/217 (03/2011)

Presiding Judge: \_\_\_\_\_  
 Judge Code: 2135  
 Sentence Date: 3/2/16

DOCKET NO. **15-GS-42-5038**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 22 2016

TERM

THE STATE  
vs.

TONY RANDALL LEWIS

Indictment for  
POSSESSION OF A FIREARM OR  
AMMUNITION BY PERSON  
CONVICTED OF A VIOLENT CRIME

SC Code: 16-23-500 (A) (B)  
CDR Code: 3434  
Class FEL/F

*8/31/16  
Nolle prossed  
pled guilty to other  
charges  
AnnMarie H. Odum*

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2016 FEB 25 AM 11:22  
M. HOPE BLACKLEY

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2016 APR - 1 AM 9:05  
M. HOPE BLACKLEY

SENTENCE MADE	<input checked="" type="checkbox"/>
REPORT MADE	<input checked="" type="checkbox"/>
SPTBG CO SHERIFF'S OFFICE	<input checked="" type="checkbox"/>
3. CARD PULLED	<input checked="" type="checkbox"/>
4. INDEXED	<input checked="" type="checkbox"/>
5. CHECKED WARRANTS	<input checked="" type="checkbox"/>
6. FILED	<input checked="" type="checkbox"/>
7. FILED	<input checked="" type="checkbox"/>
8. TRAFFIC VIOLATION COPY	<input checked="" type="checkbox"/>

ARREST WARRANT NUMBER

2015A4210101792

ACTION OF GRAND JURY

FEB 19 2015

**True Bill**

Foreperson of Grand Jury  
Date

VERDICT

Foreperson of Petit Jury  
Date

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF SPARTANBURG )

INDICTMENT

FEB 19 2016

At a Court of General Sessions, convened on \_\_\_\_\_ the  
Grand Jurors of Spartanburg County present upon their oath:

**POSSESSION OF A FIREARM OR AMMUNITION BY PERSON  
CONVICTED A VIOLENT CRIME**

That Tony Randall Lewis, did in Spartanburg County on or about May 15, 2015, who has been convicted of a violent crime as defined by §16-1-60, have in his possession a ammunition, in violation of Code §16-23-500 (A) (B), *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.

AnnMarie H. Odom  
ASSISTANT SOLICITOR

WITNESSES

- 1. REPORT MADE
- 2. SPTBG CO SHERIFF'S OFFICE REPORT ENDED
- 3. CARD PULLED *compute*
- 4. INDEXED
- 5. CHECKED WARRANTS
- 6. CHECKED SIGNATURE
- 7. ASSESSMENT FINE CARD *compute*
- 8. TRAFFIC ARREST WARRANT NUMBER

2015A4210101793

ACTION OF GRAND JURY

FEB 19 2015

**True Bill**

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. **15-GS-42-5037**

The State of South Carolina

County of Spartanburg

*Barry J Barnette, Solicitor*

COURT OF GENERAL SESSIONS

FEB 22 2016

TERM

THE STATE  
vs.

TONY RANDALL LEWIS

Indictment for  
POSSESSION OF PHENTERMINE  
SC Code: 44-53-370

CLERK OF COURT  
SPARTANBURG  
2016 FEB 25 AM 11:42  
M. HOPE BLAIR

SCANNED

*fl*

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF SPARTANBURG )

INDICTMENT

FEB 19 2016

At a Court of General Sessions, convened on \_\_\_\_\_ the

Grand Jurors of Spartanburg County present upon their oath:

**POSSESSION OF PHENTERMINE**

That Tony Randall Lewis, did in Spartanburg County on or about May 15, 2015 possess or attempt to possess a quantity of Phentermine, a schedule IV controlled substance, in violation of § 44-53-370, *THE 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.

Anne Marie H. Odum  
ASSISTANT SOLICITOR

86  
 Spartanburg  
 County  
 STATE  
 015A  
 3/15/16

CAROLINA

# Compute

IN THE COURT OF GENERAL SESSIONS

SPARTANBURG  
 VS.  
 Tony Randal Lewis  
 W Sex: M Age: 56  
 SS#: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

INDICTMENT/CASE#: 2015-05-42-5037  
 A/W#: 2015A4210101793  
 Date of Offense: 5/15/2015  
 S.C. Code §: 44-53-0370(d)(2)  
 CDR Code #: 0179

## SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Drugs / Possession of other controlled sub. in Sched. I to V - 1st offense (0-6 months &/or 0-\$1k)

in violation of § 44-53-0370(d)(2) of the S.C. Code of Laws, bearing CDR Code # 0179  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC)  §17-25-45  
 w/minor 1st or Lewd Act)

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

ATTEST: Annemarie H. Odom 10230 Tony Randal Lewis 102329  
 ODOM, ANNEMARIE H. 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 75 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.  
 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: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_  
 Recipient: \_\_\_\_\_

*Fine:	\$	\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 500
3% to County (if paid in installments)		\$ 8.40
<b>TOTAL</b>		<b>\$ 288.40</b>

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

Clerk of Court/ Deputy Clerk: A. Sauer  
 Court Reporter: Green  
 SCCA/217 (03/2011)

Presiding Judge: \_\_\_\_\_  
 Judge Code: 2135  
 Sentence Date: 3/31/16

STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON  
STATE v TONY RANDALL SR LEWIS  
AKA:  
Race/Sex: W M Age: 42  
DOB: /59 SSN:

10 years  
IN THE COURT OF GENERAL SESSIONS 87  
INDICTMENT/CASE#  
2001-GS-04-1683  
A/W#: G130209  
Date of Offense: 03/04/94  
S.C Code: 16-15-0140  
CASE RESTORED   
SENTENCE:  PLEA  TRIAL



CDR #: 2468

SCDL# SID: SC00303825  
In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO:

Guilty Act upon a Check

in violation of 16-15-140 of the S.C. Code of Laws, being CDR Code# 214168

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  17-25-45

Charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury.  
Plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

WDH  
Wendy Hallford  
Solicitor

Tony R Lewis  
Defendant

5/17/15 AMB.  
Chad White  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 5 days/month/years or  under the Youthful Offender Act not to exceed     years and/or pay a fine of \$     provided that upon the service of 2 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 of South Carolina Department of Probation. Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONDITIONS OF PROBATION  
SEE ATTACHED ORDER

The Defendant is to be given credit for 123 days/months jail time.

CONCURRENT or  CONSECUTIVE to sentences on: 1683 - 1688

SPECIAL CONDITIONS:

RESTITUTION  Heard,  Waived,  Ordered  
Total: \$     plus 20% fee \$      
Payment Terms:      
 set by SCDPPPS      
Recipient:      
\*Fine..... \$      
14-1-206 - Assessments 100%..... \$      
14-1-211 (A)(1) Surcharge ..... \$ 100  
14-1-211 (A)(2) Surcharge ..... \$      
56-5-2995 (DUI) ..... \$      
3% County(if Paid in Installments) \$      
TOTAL ..... \$ 100

PTUP      
    days/hours Public Service Employment  
Obtain GED      
Attend Voc Rehab, or Job Corps      
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:    

TRUE COPY  
SEP - 4 2015  
CLERK OF COURT

Cathy M. Phillips  
Clerk of Court/Deputy Clerk

Court Reporter Tollison Code#    

JUDGE J. Nichols Code# 21117

Sentence Date 10/13/01 SCCA/217 (1/01)



8/27/2014	12:00 AM	Filing recorded: Archived Court Summons
9/23/2014	12:00 AM	Filing recorded: Archived Unpaid Fine Notice
11/6/2014	2:25 PM	Scheduled Time Payment
1/6/2015	11:20 AM	Scheduled Time Payment
1/20/2015	12:00 AM	Filing recorded: Archived Unpaid Fine Notice
10/6/2014	2:25 PM	Received payment of \$100 from Tony Randal Lewis for Tony Randal Lewis . Printed receipt #4706438.
11/3/2014	11:42 AM	Received payment of \$100 from Tony Randal Lewis for Tony Randal Lewis . Printed receipt #4709048.
12/3/2014	11:19 AM	Received payment of \$100 from Tony Randal Lewis for Tony Randal Lewis . Printed receipt #4711751.
2/3/2015	12:32 PM	Received payment of \$185 from Tony Randal Lewis for Tony Randal Lewis . Printed receipt #4716952.
8/21/2014	12:00 AM	Bond 2 was set in the amount of 0 by Smith, Dwight Gibson
10/6/2014	12:00 AM	C42DCULBRE recorded the following Case Note: 10/06/2014- ext. granted by Judge Chumley. stp 11/6/2014.
12/3/2014	12:00 AM	C42DCULBRE recorded the following Case Note: 12/03/2014- ext. granted by Judge Chumley. stp 1/06/2015. 12/03/2015 @12:33pm told Tony Lewis to go and see Debra Blanton at the Sheriff's office.

*Handwritten:*  
12/3/15  
8/2/15

**SEX OFFENDERS OFFICE HOURS**

**MONDAY - FRIDAY**

**07:00 AM - 11:00 AM**

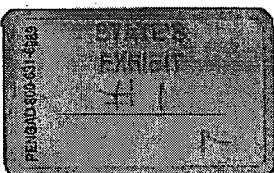
**1:00 PM - 3:00 PM**

**CLOSED 11:00 AM - 1:00 PM**

**CLOSED WEEKENDS AND HOLIDAYS**

**SHERIFF'S OFFICE DESK - (864) 503-4528**

**SEX OFFENDERS OFFICE - (864) 503-4643**



## Legal Requirements of the South Carolina Sex Offender Registry

Below is a list of requirements you need to follow as a convicted sex offender in S.C. Section 23-3-460 any person required to register shall be required to register quarterly or bi-annually for life. This shall be in the month of your birth and either 3 months or 6 months later. The offender shall register at the Sheriff's Office in the county in which he/she resides.

Offender must provide all information, as prescribed by SLED, in order to be considered registered; there also will be a \$150 registration fee due at your birth month registration. This fee must be paid in full with cash or money order; **NO CHECKS.**

Any person required to register changes his/her address or change of employment within the same county, that person must provide notice of such change to the Sheriff's Office within 3 days of establishing their new address or employment. **If you are convicted of CSC 1<sup>st</sup> or 2<sup>nd</sup> degree or attempting CSC on a minor or Kidnapping of a person under 18, you must have your new address approved before moving. There is a 1000 ft. limitation in effect. Change of address will not be taken over the phone; we will take change of employment over the phone.**

Any person required to register changes his/her address into another county in South Carolina, the person must register with the Sheriff's Office in the new county within 3 days of establishing the new residence. The person must provide notice within 3 days of the change of address in the previous county to the Sheriff's Office with whom the person last registered.

Any person required to register must provide notification within 3 days to the Sheriff's Office of any change in status of enrollment, employment, volunteer or vocation status at any school in the state of South Carolina.

Any Person required to register must register in any state where they are employed, carries on a vocation or is a student.

Any person required to register moves outside of South Carolina, the person must provide notice within 3 days of the change of address to a new state to the Sheriff's Office with whom he/she last registered. The offender must register with the appropriate official in that state and comply with that states registration requirements. **This information will not be taken over the phone.**

Verifying current registration address will be conducted by the Spartanburg County Sheriff's Office on a random basis.

You must also report any secondary address that you may stay and if you own property in another county you must also register in that county.

If you are a Sexually Violent Predator, you must and will register every 90 days.

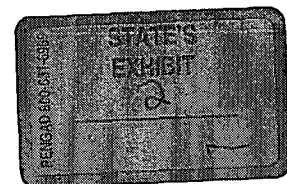
Section 23-3-470 failing to register and or knowingly and willfully giving false information when registering, must be punished by:

1<sup>st</sup> Offense conviction is a misdemeanor and may be fined not more than \$1000 or imprisoned for not more than 366 days, or both.

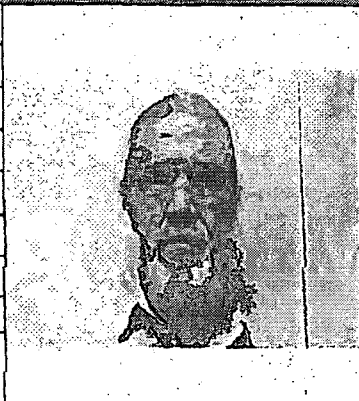
2<sup>nd</sup> Offense conviction is a misdemeanor and must be imprisoned for a mandatory period of 366 days, no part of which shall be suspended nor probation granted.

3<sup>rd</sup> Offense or Subsequent conviction is a Felony and must be imprisoned for a mandatory period of 5 years, 3 years of which can not be suspended or probation granted.

My next month to register is \_\_\_\_\_



State of South Carolina  
SEX OFFENDER REGISTRATION  
Offender Information Form

AGENCY INFORMATION			
Agency Name:	Spartanburg County SC Sheriff's Office		
Agency Address:	8045 Howard Street Spartanburg SC 29303		
Agency Phone:	(864)503-4500	Agency Fax:	(864)503-4561
Agency Email:	dblanton@spartanburgcounty.org		
OFFENDER INFORMATION			
Name:	TONY RANDALL LEWIS	Registration #:	0000009520
Birthplace:	SPARTANBURG, SC, United States	Alt Reg#:	SC00303825
DOB:	1959	SSN:	
Age:	54	FBI:	
DL# and state:	SCDL#	DOC:	
State ID:	SC00303825	NCIC:	
Nationality:	USA	Religion:	
Marital Status:	Divorced	Sexual Preference:	
PHYSICAL DESCRIPTION			
Sex:	Male	Eye Color:	Hazel
Build:	Medium	Wears Glasses:	
Height:	5'9"	Hair Color:	Brown
Weight:	169	Hair Length:	Long
Race:	White	Handedness:	Right
Skin Tone:	Medium		
Facial Hair:			
Name of Gang:			
Risk Level: Adult Offender			
SCARS MARKS TATTOOS			
TATTOO on L_forearm TRL			
SCAR on L_forearm SCAR			
MEDICAL INFORMATION			
Blood Type:	DNA Available: Yes	Fingerprint on File: Yes	
	DNA ID/Loc: SLED	Fingerprint ID:	
Medical Conditions: ARTHRITIS, DELUSIONAL,			
REGISTRATION INFORMATION			
Compliance:	COMPLIANT	Registration Start Date:	05/06/2002
Status:	Active	Registration End Date:	
Verification Frequency:	Address	Last Verification Date:	01/16/2014
<b>LIFETIME REGISTRANT</b>		Next Verification Date:	07/17/2014

DEFENDANT'S EXHIBIT  
NO. 1

I attest that the information that I have provided and listed above is accurate. T.L. so dated 1-16-14

Page 13 of 35 - 08/04/2019  
**State of South Carolina**  
**SEX OFFENDER REGISTRATION**  
**Offender Information Form**

ALIAS				
Alias Name:	Alias DOB:	Alias DL #:	Alias SSN:	Alias FBI#:
NONE				
ADDRESSES				
<b>CURRENT ADDRESS(ES)</b>				
Home:				
PHONE NUMBERS				
PHONE#:		DESCRIPTION:		
Primary		HOME		
EMPLOYMENT				
Business Name:	Position:	Employment Address:	Phone:	
DISABLED				
PROFESSIONAL LICENSES				
License Date:	Authority:	Number:	Description:	
		NONE		
SCHOOL				
School Name:		School Address:		
NONE				
VOLUNTEER				
Organization:		Organization Address:		
NONE				
ASSOCIATES				
Associate Name	Associates Address & Phone#		Relationship to Offender	Lives w/ Offender
MALLON MORRIS	Ph# GREER, SC 29651		Step-Father	Yes
VEHICLES				
Vehicle type:	Make:	Model:	Color:	Year:
NR - None Reported	None Reported	None Reported		
Style:	License:	State:	Plate Category:	Plate Type:
VIN:	Comments:			
0				

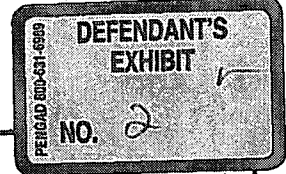
I attest that the information that I have provided and listed above is accurate TL so dated 1-16-14.

Page 16 of 35 08/04/2015  
**State of South Carolina**  
**SEX OFFENDER REGISTRATION**  
**Offender Information Form**

OFFENSES				
<b>PRIMARY OFFENSE</b>				
South Carolina Offense				
Offense: 16-15-140 COMMIT OR ATTEMPT LEWD ACT ON CHILD <16(*)				
Offense City:	HONEA PATH	Offense County:		
Case Number:	G130209,10,11,12	Date Committed:		
NCIC Number:	3699	Date Convicted:	10/12/2001	
Sentence:	2 YRS PROB. CC	Date Released:		
General Info:	Previous offense was 16.15.140 - Committing lewd act upon child under 16			
VICTIM(s):	Age:	Gender:	Relationship to Offender:	Race:
	15	FEMALE	Stranger	White
Crime Info:				
WEAPON:	Weapon Type:	Weapon Make:	Weapon Info:	
	None			
INTERNET				
Type:	Name:	Address:	Password:	
Email				
Screen Name				
COMMENTS				
PROBATION INFORMATION				
Probation Status: Probation Period: -				
Probation County:		Probation Court:		
Probation Officer:		Probation Court Type:		
Probation Officer Phone#:		Probation Judge:		
Probation Condition:				

I attest that the information that I have provided and listed above is accurate T.C. so dated 1-16-14

State of South Carolina  
Page 17 of 35 08/04/2013  
**SEX OFFENDER REGISTRATION**  
**Offender Information Form**



NOTICE OF SEX OFFENDER REGISTRY FORM

Pursuant to S.C. Code Ann. §23-3-430, "Any person, regardless of age, residing in the State of South Carolina, who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense described below, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in any comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. In addition, upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor."

**All offenders must register bi-annually or quarterly for life depending upon his/her classification as a Tier II or Tier III offender (See Attachment "A").**

I understand that I am required to register and I MUST:

J.L. Present myself in person to register and re-register at the sheriff's office of my primary county of registration and provide information on any and all county or state locations where I reside, own real property, am employed, or attend, am enrolled, volunteer, intern, or carry on a vocation at any public or private school including but not limited to a secondary school, adult education school, college or university and any vocational, technical or occupational school within the prescribed time frames as set forth below:

- An offender being released from DOC or DJJ at the completion of their sentence, to an early release program, to extended work release, or upon parole or release to the custody of a parent, custodian, or guardian MUST register within one (1) business day of his/her release.
- An offender sentenced to probation or new resident of the state that are to be supervised by PPP MUST register within one (1) business day of his/her sentencing or establishing residency.
- An offender who is not under the jurisdiction of the DOC, PPP, or DJJ at the time of moving into the State of South Carolina MUST register within three (3) business days of establishing residency.

J.L. Provide all information, as prescribed by SLED, in order to be considered registered. (For a complete list of information required see Attachment "B")

J.L. Provide written notification in person within three (3) business days of establishing a new residence, or acquiring real property in the *same county*, to the sheriff's office of the offender's primary county of registration (S.C. Code Ann. §23-3-460(C));

J.L. Provide written notification in person within three (3) business days of the change of his/her permanent or temporary address to a *new county* with the county sheriff in the new county and in person to the county sheriff in the previous county with whom he/she last registered. (S.C. Code Ann. §23-3-460(D))

J.L. Provide written notification in person within three (3) business days of change of address to a *new jurisdiction* to the county sheriff with whom the person last registered. (S.C. Code Ann. §23-3-460(F))

J.L. The offender must comply with the new jurisdiction's registration requirements; Note: Under the Adam Walsh Child Protection and Safety Act of 2006, 18 United States Code 2250, if you travel to another jurisdiction and fail to register as

I attest that the information that I have provided and listed above is accurate J.L. so dated 1-16-14.

State of South Carolina  
Page 16 of 35 - 08/04/2019  
**SEX OFFENDER REGISTRATION**  
**Offender Information Form**

required, you are also subject to federal prosecution that carries penalties of a fine and/or imprisonment up to ten years;

T.L. Provide written notification in person within three (3) business days to the sheriff of the county where he/she is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation of *each change in attendance, enrollment, volunteer status, intern status, employment or vocation status at any public or private school*, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school. (S.C. Code Ann. §23-3-460(E));

T.L. Provide written notice in person of termination of employment or school affiliation within three (3) business days to the sheriff office in the offender's primary county of registration; this includes residents, non-resident school affiliation, and non-resident employment;

T.L. I understand that I may be required to register in any jurisdiction where I am employed, carry on a vocation, am a student, or temporarily visit. It is MY responsibility to check with the local law enforcement about registration requirements in that jurisdiction.

T.L. Notify the sheriff of my county of primary registration of any intention to move out of country or travel out of country twenty-one (21) days in advance of the date of departure. Provide all required information as prescribed by SLED and the Sex Offender Registration and Notification Act (SORNA).

T.L. I must re-register with the sheriff's office of my county of primary registration within three (3) business days of my return.

T.L. I understand I am prohibited from living in campus housing at a public institution of higher learning supported in whole or in part by the state. (S.C. Code Ann. §23-3-465)

T.L. I understand if I am convicted of certain offenses against a minor, I am prohibited from living within one thousand feet of a school, daycare center, children's recreational facility, park or public playground. If I am living at a prohibited address, I may be ordered to leave within thirty days. (S.C. Code Ann. §23-3-535)

T.L. I understand that failure to register or provide notification of change of address, telephone number (fixed location phone or cell phone), vehicle information, or notification of permanent or temporary changes in employment, or attendance, enrollment, employment, volunteer status, intern status, or vocation status at any public or private school is a crime. (S.C. Code Ann. §23-3-470 and SORNA §114)

T.L. I understand that willfully giving false information or omitting required information when registering or re-registering is a crime. (S.C. Code Ann. §23-3-475)

T.L. I understand that failing to provide internet account(s) or internet identifier(s) information, or failing to provide notification of change of my internet account(s) or internet identifier(s) is a crime. (S.C. Code Ann. §23-3-555(B)(3))

T.L. I understand that knowingly and willfully giving false information regarding my internet account(s) or internet identifier(s) is a crime. (S.C. Code Ann §23-3-555(B)(3))

T.L. Under penalty of perjury, I certify that to my knowledge all the information I have provided this agency is true and accurate.

I attest that the information that I have provided and listed above is accurate T.L. so dated 1-16-14





ARREST WARRANT

2014A4210103023 W31

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Spartanburg

125228

THE STATE against

14701770

Tony Randal Lewis

Address:

Phone: SSN: Sex: M Race: Height: 5 9 Weight: 160 DL State: SC DL #: DOB: Agency ORI #: SC0420000 Prosecuting Agency: Spartanburg County Sheriff Prosecuting Officer: David Hogsted - 0722 Offense: Sex / Sex Offender Registry Violation, fail to register - 1st offense Offense Code: 2606 Code/Ordinance Sec: 23-03-0470(A)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Tony R. Lewis on 8/21/14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Spartanburg Magistrate 180 Magnolia Street Spartanburg County Judicial Center Spartanburg, SC 29306

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Spartanburg

Personally appeared before me the affiant David Hogsted

being duly sworn deposes and says that defendant Tony Randal Lewis

did within this county and state on or about 7/31/2014

State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Spartanburg

in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Sex Offender Registry Violation, fail to register - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on July 31, 2014 in the county of Spartanburg, one Tony Randal Lewis did fail to contact the sheriff to register as a sex offender, as required by law.

Warrant based on police investigation. RR

Signature of Affiant

STATE OF SOUTH CAROLINA

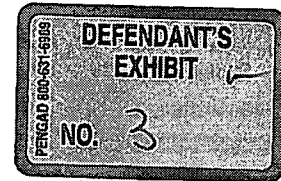
[X] County/ [ ] Municipality of

Spartanburg

Affiant's Address 3745 Howard Street

Spartanburg, SC 29303-

Affiant's Telephone (864)503-4500



ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 7/31/2014 defendant Tony Randal Lewis

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

[X] County/ [ ] Municipality of Spartanburg

DESCRIPTION OF OFFENSE: Sex / Sex Offender Registry Violation, fail to register - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 7/31/2014

Signature of Issuing Judge (L.S.)

Charles William Jones

Judge Code: 7084

Judge's Address Spartanburg County Judicial Center

Spartanburg, SC 29306-2335

Judge's Telephone (864)596-2564

Issuing Court [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL

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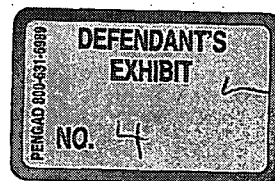
STATE OF SOUTH CAROLINA )  
 )  
COUNTY/CITY OF SPARTANBURG )  
 )  
STATE OF SOUTH CAROLINA )  
 )  
VS )  
 )  
Tony Randal Lewis )

IN THE SUMMARY COURT  
WAIVER OF RIGHT TO COUNSEL  
TICKET #(s): 2014A4210103023  
OFFENSE(s): Sex / Sex Offender Registry  
Violation, fail to register - 1st offense  
DATE OF VIOLATION: July 31, 2014

MAXIMUM POSSIBLE INCARCERATION TIME (JAIL TIME): 30

I understand that I have been charged with the above offense and that:

1. I have a right to counsel at Pretrial Hearings, Trials, Show Cause Hearings or Conditional Sentencing Hearings, Contempt Hearings, or any other proceedings in this case.
2. If I cannot afford counsel, one will be appointed for me upon request by me at this time and upon determination that I am unable to pay for counsel.
3. A conviction for this charge may result in imprisonment.
4. If I try this case without counsel, I will be expected to comply with Rules of Court which will be made available to me upon request.
5. I have been explained the nature of the charges against me.
6. I am knowingly, that is consciously and intentionally, waiving my right to counsel.
7. I do so intelligently, that is with an understanding of the above, and have had all of the questions that I have asked, answered to my satisfaction.
8. I do so voluntarily, that is by intention and not accidentally or under any pressure or duress.
9. I have had ample time to consider this and need no further time or information to make this statement.
10. I am not under the influence of alcohol, other intoxicants or medicines which would in anyway affect my ability to understand what I am doing at this time.
11. I understand that this waiver extends to any further Hearings in this matter and until such time as it is revoked in writing to the Judge then handling the matter.
12. I have read and understand all of the above, and if I cannot read I have had this read to me to my satisfaction.



Signed: \_\_\_\_\_ Witness: \_\_\_\_\_

CERTIFICATION OF JUDGE:

I hereby certify that the above-named Defendant has been fully informed of the above, including his right to appointed counsel, that he has elected to proceed without counsel, and that he has validly executed the above waiver in this matter.

This 21 day of 8, 20 14 Judge: [Signature]

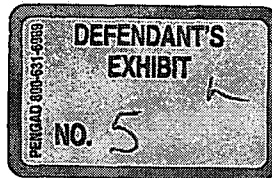
**DO NOT SIGN THIS FORM IF YOU ARE GOING TO APPLYING FOR A PUBLIC DEFENDER OR HAVE INDEPENDENT COUNSEL REPRESENT YOU.**

[Handwritten Signature]

3-4-14  
[Handwritten marks]

STATE OF SOUTH CAROLINA  
COUNTY/CITY OF SPARTANBURG

Tony Randal Lewis



SUMMARY COURT SUMMONS

STATE VS. Tony Randal Lewis  
CASE #(S) 2014A4210103023  
CHARGE Sex / Sex Offender Registry Violation, fail to register -  
1st offense

Please be advised that a Bench Trial has been scheduled to be heard on September 22, 2014 at 9:00 AM in the above referenced case.

You are hereby summoned to appear in Courtroom # 2 of the Spartanburg Magistrate Court, 180 Magnolia Street, Spartanburg, SC on that date.

HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN SUCH CASES MADE AND PROVIDED.

Spartanburg County Magistrate Court

Spartanburg Magistrate  
180 Magnolia Street Spartanburg County Judicial Center  
Spartanburg, SC 29306  
Phone: (864) 596-2564 Fax: (864) 596-3622

August 27, 2014

*3-16-16*  
*RTZ*

**STATE OF SOUTH CAROLINA  
COUNTY/CITY OF SPARTANBURG**

David Hogsed  
8045 Howard Street  
Spartanburg, SC 29303-

**SUMMARY COURT SUMMONS**

STATE CASE #(S) CHARGE	VS.	Tony Randal Lewis 2014A4210103023 Sex / Sex Offender Registry Violation, fail to register - 1st offense
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Please be advised that a Bench Trial has been scheduled to be heard on **September 22, 2014 at 9:00 AM** in the above referenced case.

You are hereby summoned to appear in Courtroom # 2 of the Spartanburg Magistrate Court, 180 Magnolia Street, Spartanburg, SC on that date.

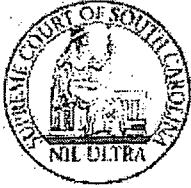
**HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN SUCH CASES MADE AND PROVIDED.**

**Spartanburg County Magistrate Court**

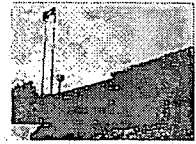
**Spartanburg Magistrate  
180 Magnolia Street Spartanburg County Judicial Center  
Spartanburg, SC 29306  
Phone: (864) 596-2564 Fax: (864) 596-3622**

**August 27, 2014**

Certified true copy  
 records kept in the  
 Spartanburg County  
 3-4-16 RC



## Spartanburg County Seventh Judicial Circuit Public Index

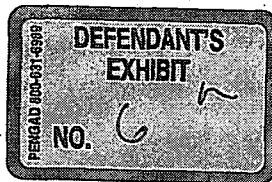


[Spartanburg County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Tony Randal Lewis					
Case Number:	2014A4210103023	Court Agency:	Spartanburg Magistrate	Filed Date:	08/22/2014
Case Type:	Criminal	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Turner, David James	Disposition Judge:	Chumley, William Robby
Disposition:	TIA Guilty Bench Trial				
Disposition Date:	09/22/2014	Date Received:		Arrest Date:	08/21/2014
Law Enf. Case:	14701770	True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:		Waiver Date:	
Probation Case:					

Case Parties   Charges   Sentencing   Associated Cases   Actions   Financials   Bonds							
And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	Fine or Jail Time	30	Days				Consecutive



STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )  
 )  
 )  
 STATE OF SOUTH CAROLINA, )  
*Plaintiff,* )  
 )  
 vs. )  
 )  
 TONY RANDALL LEWIS, )  
*Defendant.* )

COURT OF GENERAL SESSIONS  
 7<sup>th</sup> JUDICIAL CIRCUIT

No. 2015A42101017

RECEIVED  
 2016 JUL 28 2016  
 SC Court of Appeals

**ORDER**

On June 10, 2016, the parties appeared for a hearing on the Defendant's Rule 29 Motion. Being duly advised, the Court now **GRANTS** the same.

The Court sentenced Mr. Lewis in this case and in another case (No. 2015-GS-42-5037) on the same day. At the sentencing hearing, the parties agreed that Mr. Lewis had only served one day on the instant case and that his remaining period of pre-sentencing incarceration was attributable to the other case. The Court awarded pre-sentencing credit on that basis.

Upon further consideration, however, the allocation of pre-sentence credits is incorrect. Where, as here, a defendant is sentenced on two cases on the same day, pre-sentence credit is fully awarded in both cases rather than allocated between them. S.C. Code § 23-13-40.<sup>1</sup> For example, in *Allen v. State*, 339 S.C. 393 (2000), our Supreme Court held that the defendant was entitled to full presentence credit on two separate cases, the latter of which was filed while the defendant was on bond for his

<sup>1</sup> While the statute provides for exceptions—for escapees and defendants who have already begun serving sentence on some other charge—neither applies.


*RLC*  
 11

earlier, unrelated case.

The facts here are the same as in *Allen*: After being released on bond in this case, Mr. Lewis was later arrested and detained through sentencing on the other, unrelated charge for which he was sentenced on the same day as this charge.

Accordingly, as required, the Court modifies the sentence in this case to reflect that Mr. Lewis must receive credit for 172 days of presentence credit, rather than the one day originally indicated in the judgment.

So ordered this 28<sup>th</sup> day of June, 2016.

  
Roger L. Couch  
Circuit Judge

**Distribution:**

Howard W. Anderson III  
PO Box 661  
Pendleton, SC 29670

Solicitor's Office

Sheriff's Office

South Carolina Department of Corrections

2016 JUN 28 PM 2: 16  
CLERK OF COURT  
CLERK OF COURT

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

COURT OF GENERAL SESSIONS  
7th JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,  
*Plaintiff,*

vs.

No. 2015A4210101715

TONY RANDALL LEWIS,  
*Defendant.*

2016 MAR 29 11:11 AM  
M. HOPE BLANK

**ORDER**

On March 16, 2016, the parties appeared in person and by counsel for a bench trial in this criminal action pursuant to an indictment alleging a February 2015 failure to register as a sex offender, second offense, in violation of S.C. Code § 23-03-0460.

At the conclusion of the trial, Mr. Lewis, by counsel, made an oral motion for acquittal on two grounds. First, he argued that he lacked the mens rea. Second, he argued that because he was not represented as required in the magistrate's court for his first offense, there was a failure of proof because that conviction could not be used against him on the instant charge. The Court took the motion under advisement and now rules as follows.

As for the mens rea, the Court finds that because the evidence showed that Mr. Lewis was not mentally incompetent at the time of the offense, he could and did act "willfully" in his failure to register, as alleged and proved.

As for the prior trial and conviction, the evidence established that Mr. Lewis



there did not knowingly, voluntarily, and intelligently waive his right to counsel under the federal and state constitutions. *See generally Faretta v. Cal.*, 422 U.S. 806, 835 (1975) ("When an accused manages his own defense, he relinquishes, as a purely factual matter, many of the traditional benefits associated with the right to counsel. For this reason, in order to represent himself, the accused must knowingly and intelligently forgo those relinquished benefits." (citation omitted)). *See also Johnson v. Zerbst*, 304 U.S. 458, 464 (1938) ("[C]ourts indulge every reasonable presumption against waiver of fundamental constitutional rights and that we do not presume acquiescence in the loss of fundamental rights." (footnotes omitted)). Because Mr. Lewis did not validly waive his right to counsel in the trial before the magistrate's court, any resulting conviction that imposed any sentence of incarceration—as that one did—may not be used against Mr. Lewis to aggravate the punishment of any subsequent offense, such as this one. *Nichols v. United States*, 511 U.S. 738, 748-749 (1994) ("[W]e hold, consistent with the Sixth and Fourteenth Amendments of the Constitution, that an uncounseled misdemeanor conviction, valid under *Scott* because no prison term was imposed, is also valid when used to enhance punishment at a subsequent conviction.").

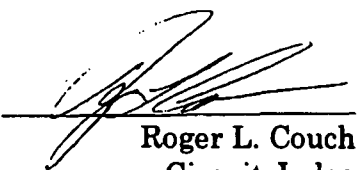
The Court finds that the existence of a prior conviction for failure to register is not an element of the indicted offense. *See S.C. Code § 23-3-470*. Instead, it is merely a fact that alters the potential punishment. Accordingly, while the Court denies Mr. Lewis an acquittal due to his prior uncounseled conviction, the Court will—as required by the federal and state constitutions—only sentence him in accordance

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with the penalties associated with a first failure to register. See S.C. Code § 23-3-470(B)(1).

So ordered this 28<sup>th</sup> day of March 2016.

  
Roger L. Couch  
Circuit Judge

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## 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,



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ATTORNEY FOR APPELLANT

This 20th day of April, 2017.

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