

Bernardo S. Evans  
v.  
State of South Carolina

Appellate Case  
# 2016-000489 / 2016-000604  
Lower Court case  
# 2015CP2660709

(Amend PCR)

Ms. Shearouse

RECEIVED

JAN 12 2018

SC Court of Appeals

RECEIVED

JAN 11 2018

S.C. SUPREME COURT

Please take notice that Petitioner would like to amend his PCR. The petitioner is currently incarcerated at the Lieber Correctional Institution. Due to frequent institution lockdowns and the fact that the copter in the education building is out of order and has been for about a month, the petitioner has been unable to make the amount of copys required. The petitioner respectfully request that the courts have mercy on him and accept his amendment.

Sincerely,



Bernardo S. Evans #361706  
Lt. Wanda A. #112  
136 Wilborne Ave.  
P.O. Box 205  
Ridgeway, SC 29442  
Pro-se Appellant



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332

Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

August 8, 2017

Bernardo Joseph Evans #361706  
Lieber Correctional Institution  
PO Box 205  
Ridgeville, SC 29472

Re: Your case

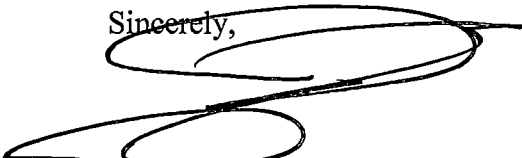
Dear Mr. Evans:

\* Enclosed is a copy of the Order of the Court of Appeals dismissing your DNA testing appeal. The Court dismissed your case because your DNA hearing counsel did not file a timely notice of appeal and concluded that your *pro se* notice of appeal was ineffective.

As we discussed, my recommendation is to file a second DNA testing application. In this application you will need to allege that you were wrongly denied your statutory right, found in S.C. Code Ann. § 17-28-90(G), to appeal the denial of your first application for DNA testing. I believe, based on our existing procedure allowing for belated appeals from the denial of post-conviction relief, that counsel's failure to file a timely notice of appeal would constitute sufficient grounds for a successive application under S.C. Code Ann. § 17-28-50(D). I have enclosed S.C. Code Ann. § 17-28-50 and S.C. Code Ann. § 17-28-90 for your review. I encourage you to reference these code sections when addressing question number six on the application.

I am closing your DNA testing file with this letter. **Please bear in mind that the appeal of the order of dismissal in your PCR case is still pending before the Court of Appeals and I remain your attorney for that case.** Feel free to contact me if you have any questions. I do wish you the best in the future.

Sincerely,

  
John H. Strom  
Appellate Defender

JHS/cs

Enclosures: Post-Conviction DNA Testing Application  
S.C. Code Ann. § 17-28-50  
S.C. Code Ann. § 17-28-90

STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

RECEIVED

JAN 11 2018

APPEAL FROM HORRY COUNTY  
Court of General Sessions

S.C. SUPREME COURT

Larry B. Hyman, Jr. Circuit Court Judge

---

Appellate Case No. #2017-000179

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Bernardo J. Evans,

Appellant,

V.

STATE OF SOUTH CAROLINA,

Respondent,

---

APPENDIX

---

Bernardo J. Evans,  
Appellant

ALAN WILSON  
Attorney General

LCI. Wando-A#112  
136 Wilborne Ave.  
P.O. Box 205  
Ridgeville, S.C. 29472

J. Benjamin Aplin  
Senior Assistant  
Rembert Dennis Bldg.  
1000 Assembly St. #519  
Columbia, S.C. 29201

ATTORNEYS FOR RESPONDENT

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Dated: 3, 6, 2017

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, S.C. 29211

RE: Requesting back from you an clocked stamped copy.

Dear Ms.Kitchings:

Enclosed please find inside an letter responding to your last letter dated February 22nd,2017, to counsels. The Appellant is requesting an clocked stamped copy of his letter to acknowledge that you have received. Thank you!

Sincerely,

1st

  
Bernardo Joséph Evans, #361706

LCI. Wando-A#112

136 Wilborne Ave.

P.O. Box 205

Ridgeville, S.C. 29472

Pro-Se Appellant

Dated: 3,6, 2017

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, S.C. 29211

RE: Bernardo Joseph Evans, #361706, Appellant,  
v. The State of South Carolina, Respondent,  
Appellate Case No. #2017-000179

Dear Ms. Kitchings or Deputy Allen:

Please be advised that the Appellant is responding to your last letter that was addressed to counsels of record, dated February 22nd, 2017. The Appellant would submit that he is no longer represented by counsel since he left the stage of (PCR) Post-Conviction Relief for hearing. Former counsel Jonathan David McCoy, Esquire, was under the claim of ineffective assistance which is still pending in the S.C. Supreme Court Petition For Writ of Certiorari, Appellate Case No. #2016-000604. Appellate counsel Robert M. Dudek, assigned the case to Appellate counsel Tiffany Butler, and she resigned moved to have Mr. John H. Strom, to represent the Appellant, and he filed an Johnson Petition requesting relief as counsel. The Petitioner was then ordered by the Supreme Court that he may file an pro-se petition within 45 days. See Appellant's Exhibits A & B, C, & D



STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Bernardo Joseph Evans, #361706

Name of applicant and Inmate number (if applicable)

OR

IN THE INTEREST OF JUSTICE

Juvenile

v.

State of South Carolina

Respondent,

) IN THE COURT OF (Select one)  
)  GENERAL SESSIONS  
)  FAMILY COURT  
) JUDICIAL CIRCUIT

) APPLICATION FOR  
) FORENSIC DNA TESTING

) ORIGINAL INDICTMENT NO.  
) 2013- -GS-2602764

OR

) ORIGINAL PETITION NO.

-JU-

FILED  
PROPERTY COUNTY  
2016 MAY 17 AM 10:59  
CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may continue an answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the end of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted or adjudicated.

I understand that DNA testing is only available if I have been convicted or adjudicated of an offense listed in S.C. Code Ann. § 17-28-30, that I am currently incarcerated for that offense, and that I am asserting that I am innocent of the offense. Further, if the conviction or adjudication was the result of a plea of guilty or nolo contendere, the application must be filed within seven years of the date of sentencing.

Identify the proceedings in which the applicant was convicted or adjudicated:

Adjudicated by way of guilty plea.

2. Give the date of the entry of the judgment and sentence: October 9th., 2014.

and current place of incarceration: Lieber Correctional Institution.

3. Identify all previous or ongoing proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or adjudication:

(a) (PCR) Feb. 11th., 2016. (IAC), Denial of Due Process,

(b) involuntary plea under duress.

(c) \_\_\_\_\_

4. Make a reasonable attempt to identify the physical evidence or biological material that should be tested: Skin tissue, hair, Semen, fingerprints, saliva,  
blood, and clothing.

Identify the specific type of DNA testing being sought:  
Serology testing.

5. Explain why the identity of the applicant was or should have been a significant issue during the original court proceedings, notwithstanding the fact that the applicant may have pled guilty or nolo contendere or made or is alleged to have made an incriminating statement or admission as to identity:

Identity should have been a significant issue to prove

Applicant's innocence, notwithstanding the fact that the

Applicant has pled guilty.

6. Explain why the physical evidence or biological material sought to be tested was not previously subjected to DNA testing, or if the physical evidence or biological material sought to be tested was previously subjected to DNA testing, provide the results of the testing and explain how the requested DNA test would provide a substantially more probative result:

Based upon the ineffectiveness of counsel and the lack of

evidence from Applicant's motion of discovery.

The fact that the State has failed to produce any physical evidence when the Applicant requested an discovery.


7. Explain why if the DNA testing produces exculpatory results, the testing will constitute new evidence that will probably change the result of the applicant's conviction or adjudication if a new trial is granted and is not merely cumulative or impeaching:

The charges cannot stand without any physical evidence

the DNA testing would produce exculpatory results that would constitute newly discovered evidence if new trial is granted.

8. I assert that I am actually innocent of the listed offense, that this offense is listed in S.C. Code Ann. § 17-28-30 and that I am currently incarcerated for the listed offense. I attest that this application is made to demonstrate innocence and not solely to delay the execution of a sentence or the administration of justice.
9. If DNA testing is conducted and results are determined to be inculpatory by the Court, I understand that:
- The Court may hold me in contempt of court if it determines that my assertion of actual innocence was intentionally false;
  - The Court may assess the cost of any DNA testing against me;
  - The South Carolina Department of Corrections may use this determination to deny good conduct credit; and,
  - The Department of Probation, Parole, and Pardon Services can use this determination to deny parole.

Bernardo J. Evans, #361706,  
Print Applicant Name

  
Signature of Applicant

STATE OF SOUTH CAROLINA

COUNTY OF Horry

STATE OF SOUTH CAROLINA

PLAINTIFF.

VS.

BERNARDO JOSEPH EVANS

DEFENDANT.

) IN THE COURT OF GENERAL SESSIONS

) Warrant: 2013A2610700169

) Indictment: 2013GS2602764

) Case: 13H01378

) RESPONSE TO DEFENDANT'S  
) APPLICATION FOR POST-CONVICTION  
) FORENSIC DNA TESTING

FILED  
HORRY COUNTY  
2016 AUG 29 PM 12:52  
CLERK OF COURT

COMES NOW the State, by and through Assistant Solicitor, Martin D. Spratin and files this response to Defendant's Application for Post-Conviction Forensic DNA testing.

1.

**Delay in Response:** Defendant's request states that it was filed in the Horry County Clerk of Court on May 17, 2016. The State did not become aware of the Application until August 29, 2016 when they received a letter from the Defendant requesting an update on the Application. There is also no record of which the State is aware, of the Application being served upon the State. Thus this response has been filed as soon as the State became aware of the pending Application.

2.

**Conviction:** The State would agree that the Defendant was convicted by plea of guilty on October 9, 2014 to one count of Armed Robbery and one count of Assault and Battery of a High and Aggravated Nature. The State would further agree that the Defendant was sentenced to a term of fifteen (15) years.

3.

**Forensic Testing:** The State would contend that there have already been forensic tests performed on evidence that was collected in this case. Attached to this response are all reports associated with South Carolina Law Enforcement Division (SLED) Lab No. L13-04053, all

reports except for the CODIS report which was not run until after the guilty plea of the Defendant, the State shows had been sent in discovery to Defendant.

Thus the State would contend that all forensic testing that was possible, has already been performed on the items in question. Furthermore, the State did not rely upon any forensic evidence to prove the identity of the defendant, rather a video of the crime, identification of the victim and statements of the Defendant.

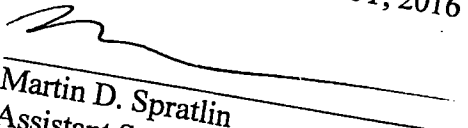
As stated in the SLED reports the victim's bra, panties were submitted for testing with no bodily fluid being found. Additionally the Sexual Assault Kit from the victim was sent for testing as well and no male bodily fluids were located per the Serology report. DNA report identified an unknown male DNA on a cigarette butt recovered from the crime scene. The DNA on the cigarette butt was not a material issue at the time of plea. Additionally, while not available at the time of the plea, the CODIS database found that the unknown DNA was that of the Defendants.

challenge

rules of evidence: Rule 608 Truthfulness, truth vs. Untruth  
this is my reason for challenging what they had.

WHEREFORE, the State would respectfully request that the Defendant's Application for Forensic DNA testing be denied.

RESPECTFULLY SUBMITTED THIS 29<sup>th</sup> DAY OF AUGUST, 2016

  
Martin D. Spratlin  
Assistant Solicitor  
Horry County, South Carolina

**ATTACHMENTS:**


- 01 Letter from Defendant dated August 19, 2016;
- 02 SLED Reports
  - a. Toxicology;
  - b. Evidence Processing;
  - c. Serology;
  - d. DNA;
  - e. CODIS;

**CERTIFICATE OF SERVICE**

Comes now, Martin D. Spratlin and does hereby certify that I have served a true and accurate copy of the foregoing upon Defendant by United States Mail, Postage Paid to:

Bernardo Evans  
LCI / WA-112  
P.O. Box 205  
Ridgeville, SC 29472

I SO CERTIFY, THIS 27 DAY OF AUGUST, 2016

  
Martin D. Spratlin  
Assistant Solicitor  
Horry County, South Carolina

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION

## FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY  
Governor



MARK A. KEEL  
Chief

Neil Frebowitz  
Horry County Police Department  
2560 North Main St, Suite 7  
Conway, SC 29526

**TOXICOLOGY DEPARTMENT**  
July 01, 2013 2 year retro plea  
SLED No: L13-04053  
Your Case No: 13022384  
Incident Date: 03/16/2013

[V] Sara Thomas

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief  
South Carolina Law Enforcement Division

### ITEMS OF EVIDENCE

Item: 3 Sample Type: Blood (Toxicology) - unlabeled found in evidence bag labeled "Sara Thomas"

Analysis by Headspace Gas Chromatography (GC) and/or Headspace Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Ethanol	Negative	% (g/dL)	0.01

Toni M. Broome  
Forensic Toxicologist



# SOUTH CAROLINA LAW ENFORCEMENT DIVISION FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY  
Governor



MARK A. KEEL  
Chief

Det. Neil Frebowitz  
Horry County Police Department  
2560 North Main St, Suite 7  
Conway, SC 29526

**EVIDENCE PROCESSING**  
August 19, 2013 *1 yr 2 months below pres*  
SLED LAB: L13-04053  
Your Case No: 13022384  
Incident Date: 3/16/2013  
[V] Sara Thomas

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief  
South Carolina Law Enforcement Division

### ITEMS OF EVIDENCE:

Item: 4 Underwear

Item: 4.1 Bra

#### RESULTS:

No semen indicated.

Item: 4.2 Panties

#### RESULTS:

No semen indicated.

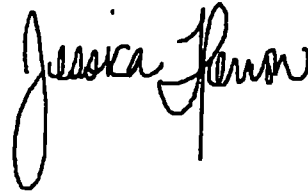
Item: 4.2.1 Possible hair from Items 4.1 and 4.2

#### RESULTS:

Item forwarded to the DNA section.



Note: Any remaining evidence and/or packaging will be returned to the requesting agency.



Jessica L. Herron  
Forensic Serologist



# SOUTH CAROLINA LAW ENFORCEMENT DIVISION FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY  
Governor



MARK A. KEEL  
Chief

Neil Frebowitz  
Horry County Police Department  
2560 North Main St, Suite 7  
Conway, SC 29526

SEROLOGY ANALYSIS  
April 19, 2014 6 months later than  
SLED LAB: L13-04053  
Your Case No: 13022384  
Incident Date: 03/16/2013  
[V] Sara Thomas

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief  
South Carolina Law Enforcement Division

## SEROLOGY ANALYSIS

### Items Submitted:

### Results of Examinations:

2 Sexual Assault Evidence Collection  
Kit from Sara Thomas

2.1 Smears (vaginal and oral)

2.1 No spermatozoa identified.

2.2 Vaginal swabs

2.2 No semen identified.

2.3 Oral swabs

2.3 No semen identified.

2.4 Pubic hair combings

2.4 No hair found.

2.5 Victim buccal swabs

2.5 Item forwarded to the DNA Section.

2.6 Debris collection

2.6.1 Hair

2.6.1 Item forwarded to the DNA Section.



Items Submitted:

4.2.1 Possible hair from panties and bra

Results of Examinations:

4.2.1 No hair suitable for STR PCR DNA analysis.

**Note:** Any remaining evidence and/or packaging will be returned to the requesting agency.

*This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.*



Jessica L. Herron  
Forensic Serologist



# SOUTH CAROLINA LAW ENFORCEMENT DIVISION

## FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY  
Governor



MARK A. KEEL  
Chief

Det. Neil Frebowitz  
Horry County Police Department  
2560 North Main St, Suite 7  
Conway, SC 29526

### DNA ANALYSIS

August 21, 2014 *2 months before plea*

SLED LAB: L13-04053

Your Case No: 13022384

Incident Date: 03/16/2013

[V] Sara Thomas

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief  
South Carolina Law Enforcement Division

### DNA ANALYSIS

### ITEMS ANALYZED:

2.5 Buccal swabs - Sara Thomas

1 Newport cigarette

2.6.1 Hair - debris collection

### EXAMINATIONS

DNA analysis was performed on the items above using Short Tandem Repeat (STR) PCR DNA analysis. The results of the analysis are shown in the following table(s).

### RESULTS

The DNA profile developed from item 1 is from an unidentified male individual and has been entered into the Combined DNA Index System (CODIS).

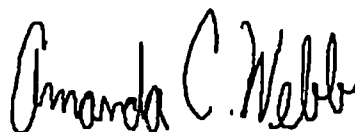


SLED LAB No. L13-04053  
August 21, 2014

No DNA profile foreign to Sara Thomas was developed from item 2.6.1.

**Note:** Any remaining evidence and/or packaging will be returned to the requesting agency.

*This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.*



Amanda C. Webb  
Forensic Scientist



**Table 1 - Identifier Plus**

Case Items	D8S1179	D21S11	D7S820	CSFIPO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	vWA	TPOX	D18S51	D5S818	FGA	AMEL
2.5 Sara Thomas	11,15	31,31.2	10,12	12	14,16	6,9.3	10,11	11,12	19,23	14,15	15,19	8,11	12,16	11	21,24	X
1 Newport cigarette	11,14	28,29	8,10	12,14	13,17	9	11,12	12,13	18,23	13.2,16.2	18,19	8,11	18,20	8,13	24,27	XY
2.6.1 Hair	(11,15)	(31), (31.2)	(10)	(12)	14,(16)	(6,9.3)	10	11,(12)	(19,23)	-	(19)	-	-	(11)	-	X

( ) = stochastic range    - = no result    Bold = major contributor    Inc = Inconclusive



**SOUTH CAROLINA LAW ENFORCEMENT DIVISION**  
**FORENSIC SERVICES LABORATORY**

NIKKI R. HALEY  
*Governor*

MARK A. KEEL  
*Chief*

**CODIS**  
**(Hit Notification)**

December 16, 2014 *2 months after plea*

Neil Frebowitz  
 Horry County Police Department  
 2560 North Main St, Suite 7  
 Conway, SC 29526

Agency Case Number: 13022384  
 SLED Case Number: L13-04053

Dear Neil Frebowitz,

During a search of the State DNA Index System (SDIS), a preliminary association was made between the Short Tandem Repeat (STR) PCR DNA profile developed from item 1 and DNA Database Offender Bernardo Joseph Evans, South Carolina SID# SC01756733. Any possible connection or involvement of the individual to the case must be determined through further investigation.

This information is provided for investigative purposes only. If the suspect is charged, an additional biological specimen must be submitted for court purposes.

This search was conducted by Lt. Rhonda R. Fields, South Carolina Law Enforcement Division.

Sincerely,

*Rhonda R. Fields*

Lt. Rhonda R. Fields  
 DNA Database Unit



STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

) IN THE COURT OF GENERAL SESSIONS  
) Warrant: 2013A2610700169  
) Indictment: 2013GS2602764  
) Case: 13H01378  
)

STATE OF SOUTH CAROLINA,  
Respondent,

) " REPLY IN OPPOSITION TO THE  
) STATE'S RESPONSE TO THE  
) DEFENDANT'S APPLICATION FOR  
) FORENSIC DNA TESTING"  
)

v.

Bernardo J. Evans,  
Defendant,

FILED  
2016 SEP 16 PM 2:31  
CLERK OF COURT

This matter comes before the Court by way of Defendant's Application for Forensic DNA Testing filed on May 17th., 2016. The State responded to the application which was received August 31st., 2016. The Defendant will move to show the Court by rebuttal that the Application should not be denied and that he is entitled to an hearing. According to the " Access to Justice Post-Conviction DNA Testing Act," of the S.C. Code of Laws 1976 as amended eff. January 1st., 2009, Section 17-28-10 et seq. through Section 17-28 30(3)B Offenses for which DNA Testing is available. A person who pled guilty or nolo contendere to at least one of the offenses enumerated in subsection (3)B was subsequently convicted of or adjudicated delinquent for the offense is currently incarcerated for the offense, and asserts he is innocent of the offense may apply for Forensic DNA testing of his DNA and any physical evidence or biological material related to his conviction or adjudication no later than seven years from the date of sentencing.

PART #1:

In refernce to the State's delayed response;

The Defendant took the necessary steps by filing the application with the Clerk of Court. He received proof of an clocked stamped copy from the Courts, and documentation that copy was filed and one was sent to the office of the solicitor. After, observing the time limit to receive a response on the application, the Defendant then decided to write to the office of the solicitor to give notice of his intent to file an motion for judgment by default. The letter was dated August 29th.,2016. The Solicitor responded by filing with the Courts on August 29th.,2016, after becoming aware of the application ever being filed or pending.

PART #2:

In refernce to the Defendant's conviction and sentence of guilty plea;

The Defendant wishes to assert that he would like to withdraw his coerced guilty plea due to inadequate counseling. But, for the erroneous advice of counsel, the results would have been different, the Defendant would have considered going to trial. Had the Defendant known then what he know now, that the State must prove all the elements of the offenses charged in order to sustain their conviction. This is the reason why the Defendant has requested DNA testing to prove that he is innocent of the offenses in which he has been convicted and adjudicated.

## PART #3

In reference to the Forensic DNA Testing request of Defendant;

In its response the State admitted that they did not rely upon any forensic evidence to prove the identity of the Defendant. According to the S.C. Code of laws 1976 as amended eff. January 1st., 2009, Section 17-28-90 Hearing; factors to be proved; orders relating to DNA samples (A) The application must be heard in, and before a judge of, the General Sessions Court or Family Court in which the conviction or adjudication took place. (B) 1-7, (C), (D), (E), (F), & (G). Also see Section 17-28-110. Nothing was found in the Defendant's DNA that identified him as the perpetrator of, or accomplice to, the offense notwithstanding the fact that the Defendant has pled guilty by duress or coercion or made or is alleged to have made incriminating statements or admission as to identity. If the DNA Testing is granted and the result produces exculpatory results, the testing will constitute new evidence that will probably change the results of the Defendant's conviction or adjudication, if a new trial is granted and is not merely cumulative or impeaching. See\* Smith v. State, App. Case No. 2012-213673. The Solicitor's ground for requesting that the Defendant's application for Forensic DNA Testing ~~be granted~~ to be denied is without merit.

STATE OF SOUTH CAROLINA )  
COUNTY OF HORRY )

IN THE COURT OF GENERAL SESSIONS  
Warrant: 2013A2610700169  
Indictment: 2013GS2602764  
Case: 13H01378

STATE OF SOUTH CAROLINA )  
Respondent, )

"PROOF OF SERVICE"

v. )

Bernardo J. Evans, )  
Defendant, )

FILED  
HORRY COUNTY  
2016 SEP 16 PM 2:31  
CLERK OF COURT

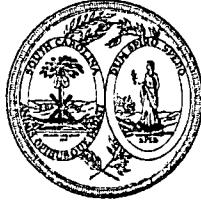
"PROOF OF SERVICE"

I, Bernardo Joseph Evans, #361706, attest that on this 8th day of September 2016, an true copy of the same was mailed out to the opposing party. The office of the Solicitor, directed to Assistant Solicitor, Martin D. Spratlin, P.O. Box 1276, Conway, S.C. 29526. The original was sent to the Clerk of Court to filed.

Dated: 9-8, 2016.

Respectfully submitted,  
/s/ Bernardo J. Evans  
Bernardo Joseph Evans, #361706  
LCI. Wando-A#112  
P.O. Box 205  
Ridgeville, S.C. 29472

State of South Carolina  
Office of the Solicitor  
Fifteenth Judicial Circuit



Scott R. Hixson  
Chief Deputy Solicitor

REPLY TO

P.O. BOX 1276  
CONWAY, SC 29528  
843-915-5460  
FAX: 843-915-6461

Alicia A. Richardson  
Deputy Solicitor

REPLY TO

P.O. BOX 1688  
GEORGETOWN, SC 29442  
843-545-3169  
FAX: 843-545-3268

JIMMY A. RICHARDSON, II  
*Solicitor*  
October 20, 2016

Bernardo Joseph Evans, SCDC#361706  
LCI. Wando-A#112  
P.O.Box 205  
Ridgeville, SC 29472

**RE: COURT DATE FOR MOTION**

Dear Mr. Evans,

Please be advised that a court date has been set on your motion for Post Conviction DNA relief. That date is November 8, 2016 at 1:00 pm before the honorable Larry Hyman. You will be transported from SCDC to Horry County for that date. Please bring all paperwork necessary with you for the hearing.

Sincerely,

Martin D. Spratlin  
Assistant Solicitor  
Horry County, S.C.

STATE OF SOUTH CAROLINA  
COUNTY OF Horry

ORDER IN A CRIMINAL CASE  
WARRANT(S) 2013A2610700169

IN THE COURT OF GENERAL SESSIONS

INDICTMENT(S): 2013GS2602764 ; 2014G52604205

State of South Carolina

BERNARDO JOSEPH EVANS  
DEFENDANT(S)

This form order submitted by: Martin O. Spratlin

Attorney for :  State  Defendant  
or  
 Self-Represented Litigant

**DISPOSITION TYPE**

- DECISION BY THE COURT AFTER HEARING.** This action came to a hearing before the court. The issues have been heard and a decision rendered.  See below for additional information.
- DECISION BY THE COURT AFTER STATUS CONFERENCE.** This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered.  See below for additional information.
- MOTION: Post Conviction DNA Testing**
  - GRANTED  DENIED  CONTINUED  WITHDRAWN
  - WITHDRAWN BY MOVING PARTY: \_\_\_\_\_  
Signature of Moving Party
  - OTHER:

FILED  
HORRY COUNTY  
2016 NOV -9 AM 10:42  
MELANIE HUGGINS-WALKER  
CLERK OF COURT

**IT IS ORDERED AND ADJUDGED:**  See Order of the Court below  See attached order  
 Formal Order to follow; to be prepared by:  State  Defendant  Other: \_\_\_\_\_

**ORDER INFORMATION**

This order  ends  does not end the case.  
Additional Information for the Clerk : \_\_\_\_\_

The defendant's application for post conviction DNA testing is hereby denied. This decision was reached after hearing from the State and the Defendant at a hearing on the matter.

[Signature]  
Circuit Court Judge

2152  
Judge Code

11/9/16  
Date

**ORIGINAL**



# HORRY COUNTY POLICE DEPARTMENT

*Dedicating to Providing Comprehensive, Quality Law Enforcement*

Sandra Rhodes  
Chief of Police

2560 North Main Street, Suite 7 - Conway, SC 29526 - Tel: 843-915-5350 - Fax: 843-248-1886

## Criminal Investigations Division

### CRIME SCENE INVESTIGATIONS UNIT

#### PROCESSING REPORT

**Date:** 3/22/2013

**Incident Type:** CSC

**Case Number:** 13-022384

**Incident Date:** 3/18/2013

**Detective/Officer:** Frebowitz

**Victim:** Sara Thompson

#### Items:

- 1) ~~Coco Butter lotion~~
- 2) ~~Budweiser Bottle~~
- 3)
- 4)
- 5)
- 6)

#### Results:

- 1) ~~Visual examination, fumed w/Cyanoacrylate, dusted with black fingerprint powder. No latents of value developed. Item destroyed.~~
- 2) ~~Visual examination, fumed w/Cyanoacrylate, dusted with black fingerprint powder. No latents of value developed. Item destroyed.~~
- 3)
- 4)
- 5)
- 6)

*Jill L. Domogauer*

Investigator Jill Domogauer  
Crime Scene Investigations Unit

# Horry County Police Crime Report

Case No. 13022384  
Report No. 13022384.1  
Report Date: 3/16/2013

Horry County Police  
2560 N Main ST  
Conway, SC 29526  
843 915-5350

Drug Measure

Property Notes

## Property Description Item 2: 1200 - Beer - Budweiser Platinum Beer Bottle

Item No. 2  
 Property Category 1200 - Beer  
 IBR Type 02 - Alcohol  
 UCR Type I - Consumable Goods  
 Status E - Evidence (Including Other Seized Property And Tools)

Count 1  
 Value 3  
 Manufacturer Budweiser  
 Model Platinum  
 Serial No.  
 License No.  
 Color BLU - Blue  
 Description Budweiser Platinum Beer Bottle  
 Vehicle Year  
 License Year  
 State  
 Body Style

Recovered Date 3/16/2013

Recovery ORI  
Owner S1 - SUSPECT, UNKNOWN  
Disposition  
Evidence Tag  
Alert(s)

Drug Type  
Drug Quantity  
Drug Measure

Property Notes

## Property Description Item 3: 1701 - Cigarettes/Tobacco - Unlit Cigarette

Item No. 3  
 Property Category 1701 - Cigarettes/Tobacco  
 IBR Type 08 - Consumable Goods  
 UCR Type I - Consumable Goods  
 Status E - Evidence (Including Other Seized Property And Tools)

Count 1  
 Value  
 Manufacturer  
 Model  
 Serial No.  
 License No.  
 Color WHI - White  
 Description Unlit Cigarette  
 Vehicle Year  
 License Year  
 State  
 Body Style

Recovered Date

Recovery ORI  
Owner S1 - SUSPECT, UNKNOWN  
Disposition  
Evidence Tag  
Alert(s)

Drug Type  
Drug Quantity  
Drug Measure

# South Carolina Law Enforcement Division Sexual Assault Examination Protocol

### Evidence Collected

Clothing collected: describe clothing  NA  Changed clothes  Bathed

- Shirt blue polo style shirt
- Pants black
- Underwear black/pink color
- Bra white
- Jacket
- Belt black/silver
- Shoes
- Other
- Debris sheet

DNA Evidence Collected:	No	Yes	Describe
Miscellaneous materials	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Lick/kiss/suck/bite mark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Oral swab and smear	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Fingernail scraping/cuttings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Known DNA/Buccal swab	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Combed pubic hairs	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Vaginal swab and smear	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Rectal swab and smear	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Suspected body fluid	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Toxicology Evidence Collected:	No	Yes	Describe
Blood/grey top	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Urine	<input type="checkbox"/>	<input type="checkbox"/>	
Vomit	<input type="checkbox"/>	<input type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>	

Photography:	No	Yes	*Photographs stored with forensic chart
Colposcope	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Magnification _____
35mm camera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	# of pictures _____
Digital pictures	<input type="checkbox"/>	<input type="checkbox"/>	# of pictures _____

**Medications administered:**

Gonorrhea prophylaxis: Ceftriaxone/2 Azithromycin  NA

Chlamydia prophylaxis: \_\_\_\_\_  NA

Pregnancy prevention: \_\_\_\_\_  NA

Tetanus toxoid: \_\_\_\_\_  NA

Other meds: \_\_\_\_\_  NA

**Discharge Information:**

• Time: \_\_\_\_\_ Discharged to: home

• Accompanied by: family

• Admitted to Hospital:  No  Yes/Room Number \_\_\_\_\_ Admitting MD \_\_\_\_\_

• Consults:  NA  Yes

**Follow-Up:**

• Medical: \_\_\_\_\_ Date: \_\_\_\_\_

• Counselor: \_\_\_\_\_ Date: \_\_\_\_\_

**Signature of Officer receiving Evidence:**

• Signature: \_\_\_\_\_ Time: \_\_\_\_\_

• Agency: \_\_\_\_\_

• Evidence Released:  SLED kit  Clothing  Urine  Other \_\_\_\_\_

Signature of SANE/MD \_\_\_\_\_  
Revised June 2008

Initials SD  
Page 6 of 6

1 State of South Carolina ) Court of General Sessions  
 ) 2013-GS-26-02764  
 2 County of Horry ) 2014-GS-26-04205

3

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State of South Carolina )  
 5 )  
 vs. )  
 6 ) Transcript of Record  
 Bernardo Evans )

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8

**ORIGINAL**

November 8, 2016  
 Conway, South Carolina

9

10

11 BEFORE:

Honorable Larry B. Hyman, Judge.

13

APPEARANCES:

14

Martin D. Spratlin, Esq.  
 Attorney for the State

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Jonny McCoy, Esq.  
 Attorney for Defendant

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Teresa J. F. Bautz, RPR  
 Official Court Reporter

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E X H I B I T S

NO.	DESCRIPTION	ID	EV
Court's-1	Legal Documentation	13	--

Exhibits retained by Clerk of Court.

1 (The hearing commenced at approximately 1:41 p.m.)

2 MR. SPRATLIN: Your Honor, this is County of Horry  
3 versus Bernardo Evans. He pled guilty in indictments  
4 2013-GS-26-02764 to armed robbery before the Honorable  
5 Ben Culbertson and received a ten-year sentence. He  
6 also pled guilty 2014-GS-26-04205 to assault and  
7 battery of a high and aggravated nature under the  
8 statutory 20-year offense. He was sentenced to a  
9 15-year prison sentence on that charge.

10 After being convicted -- or pleading guilty and  
11 being sentenced, the Defendant back in May of this year  
12 filed a request for forensic DNA testing. The State  
13 filed its response after finding out that the  
14 application had been filed. The State was not aware of  
15 it until the date -- we actually filed it on  
16 August 29th. It was not properly served on us, but we  
17 did do a response as soon as we became aware of it.

18 In that the State enumerated that the evidence in  
19 question here -- this was originally a sexual assault  
20 case where a sexual assault examination kit was taken  
21 as well as other evidence from the scene. All of that  
22 was sent for testing. The results of that serology  
23 report were provided to the Defendant.

24 The results of that serology report from the South  
25 Carolina Law Enforcement Division were that none of the

1 DNA of the Defendant was found in the rape kit.  
2 However, there was a cigarette butt that was also taken  
3 from the scene where at the time of the plea, the  
4 Defendant's DNA was not in the CODIS database. But  
5 after pleading guilty to the charge being entered into  
6 the CODIS database, the CODIS database did return that  
7 it was in fact the Defendant's DNA on the cigarette  
8 butt in question.

9 THE COURT: And I have read all of the DNA  
10 reports, and it's my understanding that that was not  
11 exculpatory, it was inculpatory. But it was not used.

12 MR. SPRATLIN: Yes, sir, not used at all.

13 THE COURT: All right. Now, tell me about this.  
14 What's your position on the fact that he stands here  
15 without counsel?

16 MR. SPRATLIN: Your Honor, he was originally  
17 represented on the guilty plea by attorney Jonny McCoy,  
18 Mr. McCoy.

19 THE COURT: Oh, Mr. McCoy. So glad to see you,  
20 step forward. You just got appointed again.

21 MR. McCOY: Okay, Your Honor.

22 THE COURT: If he has any questions, Mr. Evans,  
23 you ask Mr. McCoy; okay?

24 THE DEFENDANT: Yes, sir.

25 MR. SPRATLIN: Your Honor, just so the Court's

1 aware, Mr. Evans did file a PCR against Mr. McCoy which  
2 was, I believe, dismissed by Judge...

3 THE COURT: It really doesn't make any difference,  
4 it wasn't me.

5 MR. SPRATLIN: Yes, sir. But, Your Honor, the  
6 State would ask that the motion be denied as it --  
7 well, first off, the two charges he was convicted of,  
8 only the armed robbery fits the statute that even  
9 allows any post-conviction forensics DNA testing. The  
10 assault and battery --

11 THE COURT: The only statutory offense?

12 MR. SPRATLIN: Yes. The assault and battery high  
13 and aggravated for which he received a 15-year prison  
14 sentence does not fall within the statute and cannot be  
15 considered in this hearing.

16 Secondly, Your Honor, all forensic DNA testing on  
17 all evidence that was available has already been  
18 completed and done. And it's available to Defendant on  
19 any Court of Appeals.

20 THE COURT: Mr. Evans, let me just talk to you a  
21 minute. Now, I looked at the file on this and looked  
22 at the forensics in this case. There were two items of  
23 ladies clothing that were taken into evidence, okay.  
24 Both of those were tested, and there was no semen  
25 found. There was some material that was possibly hair

1 that was tested in DNA testing, but it turned out that  
2 it was the victim's. So there's absolutely nothing  
3 there to connect you, okay.

4 There was no other evidence that was tested other  
5 than, I think, there was one other item, there was a  
6 rape kit done. No connection to you whatsoever, no  
7 biological materials found, no -- it was analyzed, no  
8 connection to you, very favorable report, okay.

9 They found a cigarette butt at the time. It was  
10 tested, identified it -- or tested as an unknown male.  
11 They never even got a buccal swab from you. Later,  
12 later, after your conviction and plea -- was never  
13 available for use against you, was not even offered by  
14 the State -- later, that was submitted to CODIS, and  
15 they got a hit saying that it was, in fact, you. But  
16 it was never used against you.

17 Now, what do you want to test now? Everything  
18 that was tested is in your favor. You couldn't get any  
19 better.

20 THE DEFENDANT: Well, along with that stuff, sir,  
21 according to the kit and everything that they took from  
22 the hospital that they said that they had collected was  
23 a shirt, a blue polo shirt, pants that were black, the  
24 bra.

25 THE COURT: That was tested.

1 THE DEFENDANT: Yes, sir. Well, all they tested  
2 was the panties and the bra. Everything else that they  
3 say they had was just there, there's no test for that.  
4 The stuff that he said that they find at the crime  
5 scene other than the cigarette butt, there was a white  
6 un-smoked cigarette. They never said anything about  
7 that. They never said anything about the supposedly  
8 cocoa butter or the bottle --

9 THE COURT: What's cocoa butter?

10 THE DEFENDANT: Evidence that they said that they  
11 collected from the crime scene, sir.

12 MR. McCOY: She stated that whoever attacked her  
13 used cocoa butter in a masturbatory way during and in  
14 the process. There was two different locations that it  
15 took place inside of the store. So they found cocoa  
16 butter in the second location.

17 THE DEFENDANT: All at the crime scene, sir.

18 THE COURT: All right. Well, tell me how that  
19 would affect your conviction for armed robbery. He was  
20 convicted of armed robbery and?

21 MR. SPRATLIN: Assault and battery of a high and  
22 aggravated nature.

23 THE COURT: And the assault and battery does not  
24 fall under the statute, and you have pled to that.  
25 They didn't have evidence of your involvement in it.

1     Couldn't it be used against you on a retrial?

2             THE DEFENDANT: Well, what I'm talking about here,  
3     sir, is identity. The cigarette butt doesn't point out  
4     that I robbed the store. They had me down for a sexual  
5     assault, and then they switched it when they gave me  
6     the assault and battery high aggravated nature. But  
7     going into trial the plea they still insisted that I  
8     raped this female.

9             And with that being said, everybody was saying it,  
10    so now the judge is looking at it like this is a rape  
11    case. The cocoa butter and all that stuff, I felt like  
12    that was really what happened something should have  
13    came up in the analysis of the kits.

14            MR. McCOY: The victim's mother is the one who was  
15    talking about the rape. It wasn't brought up.

16            THE COURT: I mean, that's not what you pled to.

17            MR. McCOY: I think his concern was that she  
18    brought it up, and it was brought into the ABHAN.  
19    Because the ten minimum on the armed robbery, we kind  
20    of knew what was going on there. But the victim's  
21    mother talked about the effects of the daughter of the  
22    alleged rape. And he -- I think what Mr. Evans is  
23    trying to say is that came in to Judge Culbertson's  
24    decision that sentenced him to 15 on the ABHAN.

25            THE DEFENDANT: Because what he did is he -- from

1 everything from the beginning of the motion in  
2 discovery, they have -- they're looking for a five-ten  
3 guy, they are looking for a short medium build guy.  
4 Your Honor, I'm way past that. What I was convicted on  
5 was supposed to be a videotape which I never saw, I  
6 never saw anything.

7 THE COURT: That's not what we're here about.

8 THE DEFENDANT: I know, sir. But that's --

9 THE COURT: We're here about forensic evidence.

10 THE DEFENDANT: Identity, sir. I wish to have it  
11 tested or a new trial --

12 THE COURT: Tell me what you want tested.

13 THE DEFENDANT: I would like --

14 THE COURT: Tell me exactly what you want tested.  
15 I can't give you any help if I don't know what you  
16 want.

17 THE DEFENDANT: All right, sir. I'm looking  
18 serology, serology.

19 MR. McCOY: Take your time.

20 THE DEFENDANT: I am.

21 THE COURT: Serology is a discipline, it's not a  
22 thing. What do you want tested?

23 THE DEFENDANT: I'm sorry, sir, I'm not --

24 THE COURT: Exactly.

25 THE DEFENDANT: Skin tissues, hair, semen,

1 fingerprints, saliva.

2 THE COURT: They don't have any of that. Tell me  
3 what they have that you can point to that they have  
4 that you want tested.

5 THE DEFENDANT: Sir, the oral swabs, the vaginal  
6 swabs.

7 THE COURT: All of that was tested and there was  
8 no serology there, there was nothing to test. It  
9 exonerates, it proves or goes to your position that  
10 there was no rape.

11 THE DEFENDANT: Right.

12 THE COURT: I mean, that's already been  
13 established. It's in your favor.

14 THE DEFENDANT: Yes, sir. But I'm also pointed  
15 out, but it doesn't say that I'm a robber either, sir.

16 THE COURT: Tell me what you want to test. I  
17 mean, you want me to investigate your case for you? I  
18 can't do that.

19 THE DEFENDANT: No, sir.

20 THE COURT: You know your case. Tell me what's  
21 out there that you want tested.

22 THE DEFENDANT: Well, everything else that --

23 THE COURT: No, don't say everything else, just  
24 tell me specifically.

25 THE DEFENDANT: I would like to have the clothes

1 tested for the cocoa butter and the wine -- the beer  
2 bottle for analysis, and the other cigarette, because  
3 what's on the other cigarette, sir. There's no testing  
4 of the other cigarette butt, just one cigarette butt  
5 which it's not even on the crime scene sheet that they  
6 had a cigarette butt, sir.

7 THE COURT: All right. So you want them to test  
8 -- is that still available, is it around?

9 MR. SPRATLIN: Your Honor, I am not certain on  
10 that. I will check. I can check with the Horry County  
11 Police Department and see what is still in evidence  
12 regarding any sort of clothing of the victim.

13 The State would feel that that is completely  
14 irrelevant to the issue here. We are talking about a  
15 videotape. Based on the DNA reports, that's how we got  
16 to dropping the rape in the first place. Through  
17 negotiations we dismissed the rape in exchange for the  
18 plea to the ABHAN in part because of the results of the  
19 serology and those reports. That was one of the  
20 concessions that were made in plea negotiations.

21 MR. McCOY: Yes, there was a kidnapping.

22 MR. SPRATLIN: Yeah, the kidnapping was also  
23 dismissed.

24 THE DEFENDANT: I just want something else to  
25 identify me that -- they keep telling me there's a

1 video. I know it's irrelevant, but --

2 MR. SPRATLIN: Your Honor, I can provide the  
3 video, I've already done so. Mr. McCoy, I know, has  
4 seen it.

5 THE COURT: Well, wouldn't anything just be  
6 cumulative?

7 MR. SPRATLIN: Yes, sir. Everything we have that  
8 could have been tested -- and first off, none of this  
9 would be new evidence under the law because it was all  
10 known and it was all available at the time of this  
11 plea. So it would not qualify as new evidence in the  
12 first place. Secondly, the rape kit was tested. And  
13 any other piece of evidence --

14 THE COURT: There was nothing to test as a result  
15 of that?

16 MR. SPRATLIN: Yes, sir.

17 THE COURT: No semen whatsoever found. It was all  
18 in his favor?

19 MR. SPRATLIN: Yes, sir.

20 THE COURT: And the underwear as well?

21 MR. SPRATLIN: Yes, sir. There was no DNA of the  
22 Defendant found on any items of clothing of the victim  
23 or a result of the rape kit. The only DNA of the  
24 Defendant that was located was on the cigarette butt  
25 that was found at the crime scene.

1 THE COURT: All right. I'm going to deny the  
2 motion. Prepare me an order, Mr. Spratlin.

3 MR. SPRATLIN: Yes, sir, I'll prepare the order.

4 THE COURT: Thank you, sir.

5 THE DEFENDANT: Excuse me, sir. May I present  
6 that? Can you just look into it, please.

7 MR. McCOY: You want me to give this to Martin?

8 THE DEFENDANT: No, to the judge.

9 MR. McCOY: Okay.

10 THE COURT: What is it?

11 MR. McCOY: Your Honor, may I approach? This is  
12 the discovery that he's highlighted, judge.

13 THE COURT: All right.

14 THE DEFENDANT: I appreciate it, sir.

15 (WHEREUPON, Court's Exhibit No. 1 was marked for  
16 identification only.)

17 (The hearing concluded at approximately 1:55 p.m.)

18 (End of Transcript of Record.)

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CERTIFICATE OF REPORTER

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

I, TERESA J.F. BAUTZ, Official Court Reporter for the Fifteenth 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 Horry County, South Carolina, on the 22nd day of March, 2017.

I FURTHER CERTIFY that I am neither of kin, counsel nor interest to any party hereto.


  
TERESA J.F. BAUTZ, RPR  
Official Court Reporter

Exhibit - # 6

Appellate Case No  
# 2017-000179



**MELANIE HUGGINS- WARD**  
 CLERK OF COURT  
 1301 2<sup>ND</sup> AVENUE  
 CONWAY, SC 29526  
 (843) 915-5080 • Fax: (843) 915-6081

April 27th, 2016

Re: 2015-CP-26-0709

Mr. Evans :

We received your letter requesting us to send you information on case 2015-CP-26-0709. There is not a motion for discovery in this case .I am enclosing the letter from the supreme court about your appeal.

If we can be of any further assistance, please do not hesitate to let us know.

Sincerely,

Melanie Huggins - Ward  
 Horry County Clerk Of Court

MHW/ac

Exhibit #7

Appellate Case No.  
#2017-000179

**CLERK OF COURT**



**MELANIE HUGGINS-WARD**  
 CLERK OF COURT  
 1301 2<sup>ND</sup> AVENUE  
 CONWAY, SC 29526  
 (843) 915-5080 • Fax: (843) 915-6081

June 24, 2016

Bernardo Evans #361706  
 WB 150  
 Lieber Correctional Institution  
 PO Box 205  
 Ridgeville, SC 29472

Re: Counsel

Dear Mr. Evans,

This is in response to your letter regarding the above reference.

You will need to contact the Orrie West, Public Defender's Office, PO Box 1666, Conway, SC 29528 about a appointment of counsel.

Sincerely,

*Melanie Huggins-Ward*

Melanie Huggins-Ward  
 Horry County Clerk of Court

Exhibit - #8

141  
Appellate Case No.  
# 2017-000179

Fri. August 19th., 2016

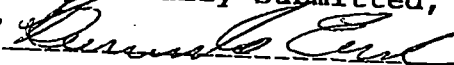
Mr. Martin D. Spratlin  
Office of the Solicitor  
P.O. Box 1276  
Conway, S.C. 29526

RE: Application For Forensic DNA Testing  
Original Indictment# 2013-GS-260-2764

Dear Mr. Spratlin,

This letter is inquiring on the status of Forensic DNA Testing Application filed on May 17th., 2016 with the Court of General Sessions. In the Case of \* McCall v. IKON, 363, S.C. 646, 611, S.E.2d. 315, (S.C. App. 2005). Notice is hereby given requiring an answer or response for DNA Application within 90 days. In pursuant to the S.C. Code of Laws as amended eff January 2009, Article #1 Section 17-28-50(B) If the Solicitor does not respond the Court may proceed with an hearing. I look forward to hearing from you within ten (10) working days on status update, or I would be forced to file a motion for judgment by default, in pursuant to the SCRPC Rule#55(b)(2).

Respectfully submitted,

/s/ 

Bernardo J. Evans#361706

LCI. Wando-A#112

P.O. Box 205

Ridgeville, S.C. 29472

Exhibit-#9

142  
Appellate Case No.  
#2017-000179


Dated: 9-8, 2016

Melanie Huggins-Ward, Clerk of Court  
Horry County Courthouse  
P.O. Box 677  
Conway, S.C. 29528-0677

RE: Defendant's Reply for Forensic DNA Testing to be Filed

Dear Ms. Ward:

Enclosed please find the Defendant's reply in opposition to the State's response. The State's request that the Forensic DNA application be denied. Please file with the Courts and send back an clocked stamped copy for my records.

Sincerely,  
  
Bernardo Joseph Evans, #361706  
LCI Wando - A#112  
P.O. Box 205  
Ridgerville, SC. 29472

CLERK OF COURT

2016 SEP 16 PM 2:31

FILED

Exhibit-#10

Appellate Case No.  
#2017-000179

**CLERK OF COURT**



**MELANIE HUGGINS-WARD**  
 CLERK OF COURT  
 1301 2<sup>ND</sup> AVENUE  
 CONWAY, SC 29526  
 (843) 915-5080 • Fax: (843) 915-6081

September 19, 2016

Bernardo J. Evans #361706  
 Wando A#112  
 Lieber Correctional Institution  
 PO Box 205  
 Ridgeville, SC 29472

Re: Reply

Dear Mr. Evans,

This is in response to your letter regarding the above reference.

Your Reply has been clocked and filed. Enclosed you will find a clocked copy.

Sincerely,

*Melanie Huggins-Ward*

Melanie Huggins-Ward  
 Horry County Clerk of Court

Exhibit-#11

144  
Appellate Case # 2017-00017  
#2017-000179

**CLERK OF COURT**



**RENEE ELVIS**  
CLERK OF COURT  
1301 2<sup>ND</sup> AVENUE  
CONWAY, SC 29526  
(843) 915-5080 • Fax: (843) 915-6081

\*January 18, 2017

Bernardo Evans #361706  
WA 112  
Lieber Correctional Institution  
PO Box 205  
Ridgeville, SC 29472

Re: Transcript

Dear Mr. Evans,

This is in response to your letter regarding the above reference.

The court reporter was Teresa Bautz, PO Box 14076, Myrtle Beach, SC 29587 and you can request a copy of the transcript.

Enclosed you will find a copy of the Order Form 4 for your records.

Sincerely,

Renee Elvis  
Horry County Clerk of Court

Exhibit - #12

Appellate Case No. <sup>145</sup>  
#2017-000179

Dated: 1-26, 2017

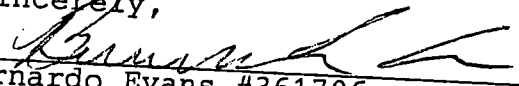
The Honorable Renee N. Elvis  
Clerk of Court of Horry County  
P.O. Box 677  
Conway, S.C. 29528-0677

RE: Bernardo Evans, #361706, Petitioner,  
vs. State of South Carolina, Respondent,  
Case No. #2013GS2602764, & #2014GS2604205.  
2013A2610700169

Dear Ms. Elvis:

Enclosed please find the Petitioner's notice of appeal from denial of an motion for Post-Conviction DNA Testing application. The Petitioner received an written order from the Horry County Clerk of Court on January 23rd., 2017. The Honorable Larry Hyman, Circuit Court Judge, signed on Nov. 8th., 2016. Denying the DNA application for testing.

Sincerely,

/s/   
Bernardo Evans, #361706

LCI. Wando-A#112  
136 Wilborne Ave.  
P.O. Box 205  
Ridgeville, S.C.  
Pro-Se Petitioner

CLERK OF COURT  
HORRY COUNTY, SC

2017 FEB -3 AM 10:33

FILED  
HORRY COUNTY

Exhibit - #13

146  
Appellate Case No.  
#2017-000179

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM Horry COUNTY  
Court of General Sessions

Case No. #2013GS2602764, &  
#2014GS2601205

STATE OF SOUTH CAROLINA.....Respondent,  
v.  
Bernardo Evans, #361706.....Appellant,

NOTICE OF APPEALS

Bernardo Evans, #361706, appeals his denial of his application for Post-Conviction DNA Testing. An hearing was convened on Nov. 8th., 2016, before the Honorable Larry Hyman. This appeal is taken from the order signed by the Honorable Larry Hyman, Circuit Court Judge, on Nov. 8th, 2016, and filed Nov. 9th., 2016. The Petitioner alleges that he received an copy of the written order on January 23rd., 2017.

Dated: 1-26, 2017

1s/ Bernardo Evans  
Bernardo Evans, #361706  
LCI. Wando-A#112  
136 Wilborne Ave.  
P.O. Box 205  
Ridgeville, S.C. 29472  
Pro-Se Petitioner

Other Counsel of Record:  
Martin D. Spratlin  
Office of the Solicitor  
P.O. Box 1276  
Conway, S.C. 29526

CLERK OF COURT  
HORRY COUNTY, SC

2017 FEB -3 AM 10:33

FILED

Exhibit-#14

Appellate Case No. <sup>147</sup>  
#2017-000179

The STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM Horry COUNTY  
Court of General Sessions

Larry Hyman, Circuit Court Judge

Case No. #2013GS2602764, &  
#2014GS2604205

STATE OF SOUTH CAROLINA.....Respondent,  
v.  
Bernardo Evans, #361706,.....Appellant,

**PROOF OF SERVICE**

I, Bernardo Evans, #361706, certify that I have served the Notice of Appeal on all parties by depositing it into the U.S. mail postage prepaid to the following addresses: Martin D. Spratlin, Assistant Solicitor, at the Office of the Solicitor, P.O. Box 1276, Columbia, S.C. 29526. An true copy sent to the Horry county Courthouse, Renee N. Elvis, Clerk of Court of Horry County, P.O. Box 677, Conway, S.C. 29528-0677. All U.S. mail delivered from the Lieber Correctional Institution on this 26th day of January, 2017.

Dated: 1-26, 2017

Respectfully submitted,

/s/ Bernardo Evans

Bernardo Evans, #361706

LCI. Wando-A#112

136 Wilborne Ave.

P.O. Box 205

Ridgeville, S.C. 29472

Pro-Se Petitioner

Horry County, SC  
CLERK OF COURT

2017 FEB -3 AM 10:33

FILED

Exhibit-#15

Appellate Case No  
#2017-000179**CLERK OF COURT****RENEE ELVIS**

CLERK OF COURT

1301 2<sup>ND</sup> AVENUE

CONWAY, SC 29526

(843) 915-5080 • Fax: (843) 915-6081

February 7, 2017

Bernardo Evans #361706  
Wando-A #112  
Lieber Correctional Institution  
PO Box 205  
Ridgeville, SC 29472

Re: Notice of Appeal

Dear Mr. Evans,

This is in response to your letter regarding the above reference.

Your Notice has been clocked and filed. Enclosed you will find a clocked copy.

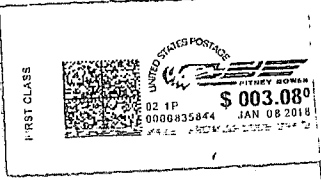
Sincerely,

A handwritten signature in cursive script that reads "Renee Elvis".

Renee Elvis

Horry County Clerk of Court

Bernardo S. Evans # 361706  
L.C.I / Wanda - # 12A  
P.O. Box 205  
Ridgeville, SC 29472



The Supreme Court of South Carolina  
Daniel E. Shearouse, Clerk of Court  
P.O. Box 11330  
Columbia, SC 29211

FOR LEGAL USE ONLY

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