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SC Court of Appeals MAR 16 2018

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RENEE N. ELVIS CLERK OF COURT Horry County, SC

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry VS. Tony Nevail Myers

INDICTMENT/CASE#: 2016GS2602411 A/W#: 2015A2620601670 Date of Offense: 5/27/2012 S.C. Code §: 16-03-0656, 0654(2) CDR Code #: 0255

AKA: Race: B Sex: M Age: 36 DOB: SS#: Address: City, State, Zip: Greenville, SC 29609 DL#: SID#: SC01252320

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No In disposition of the said indictment comes now the Defendant who was TO: Assault & Battery 1st degree (Up to 10 yrs)

CONVICTED OF or PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412 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 Presentation to Grand Jury. The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Walter, Mary-Ellen SC Bar# 103036 Defendant Attorney for Defendant SC Bar# 8386

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 9 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. NO Sex Offender Registry § 24-13-40 to be calculated and applied. 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS: RESTITUTION: Deferred Def. Waives Hearing Ordered Total: \$ plus 20% fee: \$

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 \$ 25.00 beginning 4/1/2017 \$ paid to Public Defender Fund Other:

Table with 2 columns: Fee Description and Amount. Includes items like 14-1-206 (Assessments 107.5%), 14-1-211(A)(1) (City Surcharge) \$100.00, 14-1-211(A)(2) (DUI Surcharge) \$100.00, 56-5-2995 (DUI Assessment) \$12, 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, 14-1-212 (Law Enforce. Funding) \$25, 14-1-213 (Drug Court Surcharge) \$150, 50-21-114 (BUI Breath Test Fee) \$50, 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$3.75.

TOTAL \$128.75 + \$40.00 = \$168.75

Clerk of Court/Deputy Clerk: Renee N. Elvis Court Reporter: Dixie Eubank

Presiding Judge: Judge Code: Sentence Date: 3/1/18

SCCA/217 (07/2016) Defendant shall receive No Credit for the time from sentencing until today's date of 3/13/18.

WITNESSES

K Aiesi Myrtle Beach Police Department

DET. KERNS

The State of South Carolina

County of Horry

Martin D. Spratlin

16H00563

RENEE N. ELVIS

CLERK OF COURT

COURT OF GENERAL SESSIONS, SC

FILED
HORRY COUNTY

2016 JUN -2 PM 4:07

MELANIE HUGGINS-WARD
CLERK OF COURT

DATE RECEIVED FROM

GRAND JURY

MAY, 2016 TERM

ARREST WARRANT NUMBER

2015A2620601670

CDR: 0255 16-03-0656, 0654

DOA: 1/18/2016

THE STATE

vs.

Tony Nevail Myers

B/ M

Greenville, SC 29609

DOB:

SSN:

ATTORNEY: James Cullen Galmore

ACTION OF GRAND JURY

TRUE BILL

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MAR 16 2018
SC Court of Appeals

Bob Harris

Foreperson of Grand Jury

Date:

MAY 26 2016

VERDICT

Indictment for

ASSAULT WITH INTENT TO COMMIT CRIMINAL
SEXUAL CONDUCT, THIRD DEGREE

Jimmy A. Richardson, II, Solicitor

Foreperson of Petit Jury

Date:

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

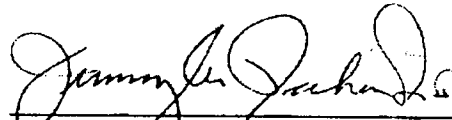
At a Court of General Sessions, convened on May 26, 2016, the Grand Jurors of Horry County present upon their oath:

ASSAULT WITH INTENT TO COMMIT
CRIMINAL SEXUAL CONDUCT, THIRD DEGREE

CDR: 0255 16-03-0656, 0654(1)(a)

That Tony Nevail Myers did in Horry County on or about May 27, 2012, assault Sharedia Funderburke with the intent to engage in sexual battery with Sharedia Funderburke by using force or coercion in the absence of aggravating circumstances, to wit: that Tony Nevail Myers did assault Sharedia Funderburke with the intent of committing Criminal Sexual Conduct in the Third Degree, all in violation of Sections 16-3-654(1)(a) and 16-3-656, S. C. Code of Laws, 1976, as amended.

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


JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR GENERAL

FRANCEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CERTIFIED COPY

ARREST WARRANT

2015A2620601670

STATE OF SOUTH CAROLINA

County/ Municipality of

Myrtle Beach

THE STATE

12-010631

against

Tony Nevail Myers

Address:

Greenville, SC 29609-

Phone: SSN:

Sex: M Race: B Height: 5 8 Weight: 178

DL State: SC DL #:

DOB: Agency ORI #: SC0260600

Prosecuting Agency: Myrtle Beach Police Department

Prosecuting Officer: S Clothier - 6572

Offense: Sex / Assault with intent to commit criminal sexual conduct - Third degree

Offense Code: 0255

Code/Ordinance Sec: 16-03-0656

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

on TONY MYERS

1-18-16 Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions PO Box 677 1301 2nd Avenue Conway, SC 29528

ORIGINAL

ORIGINAL

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ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Myrtle Beach

Personally appeared before me the affiant S. Clothier

being duly sworn deposes and says that defendant Tony Nevail Myers

did within this county and state on or about 5/27/2012

State of South Carolina (or ordinance of County/ Municipality of Myrtle Beach

in the following particulars:

DESCRIPTION OF OFFENSE: Sex / Assault with intent to commit criminal sexual conduct - Third degree

RENEE N. ELVIS CLERK OF COURT Horry County, SC

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:

On 05/27/212, a detective of the MBPD responded to 742 Lumber Street in reference to an attempted Criminal Sexual Conduct call. He interviewed an independent witness who stated he observed the victim screaming and running away from a black male, early to mid-30's as he was grabbing her. When witness approached the suspect fled. Victim advised she was walking with unknown suspect and another person on 8th N extension when suspect stated "you gonna give it to me now, if you don't, I'll take it". Suspect grabbed her and threw her to the ground. As she tried to scratch at his face, the suspect bit her on the right hand. She also kneed him in the stomach area as suspect was still trying to grab her. The witness ended up chasing him away. Crime Scene Officer arrived and swabbed the bite to her hand for a DNA sample, which was sent to SLED for analysis. A SLED report came back identifying the defendant as a match through the sample sent in and to the Short Tandem Repeat PCR DNA profile.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Myrtle Beach

Affiant's Address 1101 Oak Street

Myrtle Beach, SC 29577-

Affiant's Telephone

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 5/27/2012 defendant Tony Nevail Myers

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

County/ Municipality of Myrtle Beach) as set forth below:

DESCRIPTION OF OFFENSE: Sex / Assault with intent to commit criminal sexual conduct - Third degree

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 7/15/2015

Signature of Issuing Judge Kathleen M. Walsh

Judge Code: 6843

Judge's Address 1101 Oak Street

Myrtle Beach, SC 29577-3599

Judge's Telephone (843)918-1356

Issuing Court: Magistrate Municipality Circuit

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

AFFIDAVIT

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who

violate the criminal laws of the

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SC Court of Appeals

FILED Horry County 10 FEB -5 AM

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

CERTIFICATE OF REPRESENTATION
(APPOINTING AS COUNSEL)

-VS-

TONY MYERS

JAMES C. GALMORE

DEFENDANT)

FILE NO: 26A16-00000597

FILED
2016 FEB 22 AM 9:47

TO: Clerk of Court of General Sessions of the Fifteenth Judicial Circuit
Office of the Solicitor
Appointed Counsel
Defendant

This certifies that the above captioned Defendant is eligible for the services of the Public Defender, such determination having been made on, 15th day of February, 2016, regarding the charge(s) of:

2015A2620601670 Sex / Assault with intent to commit criminal sexual conduct - Third degree

The Defendant's Counsel is **James C. Galmore**. The office of the Public Defender requests on the Defendant's behalf any and all evidence in the possession of you and or your agents pursuant to S.C. Criminal Practice Rule 5, and Brady v. Maryland 373 U.S. 383 (1963). The formal Motion for Discovery is attached.



ORRIE E. WEST
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

CONWAY, SC
DATED: February 15, 2016

CERTIFIED COPY
RENEE ELVIS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
)

IN THE COURT OF GENERAL SESSION
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
-VS-)
)

NOTICE AND MOTION FOR PRODUCTION
OF SPECIFIC EVIDENCE AND
DISCLOSURE OF WITNESSES

TONY N MYERS

DEFENDANT)

)

FILE NO: 26A16-00000597

TO: SOLICITOR FOR THE FIFTEENTH JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that unless the prosecution responds to the Defendant's request for disclosure within 30 days, or within such time as may be ordered by the Court, Counsel for the Defendant will move this Court for an Order compelling that the State:

1. Make available for Defendant any and all written and oral statements by the Defendant which are, or may come to be, in the possession of the State.
2. Make available for purposes of inspection, and copying, any and all police reports relating to the investigation and circumstances surrounding the crime which the Defendant is charged with, including any and all statements taken from witnesses and the Defendant.
3. Make available to the Defendant all tangible objects obtained during the investigation of this case, including, but not limited to:
 - (a) All tangible objects obtained from the scene of the crime; and
 - (b) All tangible objects obtained from the State's witnesses in this case
 - (c) All tangible objects the State intends to introduce into evidence at Trial which are relevant to the offense charged.
4. Make available any witnesses known to the State who have knowledge of facts which might be favorable to the Defendant.
5. Make available any promises made or actions taken by the State which caused or might have caused any witnesses for the State to testify on behalf of the State.
6. Make available any inconsistent statements made by witnesses for the State or any statements made by witnesses for the State which tend to exculpate the Defendants or to negate participation by the Defendants in the alleged crime.
7. Make available to the Defendant all results of laboratory tests, scientific tests, or physical examinations conducted in connection with this case, including but not limited to:
 - (a) Analysis of handwriting
 - (b) Photographs secured of the scene of the crime
 - (c) Comparison of fingerprints
8. Make available any facts which tend to exculpate the Defendant.

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CLERK OF COURT
JENNIFER N. LEVINS
CLERK OF COURT
HORRY COUNTY, SC
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9. Make available any and all scientific or medical, psychiatric, legal or other information, reports or records which might tend to reflect on the credibility or competence of any of prospective witnesses for the State.

10. Make available to the Defendant the names and addresses of all persons who have knowledge of this case or who have been interviewed by the investigating officers in connection with this case.

11. Make available to the Defendant, the SLED, FBI, and local arrest and conviction records of all persons, including the Defendant, named in connection with this proceeding.

12. Make any chemist, analyst, and all persons within the chain of custody appear in Court for the purpose of personally testifying. Attorney for the Defense thus objects to the introduction of any chemist's or analyst's report pursuant to Rule 6, S.C. Rules of Criminal Procedure.

13. Make available to the Defendant all video and audio recordings and/or notarized affidavits made pursuant to South Carolina Code § 56-5-2953 and any other applicable South Carolina Statute or regulation, including but not limited to:

- (a) Police and booking reports;
- (b) Police logs;
- (c) Alcohol influence reports;
- (d) Accident reports
- (e) Reports dealing with defendant's refusal to submit to testing;
- (f) Notes taken from any recording by Law Enforcement regarding conversations with potential prosecution witnesses
- (g) Any notes taken by Law Enforcement with regards to this case which the officer intends to rely on, or make use of, at trial.
- (h) The names of the officers or other witnesses who were with the Defendant within one hour of the arrest who had the opportunity to observe the appearance and behavior of the Defendant, to include the identity of any officer present at the scene of arrest.
- (i) The time and place where the Defendant was given the Miranda warning and the name of the officer who advised him/her of the same.
- (j) Any reports made by any laboratory or hospital concerning any examination made of any physical (urine, blood, etc.), photographic, or written evidence related to the Defendant's case.
- (k) The records of analysis and the results of any chemical, urine, or breathalyzer tests administered to the Defendant.

14. Make available to the Defendant following information regarding the person(s) who administered the Defendant's chemical/breathalyzer tests:

- (a) The person's name and the name of his/her employer;
- (b) The date of his/her original certification to give chemical/breathalyzer tests and the grade he/she received on the exam;
- (c) The date of his/her most recent certification to give said tests; And his/her compliance with statutes and regulations providing for standards of training for person(s) administering such tests.

15. If the Defendant's blood alcohol concentration was determined on the basis of a test involving the use of any machine, provide the following information:

- (a) The type of machine used and the make, model, and serial number of particular machine;

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CLERK OF COURT
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- (b) The manufacturer and the date of manufacture of the machine;
- (c) The owner's manual and the instruction manual;
- (d) The software program used in said machine;
- (e) The date of purchase by the agency owning the machine;
- (f) The location of machine;
- (g) The number of prior tests conducted on the machine;
- (h) All maintenance information for the last two years, including all repairs done and all calibrations made on the machine;
- (i) The results of all tests performed in the thirty (30) days prior to the date of the Defendant's arrests, including any tests in which the machine malfunctioned;
- (j) Any checklist to be used by the operator of the machine, either before, during, or after the admission of a test.

This information is requested pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure. This information is further requested pursuant to Brady vs Maryland, 373 U.S. 383, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963), U.S. vs Agurs, 427 U.S. 97, 49 L. Ed. 2d 342, 96 S. Ct. 2392 (1976), State vs Mixon 274 S.E. 2d 406 (1981), City of Rock Hill vs Suchenski, 374 S.C. 12, 646 S.E.2d 879 (2007). Further this information is requested on the grounds that it is essential to insure the Defendant's right to a fair trial, right to confrontation of witnesses, the right to effective Counsel and due process of law guaranteed by the South Carolina Constitution, and the United States Constitution.

WHEREFORE, Defendant prays:

- (a) That the Solicitor be Ordered to produce all information described herein and allow the Defendant the right to examine, inspect, copy and photograph, such materials and information at a specific time and place to be fixed by the Court.
- (b) That the information be provided no later than 30 days from the date of this request, as reflected by the Clerk of Court's time-stamp appearing on the face of this Document.
- (c) That the Court enter an Order requiring the Solicitor's Office to make continuing disclosure of all matters requested herein up to and during the Trial of the charges against the Defendant.

RESPECTFULLY SUBMITTED



ORRIE E. WEST
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

DATED: February 15, 2016
CONWAY, SOUTH CAROLINA

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 11:32 AM
 FEBRUARY 15 2016
 CLERK OF COURT
 FIFTEENTH CIRCUIT
 CONWAY, SOUTH CAROLINA
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STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
2016-GS-26-02411

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MAR 16 2018

SC Court of Appeals

VERDICT FORM

CERTIFIED COPY

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

STATE OF SOUTH CAROLINA,

v.

TONY NEVAIL MYERS,

Defendant.

I. ATTEMPTED CRIMINAL SEXUAL CONDUCT, 3RD DEGREE

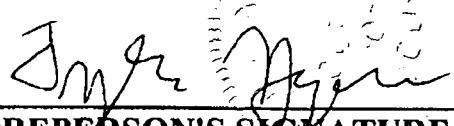
On the charge of Attempted Criminal Sexual Conduct in the 3rd Degree, we, the Jury, by unanimous consent find the Defendant (*check only one of the following verdicts*):

Not Guilty

OR

Guilty.

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HORRY COUNTY
2018 MAR - 1 PM 6:32
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC



FOREPERSON'S SIGNATURE

March
~~February~~ 1, 2018
Conway, South Carolina

NOTE: IF YOU FIND THE DEFEDANT GUILTY, KNOCK ON THE DOOR AND NOTIFY THE BAILIFF. IF YOU FIND THE DEFENDANT NOT GUILTY, PROCEED TO CHARGE II.

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
2016-GS-26-02411

STATE OF SOUTH CAROLINA,

v.

TONY NEVAIL MYERS,

Defendant.

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MAR 16 2018

VERDICT FORM SC Court of Appeals

GENE N. ELVIS, JR.
CLERK OF COURT
HORRY COUNTY, SC

II. ASSAULT AND BATTERY, FIRST DEGREE

On the charge of Assault and Battery in the First Degree, we, the Jury, by unanimous consent find the Defendant (*check only one of the following verdicts*):

Not Guilty

OR

 Guilty.

FILED
HORRY COUNTY
2018 MAR - 1 PH 6:32



FOREPERSON'S SIGNATURE

March
~~February~~ 1, 2018
Conway, South Carolina

NOTE: KNOCK ON THE DOOR AND NOTIFY THE BAILIFF WHEN YOU HAVE REACHED A VERDICT.