

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Orangeburg County

Diane Schafer Goodstein, Circuit Court Judge

---

**RECEIVED**

MAY 23 2012

**SC Supreme Court**

WERNER SCOTT HADDON,

PETITIONER,

V

STATE OF SOUTH CAROLINA,

RESPONDENT

---

A P P E N D I X

---

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STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

COURT OF GENERAL SESSIONS  
FIRST JUDICIAL CIRCUIT

CASE NO 2008-GS-38-0837  
2008-GS-38-0838  
2008-GS-38-0839  
2008-GS-38-0841

STATE OF SOUTH CAROLINA

versus

WERNER SCOTT HADDON,

DEFENDANT

)  
)  
) TRANSCRIPT OF RECORD

)  
) DATE

)  
) JANUARY 12, 2009  
)

BEFORE

HONORABLE JAMES C WILLIAMS, JR , PRESIDING JUDGE

APPEARANCES

DAVID PASCOE, ESQUIRE

SOLICITOR

FOR THE STATE

DAN LUGINBILL, ESQUIRE

ATTORNEY AT LAW

FOR THE DEFENDANT

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## I N D E X

| <u>EXAMINATION OF</u>     | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|---------------------------|---------------|--------------|-----------------|----------------|
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E X H I B I T S

| <u>NUMBER</u> | <u>DESCRIPTION</u>                              | <u>ID</u> | <u>EV</u> |
|---------------|-------------------------------------------------|-----------|-----------|
| DEF 1         | MENTAL EVALUATION OF<br>DR DONNA SCHWARTZ-WATTS |           | 4         |

NOTE CERTIFIED COPY OF DEFENDANT'S EXHIBIT ONE  
 ATTACHED TO ORIGINAL OF THIS TRANSCRIPT  
 THE ORIGINAL IS STILL ON FILE WITH THE  
 CLERK OF COURT

1 DATE

2 JANUARY 12, 2009

3 THE COURT ALRIGHT, SOLICITOR

4 SOLICITOR PASCOE MAY IT PLEASE

5 THE COURT

6 THE COURT YES, SIR

7 SOLICITOR PASCOE YOUR HONOR,

8 WE'RE HERE IN THE INTEREST OF WARNER SCOTT HADDON IT  
9 IS MY UNDERSTANDING FROM HIS COUNSEL, MR DAN  
10 LUGINBILL, THAT THE DEFENDANT IS GOING TO ENTER A PLEA  
11 OF GUILTY BUT MENTALLY ILL TO THE FOLLOWING CHARGES,  
12 ONE COUNT OF BURGLARY IN THE FIRST DEGREE, TWO COUNTS  
13 OF KIDNAPING, AND ONE COUNT OF ASSAULT OF A HIGH AND  
14 AGGRAVATED NATURE I HAVE THE INDICTMENTS AND THE  
15 SENTENCING SHEETS IF I COULD PASS THEM UP TO THE  
16 COURT

17 THE COURT YES, SIR

18 SOLICITOR PASCOE AND I BELIEVE

19 MR LUGINBILL HAS DR DONNA SCHWARTZ-WATTS WHO IS  
20 PREPARED TO TESTIFY TODAY AS TO THE DEFENDANT'S MENTAL  
21 STATUS

22 THE COURT HAS HE BEEN EVALUATED  
23 BY THE STATE AGENCIES?

24 SOLICITOR PASCOE NO, SIR, THIS  
25 IS THEIR DOCTOR AND I - - -

1                    THE COURT    HE'S SIMPLY THE - - -

2                    SOLICITOR PASCOE    YES, SIR

3                    THE COURT    ALRIGHT

4                    ALRIGHT, SIR, MR LUGINBILL

5                    MR LUGINBILL    THANK YOU, YOUR

6 HONOR, I HAVE DR SCHWARTZ-WATTS'S RECOMMENDATIONS AND

7 I DON'T KNOW IF YOU WANT TO MAKE THEM A COURT'S

8 EXHIBIT OR A DEFENDANT'S EXHIBIT

9                    THE COURT    WE'LL MAKE IT A

10 DEFENSE EXHIBIT    DO YOU HAVE A COPY OF IT, SOLICITOR?

11                    SOLICITOR PASCOE    YES, SIR

12                    THE COURT    DO YOU OBJECT TO THIS

13 BEING MADE A STATE'S EXHIBIT, I MEAN A DEFENSE

14 EXHIBIT?

15                    SOLICITOR PASCOE    A DEFENSE

16 EXHIBIT    NO, YOUR HONOR

17                    THE COURT    MS WALKER, DO YOU

18 WANT TO MARK IT AND GIVE IT BACK TO ME?

19                    COURT REPORTER    YES, SIR

20                    DEFENSE ONE

21                    (Defendant's Exhibit One

22 marked and filed )

23                    THE COURT    ALRIGHT, SIR, DO YOU

24 WANT TO CALL YOUR WITNESS?

25                    MR LUGINBILL    WELL, FIRST, YOUR

1 HONOR, DO YOU WANT TO LAY THE BASIS FOR THE PLEA OR  
2 HOWEVER YOU WANT TO GO FORWARD WITH IT

3 THE COURT WELL, WE HAVE TO  
4 ESTABLISH THE BASIS FOR DOING IT WITH THE GUILTY BUT  
5 MENTALLY ILL, AND THEN I'LL TAKE HIS PLEA, BUT I THINK  
6 WE NEED TO ESTABLISH THE MEDICAL BASIS FOR THAT FIRST

7 MR LUGINBILL IN THAT CASE, YOUR  
8 HONOR, I WOULD CALL DR DONNA SCHWARTZ-WATTS

9 THE COURT ALRIGHT, DR SCHWARTZ-  
10 WATTS, WOULD YOU COME AROUND, PLEASE I DON'T KNOW  
11 WHERE THE BIBLE IS THERE IT IS PLACE YOUR LEFT  
12 HAND ON THE BIBLE AND RAISE YOUR RIGHT  
13 (Whereupon, Dr Donna Schwartz-Watts  
14 is duly sworn )

15 THE COURT THANK YOU, MA'AM, HAVE  
16 A SEAT RIGHT UP THERE ALRIGHT, COUNSELOR

17 MR LUGINBILL THANK YOU, YOUR  
18 HONOR I BELIEVE THE STATE WILL STIPULATE THAT MS  
19 SCHWARTZ-WATTS, OR DR SCHWARTZ-WATTS IS AN EXPERT IN  
20 ~~THE FIELD OF FORENSIC PSYCHOLOGY~~ AND IS QUALIFIED TO  
21 GIVE TESTIMONY ON THESE PROCEEDINGS

22 SOLICITOR PASCOE YES, SIR

23 THE COURT THE STATE SO  
24 STIPULATES AND I'M WELL AWARE OF HER QUALIFICATIONS  
25 MYSELF I FIND THAT SHE'S QUALIFIED AS AN EXPERT IN

FORENSIC PSYCHIATRY

MR LUGINBILL      THANK YOU, YOUR

HONOR

(NOTE Blank lines on this page do not indicate any part of record has been omitted Headers on testimony pages and hard page breaks between testimony are now required by the Court See next ensuing page for sequential continuation of record )

DIRECT EXAMINATION OF DR DONNA SCHWARTZ-WATTS

BY MR LUGINBILL

Q DR SCHWARTZ-WATTS, IF YOU WOULD, JUST STATE YOUR  
NAME FOR THE RECORD

A SURE DONNA MARIE SCHWARTZ-WATTS, S-C-H-W-A-R-T-  
Z, HYPHEN, W-A-T-T-S

Q AND FOR THE EASE OF GOING FORWARD, ANY OBJECTIONS  
TO MY REFERRING YOU AS JUST DR WATTS?

A THAT'S A LOT EASIER TO SAY, AND NO OBJECTION AT  
ALL

Q ALRIGHT YOU HAD A CHANCE TO EVALUATE DR  
HADDON, IS THAT CORRECT?

A YES

Q DO YOU FEEL, BASED ON YOUR EVALUATION, THAT YOU  
CAN GIVE AN OPINION TO A REASONABLE DEGREE OF  
MEDICAL CERTAINTY AS TO WHETHER OR NOT HE IS, IN  
FACT, HAS A MENTAL ILLNESS?

A YES YOUR HONOR, I SAW HIM ON NOVEMBER FOURTEENTH  
OF THIS YEAR AND SPENT ABOUT THREE HOURS WITH  
HIM, - AND THEN ABOUT THIRTY MINUTES THIS MORNING,  
AND I'M ABLE TO GIVE MY OPINIONS TO A REASONABLE  
DEGREE OF MEDICAL CERTAINTY

Q AND WHAT ARE THOSE OPINIONS, DOCTOR?

A I BASED MY OPINIONS, I HAD A NUMBER OF THE  
INCIDENT REPORTS, OF COURSE, AND ARREST WARRANTS

1 AND ALL OF THAT AND I WAS ABLE TO ALSO, I HAD  
2 - SOME PRIOR EVALUATIONS DR HADDON HAD HAD A  
3 PREVIOUS STALKING CHARGE IN TWO THOUSAND AND FOUR  
4 AND WAS EVALUATED BY DR RICHARD FRIARSON THROUGH  
5 THE DEPARTMENT OF MENTAL HEALTH, SO I ALSO HAD AN  
6 OPPORTUNITY TO TALK WITH DR FRIARSON I HAD,  
7 BECAUSE THIS WAS AT ONE TIME A CUSTODY BATTLE HE  
8 HAD HAD SOME PRIOR EVALUATIONS, SO I HAD ACCESS  
9 TO THE GUARDIAN AD LITEM REPORT WHICH WAS  
10 HELPFUL AND I ALSO WAS ABLE TO SPEAK WITH HIS  
11 MOTHER AND SISTERS TODAY SO, MY DIAGNOSIS OF  
12 HIM IS, HE ACTUALLY HAS ONE OF THE AUTISTIC  
13 SPECTRUM DISORDERS, AND IN MY OPINION HE PROBABLY  
14 MEETS THE CRITERIA FOR ASBERGER'S DISORDER BUT  
15 BECAUSE I NEEDED MORE INFORMATION I DIAGNOSED HIM  
16 WITH WHAT'S CALLED PERVASIVE DEVELOPMENT DISORDER  
17 NOT AS THE ONE SPECIFIED AND BASICALLY, WHAT  
18 THAT IS, IT'S A MAJOR ILLNESS, IT'S A  
19 DEVELOPMENTAL DISORDER, AND IT'S ONE OF THE  
20 ~~AUTISTIC SPECTRUM DISORDERS~~ AND DR HADDON,  
21 THERE ARE PARTS OF HIS BRAIN THAT WORK INCREDIBLY  
22 WELL HE CAN BE VERY INTELLIGENT HE WAS A  
23 TRANSPLANT, HE HAD COMPLETED A TRANSPLANT  
24 FELLOWSHIP, HE WAS A SURGEON AND PRACTICED AS A  
25 PHYSICIAN FOR A NUMBER OF YEARS BUT THERE'S

1 OTHER PARTS OF HIS BRAIN THAT DO NOT WORK WELL  
2 HE HAS SEVERE IMPAIRMENTS IN HIS SOCIAL SKILLS,  
3 WHICH IS A CLASSIC SYMPTOM, A CLASSIC FEATURE OF  
4 THE AUTISTIC SPECTRUM DISORDERS AND THERE IS AT  
5 TIMES WHERE HE DEVELOPS VERY INTENSE INTERESTS  
6 EVEN TODAY, THIS MORNING WHILE I WAS TALKING WITH  
7 HIM, HE'S VERY WELL READ AND KNOWS A LOT ABOUT A  
8 LOT OF TOPICS WHICH IS NOT INCONSISTENT WITH THAT  
9 POINT OF DISORDER BUT HE TENDS TO GET VERY  
10 INTENSE WHEN HE HAS AN INTEREST, IT BECOMES VERY  
11 INTENSE, IN FACT, IT'S WHICH I SUSPECT IS RELATED  
12 TO HIS CHARGES SO, HE HAS A PERVASIVE  
13 DEVELOPMENTAL DISORDER NOW, HIS, THEY DON'T  
14 ALWAYS KNOW THE IDEOLOGY OF THESE DISORDERS, BUT  
15 HE HAD ENCEPHALITIS WHEN HE WAS THREE YEARS OLD

16 THE COURT HAD WHAT?

17 A ENCEPHALITIS, MEASLES ENCEPHALITIS HIS MOTHER  
18 REPORTS ALL OF THE CHILDREN HAD, THEY ALL HAD  
19 GERMAN MEASLES AT THE SAME TIME, AND HE WAS  
20 ~~HOSPITALIZED-- HE WAS VERY SICK, HE ALMOST DIED,~~  
21 AND THE FAMILY NOTED THAT HE HAD A CHANGE IN HIS  
22 DEMEANOR, THAT PRIOR TO THE AGE OF THREE HE WAS A  
23 LOVING, VERY EMOTIONAL CHILD, LIKED TO BE HELD,  
24 AND THEN AFTER THE ENCEPHALITIS HIS DEMEANOR  
25 CHANGED, WHICH IS, WE DON'T KNOW ALL THE CAUSES,

1 BUT THAT CERTAINLY WAS NOT INCONSISTENT WE'VE  
2 CERTAINLY HEARD STORIES WHERE PEOPLE HAVE HAD  
3 BRAIN INFECTIONS AND THEN THEY DEVELOP SOME  
4 FEATURES SEEN SIMILAR TO AUTISM THE OTHER THING  
5 I THINK THAT'S IMPORTANT IN THIS CASE IS -- HE'S  
6 HAD THAT CHRONICALLY, AND THAT'S PROBABLY WHAT  
7 MADE HIM A GOOD DOCTOR, IN STUDY AND BEING VERY  
8 INTELLIGENT AND ABLE TO ACHIEVE IN HIS AREA OF  
9 PRACTICE THE OTHER THING THAT HAPPENED, THOUGH,  
10 IS, HE GOT DEPRESSED OVER THE YEARS HE OBVIOUSLY  
11 WAS IN A CUSTODY DISPUTE WITH HIS WIFE, THEY WERE  
12 FIGHTING OVER THE CHILD, AND HE GOT MORE  
13 DEPRESSED AND HE HAD HAD IMPULSES FOR A LONG  
14 PERIOD OF TIME TO GAIN ACCESS TO HIS SON SO I  
15 THINK THIS WAS A CHRONIC IMPULSE HE WAS DEALING  
16 WITH, AND I THINK THE DEPRESSION HE DEVELOPED  
17 VERY SHORTLY BEFORE HIS CRIME IS WHAT CAUSED HIM  
18 TO BEHAVE THIS WAY

19 Q DOES YOUR REVIEW OF HIS TREATMENT, HIS PRIOR  
20 ~~TREATMENTS AND HIS RECORD, DOES IT INDICATE AT~~  
21 ~~ANY POINT THAT HE HAD EVER BEEN AWARE OF THIS~~  
22 SITUATION?

23 A NO HE HAS NEVER BEEN DIAGNOSED WITH AN AUTISTIC  
24 SPECTRUM DISORDER, AND THE KIND THAT DR HADDON  
25 HAS, IT WASN'T RECOGNIZED AS A DIAGNOSIS UNTIL

1 NINETEEN NINETY-FOUR IN FACT, HE WAS DIAGNOSED  
2 WITH ADJUSTMENT DISORDERS, AND THE DIAGNOSIS WAS  
3 NOT MADE HE DOES HAVE SOME RECORDS, WHEN HE GOT  
4 INTO THE LEGAL CHARGES IN TWO THOUSAND AND FOUR  
5 HE WAS SEEN BY DR ABEL IN GEORGIA WE DON'T  
6 HAVE THOSE RECORDS WE SIGNED A MEDICAL RELEASE  
7 BUT THEY HAVEN'T COME IN, SO I DON'T KNOW IF DR  
8 ABEL DIAGNOSED HIM WITH THAT, BUT HE WAS NOT  
9 AWARE, HE NOR HIS FAMILY BUT IN TALKING WITH  
10 HIM, IT'S VERY INTERESTING, HIS FATHER HAS VERY  
11 SIMILAR FEATURES, AND IT IS A DISORDER THAT RUNS  
12 IN MALES IN FAMILIES AND SO, HIS FAMILY  
13 HISTORY, JUST BASED ON WHAT THE SIBLINGS HAVE  
14 TOLD ME AND THE MOTHER, IS CONSISTENT WITH THAT  
15 Q IF YOU WOULD, EXPLAIN TO THE COURT IN A LITTLE  
16 BIT MORE DETAIL, PERHAPS A LITTLE BIT MORE  
17 ELABORATELY, HOW THE DISEASE ITSELF CAUSED HIM TO  
18 BECOME SO FIXATED ON THE SPLIT PARENTING IDEA  
19 THAT REALLY WAS THE BASIS OF THE FAMILY COURT  
20 FIGHT

21 Q PEOPLE WITH AUTISTIC SPECTRUM DISORDERS, THEY  
22 DON'T HAVE GOOD SOCIAL SKILLS THAT'S ONE OF THE  
23 HALLMARKS OF THE DISORDER AND THEY, THEY ARE  
24 NOT -- WHILE THEY FEEL ALL THE SAME THINGS WE DO,  
25 THEY'RE NOT CAPABLE OF UNDERSTANDING IT SO,

1 IT'S NOT THAT THEY DON'T CHOOSE TO BE EMPATHIC,  
2 IT'S NOT THAT THEY DON'T CHOOSE TO BE CONCERNED  
3 ABOUT OTHERS, THEY'RE JUST NOT ABLE TO HE'S NOT  
4 ABLE TO STEP OUTSIDE OF HIMSELF AND LOOK AT THE  
5 BIG SITUATION SO, HIS THINKING CAN BECOME VERY  
6 IDEO-SYNCRATIC AT TIMES, AND HE CAN GET VERY  
7 DOGMATIC AND IF HE HAS AN IDEA ABOUT HOW  
8 SOMETHING SHOULD BE DONE IT S VERY HARD TO GET  
9 HIM TO MOVE, CONSIDER OTHER ALTERNATIVES AND  
10 THAT'S PARTLY BECAUSE HE'S VERY INTELLIGENT, BUT  
11 ALSO BECAUSE HIS BRAIN IS NOT CAPABLE, IT CAN'T  
12 SHIFT GEARS LIKE THAT, IT'S NOT ABLE -- EVEN  
13 TODAY HE'S NOT ABLE -- HE UNDERSTANDS I THINK AT  
14 SOME LEVEL THAT SOMETHING IS WRONG WITH HIM BUT  
15 HE HAS A DIFFICULT TIME UNDERSTANDING THAT

16 Q DOES DR HADDON'S CONDITION CAUSE HIM TO MINIMIZE  
17 OR TO BE UNABLE TO RECOGNIZE THE SOCIAL AND  
18 PSYCHOLOGICAL IMPACT OF HIS ACTIONS ON OTHER  
19 PEOPLE?

20 A ~~IN MY OPINION, YES, HE'S NOT AWARE -- I THINK AT~~  
21 ~~SOME LEVEL HE KNOWS I THINK AT SOME LEVEL HE~~  
22 KNOWS THAT THERE'S BEEN A DISRUPTION IN THE  
23 FAMILY I THINK HE TRULY LOVES HIS SON, BUT I  
24 DON'T THINK HE HAS A CLUE ABOUT THE IMPACT OF ALL  
25 OF THIS ON HIS CHILD

DIRECT - DR DONNA SCHWARTZ-WATTS BY MR LUGINBILL

13

1 Q IS HE ABLE -- I GUESS MY QUESTION REALLY IS, IT'S  
2 ONE THING TO KNOW THAT THERE IS AN IMPACT, IT'S  
3 SOMETHING ELSE ENTIRELY TO BE ABLE TO QUANTIFY  
4 THAT IMPACT, OR TO UNDERSTAND THE MAGNITUDE OF  
5 THAT IMPACT DO YOU THAT HIS DISEASE HAS  
6 AFFECTED HIS ABILITY TO UNDERSTAND THE MAGNITUDE  
7 OF THAT?

8 A ABSOLUTELY

9 Q IS THAT IN FACT ONE OF THE DIAGNOSTIC CRITERIA OF  
10 AS BERGER'S DISORDER?

11 Q NOT THAT PER SE, BUT IT'S JUST THE INABILITY TO  
12 SOCIALLY TO RECIPROCATE, TO UNDERSTAND THE  
13 NUANCES OF RELATIONSHIPS, AND IT'S ONE OF HIS,  
14 IT S A PROBLEM WITH THE THINKING THAT YOU SEE IN  
15 THAT ILLNESS

16 Q AND DOES IT ALSO MANIFEST ITSELF IN THE PATIENT  
17 WITH A FLAT -- THAT DON'T SHOW A LOT OF EMOTION  
18 AND THAT SORT OF THING?

19 A THAT'S CORRECT CHILDREN WITH THAT DISORDER,  
20 THEY'VE ALL BEEN CALLED LITTLE PROFESSORS  
21 THEY'RE VERY INTELLIGENT AND SMART, BUT THEIR  
22 VOICES ARE, IT'S CALLED PEDANTIC SPEECH, THEIR  
23 VOICES ARE VERY MONOTONIC, AND THEY ALWAYS SEEM  
24 COOL, CALM AND COLLECTED, AND UNLESS IT'S EXTREME  
25 EMOTION THEY SEEM EMOTIONLESS AND IT'S NOT

1 BECAUSE THEY CHOOSE, IT'S, THEIR BRAIN JUST IS  
2 NOT CAPABLE OF DOING THAT IT'S JUST, IT'S A  
3 BRAIN DYSFUNCTION

4 Q DO YOU FIND THAT THOSE FEATURES ARE OFTEN  
5 MISINTERPRETED BY THE GENERAL PUBLIC AS UNAWARE  
6 OF WHAT ASBERGER'S IS AS BEING COLD OR  
7 CALCULATING OR UNCARING?

8 A SURE AND IT'S ACTUALLY MISINTERPRETED BY A LOT  
9 OF PHYSICIANS, TOO I MEAN, THAT'S WHY THE  
10 DIAGNOSIS IS RELATIVELY NEW IT'S, WHAT, FOURTEEN  
11 YEARS OLD FOURTEEN OR FIFTEEN YEARS IT'S BEEN  
12 AROUND AND THAT STILL EVEN HAPPENS EVEN AMONGST  
13 MEDICAL PROFESSIONALS

14 Q NOW, I GUESS THE ULTIMATE QUESTION THEN BECOMES  
15 IS THAT IN THIS SITUATION ALTHOUGH I THINK  
16 EVERYBODY AGREES THAT DR HADDON WAS AWARE THAT  
17 WHAT HE'S DOING WAS IN VIOLATION OF THE LAW, DO  
18 YOU BELIEVE HIS MENTAL ILLNESS PREVENTED HIM FROM  
19 BEING ABLE TO RESIST THE URGE TO GO FORWARD WITH  
20 THAT PLAN?

21 A ABSOLUTELY

22 MR LUGINBILL THANK YOU, DOCTOR,  
23 PLEASE ANSWER ANY QUESTIONS THE STATE MAY HAVE  
24 (NOTE Blank lines on this page do not indicate any  
25 part of record has been omitted )

CROSS - DR DONNA SCHWARTZ-WATTS BY SOL PASCOE

15

CROSS-EXAMINATION OF DR DONNA SCHWARTZ-WATTS

BY SOLICITOR PASCOE

Q GOOD AFTERNOON, DOCTOR

A HI, MR PASCOE

SOLICITOR PASCOE THANK YOU, YOUR  
HONOR

Q AND I WANT TO THANK YOU FOR TAKING THE TIME TO  
MEET WITH ME THIS MORNING AS WELL ABOUT THIS  
CASE

A YOU'RE WELCOME

Q EVEN THOUGH I'VE STIPULATED TO YOUR EXPERTISE I'D  
STILL LIKE TO GET SOME BACKGROUND JUST FOR THE  
RECORD HOW LONG HAVE YOU BEEN A FORENSIC  
PSYCHIATRIST?

A SINCE NINETEEN NINETY-FOUR

Q AND HOW MANY TIMES HAVE YOU TESTIFIED AS AN  
EXPERT IN THE FIELD OF FORENSIC PSYCHIATRY?

A OVER SEVEN HUNDRED TIMES NOW

Q A GOOD MANY TIMES?

A YES, SIR -

Q FOR BOTH THE STATE OF SOUTH CAROLINA AND FOR THE  
DEFENSE?

A CORRECT

Q AND YOU'VE BEEN RETAINED BY THE STATE ON MORE  
THAN, ON HUNDREDS OF OCCASIONS TO EVALUATE

1 DEFENDANTS?

2 A BY THE STATE AND IN TERMS OF - PROBABLY NOT, NOT  
3 BY PROSECUTION, BUT CERTAINLY I'VE BEEN RETAINED  
4 BUT NOT HUNDREDS OF TIMES

5 Q I'VE GOT YOU

6 A I'VE WORKED FOR THE ATTORNEY GENERAL A GOOD BIT

7 Q YES, MA'AM

8 A AND CERTAINLY WHEN I WAS AT THE DEPARTMENT OF  
9 MENTAL HEALTH I DID A NUMBER OF CASES WITH THE  
10 STATE

11 Q AND IN FACT, DUE TO YOUR EXPERTISE AND YOUR  
12 REPUTATION YOU'VE ACTUALLY BEEN ASKED BY THE  
13 COURTS TO EXAMINE CRIMINAL DEFENDANTS ON BEHALF  
14 OF THE COURT, ISN'T THAT TRUE?

15 A YES

16 Q OKAY AND DOCTOR, YOU WERE RETAINED BY THE  
17 DEFENSE IN THIS CASE TO EVALUATE THE DOCTOR?

18 A THAT'S CORRECT

19 Q SCOTT HADDON, THE DEFENDANT?

20 A YES

21 Q AND APPROXIMATELY WHEN DID YOU GET INVOLVED IN  
22 THIS CASE?

23 A I SAW HIM NOVEMBER FOURTEENTH OF THIS YEAR -- OF  
24 LAST YEAR, TWO THOUSAND AND EIGHT, AND SPENT  
25 ABOUT THREE HOURS INTERVIEWING HIM

1 Q OKAY AND DEFENSE EXHIBIT ONE IS YOUR REPORT ON  
2 YOUR FINDINGS AFTER YOUR EVALUATION OF DR  
3 HADDON?

4 A YES, SIR

5 Q OKAY AND THERE'S NO DOUBT IN YOUR MIND THAT THE  
6 DEFENDANT, MR HADDON, IS COMPETENT TO STAND  
7 TRIAL OR ENTER A PLEA TODAY?

8 A THAT'S CORRECT HE CLEARLY, I'VE WATCHED HIM  
9 ASSIST HIS ATTORNEY, HE'S COGNITIVELY, HE'S VERY  
10 AWARE OF EVERYTHING HE'S CAPABLE OF MAKE  
11 REASONABLE DECISIONS, AND HE'S FULLY AWARE OF HIS  
12 CIRCUMSTANCES, AND HE CAN COOPERATE AND HE  
13 UNDERSTANDS THE PROCEEDINGS

14 Q AND YOU TOUCHED ON THIS IN YOUR DIRECT, BUT IN  
15 FACT, HOW WOULD YOU CHARACTERIZE THE DEFENDANT'S  
16 INTELLIGENCE, IS HE BELOW AVERAGE INTELLIGENCE,  
17 ABOVE AVERAGE INTELLIGENCE?

18 A WELL, PARTS OF HIS BRAIN ARE SUPERIORLY  
19 INTELLIGENT, AND THEN THERE WOULD BE -- HE HASN'T  
20 HAD THE FULL NEURO-PSYCHOLOGICAL TESTING THAT I  
21 WOULD HAVE -- GIVEN MORE TIME IT WOULD HAVE BEEN,  
22 NOT NECESSARILY FOR TODAY'S PROCEEDINGS, BUT  
23 THERE ARE PARTS OF HIS BRAIN THAT ARE SUPERIORLY  
24 INTELLIGENT AND THEN OTHER PARTS THAT ARE  
25 PROBABLY AVERAGE

1 Q OKAY AND THERE'S NO DOUBT IN YOUR MIND THAT IN  
2 YOUR EXPERT OPINION THE DEFENDANT UNDERSTANDS THE  
3 DIFFERENCE BETWEEN WHAT IS LEGALLY AND MORALLY  
4 RIGHT AND WRONG?

5 A THERE IS NO QUESTION

6 Q OKAY AND THAT HE UNDERSTOOD THE DIFFERENCE  
7 BETWEEN RIGHT FROM WRONG BACK IN MARCH OF TWO  
8 THOUSAND AND EIGHT?

9 A ABSOLUTELY

10 Q BUT IT IS YOUR OPINION THAT DR HADDON HAS A  
11 MENTAL DISEASE OR DEFECT, AND THAT BECAUSE OF  
12 THAT DEFECT HE LACKS A SUFFICIENT CAPACITY TO  
13 CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE  
14 LAW?

15 A CORRECT

16 Q AND EXACTLY WHAT MENTAL DISEASE OR DEFECT DOES HE  
17 HAVE?

18 A TWO IN THIS CASE IT WAS TWO IT WAS THE  
19 AUTISTIC SPECTRUM DISORDER, AND THEN HE HAD A  
20 ~~DEPRESSION~~ HE HAD A NUMBER OF STRESSORS PRIOR  
21 ~~TO THIS, HE HAD BEEN DEALING WITH THESE IMPULSES~~  
22 FOR A NUMBER OF YEARS WHICH IS WHY HE WAS  
23 EVALUATED BACK IN TWO THOUSAND AND FOUR, IT WAS A  
24 SIMILAR SITUATION, AND THERE WAS CONCERN ABOUT,  
25 WOULD THIS SITUATION ESCALATE OR NOT AND DR

1 HADDON WENT ON AND TRIED TO RE-ESTABLISH HIMSELF  
2 HE HAD A NUMBER OF FINANCIAL STRESSORS HIS  
3 OLDER SON HAD LEFT FOR COLLEGE I THINK FOR A  
4 NUMBER OF YEARS HE WAS ABLE TO FOCUS SOME OF  
5 THOSE IMPULSES AND TRY TO TAKE CARE OF HIS OLDER  
6 SON AND HIS SON LEFT AND HE BECAME VERY  
7 DEPRESSED HE WAS SUICIDAL AT THIS TIME IF HE  
8 WERE KILLED THAT DAY THAT WOULDN'T HAVE BEEN  
9 INCONSISTENT WITH SOME OF HIS EXPECTATIONS

10 Q I'VE GOT YOU

11 A HE WAS SEVERELY DEPRESSED

12 Q AND IT'S NOT UNUSUAL IN YOUR OPINION FOR SOMEONE  
13 OF THE DEFENDANT'S ABOVE AVERAGE INTELLIGENCE IN  
14 THE CERTAIN AREAS WHERE HE IS ABOVE AVERAGE WHEN  
15 IT COMES TO INTELLIGENCE, TO HAVE A SYNDROM OR A  
16 CONDITION LIKE THIS?

17 A IT CAN BE SEEN, THERE'S CERTAINLY THAT, WE KNOW,  
18 YOUR HONOR, THAT RIGHT NOW THE STATISTICS SHOW  
19 THAT ONE IN EVERY TWO HUNDRED AND FORTY PEOPLE  
20 -- MAY HAVE A AUTISTIC SPECTRUM DISORDER ACTUALLY,  
21 AT USC WE'VE HAD A STUDY, THE RATES IN THE  
22 DEPARTMENT OF CORRECTIONS ARE HIGHER, IT'S ONE IN  
23 EVERY TWO HUNDRED AND TWENTY SO, IT'S MORE  
24 COMMON THAN WE THINK, AND USUALLY, YES, YOU'LL  
25 SEE PEOPLE THAT ARE THAT INTELLIGENT, THEY ARE

1 SOME OF OUR SCIENTISTS, THERE WAS ONE RECENTLY  
2 PORTRAYED IN GREY'S ANATOMY, SHE'S CARDIO-  
3 THORACIC SURGEON, A TRANSPLANT SPECIALIST AND,  
4 SO IT'S EVEN BEING SHOWN IN TELEVISION, BOSTON  
5 LEGAL, EVEN TELEVISION SHOWS NOW ARE RECOGNIZES  
6 THAT IT'S A MUCH MORE COMMON ILLNESS THAN WE  
7 THOUGHT

8 Q AND THAT'S WHAT I WANTED TO GET AT, IT'S WRITTEN,  
9 AS YOU KNOW I'M AN EXPERT IN THIS NOW, BECAUSE  
10 I'VE LOOKED ON WICKERPEDIA ABOUT ASBERGER'S AND  
11 AUTISM, BUT NASA SCIENTISTS HAVE THIS SAME  
12 CONDITION?

13 A THAT'S CORRECT

14 Q NOBEL PEACE PRIZE WINNERS PROBABLY HAVE THIS SAME  
15 CONDITION?

16 A THAT'S CORRECT

17 Q AND I THINK, AND THE POINT I'M GETTING TO IS THAT  
18 THERE ARE HUNDREDS OF THOUSANDS OR MAYBE EVEN  
19 MILLIONS OF PEOPLE THAT HAVE A SIMILAR CONDITION

20 AS DR HADDON?

21 A THAT'S CORRECT -

22 Q BUT THEY'RE NOT OUT THERE COMMITTING CRIMES EVERY  
23 DAY?

24 A THAT'S CORRECT WE KNOW A LITTLE BIT, I'VE  
25 ACTUALLY PUBLISHED IN THAT AREA, AND THERE ARE

1 CERTAIN CRIMES THAT ARE ACTUALLY MORE COMMON  
2 AMONGST PEOPLE WITH ASBERGER'S DISORDER IF YOU  
3 COMPARE THEM, BUT THEY ARE USUALLY THINGS LIKE  
4 FIRE SETTING THERE MAY BE CERTAIN KINDS OF  
5 ASSAULTS, BUT YOU'RE CORRECT, THEY SEEM TO BE  
6 OVER-REPRESENTED IN OUR DEPARTMENT OF CORRECTIONS  
7 POPULATION RIGHT NOW, BUT THE MAJORITY ARE NOT  
8 VIOLENT OR DO NOT PARTICIPATE IN ILLEGAL  
9 ACTIVITIES

10 Q AND I WANT TO BE CLEAR ALSO, THERE IS NO CURE FOR  
11 THIS DISEASE OR SYNDROM, CORRECT?

12 A THAT'S CORRECT THERE'S TREATMENT, AND THE  
13 TREATMENT INVOLVES SOCIAL SKILLS, HELPING THEM  
14 MAKE GOOD DECISIONS, BEING SOMEWHAT FORCEFUL AND  
15 FORTHRIGHT THEY HAVE MORBID CONDITIONS, THEY  
16 DEVELOP DEPRESSIONS AND SOMETIME THEY'LL NEED  
17 MEDICATION BUT IT'S A LIFELONG OUTPATIENT LEVEL  
18 TREATMENT

19 Q AND YOU TESTIFIED THAT YOU WERE AWARE BACK IN TWO  
20 THOUSAND AND FOUR THE DEFENDANT HAD MADE SOME  
21 THREATS TO HIS EX-WIFE, GINGER HADDON, CONCERNING  
22 MS HADDON AND THEIR SON, NICHOLAS?

23 A THAT'S CORRECT I READ, I ACTUALLY WAS ABLE TO  
24 READ THOSE LETTERS AND WAS AWARE OF THE  
25 CORRESPONDENCE BETWEEN THEM

1 Q AND DO YOU KNOW AGENT MIKE PRODAN AT SLED?

2 A YES

3 Q AND IN FACT YOU PUT INTO YOUR REPORT THAT YOU  
4 TOOK INTO CONSIDERATION MIKE PRODAN'S ASSESSMENT  
5 BACK IN TWO THOUSAND AND FOUR, CORRECT?

6 A YES, I HAVE A VERY HIGH OPINION OF MIKE PRODAN

7 Q GOOD, GOOD AND YOU TOOK INTO ACCOUNT HIS  
8 FINDINGS BACK IN O-FOUR?

9 A YES

10 Q IN YOUR FINDINGS WHAT WERE HIS FINDINGS IN TWO  
11 THOUSAND AND FOUR THAT YOU TOOK INTO ACCOUNT?

12 A HE WAS CONCERNED IN TWO THOUSAND AND FOUR, HE  
13 THOUGHT THAT DR HADDON WAS AT VERY HIGH RISK TO  
14 HAVE A SITUATION SOMEWHAT TO THIS HAPPEN HE WAS  
15 CONCERNED THAT THERE COULD BE THE POSSIBILITY OF  
16 DANGEROUSNESS IN THE FUTURE

17 Q AND WITHOUT ANY CURE, I MEAN, THAT'S ALWAYS A  
18 RISK

19 A YES YOU AND I TALKED ABOUT THAT THERE IS

20 ~~ALWAYS GOING TO BE SOME RISK YOU KNOW, DR~~

21 HADDON IS GOING TO MISS HIS SON, AND WITH

22 WHATEVER ENSUES OVER THE YEARS NOW, THERE'S

23 THINGS THAT YOU COULD DO TO MINIMIZE THOSE RISKS,

24 AND ONE THING IS ABSOLUTELY TREATMENT, AND HE

25 NEEDS TREATMENT IF HE IS RELEASED AT SOME POINT

1 IN THE FUTURE IN MY OPINION HE NEEDS TREATMENT  
2 WITH A FORENSIC PSYCHIATRIST, SOMEBODY THAT IS AN  
3 EXPERT IN ASSESSING DANGEROUSNESS AT ALL TIMES  
4 AND IT'S ALSO MY OPINION HE WOULD REQUIRE A  
5 PHYSICIAN, BECAUSE HE'S INTELLIGENT, AND I THINK  
6 IT'S GOING TO REQUIRE A BATTLE OF EGOS AT TIMES  
7 IN TERMS OF TREATING HIM THAT TREATMENT WOULD  
8 HELP, BUT THERE WILL BE SOME RISK BUT TIME IS  
9 THE BIGGEST FACTOR YOU KNOW, DR HADDON AND I  
10 DISCUSSED THIS BACK IN AUGUST HE MAY DEVELOP A  
11 NEW INTEREST, THERE MAY BE SOMETHING ELSE THAT  
12 HAPPENS IN HIS LIFE THAT WOULD CHANGE HIS FOCUS,  
13 BUT CERTAINLY, IT HAS TO BE MONITORED, IT HAS TO  
14 BE MONITORED IN THE FUTURE

15 Q OKAY SO, TIME IS A BIG FACTOR?

16 A YES

17 Q AND I ALSO NOTED THAT THE LAST OPINION YOU HAD  
18 WAS THAT DUE TO DR HADDON'S CONDITION, BECAUSE  
19 THERE IS NO CURE, THAT IF HE EVER DID GET OUT OF

20 - - - -JAIL-OR PRISON THAT HE WOULD NEED LONG TIME  
21 SUPERVISION?

22 A THAT'S CORRECT

23 Q OKAY AND WHO IS AT RISK IF MR HADDON IS NOT IN  
24 CUSTODY?

25 A WELL, IF, GIVEN THE PRESENT SITUATION, IF THINGS

CROSS - DR DONNA SCHWARTZ-WATTS BY SOL PASCOE

24

1 DIDN'T CHANGE IT WOULD BE HIS EX-WIFE AND SON

2 Q OKAY THANK YOU

3 A AND HER FAMILY MEMBERS

4 Q THANK YOU, DOCTOR

5 SOLICITOR PASCOE THAT'S ALL I

6 HAVE, YOUR HONOR

7 THE COURT THANK YOU, SIR

8 MR LUGINBILL COULD I HAVE A

9 QUICK FOLLOW UP?

10 THE COURT YES, SIR, GO AHEAD

11 MR LUGINBILL THANK YOU, YOUR

12 HONOR

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REDIRECT - DR DONNA SCHWARTZ-WATTS BY  
MR. LUGINBILL

25

REDIRECT EXAMINATION OF DR DONNA SCHWARTZ-WATTS  
BY MR LUGINBILL

Q I WANT TO FOLLOW UP ON THIS ISSUE OF TIME AND  
SUPERVISION NOW, YOU SAY HE'S GOING TO NEED  
SUPERVISION GOING FORWARD WHAT SORT OF  
SUPERVISION, ARE YOU TALKING ABOUT SUPERVISION IN  
A STATE FACILITY OR JUST OUTPATIENT TREATMENT?

A OH, WHEN I SAY SUPERVISION IT'S A CLINICAL TERM  
I MEAN, HIM BEING UNDER THE CARE OF A FORENSIC  
PSYCHIATRIST, SOMEBODY IN THE MEDICAL PROFESSION  
THAT UNDERSTANDS HIS ILLNESS AND UNDERSTANDS THE  
RISK FACTORS AND CAN DEAL WITH THAT FOR  
EXAMPLE, THERE MAY BE A PERIOD OF TIME IF HE WERE  
RELEASED AND HE GOT DEPRESSED, WE NOW KNOW IF HE  
GETS DEPRESSED HE'S MORE IMPULSIVE SO, IT WOULD  
REQUIRE MUCH MORE STRICT TREATMENT, SAY, THAN  
SOMEBODY WITHOUT THAT ILLNESS FOR EXAMPLE, IF  
HE WERE TO GET DEPRESSED I WOULD PUT HIM IN A  
HOSPITAL IMMEDIATELY AND TREAT HIM UNTIL HE'S  
WELL SO, HIS TREATMENT WOULD BE INDIVIDUALIZED  
FOR HIM, BUT HE HAS DIFFERENT NEEDS THAN, SAY,  
SOMEBODY THAT DOESN'T HAVE AN AUTISTIC SPECTRUM  
DISORDER

Q BUT IT COULD CLEARLY BE DONE WITHOUT  
INSTITUTIONALIZATION OR - - -

REDIRECT - DR DONNA SCHWARTZ-WATTS BY  
MR LUGINBILL

26

1 A OH, - - -

2 Q --- CONFINEMENT?

3 A THAT'S CORRECT AND THERE COULD BE A TIME, AS I  
4 MENTIONED, IF HE WERE TO GET A SEVERE DEPRESSION  
5 HE MIGHT REQUIRE IN-PATIENT TREATMENT, BUT HIS  
6 AUTISTIC SPECTRUM DISORDER COULD CERTAINLY BE  
7 MANAGED ON AN OUT-PATIENT BASIS

8 Q DAVID TALKED BRIEFLY ABOUT, THERE'S ALWAYS PEOPLE  
9 WHO MAY HAVE ASBERGER'S WHO ARE IN VERY  
10 PRODUCTIVE ROLES IN SOCIETY WHILE THAT MAY BE  
11 TRUE, THIS IS A SPECTRUM DISORDER, CORRECT?

12 A YES

13 Q AND THERE ARE SEVERE CASES, MODERATE CASES, AND  
14 MILD CASES?

15 A CORRECT

16 Q AND IT'S THOSE WITH THE MORE SEVERE CASES THAT  
17 TEND TO RUN INTO CONFLICT WITH THE LAW?

18 A NOT NECESSARILY, WE DON'T KNOW THE CONFLICTS  
19 THEY HAVE WITH THE LAW ARE BECAUSE THEY CAN'T  
20 PROCESS SO, I COULD GIVE YOU AN EXAMPLE, IF I  
21 HAD A GENTLEMAN THAT KEPT VIOLATING A RESTRAINING  
22 ORDER AND THE REASON HE DID THAT, THE RULE WAS TO  
23 STAY, FOR EXAMPLE, A HUNDRED FEET AWAY WELL, HE  
24 STAYED A HUNDRED AND ONE FEET AWAY, BECAUSE HE  
25 DIDN'T UNDERSTAND IT MEANT, DON'T BE AROUND THE

REDIRECT - DR DONNA SCHWARTZ-WATTS BY  
MR LUGINBILL

27

1 VICTIM SO, SOMETIMES THEY JUST MISINTERPRET,  
2 THEY'RE NOT ABLE -- ONE OF THE FEATURES OF THIS  
3 ILLNESS IS THAT THEY DON'T UNDERSTAND SUBTLETY,  
4 THEY'RE NOT ABLE TO ABSTRACT THINGS AND INTERPRET  
5 THEM SO IF YOU TELL -- THEY'RE VERY CONCRETE IN  
6 HOW THEY INTERPRET THINGS  
7 Q NOW, THE ONLY ISSUES HE'S HAD IN HIS ENTIRE LIFE  
8 WITH ENFORCEMENT REVOLVES AROUND HIS SON, IS THAT  
9 CORRECT? AND THERE'S BEEN NO OTHER INSTANCES  
10 THAT YOU'VE FOUND? AND YOU'VE TALKED TO HIM, I'M  
11 NOT AWARE OF ANY  
12 A THAT'S CORRECT  
13 Q AT SOME POINT HIS CHILD IS NO LONGER GOING TO BE  
14 A CHILD, HE WILL BE AN ADULT IS THERE ANY REASON  
15 TO BELIEVE ANY RISK FACTORS THAT YOU'VE  
16 IDENTIFIED, ANYTHING THAT YOU SEE THAT WOULD LEAD  
17 YOU TO BELIEVE THAT ONCE HE'S, YOU KNOW, SIXTEEN,  
18 SEVENTEEN, EIGHTEEN YEARS OLD, THAT AT THAT POINT  
19 DR HADDON WOULD HAVE, WOULD BE UNDER ANY  
20 -- LIKELIHOOD OF REPEATING THE EVENTS THAT HAVE  
21 BROUGHT US HERE TODAY?  
22 A I THINK THAT WOULD LESS THE RISK, THE FACT THAT  
23 HIS SON WILL BE OF AGE AND BE AN ADULT I THINK  
24 THAT THERE'S ALWAYS GOING TO BE -- IT NEEDS TO BE  
25 MONITORED IN THIS SITUATION HE'S ALWAYS GOING TO

REDIRECT - DR DONNA SCHWARTZ-WATTS BY  
MR LUGINBILL

28

1 MISS HIS SON, HE LOVES THIS CHILD AND SO, HE  
2 NEEDS HELP IN DEALING WITH THAT HE LOVES HIS  
3 SON AND HE MISSES HIM, AND HE WANTS TO SEE HIM  
4 AND SO, HE WOULD BE - - -

5 Q AND OBVIOUSLY, THERE'S NO GUARANTEES IN LIFE WITH  
6 ANY OF US, BUT IT'S YOUR OPINION THAT AS THE  
7 CHILD GROWS OLDER, THE RISK OF THIS PROBLEM RE-  
8 OCCURRING DIMINISHES?

9 A WELL, THERE WOULD BE -- RIGHT, AS HIS SON GROWS  
10 UP HIS SON IS GOING TO BE MORE MOBILE AND HE'LL  
11 EVENTUALLY BE AN ADULT, AND IF THEY COMMUNICATE I  
12 GUESS THAT WOULD BE THEIR CHOICE YOU KNOW, TIME  
13 WILL TELL, I CAN'T PREDICT THAT FOR YOU, BUT THE  
14 FACT, AS THE SON GETS OLDER AND BECOMES MORE  
15 ADULT, THAT WILL MAKE THE SITUATION DIFFERENT  
16 THAN WHAT IT IS TODAY

17 Q DO YOU HAVE A THEORY OR AN IDEA OF HOW LONG YOU  
18 THINK HE NEEDS TO BE TREATED IN A HOSPITAL  
19 SETTING AT THIS POINT?

20 A NO IN TERMS OF, I GUESS IT'S MORE THE LEGAL  
21 DECISION, IF HE WERE FOUND GUILTY BUT MENTALLY  
22 ILL HE WOULD GO TO THE GILLIAM CENTER ANYWAY, SO  
23 HE WOULD SPEND A TYPICAL AMOUNT OF TIME, I  
24 BELIEVE IT'S FORTY-FIVE DAYS, BUT ACTUALLY, HE'S  
25 WELL ENOUGH IF HE HAD COME TO MY OFFICE TODAY I

REDIRECT - DR DONNA SCHWARTZ-WATTS BY  
MR LUGINBILL

29

1           WOULDN'T PUT HIM IN A HOSPITAL, I WOULD TREAT HIM  
2           ON AN OUT-PATIENT BASIS    SO, HE'S GOING TO NEED  
3           LIFE LONG TREATMENT, THOUGH   THIS IS, THIS IS,  
4           WHENEVER HE'S FACED WITH A NOVEL SITUATION, AS HE  
5           GETS OLDER, AS HE DEALS WITH AGING, DEATH OF  
6           FAMILY MEMBERS, THOSE ARE ALL AREAS OF LIFE HE'S  
7           GOING TO NEED ASSISTANCE WITH   AND HE'S ALSO AT  
8           RISK FOR DEVELOPING OTHER CO-MORBID ILLNESSES AS  
9           A CONSEQUENCE OF HAVING THIS AND THEY NEED TO BE  
10          MONITORED    SO, HE WOULD NEED LIFE LONG HELP

11          Q   DO YOU BELIEVE THAT DR HADDON, KNOWING HIM AS AN  
12               ENTIRE PERSON NOW THAT YOU'VE HAD A CHANCE TO  
13               EVALUATE HIM, DO YOU BELIEVE THAT HE HAS  
14               SUFFICIENT AWARENESS OF HIS ILLNESS NOW THAT IT  
15               HAS BEEN DIAGNOSED, AND NOW THAT IT HAS BEEN  
16               BROUGHT TO HIS ATTENTION, DO YOU BELIEVE HE WOULD  
17               BE COMPLIANT WITH TREATMENT, GOING FORWARD  
18               VOLUNTARILY?

19          A   ABSOLUTELY, ABSOLUTELY    BUT AS I MENTIONED, HE  
20               WOULD NEED SOMEONE WITH AS MUCH EDUCATION AND HAS  
21               TO BE INCREDIBLY KNOWLEDGEABLE, BECAUSE HE'S VERY  
22               INTELLIGENT

23                       MR LUGINBILL   THANK YOU, DOCTOR  
24                       THE COURT    ANYTHING ELSE?  
25                       SOLICITOR PASCOE NO, SIR    THANK

1 YOU, YOUR HONOR

2 THE COURT THANK YOU, DOCTOR, YOU  
3 CAN STEP DOWN ARE YOU GOING TO REMAIN WITH US? I  
4 WOULD PREFER THAT YOU STAY

5 DR SCHWARTZ-WATTS OKAY, I WILL

6 THE COURT ALRIGHT IN CASE I  
7 HAVE SOME QUESTIONS FOR YOU

8 DR SCHWARTZ-WATTS YES, SIR

9 THE COURT ALRIGHT, SOLICITOR

10 SOLICITOR PASCOE YOUR HONOR,  
11 AGAIN, AT THIS TIME, IF THERE'S NO OBJECTION FROM THE  
12 COURT, THE DEFENDANT WANTS TO ENTER A PLEA OF GUILTY  
13 BUT MENTALLY ILL

14 THE COURT WELL, LET ME QUALIFY IT  
15 FROM THE PLEA I'VE HEARD THE EVIDENCE ON THE MENTAL  
16 ILLNESS

17 BRING HIM FORWARD, COUNSELOR

18 DR HADDON, RAISE YOUR RIGHT HAND,  
19 PLEASE YOU CAN RAISE IT A LITTLE BIT

20 (Whereupon, Werner Scott Haddon  
21 is duly sworn )

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EXAM - WERNER SCOTT HADDON BY THE COURT

31

EXAMINATION OF WERNER SCOTT HADDONBY THE COURT

Q HOW OLD ARE YOU, SIR?

A FORTY-NINE

Q AND I UNDERSTAND YOU ARE A MEDICAL DOCTOR, SO YOU ARE WELL EDUCATED HAVE YOU -- AND DOCTOR, MY NEXT QUESTION NORMALLY IS, HAVE YOU EVER BEEN TREATED FOR DRUG ABUSE, ALCOHOL ABUSE OR MENTAL ILLNESS? AND I'VE HEARD SOME ABOUT THE MENTAL ILLNESS AS FAR AS DRUG ABUSE OR ALCOHOL ABUSE, HAVE YOU EVER BEEN TREATED FOR EITHER OF THOSE?

A NO, YOUR HONOR

Q HAVE YOU HAD ANY DRUGS, ALCOHOL, MEDICATION OR ANYTHING IN THE LAST TWENTY-FOUR HOURS THAT WOULD KEEP YOU FROM UNDERSTANDING WHAT'S GOING ON IN COURT TODAY?

A NO, YOUR HONOR

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EXAM - DEFENSE COUNSEL LUGINBILL BY THE COURT

32

EXAMINATION OF DEFENSE COUNSEL LUGINBILLBY THE COURT

Q MR LUGINBILL, HAVE YOU EXPLAINED TO YOUR CLIENT THE CHARGES HE IS FACING, THE EVIDENCE THE STATE HAS AGAINST HIM, THE POSSIBLE PENALTIES, HE'S GOT BURGLARY IN THE FIRST DEGREE WHICH CARRIES UP TO LIFE IN PRISON, AND IT'S TEN TO LIFE I THINK, OR - IS IT FIFTEEN?

SOLICITOR PASCOE FIFTEEN

Q FIFTEEN TO LIFE, MINIMUM OF FIFTEEN, UP TO LIFE IN PRISON, IT IS NO PAROLE, VIOLENT, MOST SERIOUS OFFENCE HE HAS TWO CHARGES OF KIDNAPING, WHICH ARE ALSO VIOLENT AND MOST SERIOUS AND CARRY UP TO THIRTY YEARS, NO PAROLE AGAIN, AND HE HAS A CHARGE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE WHICH CARRIES UP TO TEN YEARS IN JAIL HAVE YOU EXPLAINED ALL THAT TO HIM?

A WE HAVE, YOUR HONOR

Q AND HAVE YOU EXPLAINED TO HIM HIS CONSTITUTIONAL RIGHTS?

A I HAVE, YOUR HONOR

Q AND DO YOU BELIEVE HE UNDERSTANDS THOSE MATTERS?

A I DO

Q AND HOW HAS HE ADVISED YOU HE WISHES TO PLEAD?

A HE HAS INDICATED HE WISHES TO PLEAD GUILTY BUT

EXAM - DEFENSE COUNSEL LUGINBILL BY THE COURT

33

1 MENTALLY ILL, YOUR HONOR

2 Q AND DO YOU CONCUR IN THAT DECISION?

3 A I DO

4 Q HAVE YOU HAD ANY DIFFICULTY COMMUNICATING WITH  
5 HIM IN YOUR REPRESENTATION OF HIM? I THINK YOU  
6 REPRESENTED HIM IN TWO THOUSAND AND FOUR AS WELL  
7 AS I REMEMBER

8 A I DID

9 Q HAVE YOU HAD ANY PROBLEM, ESPECIALLY IN REGARD TO  
10 THESE CHARGES, IN COMMUNICATING WITH DR HADDON?

11 A I HAVE NOT

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EXAM - WERNER SCOTT HADDON BY THE COURT

34

EXAMINATION OF WERNER SCOTT HADDON

BY THE COURT CONTINUES

Q DR HADDON, YOUR ATTORNEY TELLS ME HE'S EXPLAINED TO YOU THE CHARGES THAT YOU ARE FACING, THE EVIDENCE THAT THE STATE HAS AGAINST YOU, THE POSSIBLE PENALTIES, AND YOUR CONSTITUTIONAL RIGHTS HE SAYS HE BELIEVES THAT YOU UNDERSTAND ALL OF THOSE MATTERS AND THAT YOU HAVE ADVISED HIM YOU WANT TO PLEAD GUILTY BUT MENTALLY ILL NOW, IN THE LEGAL LANGUAGE THAT MEANS THAT YOU KNEW RIGHT FROM WRONG, BUT THAT YOU LACKED THE ABILITY TO CONTROL YOUR CONDUCT ON THE INCIDENT WHERE THESE ALLEGED CRIMES OCCURRED DO YOU UNDERSTAND WHAT WE MEAN BY GUILTY BUT MENTALLY ILL?

A YES, I DO, YOUR HONOR

Q DO YOU UNDERSTAND YOUR CONSTITUTIONAL RIGHTS AND EVERYTHING THAT YOUR LAWYER EXPLAINED TO YOU ABOUT THE CONSEQUENCES OF THESE SENTENCES AND THESE CHARGES?

A YES, YOUR HONOR

Q ALRIGHT THEN IN ORDER TO PLEAD GUILTY, EVEN GUILTY BUT MENTALLY ILL, THERE ARE CERTAIN RIGHTS THAT YOU HAVE TO GIVE UP THE FIRST OF THESE IS YOUR RIGHT TO REMAIN SILENT THAT IS YOUR RIGHT

1 TO SAY NOTHING ABOUT THE CHARGES YOU CANNOT BE  
2 FORCED TO TESTIFY AGAINST YOURSELF BUT WHEN YOU  
3 PLEAD GUILTY YOU GIVE UP THAT RIGHT IN ORDER TO  
4 ADMIT THE TRUTH OF THE CHARGES AGAINST YOU  
5 THAT'S WHAT A GUILTY PLEA IS, AN ADMISSION THAT  
6 THE CHARGES ARE TRUE

7 SECONDLY, YOU HAVE A RIGHT TO A JURY TRIAL THAT  
8 IS YOUR RIGHT TO HAVE A JURY DETERMINE WHETHER OR  
9 NOT YOU ARE, IN FACT, GUILTY OF THESE CHARGES  
10 BEYOND A REASONABLE DOUBT A JURY WOULD BASE ITS  
11 DECISION ON THE TESTIMONY AND THE EVIDENCE PUT UP  
12 BY THE STATE'S WITNESSES YOUR ATTORNEY COULD  
13 CROSS-EXAMINE THOSE WITNESSES HE COULD CALL  
14 WITNESSES ON YOUR OWN BEHALF AND PUT UP ANY  
15 DEFENSE THAT YOU MIGHT HAVE TO THE CHARGES YOU  
16 WOULD BE PRESUMED TO BE INNOCENT IF YOU HAD A  
17 JURY TRIAL, THE BURDEN WOULD BE ON THE STATE TO  
18 CONVINCE ALL TWELVE JURORS OF YOUR GUILT  
19 DO YOU UNDERSTAND YOUR RIGHT TO REMAIN SILENT AND  
20 YOUR RIGHT TO HAVE A JURY TRIAL?

21 A I UNDERSTAND THOSE ITEMS, YOUR HONOR

22 Q AND DO YOU UNDERSTAND THAT IN ORDER TO PLEAD  
23 GUILTY YOU HAVE TO GIVE UP BOTH OF THOSE RIGHTS?

24 A YES, YOUR HONOR

25 Q AND THAT'S WHAT YOU WANT TO DO?

EXAM - WERNER SCOTT HADDON BY THE COURT

36

1 A YES, YOUR HONOR

2 Q ALRIGHT, SIR WE'LL START WITH THE INDICTMENT  
3 FOR BURGLARY, INDICTMENT 2008-0841, AND THE  
4 ALLEGATIONS ARE THAT ON OR ABOUT THE TWENTY-FIRST  
5 OF MAY, TWO THOUSAND AND EIGHT, THAT YOU  
6 WILLFULLY AND UNLAWFULLY ENTERED THE DWELLING OF  
7 VIRGINIA KEARSE HADDON WITHOUT CONSENT, WITH  
8 INTENT TO COMMIT A CRIME, AND THAT YOU - - -

9 THE COURT WAS IT DURING THE  
10 DARKNESS OR WAS HE ARMED, OR BOTH?

11 SOLICITOR PASCOE HE WAS ARMED  
12 WITH A GUN, YOUR HONOR

13 Q AND THAT WHEN YOU ENTERED YOU WERE ARMED WITH A  
14 DEADLY WEAPON DO YOU UNDERSTAND THAT CHARGE?

15 A YES, YOUR HONOR

16 Q HOW DO YOU PLEAD TO THAT CHARGE?

17 A NOT GUILTY BY MENTAL ILLNESS I'M SORRY, GUILTY

18 - - -

19 Q GUILTY BUT MENTALLY ILL?

20 A ~~BUT MENTALLY ILL I'M SORRY~~

21 Q AND DO YOU UNDERSTAND THAT FOR LEGAL PURPOSES I  
22 TREAT THAT SIMPLY AS A GUILTY PLEA THE ONLY  
23 DIFFERENCE THE MENTALLY ILL MAKES IS THE WAY YOU  
24 WOULD SERVE YOUR TIME AND THE TREATMENT YOU WOULD  
25 GET DO YOU UNDERSTAND THAT? THE CONSEQUENCES

EXAM - WERNER SCOTT HADDON BY THE COURT

37

1 OF THE PLEA ARE THE SAME

2 A YES, YOUR HONOR

3 Q ALRIGHT INDICTMENT 0838 SAID THAT IN ORANGEBURG  
4 COUNTY, ON OR ABOUT MAY THE TWENTY-FIRST, TWO  
5 THOUSAND AND EIGHT, THAT YOU UNLAWFULLY SEIZED,  
6 CONFINED, INVEIGLED, DECOYED, KIDNAPED, ABDUCTED  
7 OR CARRIED AWAY NICHOLAS HADDON YOU'RE CHARGED  
8 WITH KIDNAPING, AND THIS WAS WITHOUT AUTHORITY OF  
9 LAW DO YOU UNDERSTAND THAT CHARGE?

10 A YES, YOUR HONOR

11 Q HOW DO YOU PLEAD TO THAT CHARGE?

12 A GUILTY BUT MENTALLY ILL

13 Q INDICTMENT 0839 SAYS THAT IN ORANGEBURG COUNTY,  
14 ON OR ABOUT MAY TWENTY-FIRST, TWO THOUSAND AND  
15 EIGHT, THAT YOU UNLAWFULLY AND WILLEFULLY SEIZED,  
16 CONFINED, INVEIGLED, DECOYED, KIDNAPED, ABDUCTED  
17 OR CARRIED AWAY VIRGINIA KEARSE WITHOUT AUTHORITY  
18 OF LAW DO YOU UNDERSTAND THAT CHARGE?

19 A YES, YOUR HONOR

20 ~~Q -- HOW DO YOU PLEAD TO THAT CHARGE?~~

21 A GUILTY BUT MENTALLY ILL

22 Q AND INDICTMENT 0837 SAYS THAT HERE, IN ORANGEBURG  
23 COUNTY, ON OR ABOUT MAY TWENTY-FIRST, TWO  
24 THOUSAND AND EIGHT, WITH MALICE AFORETHOUGHT, YOU  
25 COMMITTED -- YOU'RE PLEADING TO -- THE INDICTMENT

1 IS ASSAULT AND BATTERY WITH INTENT TO KILL  
2 YOU'RE ACTUALLY PLEADING TO ASSAULT OF A HIGH AND  
3 AGGRAVATED NATURE SO, THE ALLEGATIONS ARE THAT  
4 YOU COMMITTED ASSAULT UPON THE VICTIM, SERGEANT  
5 MURDAUGH, AND THAT YOU DID THAT BY SHOOTING AT  
6 HIM DO YOU UNDERSTAND THAT CHARGE?

7 A YES, YOUR HONOR

8 Q IT'S REDUCED FROM SHOOTING AT HIM WITH INTENT TO  
9 KILL HIM TO SHOOTING WITH CIRCUMSTANCES OF  
10 AGGRAVATION CERTAIN, THAT WOULD BE  
11 CIRCUMSTANCES OF AGGRAVATION ON ANY TYPE OF AN  
12 ASSAULT SO, YOU UNDERSTAND THAT CHARGE?

13 A YES, SIR

14 Q AND HOW DO YOU PLEAD TO THAT CHARGE?

15 A GUILTY BUT MENTALLY ILL

16 Q NOW, HAS ANYBODY PROMISED YOU ANYTHING OR  
17 THREATENED YOU TO GET YOU TO PLEAD GUILTY?

18 A NO, YOUR HONOR

19 Q ARE YOU SATISFIED WITH YOUR ATTORNEY?

20 A YES, SIR

21 Q HAVE YOU TOLD HIM EVERYTHING ABOUT THESE CHARGES  
22 SO HE COULD GIVE YOU PROPER ADVICE?

23 A YES, YOUR HONOR

24 Q HAS HE FAILED TO DO ANYTHING WHICH YOU THINK HE  
25 NEEDS TO DO TO HELP YOU IN THIS CASE?

1 A NO, YOUR HONOR

2 Q HAVE YOU UNDERSTOOD ALL THE QUESTIONS THAT I HAVE

3 ASKED YOU?

4 A YES, YOUR HONOR

5 Q HAVE YOU ANSWERED THEM TRUTHFULLY?

6 A YES, YOUR HONOR

7 Q AND DO YOU UNDERSTAND IF YOU WANTED TO FILE AN

8 APPEAL IN THIS CASE YOU WOULD HAVE TO DO THAT

9 WITHIN TEN DAYS?

10 A YES, YOUR HONOR

11 THE COURT I'LL ACCEPT THE PLEA,

12 I FIND HIS DECISION TO PLEAD GUILTY IS FREELY AND

13 VOLUNTARILY MADE, HE'S KNOWINGLY AND INTELLIGENTLY

14 WAIVED HIS RIGHT TO A JURY TRIAL, AND HE'S HAD THE

15 SERVICES OF AN ATTORNEY WITH WHOM HE SAYS HE'S

16 SATISFIED I FIND THAT BASED ON THE TESTIMONY OF DR

17 SCHWARTZ-WATTS THAT THE PLEAD OF GUILTY BUT MENTALLY

18 ILL IS A PROPER PLEA UNDER THE CIRCUMSTANCES, SO I'LL

19 ACCEPT IT UNDER THAT PARAMETER

20 ALRIGHT, SIR

21 SOLICITOR PASCOE MAY IT PLEASE

22 THE COURT, YOUR HONOR

23 THE COURT YES, SIR

24 SOLICITOR PASCOE ALSO IN THE

25 COURTROOM, JUST FOR THE RECORD, AND WHEN THE

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1 APPROPRIATE TIME IS TO BE HEARD, I KNOW THEY WOULD  
2 LIKE TO BE HEARD, ARE THE VICTIMS, MRS GINGER HADDON  
3 AND MRS VIRGINIA KEARSE, THAT'S GINGER'S MOTHER AND  
4 NICOLAS'S GRANDMOTHER ALSO IN THE COURTROOM IS  
5 SERGEANT MURDAUGH FROM THE ORANGEBURG DEPARTMENT OF  
6 PUBLIC SAFETY I KNOW HE'D LIKE TO BE HEARD LATER  
7 OTHER PEOPLE IN THE COURTROOM THAT WERE INVOLVED, I  
8 DON'T BELIEVE NEED TO BE HEARD OR WANT TO BE HEARD,  
9 ARE KENNY KINSEY FROM SLED, CAPTAIN ROGER HEATON FROM  
10 SLED, CAPTAIN MIKE ADAMS FROM ORANGEBURG, AND  
11 LIEUTENANT JENKINS FROM THE ORANGEBURG DEPARTMENT OF  
12 PUBLIC SAFETY

13 THE COURT ALRIGHT

14 SOLICITOR PASCOE AS YOUR HONOR

15 KNOWS, THE DEFENDANT IS THE FORMER HUSBAND OF THE  
16 VICTIM, VIRGINIA, OR GINGER HADDON, AND HE IS THE  
17 FATHER OF THE VICTIM, TWELVE YEAR OLD NICHOLAS HADDON,  
18 WHO WAS ELEVEN AT THE TIME FOR THE RECORD I WANT TO  
19 POINT OUT THAT NICHOLAS WAS NOT ONLY WILLING TO BE  
20 ~~HERE TODAY, CAME TO COURT, HE WANTED TO BE HERE, BUT~~  
21 ~~IT'S MY FAULT THAT HE'S NOT HERE, I JUST DIDN'T THINK~~  
22 IT WAS APPROPRIATE FOR HIM TO BE HERE FOR THE GUILTY  
23 PLEA, AND MR LUGINBILL AGREED WITH THAT

24 MR LUGINBILL WE AGREE WITH

25 THAT, YOUR HONOR, WE DIDN'T FEEL IT WAS IN THE CHILD'S

1 BEST INTEREST AT ALL

2 THE COURT ALRIGHT

3 SOLICITOR PASCOE SO, NICHOLAS  
4 WENT BACK HOME, BUT I'LL TELL YOU, HE'S A BRAVE YOUNG  
5 MAN, HAVING MET WITH HIM, AND KELLY'S MET WITH HIM ON  
6 A NUMBER OF OCCASIONS HE WAS WILLING TO TESTIFY AND  
7 WOULD HAVE DONE A FABULOUS JOB

8 THE COURT ALRIGHT, SIR

9 SOLICITOR PASCOE BACK IN THE  
10 SUMMER OF TWO THOUSAND AND FOUR, AS YOUR HONOR KNOWS,  
11 WHILE THE DEFENDANT WAS DIVORCED FROM MS HADDON, THE  
12 DEFENDANT WAS ARRESTED FOR MAKING TELEPHONE THREATS TO  
13 GINGER HE WAS CONVICTED OF UNLAWFUL USE OF TELEPHONE  
14 IN TWO THOUSAND SEVEN, AND I MENTION THAT BECAUSE HE  
15 HAD ABSOLUTELY NO CONTACT WITH GINGER OR NICHOLAS OR  
16 WITH THE FAMILY AT ALL SINCE TWO THOUSAND AND FOUR  
17 UNTIL THIS HAPPENED IN TWO THOUSAND AND EIGHT ON THE  
18 MORNING OF WEDNESDAY, MAY TWENTY-FIRST, TWO THOUSAND  
19 AND EIGHT, AT APPROXIMATELY SIX FIFTEEN IN THE  
20 MORNING, RIGHT AROUND THE TIME THAT IT'S STILL IN THE  
21 HOURS OF DARKNESS, GINGER LEFT TO GO TO WORK, YOUR  
22 HONOR, SO MS VIRGINIA, HER MOTHER, SEVENTY-NINE YEAR  
23 OLD VIRGINIA KEARSE, WOULD COME TO THE HOUSE, TAKE  
24 CARE OF NICHOLAS, GET HIM READY FOR SCHOOL AND GET HIM  
25 OFF TO SCHOOL AT APPROXIMATELY SIX TWENTY THAT

1 MORNING MS KEARSE NOTICED A MAN, A PERSON DRESSED IN  
2 ALL BLACK, AND EVEN HIS FACE COVERED WITH LIKE A BLACK  
3 SCARF OR MASK, COME AROUND TO THE BACK OF THE HOUSE,  
4 AND THE MAN ENTERED THE HOUSE THE MAN, OF COURSE,  
5 WAS THE DEFENDANT, SCOTT HADDON AND IF I COULD, I  
6 SHOULD HAVE PASSED THESE UP A LITTLE EARLIER, BUT I  
7 WAS GOING TO GIVE THESE TO THE COURT TO SEE THE HOUSE,  
8 AND I HAVE A DIAGRAM

9 MR LUGINBILL NO OBJECTION, YOUR  
10 HONOR

11 SOLICITOR PASCOE TO JUST GIVE  
12 YOU AN IDEA ABOUT THE HOUSE AND WHAT EVENTUALLY  
13 HAPPENS

14 THE COURT ALRIGHT, SIR

15 SOLICITOR PASCOE THE DEFENDANT  
16 ENTERS THE HOUSE, HE DRAGS SEVENTY-NINE YEAR OLD MRS  
17 KEARSE THROUGH THE HOUSE SHE'S SCREAMING AND YELLING  
18 AT ONE POINT THE DEFENDANT TAKES A RAG OR A CLOTH AND  
19 PUTS IT IN MRS KEARSE'S MOUTH TO MAKE HER BE QUIET

20 HE GOES INTO NICHOLAS'S ROOM NICHOLAS, HEARING  
21 WHAT'S GOING ON AND THEN A PANIC ALARM WOULD GO OFF  
22 THAT MRS KEARSE WAS ABLE TO TURN ON, ACTUALLY TRIED  
23 TO DEFEND HIMSELF BY GRABBING A SWORD IN HIS ROOM AND  
24 HIT THE DEFENDANT IN THE BACK WITH IT, BUT TO NO  
25 AVAIL THE DEFENDANT WAS ARMED WITH A GUN MRS

1 KEARSE SAW IT, NICHOLAS SAW IT, THEY WERE SCARED AND  
2 AT THIS TIME NICHOLAS DOESN'T EVEN KNOW IT'S HIS  
3 FATHER THE DEFENDANT TELLS NICHOLAS TO PUT HIS  
4 CLOTHES ON, AT WHICH POINT IN TIME NICHOLAS DOES HE  
5 PUTS HIS CLOTHES ON THE DEFENDANT IS YELLING AT MRS  
6 KEARSE TO TURN THE PANIC ALARM OFF SHE WAS SMART  
7 ENOUGH TO ACT AS THOUGH SHE WAS TRYING TO TURN IT OFF,  
8 BUT WHAT SHE ACTUALLY DID WAS, SHE HIT IT THREE MORE  
9 TIMES WITH THAT ORANGEBURG PUBLIC SAFETY GOT WORD  
10 THAT NOT ONLY DID IT GO OFF ONE TIME, BUT THREE TIMES,  
11 AND SERGEANT MURDAUGH WHO WAS THE SUPERVISOR THAT  
12 MORNING AND A NUMBER OF OTHER OFFICERS RUSHED TO THE  
13 SCENE THE DEFENDANT DRUG NICHOLAS AGAINST HIS WILL  
14 OUTSIDE AT ABOUT THAT TIME IS WHEN NICHOLAS REALIZED  
15 THAT THE PERSON WAS HIS FATHER THE DEFENDANT HAD  
16 NICHOLAS OUTSIDE ORANGEBURG DEPARTMENT OF PUBLIC  
17 SAFETY GETS THERE IMMEDIATELY, AND THEY ARRIVE TO  
18 WHERE THOSE PICTURES ARE RIGHT THERE AT THE FRONT  
19 DRIVEWAY SERGEANT MURDAUGH WOULD TESTIFY THAT HE  
20 SEES THE DEFENDANT, MR HADDON, USING NICHOLAS ALMOST  
21 AS A SHIELD, HOLDING HIM FROM THE FRONT, WAVING THE  
22 GUN AT THIS POINT IN TIME MURDAUGH CONFRONTS THE  
23 DEFENDANT, AND YOU CAN TELL FROM THE PICTURE, THAT'S  
24 WHERE THAT, THOSE TREES ARE, YOUR HONOR THIS IS THE  
25 DRIVEWAY HE CONFRONTS THE DEFENDANT HOLDING NICHOLAS

1        LIKE THAT RIGHT AROUND HERE IN THE DRIVEWAY        SERGEANT  
2        MURDAUGH IS HERE IN THAT GRASS AREA    HE'S YELLING FOR  
3        THE DEFENDANT TO LET NICHOLAS GO        SERGEANT MURDAUGH  
4        AND NICHOLAS WOULD HAVE TESTIFIED THAT NICHOLAS WAS  
5        STRUGGLING WITH THE DEFENDANT, YELLING TO LET HIM GO  
6        AT ONE POINT NICHOLAS ACTUALLY KICKED HIM IN THE SHIN  
7        AND WAS ABLE TO DUCK DOWN, AT WHICH POINT SERGEANT  
8        MURDAUGH THOUGHT HE HAD A CLEAR SHOT TO THE DEFENDANT,  
9        SO HE TOOK A SHOT AT THE DEFENDANT BUT MISSED    HE USED  
10       THE GARAGE AS A BACK DROP SO NOBODY ELSE WOULD GET  
11       HURT, NOBODY WOULD BE BEHIND HIM       HE MISSED WITH THE  
12       FIRST SHOT    AT THIS TIME OTHER ORANGEBURG OFFICERS  
13       ARE COMING TO THE SCENE GOING HERE AND GOING BEHIND  
14       THE HOUSE    MURDAUGH HAD ANOTHER SHOT THAT HE TOOK AT  
15       THE DEFENDANT WHEN THE DEFENDANT WAS RIGHT AROUND HERE  
16       IN THE DRIVEWAY, AND MISSED, ANOTHER HEAD SHOT  
17       AGAIN, THE DEFENDANT IS STILL HOLDING, NOW HAVE GOTTEN  
18       NICHOLAS STILL AROUND THE NECK AREA, HOLDING THE GUN,  
19       AND HE'S BACKING UP IN THE DRIVEWAY, AND HE'S SAYING,  
20       ~~I'M NOT GOING TO JAIL    I'M NOT GOING TO JAIL, I'M~~  
21       GOING BACK IN THE HOUSE    SERGEANT MURDAUGH AND THE  
22       OTHER OFFICERS WITH THEIR GUNS DRAWN ARE TELLING HIM,  
23       NO, YOU'RE NOT GOING BACK IN THE HOUSE    AT ONE POINT  
24       -- AND ALL THIS, LET ME POINT OUT, IT LASTED A MATTER  
25       OF A COUPLE OF MINUTES, A VERY DANGEROUS SITUATION

1 THE DEFFNDANT GETS BACK TO THESE STEPS RIGHT THERE IN  
2 THE PICTURE, YOUR HONOR, OR BACK HERE IN THIS DIAGRAM,  
3 AND MURDAUGH, SERGEANT MURDAUGH GETS WITHIN TEN FEET  
4 OF THE DEFENDANT WITH HIS GUN DRAWN THE DEFENDANT  
5 FOR SOME REASON, MAYBE HEARD THE NOISE OF THE OFFICERS  
6 BEHIND HIM STARTING TO COME ON HIM HE TURNED, AT  
7 WHICH POINT HE LEFT THE RIGHT SIDE OF HIS BODY OPEN  
8 MURDAUGH WAS ABLE TO TAKE OUT HIS TAZER AND HE  
9 DEPLOYED THE TAZER, STRIKING THE DEFENDANT ON THAT  
10 SIDE AGAIN, DEFENDANT IS HOLDING NICHOLAS AS A  
11 SHIELD AT THE SAME TIME THAT THE TAZER WAS DEPLOYED  
12 THE DEFENDANT'S GUN GOES OFF IN THE DIRECTION OF  
13 SERGEANT MURDAUGH, POINTED RIGHT AT SERGEANT MURDAUGH  
14 TEN FEET AWAY SERGEANT MURDAUGH, IN FACT, WOULD HAVE  
15 TESTIFIED, HE THOUGHT HE HAD BEEN SHOT HE HIT THE  
16 GROUND, THE DEFENDANT STILL HAD NICHOLAS IN HIS HAND,  
17 THE TAZER DIDN'T PREVENT HIM FROM LETTING GO OF  
18 NICHOLAS SO, AFTER A FIVE SECOND DEPLOYMENT SERGEANT  
19 MURDAUGH DEPLOYED IT ONE MORE TIME WHERE IT WOULD GO  
20 OFF FOR FIVE SECONDS, AT WHICH TIME THE DEFENDANT  
21 FINALLY LET GO OF NICHOLAS HE RAN FROM THE SCENE  
22 THE OFFICERS CONVERGED ON THE DEFENDANT HE STILL HAD  
23 THE GUN IN HIS HAND ONE OF THE OTHER OFFICERS, A  
24 CORPORAL, SHOT THE DEFENDANT ON AT LEAST A COUPLE OF  
25 OCCASIONS, NON-LIFE THREATENING INJURIES WERE

1 SUSTAINED BY THE DEFENDANT THEY RETRIEVED THE GUN  
2 FROM THE DEFENDANT FORTUNATELY, AFTER HE HAD FIRED  
3 THE FIRST SHOT TOWARDS MURDAUGH'S DIRECTION THE GUN  
4 JAMMED IT WAS A GLOCK AND IF YOU DON'T HAVE A TIGHT  
5 WRIST IT WILL JAM, SO THE GUN JAMMED THOSE ARE THE  
6 FACTS OF THE BURGLARY, THE KIDNAPING, A VERY VOLATILE  
7 SITUATION, HOSTILE SITUATION

8 IF YOUR HONOR WOULD LIKE TO HEAR  
9 FROM THE FAMILY NOW OR WAIT - - -

10 THE COURT I'LL BE GLAD TO  
11 SOLICITOR PASCOE AT THIS TIME I  
12 KNOW THAT GINGER WOULD LIKE, OR MRS KEARSE, DO YOU  
13 WANT TO GO FIRST? WE COULD HAVE MRS KEARSE ADDRESS  
14 THE COURT

15 THE COURT ALRIGHT, HAVE HER COME  
16 AROUND MRS WALKER, WHERE IS YOUR MIKE?

17 COURT REPORTER IT'S RIGHT HERE  
18 THIS ONE RIGHT THERE

19 THE COURT YES, MA'AM, YOUR NAME,  
20 PLEASE?

21 VIRGINIA DUKES KEARSE VIRGINIA  
22 DUKES KEARSE

23 THE COURT ALRIGHT

24 VIRGINIA DUKES KEARSE I'M THE  
25 WIFE OF HENRY KEARSE, WHO CANNOT BE WITH US BECAUSE OF

1 ILLNESS, AND THE MOTHER OF GINGER AND THE GRANDMOTHER  
2 OF NICHOLAS

3 THE COURT ALRIGHT

4 VIRGINIA DUKES KEARSE SOLICITOR

5 PASCOE DESCRIBED WHAT HAPPENED, BUT I'D LIKE TO GIVE  
6 YOU A LITTLE MORE DESCRIPTION WE, JUDGE WILLIAMS,  
7 OUR FAMILIES LIVED IN FEAR SINCE MAY, JUNE OF TWO  
8 THOUSAND AND FOUR THAT'S WHEN SCOTT TOLD GINGER BY  
9 PHONE THAT IF HE SPENT ONE SECOND IN JAIL THAT HE  
10 WOULD KILL NICHOLAS, HE WOULD KILL HENRY, MY HUSBAND,  
11 AND ME, AND LEAVE GINGER TO SUFFER THROUGH IT FOR  
12 FOUR YEARS WE HAVE LIVED IN TOTAL FEAR IN FACT, HENRY  
13 AND I TOOK A GUN SAFETY COURSE AT THE AGE OF SEVENTY-  
14 SIX AFTER COMPLETING THE COURSE WE WERE GIVEN,  
15 ISSUED PERMITS TO CARRY A WEAPON I WOULD GO OVER TO  
16 GINGER'S HOUSE EVERY MORNING BETWEEN THE HOURS OF  
17 FIVE THIRTY AND SIX O'CLOCK TO BE WITH NICHOLAS WHEN  
18 SHE WENT TO WORK SHE WORKS IN COLUMBIA AS AN  
19 ANESTHETIST, AND LEAVES FOR WORK BETWEEN FIVE AND SIX  
20 IN THE MORNING - ON THIS MORNING, ON WEDNESDAY, MAY  
21 THE TWENTY-FIRST, TWO THOUSAND AND EIGHT, I WAS  
22 SITTING UNDER THE GAZEBO IN HER BACK YARD, DRINKING A  
23 CUP OF COFFEE AND SMOKING A CIGARETTE, AND SHE LEFT  
24 FOR WORK AT SIX FIFTEEN, I LOOKED AT MY WATCH I  
25 LEANED DOWN APPROXIMATELY SIX TWENTY TO PET PEPPER,

1 NICHOLAS'S CAT, AND WHEN I SAT BACK UP IN MY CHAIR I  
2 WAS LOOKING STRAIGHT AT A TALL MAN DRESSED IN BLACK  
3 WITH A PISTOL STRAPPED AROUND HIS WAIST, A BLACK HOOD  
4 ON HIS HEAD, STANDING ON THE TOP STEP THAT LED DOWN  
5 INTO GINGER'S BACK YARD FROM THE SIDE OF THE HOUSE  
6 IT WAS DUSK DARK I HAD, I DIDN T RECOGNIZE SCOTT, SO  
7 I ASKED HIM, WHAT DO YOU WANT? AND HE JUST STOOD  
8 THERE, STARING AT ME, AND I COULD TELL THAT WHOEVER IT  
9 WAS WAS SURPRISED TO SLE ME SITTING OUTSIDE HE STOOD  
10 FOR A FEW MORE SECONDS, HE REACHED HIS RIGHT HAND UP  
11 TO THE TOP OF HIS HEAD AND HE PULLED THE HOOD OFF AND  
12 I RECOGNIZED HIM THEN I STARTED SHAKING, SHAKING ALL  
13 OVER AND SCREAMING FOR HELP HE RAN TO MY CHAIR,  
14 WHICH WAS APPROXIMATELY FIFTEEN FEET AWAY, AND PUT  
15 HIS, CLAMPED HIS HAND AROUND MY LEFT WRIST AND JERKED  
16 ME OUT OF THE CHAIR, STARTED PULLING ME TOWARD THE  
17 LITTLE BACK PORCH WHEN WE REACHED THE BACK BRICK  
18 STEPS HE JERKED ME UP AND I FELL ON MY BACK INTO THE  
19 PORCH HE LEANED OVER MY FACE, HE PUT THE HOOD IN MY  
20 ~~MOUTH I COULD FEEL IT IN MY THROAT I WAS TERRIFIED~~  
21 IN A FEW SECONDS HE REMOVED THE HOOD, THEN HE CLAMPED  
22 HIS HAND OVER MY MOUTH, AND HE SAID, WILL YOU SHUT UP  
23 IF I LET YOU UP? I NODDED MY HEAD, YES WHEN I GOT TO  
24 MY FEET I KNEW THAT I WAS THE ONLY ONE THAT COULD SAVE  
25 NICHOLAS I KNEW I COULDN'T SAVE HIM WITHOUT HELP, AND

1 THAT I HAD TO HIT THE PANIC BUTTON I KNEW I COULDN'T  
2 HIT THE PANIC BUTTON BECAUSE MY RIGHT HAND WAS SHAKING  
3 JUST LIKE THIS, SO I ASKED GOD, I SAID, PLEASE LET ME  
4 HIT THE PANIC BUTTON HE HAD THE BACK DOOR OPEN BY  
5 THIS TIME HE JERKED ME THROUGH, OVER THE THRESHOLD  
6 THE ALARM PANEL WAS TO MY RIGHT ON THE WALL, AND WHEN  
7 HE JERKED ME OVER THE THRESHOLD, I DIDN'T EVEN LOOK  
8 AT IT, I WENT JUST LIKE THAT, AND THE ALARM WENT OFF  
9 I SAID, THANK YOU, GOD WELL THEN SCOTT, THAT  
10 SHOCKED HIM WHEN THE ALARM WENT OFF, AND HE LOOKED AT  
11 ME, AND HE SAID, YOU HAVE CREATED A HOSTAGE SITUATION  
12 I STARTED SCREAMING FOR BUZZ BUZZ IS NICHOLAS'S  
13 BOSTON TERRIER, BUT BUZZ DIDN'T COME, AND HE WAS,  
14 SCOTT WAS PULLING ME THROUGH THE, FROM THE UTILITY  
15 ROOM TO THE HALL, EXCUSE ME, THROUGH THE KITCHEN TO  
16 THE DEN HE STOPPED IN THE DEN HE LOOKED DOWN THE  
17 HALL HE SAID, WHERE IS HENRY? I SAID, ASLEEP HE  
18 SAID, WHERE? I SAID, AT OUR HOUSE HE THEN PROCEEDED  
19 TO JERK ME I FELL AGAIN, HE DRAGGED ME TO NICHOLAS'S  
20 ~~DOOR WHEN WE ARRIVED AT THE DOOR I COULD SEE THAT~~  
21 ~~THE DOOR HAD A TINY CRACK IN IT AND I KNEW THEN THAT'S~~  
22 WHY BUZZ DIDN'T COME I REACHED MY RIGHT HAND OUT,  
23 PUSHED THE DOOR OPEN, AND BUZZ WAS STANDING RIGHT  
24 THERE, AND HE STARTED BARKING AND BITING AT SCOTT'S  
25 ANKLES IT WAS DARK IN THE ROOM, THE BLINDS WERE

1 DRAWN, NICHOLAS DIDN'T RECOGNIZE SCOTT SCOTT, GET  
2 DRESSED NICHOLAS SAID, YES, SIR THEN HE PULLED ME  
3 BACK OUT OF NICHOLAS'S ROOM TO THE KITCHEN AND HE TOLD  
4 ME TO CALL THEM AND TELL THEM, EVERYTHING'S ALRIGHT I  
5 SAID, I DON'T KNOW THE NUMBER, I'LL HAVE TO LOOK IN  
6 THE DRAWER HE WANTED ME TO CALL THE MONITOR SO, I  
7 OPENED THE DRAWER IN THE UTILITY ROOM AND FUMBLLED  
8 AROUND CLOSED THE DRAWER, I SAID, I CAN'T FIND THE  
9 NUMBER HE WAS GETTING VERY AGITATED HE'S SCREAMING,  
10 TURN IT OFF, TURN IT OFF I WENT TO THE PANEL, AND I  
11 PUNCHED IN, ONE, TWO, THREE, OFF WE HAD, THE ALARM  
12 HAS A DURESS SIGNAL THAT IF YOU PUT IT IN IT WILL TURN  
13 THE ALARM OFF BUT THE PANIC CALL IS STILL GOING  
14 THROUGH I DIDN'T REALIZE UNTIL SOMEONE TOLD ME  
15 LATER, -- I COULDN'T IT OFF BECAUSE I COULDN'T  
16 REMEMBER THE FOURTH DIGIT I WAS SO SCARED BUT  
17 SOMEONE TOLD ME LATER, JUST PUNCHING IN THE ONE, TWO,  
18 THREE, OFF, WAS STILL SENDING THE PANIC AND SO, WHEN  
19 THE ALARM DIDN'T GO OFF HE REALLY GOT UPSET, AND I WAS  
20 ~~SCARED TO DEATH HE WAS GOING TO PULL THE PISTOL SO~~  
21 ~~I -- HE SAID, CUT IT OFF, SO I KNEW THE ALARM SIGNAL~~  
22 HAD GONE THROUGH, SO I WENT BACK TO THE PANEL AND  
23 LOOKED AT THE NUMBERS I SAID, I DON'T HAVE MY  
24 GLASSES, I CAN'T SEE THE NUMBERS HE PULLED MY  
25 GLASSES OUT OF HIS POCKET AND GAVE THEM TO ME THEY

1 HAD TO HAVE FALLEN OFF WHEN I FELL ON THE PORCH SO,  
2 I DID PUNCH THE SIGNAL AND TURNED THE ALARM OFF I  
3 KNEW HELP WAS ON ITS WAY SO, BY THIS TIME HE'S GOT  
4 NICHOLAS AND GOING OUT THE BACK DOOR THE PHONE  
5 RINGS, IT'S THE DISPATCHER SHE SAID, IS EVERYTHING  
6 ALRIGHT? I SAID, NO, NO, NO AND SHE SAID, WHAT'S  
7 WRONG? I SAID, I CAN'T SAY SCOTT WAS STANDING RIGHT  
8 AT THE BACK DOOR LISTENING TO EVERY WORDS AND SHE  
9 SAID, IS SOMEONE IN THE HOUSE? AND I SAID, YES SHE  
10 SAID, WHO? I SAID, MY EX-SON-IN-LAW HELP, HELP,  
11 HELP SHE SAID, HELP'S ON THE WAY, DON'T HANG THE  
12 PHONE UP SO, I LAID THE PHONE DOWN SCOTT HAD TAKEN  
13 NICHOLAS OUT THE BACK DOOR I CAUGHT UP WITH THEM ON  
14 THE WALKWAY HALF WAY TO THE CAR PORT I GRABBED SCOTT  
15 BY THE, GRABBED HIS BACK PACK HE HAD A BACK PACK  
16 STRAPPED TO HIS BACK NICHOLAS WAS, HE WAS PUSHING  
17 NICHOLAS IN FRONT OF HIM NICHOLAS WAS PLANTING HIS  
18 FEET ON THE WALKWAY TO KEEP HIM, YOU KNOW, TO SLOW HIM  
19 UP BUZZ WAS BARKING AND BITING HIS ANKLES SCOTT  
20 BROKE AWAY FROM ME AND WHEN I CAUGHT UP -- WENT  
21 THROUGH THE GATE AND CAUGHT UP WITH THEM HE WAS  
22 STANDING IN THE CAR PORT WITH HIS ARM AROUND NICHOLAS,  
23 AND HE SAID, GIVE ME YOUR KEYS MY JEEP WAS PARKED  
24 UNDER THE CAR PORT I SAID, I DON'T HAVE THEM WHERE  
25 ARE THEY? IN THE HOUSE AND HE, THEN HE TOLD

1 NICHOLAS -- THEN HE TOLD ME, WELL, YOU'VE CREATED A  
2 TWO HOSTAGE SITUATION I SAID, YOU'VE GOT THAT RIGHT,  
3 BECAUSE WHERE NICHOLAS GOES I GO WITH THAT HE JERKED  
4 NICHOLAS BY THE ARM, AND HE SAYS, COME ON, NICHOLAS,  
5 YOU'RE GOING WITH ME NICHOLAS SAID, I'M NOT GOING  
6 ANYWHERE WITH YOU, YOU SON OF A BITCH, I HATE YOU  
7 AND WITH THAT HE REALLY JERKED NICHOLAS'S ARM, AND I  
8 THOUGHT HE HAD PULLED IT OUT OF THE SOCKET I SAID,  
9 DON'T YOU BREAK HIS ARM AND HE LOOKED AT ME AND HE  
10 SAID, SHUT UP, WOMAN AND WITH THAT HE PUT NICHOLAS  
11 IN FRONT OF HIM, HAD HIS ARMS AROUND NICHOLAS'S CHEST,  
12 PUSHING DOWN THE DRIVEWAY BUZZ IS STILL BARKING AND  
13 BITING HIS ANKLES I'M PULLING ON HIS BACK PACK AND  
14 WHEN NICHOLAS GOT TO A GRASSY AREA HE INHALED AND WAS  
15 ABLE TO SLIP THROUGH SCOTT'S ARMS SCOTT WAS TRYING  
16 TO GET HIM UP, KEPT TELLING HIM, GET UP, AND TRYING TO  
17 PULL HIM UP, AND I SAW TWO PUBLIC SERVICE, DEPARTMENT  
18 OF PUBLIC SERVICE CRUISERS FLYING DOWN THE OPPOSITE OF  
19 THE CREEK I GOT IN THE MIDDLE OF THE DRIVEWAY,  
20 STARTED WAVING MY ARMS, AND THEY FLEW AROUND THE  
21 CREEK SCOTT YELLED AT ME, STOP WAVING YOUR ARMS,  
22 WOMAN BUT THEY STOPPED RIGHT AT THE END OF THE  
23 DRIVEWAY, THE TWO OFFICERS JUMPED OUT WITH THEIR  
24 PISTOLS DRAWN ONE YELLED, TOLD ME, GET BACK, GO TO  
25 THE END OF THE DRIVEWAY, GO TO THE END OF THE

1 DRIVEWAY THE OTHER OFFICER YELLED AT SCOTT, PUT THE  
2 PISTOL DOWN, DROP THE PISTOL SO, I WENT TO THE END  
3 OF THE DRIVEWAY AND SCOTT STARTED PULLING NICHOLAS  
4 BACK UP THE DRIVEWAY AND THE OFFICERS WERE FOLLOWING  
5 HIM EVERY STEP AND THEY, AFTER A FEW MINUTES THEY  
6 WERE OUT OF MY SIGHT, I COULDN'T SEE ANYTHING AND I  
7 HEARD -- IN A SHORT PERIOD OF TIME I HEARD TWO SHOTS,  
8 AND THEN I WAS JUST PARALYZED, I SAID, YOU SHOT  
9 NICHOLAS, YOU SHOT NICHOLAS BUT THEN I HEARD  
10 NICHOLAS SCREAM, DON'T SHOOT ME, DON'T SHOOT ME AND  
11 THEN I HEARD ANOTHER THEN I KNEW HE WAS KILLED, AND  
12 I JUST COULDN'T MOVE OUT OF MY STEPS, MY LEGS WOULDN'T  
13 MOVE BUT THEN I SAW NICHOLAS RUNNING DOWN THE  
14 DRIVEWAY IT'S THE PRETTIEST SIGHT I'VE EVER SEEN, AND  
15 HE RAN INTO MY ARMS, AND I HUGGED HIM, I SAID, BUDDY,  
16 IT'S OKAY NOW, IT'S OKAY, WE'VE GOT HELP HE SAID,  
17 GRANDMAMA, HE SAID, I WANT TO APOLOGIZE TO YOU I  
18 SAID, FOR WHAT? HE SAID, I CALLED DAD A SON OF A  
19 BITCH I SAID, DON'T WORRY ABOUT IT AT THAT TIME  
20 TWO OFFICERS WALKED UP TO US AND ASKED IF WE WERE  
21 ALRIGHT AND WE TOLD THEM WE WERE, AND THE NICE FEMALE  
22 OFFICER SAID, GO WITH OFFICER, AND I'M SORRY I CAN'T  
23 REMEMBER HIS NAME, AND HE'S GOING TO TAKE YOU AND PUT  
24 YOU IN HIS CRUISER AND I TOLD NICHOLAS TO PICK BUZZ  
25 UP AND WE WENT WITH THE OFFICER AND WE SAT IN THE

1 CRUISER UNTIL SLED ARRIVED WHEN SLED ARRIVED THEY  
2 ALLOWED OUR YOUNG OFFICER TO TAKE ME HOME SO I COULD  
3 DRESS BEFORE WE WENT TO HEADQUARTERS WHERE WE GAVE OUR  
4 STATEMENT AND I WOULD JUST LIKE TO SAY THAT WE HAVE  
5 HAD A VERY SCARY TIME FOR A LONG, FOR YEARS, AND WE'D  
6 JUST ASK THAT WE COULD JUST BE ABLE TO LIVE IN PEACE  
7 FOR THE REMAINDER OF OUR LIVES THANK YOU, JUDGE

8 THE COURT THANK YOU, MA'AM

9 GINGER KEARSE HADDON YOUR HONOR,  
10 I'M GINGER KEARSE HADDON, I'M NICHOLAS'S MOM, AND  
11 VIRGINIA KEARSE'S DAUGHTER

12 THE COURT YES, MA'AM

13 GINGER KEARSE HADDON THE EVENTS  
14 OF MAY TWENTY-FIRST HAVE CHANGED MY LIFE AND MY  
15 FAMILY'S LIVES FOREVER I KNEW WHEN SCOTT MADE THE  
16 THREATS IN JUNE OF TWO THOUSAND AND FOUR TO KILL  
17 NICHOLAS AND MY PARENTS AND TO LEAVE ME TO SUFFER THAT  
18 HE MEANT WHAT HE SAID AND THAT HE WOULD ONE DAY TRY TO  
19 FOLLOW THROUGH WITH HIS THREATS FOR FOUR YEARS AND  
20 ~~SINCE THAT INCIDENT IN MAY, EVERY TIME I WALK OUT MY~~  
21 ~~DOOR I LOOK BOTH WAYS TO MAKE SURE NOBODY'S OUTSIDE~~ I  
22 LOOK OVER MY SHOULDER WHEN I M IN A PARKING LOT OR  
23 JUST WALKING ANYWHERE I'VE BEEN VERY CAUTIOUS ABOUT  
24 NICHOLAS JUST GOING OUTSIDE AND PLAYING WITH HIS  
25 FRIENDS, I MEAN, I END UP HAVING TO BE OUT THERE WITH

1 HIM JUST TO MAKE SURE HE'S OKAY AND IT'S JUST VERY,  
2 VERY SCARY TO BE THREATENED IN THE WAY WE'VE BEEN  
3 THREATENED ON MAY TWENTY-FIRST, TWO THOUSAND AND  
4 EIGHT, WHEN SCOTT ATTEMPTED TO FOLLOW THROUGH WITH HIS  
5 THREATS TO MY FAMILY, AND JUST BECAUSE OF GOD'S  
6 PROTECTION OF NICHOLAS, OF MY MOM, MY DOG, AND THE  
7 PUBLIC SAFETY OFFICERS, SCOTT'S PLAN FAILED SINCE  
8 THAT DAY NICHOLAS AND I HAVE BEEN LIVING WITH MY  
9 PARENTS WE'RE HAVING TO SELL OUR HOUSE BECAUSE  
10 THERE'S NO WAY THAT WE CAN LIVE THERE WITH THE  
11 VIOLENCE THAT TOOK PLACE WE JUST CAN'T BE THERE MY  
12 MOTHER CAN'T EVEN GO OVER THERE WE SPEND NO TIME  
13 THERE AND FOR MONTHS AFTER THE INCIDENT I HAD TO  
14 SLEEP IN THE SAME ROOM WITH NICHOLAS NOW HE HAS TO  
15 SLEEP WITH THAT SWORD THAT HE USED TO HIT SCOTT, HE  
16 HAS TO SLEEP WITH THAT BESIDE HIS BED AND EVEN THE  
17 OTHER DAY THE ALARM WENT OFF AT MY PARENTS' HOUSE  
18 BECAUSE WHEN SHE'S THERE ALONE WITH NICHOLAS SHE SETS  
19 THEIR ALARM, SHE ACCIDENTALLY OPENED THE DOOR AND IT  
20 WENT OFF, AND NICHOLAS CAME FLYING DOWN THE HALL WITH  
21 THAT SWORD BECAUSE HE WAS READY TO PROTECT AND  
22 NICHOLAS PRAYS EVERY NIGHT IN HIS PRAYERS FOR GOD JUST  
23 TO KEEP OUR FAMILY SAFE, HE DOES, HE ALWAYS DOES AND  
24 WE'RE JUST SCARED, AND WE JUST FEEL THE THREAT IS  
25 STILL THERE EVEN THOUGH SCOTT IS NOT OUT, BUT WE JUST

1 ARE STILL VERY SCARED AND A PARENT IS SUPPOSED TO  
2 PROTECT HIS CHILD AND KEEP HIM SAFE FROM HARM, NOT BE  
3 THE ONE TO INTENTIONALLY TRY TO DO HIM HARM AS SCOTT  
4 DID BY DRAGGING HIM OUT OF HIS OWN HOUSE, BY PUTTING  
5 THE GUN TO HIS HEAD, AND BY USING HIM AS A SHIELD TO  
6 TRY TO PROTECT HIMSELF I KNOW WITHOUT A DOUBT, IF  
7 SCOTT HADDON EVER HAS A CHANCE THAT HE WOULD, AS HE  
8 SAID FOUR YEARS AGO WHEN HE MADE THREATS, HE SAID  
9 THERE WILL BE A DEATH, AND I KNOW THERE WILL BE AND  
10 I JUST PRAY AND ASK YOU, YOUR HONOR, TO JUST PLEASE  
11 GIVE OUR FAMILY PEACE AND MAKE US FEEL SAFE AGAIN  
12 THANK YOU

13 THE COURT THANK YOU, MA'AM  
14 SOLICITOR PASCOE YOUR HONOR,  
15 SERGEANT MURDAUGH

16 SERGEANT MURDAUGH GOOD AFTERNOON,  
17 YOUR HONOR

18 THE COURT YES, SIR

19 SERGEANT MURDAUGH IF IT PLEASE

20 ~~THE COURT, I'VE BEEN AN OFFICER WITH THE ORANGEBURG~~  
21 ~~DEPARTMENT OF PUBLIC SAFETY SINCE NINETEEN EIGHTY-~~  
22 ~~NINE IN THE ALMOST TWENTY YEARS OF SERVICE THAT I'VE~~  
23 ~~HAD HERE IN THE CITY THIS IS ONE OF THE MOST DANGEROUS~~  
24 ~~SITUATIONS THAT I'VE BEEN THROUGH, ONE OF THE MOST~~  
25 ~~TRYING TIMES, WITH THE CIRCUMSTANCES OF THE SITUATION,~~

1            THAT I'VE BEEN THROUGH    ON MY ARRIVAL THAT MORNING  
2            WHEN I SAW THE DEFENDANT, MR   HADDON, AND NICHOLAS IN  
3            THE DRIVEWAY, FOR THE COURT'S CONSIDERATION, I HAD NO  
4            DOUBT THAT THIS GENTLEMAN INTENDED TO KILL THAT CHILD  
5            I'VE GOT CHILDREN OF MY OWN AND ONE OF THEM ABOUT THE  
6            SAME AGE AS NICHOLAS, AND IT'S BEEN HARD ON ME AND MY  
7            FAMILY TO GO THROUGH THE CIRCUMSTANCES THAT THIS  
8            GENTLEMAN HAS PUT US THROUGH   I HOPE THAT I'LL NEVER  
9            BE FACED WITH THAT SORT OF SITUATION AGAIN, BUT I  
10           APPRECIATE YOU TAKING THE TIME TO HEAR ME THIS  
11           MORNING

12                            THE COURT    THANK YOU, SIR  
13                            SOLICITOR PASCOE    AND FINALLY,  
14           YOUR HONOR, I WOULD JUST ASK THIS COURT TO CONSIDER A  
15           SUBSTANTIAL SENTENCE FOR MR   HADDON    THERE ARE TWO  
16           QUICK POINTS THAT I WANT TO MAKE    FIRST, IT'S THE  
17           STATE'S OPINION THAT THE DEFENDANT'S MENTAL ILLNESS  
18           ISN'T MITIGATION WHATSOEVER    IF ANYTHING, IT'S  
19           AGGRAVATION    YOU HEARD DR   DONNA SCHWARTZ-WATTS  
20           TESTIFY THERE IS NO CURE FOR HIS ILLNESS, AND HE WILL  
21           ALWAYS BE A THREAT TO THE KEARSE'S, GINGER HADDON, AND  
22           HIS SON, NICHOLAS

23                            THE SECOND POINT I WANT TO MAKE IS  
24           THAT, WHAT I FAILED TO MENTION IN THE FACTS, ARE THE  
25           LENGTHS THAT THE DEFENDANT WENT THROUGH TO TRY TO GET

1 AWAY WITH COMMITTING THIS CRIME MRS KEARSE MENTIONED  
2 THE KNAPSACK ON THE DEFENDANT'S BACK WHEN THE POLICE  
3 ARRESTED THE DEFENDANT AND OPENED UP THE KNAPSACK, IN  
4 IT WAS DUCT TAPE AND A KNIFE THEY FOUND A RENTAL  
5 VEHICLE ABOUT A MILE FROM THE HOUSE ON RIVERSIDE  
6 AVENUE, A VEHICLE THE DEFENDANT HAD RENTED IN NORTH  
7 CAROLINA TO COME AND COMMIT THIS CRIME IN THAT  
8 VEHICLE WERE DVD PLAYER -- DVDS, A DVD PLAYER, NIGHT  
9 VISION GOGGLES IT WOULD HAVE BEEN OUR OPINION, WE  
10 WOULD HAVE TRIED TO INFER AT LEAST DURING THE  
11 PROCEEDINGS THAT THE DEFENDANT WAS STALKING THEM AND  
12 STAKING THIS CRIME OUT THE OTHER THING THAT WE FOUND  
13 IN THE CAR, YOUR HONOR, WAS A LETTER THAT THE  
14 DEFENDANT SENT TO THE CITIZENS OF ORANGEBURG COUNTY,  
15 AND I JUST WANT TO READ TWO OR THREE OF THE SENTENCES  
16 FROM THAT LETTER AND THIS IS THE DEFENDANT'S WORDS IN  
17 HIS LETTER "THE MAIN POINT IN MY PUTTING THIS IN  
18 FRONT OF THE PUBLIC EYE IS TO POINT OUT THE FOLLOWING  
19 IF ANYTHING ADVERSE HAPPENS TO NICHOLAS IT IS BECAUSE  
20 ~~GINGER WOULD NOT GIVE UP HER FIGHTING I CAN'T~~  
21 ~~EMPHASIZE THAT ENOUGH I, IF GINGER DOES NOT STOP HER~~  
22 ~~FIGHTING AND AGREE TO WHAT IS, AFTER ALL, A FAIR~~  
23 ~~AGREEMENT, THEN SITUATIONS MAY OCCUR WITH THE MOST~~  
24 ~~TERRIBLE OUTCOME " FOR ANY FATHER TO PUT THEIR SON,~~  
25 ~~THEIR CHILD IN THAT KIND OF A DANGEROUS SITUATION,~~

1 IT'S THE STATE'S OPINION THAT HE DESERVES ABSOLUTELY  
2 NO MERCY WHATSOEVER FROM THIS COURT

3 THANK YOU FOR HEARING US, YOUR  
4 HONOR

5 THE COURT YES, SIR

6 MR LUGINBILL

7 MR LUGINBILL THANK YOU, YOUR  
8 HONOR YOUR HONOR, WE HAVE THREE MEMBERS OF DR  
9 HADDON'S FAMILY, AND OF COURSE, DR HADDON HIMSELF

10 THE COURT I'LL BE GLAD TO HEAR  
11 FROM ANYBODY WHO WANTS TO SPEAK

12 MR LUGINBILL THANK YOU, YOUR  
13 HONOR I HAD ASKED HIM WHETHER THEY JUST WANTED TO  
14 SPEAK OR WHETHER THEY WANTED ME TO SORT OF ASK THEM  
15 QUESTIONS ON DIRECT TO HELP GUIDE THEM THROUGH WHAT  
16 THEY WANTED TO SAY THEY'VE ASKED ME TO ASK  
17 QUESTIONS, SO IF THE COURT IS FINE WITH THAT FORMAT  
18 I'LL JUST HAVE THEM COME AND I'LL JUST SORT OF - - -

19 THE COURT THAT WILL BE FINE,  
20 YES, SIR

21 MR LUGINBILL YOUR HONOR, I'D  
22 LIKE TO START WITH DR HADDON'S MOTHER YOU CAN JUST  
23 STAND RIGHT THERE

24 THE COURT YES, MA'AM, YOUR NAME,  
25 PLEASE?

1                                    DONATA H THOMPSON    DONATA H  
2 THOMPSON

3                                    THE COURT    ALRIGHT

4                                    DONATA H THOMPSON    AND I M THE  
5 MOTHER OF HIM, SCOTT IS THE MIDDLE CHILD

6                                    THE COURT    THANK YOU, MA'AM

7                                    MR LUGINBILL    MA'AM, IF YOU  
8 WOULD, JUST DESCRIBE WHAT YOU'VE OBSERVED AS FAR AS  
9 SCOTT'S FOCUS ON BEING A PARENT TO NICHOLAS?

10                                   MRS THOMPSON    I WAS IN TOUCH  
11 RIGHT AFTER GINGER LEFT HIM WHEN THE CHILD WAS FIVE  
12 WEEKS OLD, AND WE HAD BEEN STAYING TWO WEEKS DOWN IN  
13 MISSISSIPPI VISITING BEFORE HE WAS ABLE TO COME AND  
14 JOIN HER IN MISSISSIPPI, AND WE WERE TOTALLY SHOCKED,  
15 TOTALLY SHOCKED AS HE WAS LOOKING FORWARD TO BEING  
16 WITH HIS FAMILY AND HAVING A GOOD CAREER THERE    AND  
17 ON THE TIME WE WERE ALWAYS INVOLVED IN ALL OF HIS  
18 LEGAL FIGHTS, AND OFTEN IN THE CUSTODY, AND WE SAW HOW  
19 HARD HE FELT TO BE A FATHER TO HIS CHILD    AT ONE TIME  
20 ~~GINGER DEMANDED THAT ALL VISITATION COULD ONLY TAKE~~  
21 ~~PLACE IN MY RESIDENCE RATHER THAN IN HIS RESIDENCE~~  
22 SO, WE WERE REALLY CLOSE, CLOSE WITNESSES TO HIS  
23 CARING FOR NICHOLAS, AND I SAW NICHOLAS AND I KNEW  
24 THAT HE HAD ONLY THE VERY BEST IN MIND FOR THE CHILD

25                                   MR LUGINBILL    IN OBSERVING

1 WHAT'S HAPPENED HERE, AND YOU'VE HAD A CHANCE TO TALK  
2 TO SCOTT SINCE THIS HAPPENED, OBVIOUSLY, DO YOU THINK  
3 HE BELIEVED THAT HE WAS ACTUALLY DOING THIS FOR  
4 NICHOLAS?

5 MRS THOMPSON YES, HE BELIEVED  
6 THAT HE, THAT WAS A LAPSE IN NICHOLAS'S LIFE IN NOT  
7 HAVING HIM THERE AND HIS INFLUENCE ON THE CHILD, AND  
8 HE REALLY FELT THAT HE HAD TO BE A FATHER TO THE  
9 CHILD HE GREW UP WITHOUT A FATHER AND HE MISSED HIS  
10 FATHER TERRIBLY, AND SO HE DIDN'T WANT THE SAME THING  
11 TO HAPPEN TO NICHOLAS

12 MR LUGINBILL TELL THE COURT, IF  
13 YOU WOULD, ABOUT THE INCIDENT INVOLVING SCOTT'S FATHER  
14 WHEN YOU TOOK HIM TO COURT

15 MRS THOMPSON WELL, MY FIRST, IF  
16 YOU HAVE FIVE YOUNG CHILDREN IT'S NOT AN EASY DECISION  
17 TO LEAVE YOUR HUSBAND I HAD SEVERE REASONS THAT I  
18 HAD TO LEAVE HIM BECAUSE HE WOULD HAVE INTERFERED IN  
19 THE CHILDREN'S EDUCATION MAINLY, HE DIDN'T WANT THEM  
20 TO HAVE ANY EXTRA-CURRICULAR ACTIVITIES AND SO ON, SO  
21 I HAD, ABSOLUTELY, HE CUT ME DOWN TO FIFTY DOLLARS A  
22 WEEK TO FEEL AND DRESS THE ENTIRE FAMILY I HAD NO  
23 CHOICE, I HAD TO LEAVE AND I DID IT KNOWING THAT IT  
24 WOULDN'T BE EASY ON THE CHILDREN, BUT I HAD NO CHOICE  
25 THERE WAS NO AGREEMENT WITH THE LAWYER THAT I HAD

1 CUSTODY, AND WE THOUGHT WE'D WAIT UNTIL A YEAR AND  
2 THEN GET A DIVORCE AND GET IT ALL SETTLED, BUT THEN  
3 VACATION TIME CAME AROUND AND HE TOOK THE CHILDREN  
4 UNDER THE PRETEXT TO TAKE THEM TO THE BEACH, I  
5 BELIEVE, AND INSTEAD OF THAT HE HAD GOTTEN A JOB IN  
6 PORTA RICO AND TOOK THE CHILDREN TO PORTA RICO IT  
7 TOOK ME SEVERAL WEEKS UNTIL I WAS THROUGH WITH MY  
8 TEACHING ENGAGEMENT, I WAS TEACHING A COURSE AT ST  
9 AUGUSTINE'S COLLEGE AT THAT TIME, AND HAD THE MONEY TO  
10 GO DOWN TO PORTA RICO I HAD A LAWYER THERE ALREADY  
11 AND THE LAWYER ADVISED ME TO BRING THE CHILDREN BACK  
12 TO NORTH CAROLINA BECAUSE THERE WAS NO LEGAL, HE HAD  
13 NO LEGAL CUSTODY, I HAD NO LEGAL CUSTODY, SO TO SPEAK,  
14 AND I COULD DEFEND MY RIGHTS BETTER IN NORTH CAROLINA,  
15 WHICH WE DID I GOT CUSTODY THEN

16 MR LUGINBILL DID HIS AFFECT  
17 SCOTT?

18 MRS THOMPSON YES, YES, IT  
19 AFFECTED HIM VERY MUCH, BUT I DID THE BEST I COULD AT  
20 THE TIME — ALSO, I KNEW THE CHILDREN WOULD NOT BE  
21 HAPPY WITHOUT A FATHER BUT IT WAS THE ONLY CHOICE I  
22 HAD

23 MR LUGINBILL HAS HE FOCUSED ON  
24 BEING A FATHER TO NICHOLAS TO THE EXCLUSION OF OTHER  
25 THINGS?

1                   MRS THOMPSON   DEFINITELY   HE  
2                   PUT EVERYTHING ON THE LINE, HIS JOB, HIS FINANCIAL  
3                   SECURITY, EVERYTHING WAS SECOND TO BEING A FATHER TO  
4                   NICHOLAS

5                   MR LUGINBILL   DO YOU BELIEVE  
6                   SCOTT WOULD HAVE GIVEN HIS OWN LIFE FOR NICHOLAS?

7                   MRS THOMPSON   YES, BUT I DO NOT  
8                   BELIEVE THAT HE WOULD HAVE EVER HURT NICHOLAS, I  
9                   REALLY DON'T THINK SO, BECAUSE IT, I THINK, NO, I JUST  
10                  DON'T THINK SO   HE MIGHT HAVE SAID THINGS IN ANGER  
11                  FOUR YEARS AGO, BUT I DON'T THINK HE EVER, EVER WOULD  
12                  HAVE HURT THE CHILD

13                  MR LUGINBILL   ANYTHING ELSE YOU  
14                  WANT TO TELL THE JUDGE ABOUT?

15                  MRS THOMPSON   I DON'T KNOW, I'M  
16                  NOT VERY HAPPY TO BE HERE TODAY, IT'S A VERY BAD  
17                  SITUATION

18                  THE COURT    YES, MA'AM

19                  MRS THOMPSON   I NEVER, NEVER

20                  WOULD HAVE EXPECTED THAT ANYTHING LIKE THAT WOULD HAVE  
21                  HAPPENED

22                  MR LUGINBILL   THANK YOU

23                  THE COURT    THANK YOU, MA'AM

24                  MR LUGINBILL   YOUR HONOR, HIS  
25                  SISTER, INGRID, WOULD ALSO LIKE TO SPEAK

1                    THE COURT    YES, MA'AM, YOUR NAME,  
2                    PLEASE?

3                    INGRID HADDON    MY NAME IS INGRID  
4                    HADDON, I'M A SISTER TO SCOTT

5                    THE COURT    YES, MA'AM

6                    MR LUGINBILL    INGRID, ARE YOU  
7                    OLDER OR YOUNGER THAN SCOTT?

8                    INGRID HADDON    I'M A YEAR YOUNGER  
9                    THAN SCOTT

10                   MR LUGINBILL    SO, YOU GREW UP  
11                   WITH HIM AS YOUR OLDER BROTHER?

12                   INGRID HADDON    THAT'S CORRECT

13                   MR LUGINBILL    HAVE YOU OBSERVED  
14                   THESE TRAITS THAT DR SCHWARTZ-WATTS HAS TALKED ABOUT  
15                   TODAY IN YOUR BROTHER'S GROWING UP?

16                   INGRID HADDON    I HAVE    MY  
17                   BROTHER IS A VERY DETERMINED INDIVIDUAL HE'S, HE'S --  
18                   IN SCHOOL HE WAS VERY FOCUSED, WHEN HE STUDIED HE  
19                   STUDIED VERY FOCUSED IN SCHOOL, HE WOULD TAKE A, HE  
20                   WOULDN'T HAVE ANYTHING ON, HE WAS JUST RIGHT ON IT AND  
21                   CONSISTENT, A MUCH BETTER STUDENT THAN MYSELF HE - -

22                   -  
23                   MR LUGINBILL    LET ME ASK YOU  
24                   THIS, YOU ALSO OBSERVED HIM AFTER HE WAS MARRIED AND  
25                   HAD A CHILD, CORRECT?

1                    INGRID HADDON    I DID    SCOTT, HE  
2                    SPENT A LOT OF TIME AND HE WANTED TO BE WITH NICHOLAS  
3                    LIKE MY MOM SAID, HE SPENT EVERY LAST DIME HE EVER  
4                    MADE AND RUINED HIS CAREER BASICALLY JUST SO HE COULD  
5                    BE IN TOUCH AND HAVE CONTACT WITH HIS CHILD

6                    MR LUGINBILL    AND DID HE -- AND  
7                    LET ME ASK YOU THIS, DID HE WANT SOLE CUSTODY, DID HE  
8                    WANT THE CHILD ALL TO HIMSELF, OR DID HE WANT TRUE  
9                    SPLIT CUSTODY?

10                  INGRID HADDON    I BELIEVE HE  
11                  WANTED TRUE SPLIT CUSTODY, HE WANTED A FIFTY-FIFTY  
12                  CHANCE TO BE, MAYBE NOT, YOU KNOW, LIVE UNDER THE SAME  
13                  HOUSEHOLD WITH GINGER, BUT HE WANTED TO DEFINITELY  
14                  HAVE CUSTODY AND BE A PART OF NICHOLAS'S LIFE    HE  
15                  WANTED TO, HE WAS WILLING TO BE IN SOUTH CAROLINA, HE  
16                  WAS WILLING TO WORK IN SOUTH CAROLINA, THAT HE WANTED,  
17                  LIKE, WHATEVER ARRANGEMENTS COULD BE, TWO WEEKS OR ONE  
18                  WEEK WITH GINGER AND ONE WEEK WITH HIMSELF, AND  
19                  DEFINITELY BE A PART OF HIS LIFE    HE REALLY LIKED TO  
20                  TAKE HIS KIDS, TAKE THEM - CANOEING, TAKE THEM  
21                  KAYAKING, DO TRIPS, HIKING TRIPS AND SPORTING EVENTS  
22                  HE WANTED TO, HE REALLY WANTED TO BE A PART OF HIS  
23                  LIFE AND HIS EDUCATION AND HIS UPBRINGING

24                  MR LUGINBILL    WAS HE ABLE TO  
25                  EVER LET THAT CONCEPT GO AFTER THE FAMILY COURT WENT

1 AGAINST HIM, WAS HE EVER, IN YOUR MIND, IN TALKING TO  
2 HIM AT GATHERINGS, WAS HE EVER ABLE TO RELINQUISH  
3 THAT?

4 INGRID HADDON NO, I DON'T  
5 BELIEVE SO

6 MR LUGINBILL DO YOU BELIEVE HE  
7 LOVED HIS SON?

8 INGRID HADDON I BELIEVE HE LOVES  
9 HIS SON MORE THAN ANYTHING ELSE

10 MR LUGINBILL DO YOU THINK HE  
11 WOULD HAVE EVER ALLOWED HARM TO COME TO HIM, PHYSICAL  
12 HARM?

13 INGRID HADDON I DON'T BELIEVE  
14 SO, I BELIEVE, THE SITUATION WAS A HORRIBLE SITUATION,  
15 BUT I DON'T, I REALLY DON'T BELIEVE THAT SCOTT WOULD  
16 PHYSICALLY HARM HIS SON OR ANY OF THE OTHER KEARSE  
17 IT'S JUST NOT IN HIS NATURE WE GREW UP IN A VERY  
18 ANTI-WEAPON HOUSEHOLD WE, I MEAN, IT WAS JUST NOT A  
19 PART OF OUR LIVES TO HAVE VIOLENCE IN OUR HOUSEHOLD

20 ~~SO, I DON'T BELIEVE HIS NATURE IS A VIOLENT NATURE AT~~  
21 ~~ALL~~

22 MR LUGINBILL OUTSIDE THIS ONE  
23 ISSUE, HAS HE EVER EVEN COME CLOSE TO HAVING ANY  
24 PROBLEMS WITH THE LAW?

25 INGRID HADDON NOT THAT I KNOW

1 OF, NO NO TRAFFIC VIOLATIONS, NO, NONE OF THE, YOU  
2 KNOW, NO LEGAL STUFF OTHER THAN THE CUSTODY STUFF WITH  
3 NICHOLAS

4 MR LUGINBILL ONCE NICHOLAS IS  
5 GROWN AND THE WHOLE PARENTING ISSUE IS JUST MOOT AS  
6 TIME WILL EVENTUALLY RENDER THAT MOOT, DO YOU BELIEVE  
7 HE WOULD BE A THREAT TO ANYONE ELSE?

8 INGRID HADDON, I DON'T BELIEVE  
9 SO, I BELIEVE HE'S MORE, I DON'T BELIEVE SO, I THINK  
10 HE FIGHTS MORE WITH HIMSELF THAN HE FIGHTS WITH  
11 ANYBODY ELSE IT'S MORE OF A SELF THING THAT HE  
12 FIGHTS WITH

13 MR LUGINBILL HE'S GOT ANOTHER  
14 CHILD, CORRECT?

15 INGRID HADDON CORRECT HIS  
16 OTHER SON IS BRIAN

17 MR LUGINBILL AND BRIAN IS NOW  
18 AN ADULT?

19 INGRID HADDON BRIAN IS NOW AN  
20 ADULT, BRIAN HAS SUCCESSFULLY COMPLETED AN EDUCATION  
21 AT MIT, HE HAS A NICE LITTLE GIRLFRIEND, HE'S WORKING  
22 FULL TIME, HE'S VERY, HE'S A BALANCE, A WELL BALANCED  
23 CHILD HE HAS SPENT A GOOD BIT OF TIME WITH BRIAN YOU  
24 KNOW, AGAIN, THE CAMPING AND THE VACATIONS AND LOOKING  
25 AFTER HIM THROUGH HIS UPBRINGING BRIAN IS A VERY

1 STABLE, SMART, WOULD BE A VERY GOOD ASSET TO SOCIETY  
2 MR LUGINBILL ANYTHING ELSE  
3 THAT YOU FEEL LIKE YOU WANT TO DRAW TO THE COURT'S  
4 ATTENTION?

5 INGRID HADDON NO, I THINK JUST  
6 THE FACT THAT SCOTT, HE LOVES HIS SON DEARLY

7 MR LUGINBILL THANK YOU  
8 YOUR HONOR, I HAVE ONE MORE  
9 WOULD YOU STATE YOUR NAME FOR THE RECORD?

10 NIKI HADDON FLEMMING NIKI HADDON  
11 FLEMMING

12 THE COURT YES, MA'AM

13 NIKI HADDON FLEMMING I GUESS THE  
14 ONLY THING I'D REALLY LIKE TO SAY IS THAT THROUGHOUT  
15 THIS WHOLE SITUATION SINCE GINGER LEFT AND SINCE THIS  
16 WHOLE, THE LAST TWELVE YEARS OF SCOTT'S LIFE HAS BEEN  
17 NOTHING BUT PURE HELL FOR HIM BECAUSE OF HIS INTENSE,  
18 INTENSE DESIRE TO BE A FATHER AND I KNOW THAT THAT  
19 CAME OUT OF OUR WHOLE FAMILY BECAUSE WE HAD TO GROW UP  
20 WITHOUT A FATHER, AND WE TOTALLY UNDERSTOOD, YOU KNOW,  
21 MOM SAID THAT SHE HAD TO RAISE FIVE KIDS ON HER OWN  
22 AND THERE WERE EXTENUATING CIRCUMSTANCES AND STUFF,  
23 AND NONE OF US I DON'T THINK HAVE EVER FAULTED HER FOR  
24 LEAVING, I THINK SHE MADE THE ABSOLUTELY CORRECT  
25 DECISION, BUT I DON'T THINK THAT THE REASON -- I GUESS

1 I'M GOING BACK INTO HER, BUT FOR SCOTT, YOU KNOW, HE  
2 WAS SO CARING AND SO DEDICATED TO HIS SON I MEAN IF  
3 YOU GO THROUGH, OR WHENEVER HE HAD HIM FOR VISITS THE  
4 ACTIVITIES HE DID, THE MOVIES HE HAD FOR HIM, OR  
5 WHATEVER, HIS WHOLE LIFE REVOLVED AROUND NICHOLAS AND  
6 THE ONLY THING HE REALLY WANTED TO DO, I THINK HE  
7 REALLY WANTED, HE FELT GUILTY IN SOME WAYS BECAUSE  
8 WHEN HE WAS IN MEDICAL SCHOOL THAT HE DID NOT GIVE HIS  
9 OLDER SON SOME OF THE ATTENTION THAT HE WANTED TO AND  
10 SO WHEN HE, BUT HE ALSO FELT THAT BRIAN HAD A LOT OF  
11 SUPPORT BY HIS MOTHER WHO WAS, PUSHED HIM EXTREMELY  
12 HARD ACADEMICALLY AND STUFF LIKE THAT, SO HE FELT LIKE  
13 HE WOULD BE ABLE TO MOVE THROUGH THE EDUCATION AND  
14 STUFF LIKE THAT AND THEN, HE DID SPEND TIME  
15 OBVIOUSLY, AS INGRID MENTIONED, WITH HOLIDAYS, AND HE  
16 TOOK THEM CAMPING AND ALL THAT, BUT WITH NICHOLAS HE  
17 REALLY FELT LIKE, YOU KNOW, HERE'S MY CHANCE, I  
18 REALLY, REALLY WANT TO BE WITH THIS CHILD AND I REALLY  
19 WANT TO BE AN INFLUENCE IN HIS LIFE AND I THINK A  
20 - LOT OF THAT CAME OUT OF, YOU KNOW, HIS BEING UPSET -  
21 BECAUSE HE DIDN'T HAVE A FATHER IN HIS LIFE, AND HE  
22 KNEW EXACTLY HOW IMPORTANT THAT WAS AND YOU KNOW, I  
23 THINK THAT THIS CUSTODY FIGHTS AND BATTLES HAS JUST  
24 TOTALLY SHREDDED HIM AS A WHOLE, AS A HUMAN BEING,  
25 IT'S JUST, HE'S JUST BEEN TOTALLY -- AND HE'S OBSESSED

1           WIIH IT HE HASN'T BEEN ABLE TO GET BALANCE AND STUFF  
2           LIKE THAT, AND SAY, YOU KNOW, I KNOW THAT WHEN HE CAME  
3           HOME, I CAME TO THESE CUSTODY THINGS WITH HIM WE'D  
4           TALK AND WE'D SAY, YOU KNOW, TRY TO JUST, YOU KNOW, DO  
5           WHAT YOU CAN WITH THE COURTS, PLAY ALONG WITH THE  
6           COURT SYSTEM, YOU KNOW, TAKE THIS FIVE MINUTES THAT  
7           THEY'RE GOING TO BE WILLING TO GIVE YOU, AND GO ON  
8           THROUGH AND DO THAT, JUST TO TRY AND HAVE SOME TIME  
9           BUT I CANNOT -- I CAN UNDERSTAND HIS OBSESSION WITH  
10          THIS, BECAUSE, YOU KNOW, IF SOMEBODY TOLD ME THAT I  
11          COULDN'T BE WITH MY KIDS, YOU KNOW, I DON'T KNOW THAT,  
12          I DON'T SAY THAT I'M GOING TO GO TO THIS EXTREME, BUT  
13          I KNOW IT WOULD HAVE TORN ME UP ALSO

14                   MR LUGINBILL    ANYTHING ELSE?

15                   NIKI HADDON FLEMMING    I DON'T  
16          THINK SO    JUST BE MERCIFUL TO HIM

17                   THE COURT    THANK YOU, MA'AM

18                   MR LUGINBILL    JUDGE, BEGGING  
19          THE COURT'S INDULGENCE ONE MINUTE

20                   THE COURT    YES, SIR

21                   MR LUGINBILL    YOUR HONOR,

22          FINALLY, WE WOULD NOT REALLY CALL DR HADDON, BUT DR  
23          HADDON HAS SOME POINTS THAT HE WANTS TO ADDRESS TO THE  
24          COURT

25                   THE COURT    SURE

1                                    MR LUGINBILL    THE PLAN THAT YOU  
2                                    HAD TO GET, TO TAKE NICHOLAS PHYSICALLY, HAVE HIM IN  
3                                    YOUR CUSTODY, WHAT YOU WERE TRYING TO ACCOMPLISH WAS  
4                                    WHAT?

5                                    DEFENDANT HADDON    WITHOUT  
6                                    QUESTIONS, YOUR HONOR, I WAS TRYING TO ATTEMPT TO GET  
7                                    A SITUATION OF SPLIT CUSTODY, TRUE SPLIT CUSTODY,  
8                                    WHERE I WOULD SHARE THE TIME WITH GINGER I FOUGHT FOR  
9                                    THIS EVER SINCE HE LEFT WITH GINGER WHEN HE WAS FIVE  
10                                   MONTHS OF AGE I SEE THIS SITUATION AS A DOCTOR IN  
11                                   MISSISSIPPI WHERE I SEE IT PRACTICED AND I KNOW THE  
12                                   OUTCOME OF A SPLIT CUSTODY SITUATION WHERE CHILDREN  
13                                   CAN LIVE WITH ONE PARENT ONE WEEK AND THEN WITH  
14                                   ANOTHER PARENT THE NEXT WEEK OF COURSE, THAT WOULDN'T  
15                                   WORK IN GINGER'S AND MY CASE SINCE WE ARE IN DIFFERENT  
16                                   STATES, BUT I ADVOCATED MULTIPLE TIMES TO THE LEGAL  
17                                   SYSTEM THAT, INITIALLY THAT WE HAVE HIM FOR THREE OF  
18                                   HIS SCHOOL YEARS, I WOULD HAVE HIM FOR THREE OF HIS  
19                                   SCHOOL YEARS, BACK TO GINGER, AND THEN BACK TO ME FOR  
20                                   THE LAST THREE SCHOOL YEARS OF HIS SENIOR HIGH SCHOOL,  
21                                   AND THAT WAY MY SON WOULD BE ABLE TO, TO BENEFIT FROM  
22                                   BOTH PARENTS SO, MY INTENT HERE WAS TO GET A SPLIT  
23                                   CUSTODY SITUATION I HAD TRIED THROUGH THE COURT  
24                                   SITUATION, THROUGH THE FAMILY COURT SITUATION TO  
25                                   OBTAIN THIS SITUATION THROUGH THE FAMILY COURT IT

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1 HAD DETERIORATED SUCH AFTER THE JULY, TWO THOUSAND  
2 FOUR, SITUATIONS THAT I WAS TOTALLY UNABLE TO EVEN  
3 SPEAK TO MY SON ON THE TELEPHONE SO, FOLLOWING THAT  
4 I KNEW, OKAY, AFTER -- YOU NEED TO UNDERSTAND AS WELL,  
5 YOUR HONOR, MY EX-WIFE HAS KIDNAPED NICHOLAS FROM ME  
6 TWICE NOW SHE KIDNAPED NICHOLAS WHEN HE WAS FIVE  
7 MONTHS OF AGE INITIALLY FROM ME IN MISSISSIPPI,  
8 BRINGING HIM TO SOUTH CAROLINA SHE HAD NO LEGAL  
9 BASIS FOR DOING THAT, IT'S ACROSS STATE LINES, IT S A  
10 FEDERAL CRIME BUT MY LAWYER CHOSE NOT TO PURSUE IT,  
11 AND I CHOSE NOT TO PURSUE IT BECAUSE I WAS STILL AT  
12 THAT TIME HOPING FOR A PEACEFUL RESOLUTION TO THIS  
13 CONFLICT AGAIN IN JULY TWO THOUSAND AND FOUR SHE  
14 ESSENTIALLY KIDNAPED NICHOLAS WHEN I TURNED HIM OVER  
15 TO HER AT A NIGHT WHERE I WAS GOING TO GO AND WORK IN  
16 THE EMERGENCY ROOM, ANTICIPATING ON PICKING HIM UP, IT  
17 WAS MY VISITATION TIME IN THE SUMMER, ANTICIPATING  
18 PICKING HIM UP THE NEXT MORNING AND SHE, BEING THE  
19 MOTHER OF MY CHILD, OF COURSE, THE NATURAL PLACE THAT  
20 I WANTED HIM TO BE THAT NIGHT WAS WITH HIS MOTHER  
21 RATHER THAN SOME UN -- YOU KNOW, SOME OTHER PERSON WHO  
22 MIGHT HAVE BEEN TAKING CARE OF HIM, AND I WOULDN'T  
23 HAVE HAD THESE PROBLEMS THAT LED TO THE TELEPHONE  
24 THREATS THAT YOU'RE AWARE OF, AND MY PURPOSE AT THAT  
25 TIME WAS SOLELY TO GET NICHOLAS BACK FOR VISITATION

1           UNABLE TO DO THAT I SAID, NOW I'VE GOT TO GO BACK TO  
2           COURT, I'VE GOT TO EARN A LOT OF MONEY SO I CAN GO  
3           BACK TO COURT AND FIGHT THIS OUT AGAIN IN FAMILY  
4           COURT   AND SO, I TOOK EVERY SHIFT I COULD TO WORK IN  
5           THE EMERGENCY ROOMS, AND THAT'S WHAT I DID   EVEN  
6           THOUGH IT WAS MY VISITATION TIME I HAD NO CONTACT WITH  
7           MY SON BACK IN TWO THOUSAND AND FOUR AFTER SHE  
8           KIDNAPED HIM THE SECOND TIME   AT THAT POINT, JULY THE  
9           FIFTH OF TWO THOUSAND AND FOUR, I WAS GOING TO WORK, I  
10          HAD MADE ABSOLUTELY NO INITIAL THREATS TO GINGER OR  
11          HER FAMILY, AND THEN I'M ARRESTED   I SPENT THIRTY-  
12          NINE DAYS IN JAIL, AND IT WAS CLEAR TO ME THAT FAMILY  
13          COURT WAS SIMPLY NOT GOING TO EVER TURN AROUND IN MY  
14          BEHALF   AND THEN, DURING THAT INCARCERATION OF  
15          THIRTY-NINE DAYS, SHE WENT TO FAMILY COURT AND GOT  
16          THIS ORDER THAT STATED I COULDN'T TALK TO NICHOLAS,  
17          THAT I COULD ONLY SEND HIM LETTERS, AND HAD NO  
18          VISITATION WITH HIM   AND I ABIDED BY THOSE RULES

19                       MR LUGINBILL   LET'S SKIP OVER TO  
20          -- -- -- -- --  
21          -- -- -- -- --  
22          -- -- -- -- --  
23          -- -- -- -- --  
24          -- -- -- -- --  
25          -- -- -- -- --

20          -- -- -- -- --  
21          -- -- -- -- --  
22          -- -- -- -- --  
23          -- -- -- -- --  
24          -- -- -- -- --  
25          -- -- -- -- --

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1 THAT WAS GOING TO WORK?

2 DEFENDANT HADDON WELL, TIME HAS  
3 ALWAYS BEEN IN GINGER'S FAVOR IN THE FAMILY COURT  
4 SYSTEM SHE CAN DELAY HAVING THESE HEARINGS ON THIS  
5 SPLIT CUSTODY SITUATION, AND OF COURSE, NICHOLAS GETS  
6 OLDER AND I MISS THE TIME AND MISS THE DEADLINE THAT I  
7 HAD SET FOR HAVING HIM FOR THE FOURTH THROUGH THE  
8 SIXTH GRADE AND SO, I HAD TO MAKE A PLAN WHERE I  
9 WOULD HAVE NICHOLAS, AND I HAD WITH ME THAT DAY A  
10 PROPOSED FAMILY COURT ORDER GIVING ME PRIMARY CUSTODY  
11 OF NICHOLAS BUT GINGER VISITATION AND IT WAS  
12 IDENTICAL OF THE VISITATION THAT I HAD HAD WITH  
13 NICHOLAS FOR THOSE SIX YEARS, EVEN THOUGH I HADN'T  
14 BEEN ABLE TO EXERCISE THE VISITATION FOR THE LAST FOUR  
15 YEARS OF THAT TIME WITH NICHOLAS SO, YOU KNOW, - - -

16 MR LUGINBILL LET ME STOP YOU  
17 THERE IT WAS YOUR BELIEF AGAIN THAT THIS WOULD, COULD  
18 WORK - - -

19 DEFENDANT HADDON YES,  
20 ABSOLUTELY

21 MR LUGINBILL --- IF SHE WOULD  
22 AGREE TO IT?

23 DEFENDANT HADDON ABSOLUTELY

24 MR LUGINBILL AND IT WAS YOUR  
25 BELIEF THAT THIS WAS IN NICHOLAS'S BEST INTEREST?

1                    DEFENDANT HADDON    I THINK A CHILD  
2                    NEEDS TO HAVE BOTH PARENTS WHICH NATURALLY INCLUDES  
3                    THE FATHER, YES, I THINK THAT NICHOLAS WOULD BENEFIT  
4                    FROM THE SITUATION

5                    MR LUGINBILL    ONCE THIS  
6                    SITUATION AT HOME DETERIORATED TO THE POINT WHERE  
7                    THERE WERE OFFICERS POINTING GUNS AT YOU, AND THE  
8                    SHOOTING ACTUALLY STARTED, DID YOU TRY TO SHIELD  
9                    NICHOLAS WITH YOUR BODY, IS THAT WHY YOU TURNED?

10                   DEFENDANT HADDON    THE GUN WAS  
11                   NEVER, NEVER LEFT ITS HOLSTER UNTIL WE WERE AT THE  
12                   BOTTOM OF THE DRIVEWAY    NICHOLAS WAS STANDING FREE,  
13                   MRS KEARSE WAS STANDING FREE IN THE YARD    THE  
14                   OFFICERS WERE ARRIVING    FROM THE TIME THE ALARM WENT  
15                   OFF, FROM THE POLICE, IT MUST HAVE BEEN AT LEAST  
16                   TWELVE MINUTES    I HAD PLENTY OF OPPORTUNITY TO HURT  
17                   ANYBODY IF I CHOSE TO    I DID NOT WISH TO HURT ANYBODY,  
18                   AND I MADE SPECIAL CARE THAT I DID NOT HURT ANYBODY

19                   MR LUGINBILL    IT WAS YOUR, DID  
20                   ~~YOU HAVE ANY INTENTION WHATSOEVER OF PHYSICALLY~~  
21                   ~~ALLOWING HARM TO COME TO EITHER MRS KEARSE OR YOUR~~  
22                   ~~SON?~~

23                   DEFENDANT HADDON    NO, I HAD  
24                   PLENTY OF OPPORTUNITY, AND I HAD NO INTENTION OF  
25                   HARMING EITHER    YOU KNOW    I DID EVERYTHING UNDER MY

1 POWER WITH MRS KEARSE THAT I WOULD NOT HURT HER I  
2 NEVER GAGGED HER I PUT MY HAND OVER HER MOUTH, IT'S  
3 TRUE, AND ONCE WE WERE INSIDE THE HOUSE SHE WAS FREE  
4 TO MOVE ABOUT ENTIRELY AND I KNEW SHE POTENTIALLY  
5 HAD A GUN, AND SHE MOVED AROUND ENTIRELY FREE BY  
6 HERSELF THEN AT THE BOTTOM OF THE DRIVEWAY NICHOLAS  
7 DID NOT COLLAPSE THERE HE WAS STANDING AND I WAS  
8 STANDING BEHIND HIM THE POLICE ARRIVED IN FORCE AT  
9 THAT TIME AT THAT MOMENT IN TIME I DID USE NICHOLAS  
10 AS A SHIELD, I WAS IN A SHEER POINT OF PANIC AT THAT  
11 MOMENT, BUT THE POINT I WAS TRYING TO ACCOMPLISH, I  
12 WANTED TO GO BACK INTO THE HOUSE AND GET TO A POINT  
13 WHERE WE COULD NEGOTIATE A PEACEFUL SETTLEMENT, AND  
14 THAT WAS THE DISCUSSION BETWEEN WITH MR MURDAUGH AND  
15 THE OTHER OFFICERS ON THAT DRIVEWAY, WAS THAT I NEEDED  
16 TO GET TO A POSITION OF SAFETY WHERE I COULD NEGOTIATE  
17 SOMETHING AND GET A PEACEFUL RESOLUTION AND I USED  
18 THOSE WORDS, PEACEFUL RESOLUTION, AND I THINK THAT'S  
19 WHY HE GAVE ME SOME LEE WAY THE OTHER THING I DID  
20 IS, ~~ALTHOUGH THE GUN WAS INITIALLY POINTED AT~~  
21 ~~NICHOLAS'S TEMPLE FOR A VERY BRIEF TIME, AFTER THAT~~  
22 POINT IN TIME THE GUN WAS ACTUALLY IN FRONT OF HIS  
23 FOREHEAD SO IN CASE IT ACCIDENTALLY DISCHARGED IT  
24 WOULD NOT GET NICHOLAS IN FACT, I HAD A THOUGHT WAY  
25 UP THE DRIVEWAY, I'M MAKING A VERY POOR SHOW OF THIS,

1           THESE PEOPLE DON'T BELIEVE ME, YOU KNOW, AND YOU'VE  
2           HEARD THE TESTIMONY ABOUT WHAT HAPPENED FROM THERE

3                   MR LUGINBILL   DID YOU HAVE ANY  
4           INTENTION TO SHOOT OFFICER MURDAUGH?

5                   DEFENDANT HADDON   NO, I DID NOT

6                   MR LUGINBILL   WAS THE, WHEN YOUR  
7           GUN DISCHARGED WAS THAT AN INVOLUNTARY REFLEX?

8                   DEFENDANT HADDON   YES

9                   MR LUGINBILL   YOU'VE NOW HEARD  
10          DR SCHWARTZ-WATTS, YOU'VE MET WITH HER AND SHE'S  
11          INDICATED TO YOU THAT SHE BELIEVES THAT YOU HAVE A  
12          FORM OF AUTISM KNOWN AS ASBERGER'S, CAN YOU ACCEPT  
13          THAT?

14                   DEFENDANT HADDON   YES, I CAN

15                   MR LUGINBILL   DO YOU UNDERSTAND  
16          YOU NEED TREATMENT?

17                   DEFENDANT HADDON   YES, I DO

18                   MR LUGINBILL   DO YOU THINK YOU  
19          COULD APPLY YOUR CONSIDERABLE ATTENTION AND ABILITY TO  
20          FOCUS TO YOUR TREATMENT?

21                   DEFENDANT HADDON   YES, I CAN DO  
22          THAT

23                   MR LUGINBILL   AND DO YOU BELIEVE  
24          THAT AT SOME POINT YOU WILL BE ABLE TO DEAL WITH YOUR  
25          ASBERGER'S IN SUCH A WAY THAT NEITHER THE KEARSESES OR

1 ANYBODY ELSE WOULD HAVE ANY REASON TO FEAR YOU?

2 DEFENDANT HADDON ABSOLUTELY

3 THE KEARSESE ARE NOT IN DANGER FROM ME, NOR IS  
4 NICHOLAS THIS IS THE FIRST, AND WILL BE THE ONLY  
5 CONFLICT I'VE EVER HAD WITH THE POLICE FORCE

6 MR LUGINBILL ANYTHING ELSE THAT  
7 YOU FEEL YOU NEED TO SAY?

8 DEFENDANT HADDON WELL, I HAVE  
9 ANOTHER SON, AS YOU'VE HEARD HE WILL ALSO BE  
10 AFFECTED BY A RULING -- BOTH MY CHILDREN WILL BE  
11 AFFECTED BY A RULING I ASK THAT YOU TAKE INTO EFFECT  
12 THAT INTO YOUR CONSIDERATION AGAIN, YOU KNOW, I --  
13 MY TOTAL INTENT HERE WAS FOR THE BEST INTEREST OF  
14 NICHOLAS, THAT HE BE ABLE TO HAVE A FATHER, AND I  
15 NEVER, NEVER INTENDED TO TAKE HIM AWAY FROM HIS  
16 MOTHER YOU KNOW, THE LETTER, IT'S CLEAR THAT I WAS  
17 SIMPLY SEEKING A SPLIT CUSTODY ARRANGEMENT WHICH I HAD  
18 TRIED WITH MANY DOLLARS AND FOR A LONG TIME TO GET  
19 THROUGH THE FAMILY COURT SITUATION THE FAMILY COURT

20 ~~JUST WAS, THE DOORS WERE CLOSED TO ME~~

21 MR LUGINBILL NOW I'D LIKE TO

22 RECALL DR SCHWARTZ-WATTS VERY BRIEFLY

23 THE COURT YES, SIR

24 COME ON AROUND, HOWEVER YOU WANT,

25 COME ON AND SIT DOWN SHE'S ALREADY UNDER OATH

REDIRECT EXAMINATION OF DR SCHWARTZ-WATTS

BY MR LUGINBILL

Q DOCTOR, YOU'VE NOW SAT THROUGH SCOTT S STATEMENT  
AND YOU'VE SAT THROUGH THE WHOLE EVIDENCE THAT'S  
BEEN BROUGHT BEFORE THE COURT DO YOU TODAY SEE  
ANYTHING ELSE FROM WHAT YOU'VE OBSERVED HERE IN  
THE COURTROOM THAT REAFFIRMS OR REALLY CEMENTS  
ANY OF YOUR DIAGNOSIS?

A YES

Q IS HE STILL FOCUSED ON THAT ISSUE?

A I THINK WHAT STRIKES ME THE MOST, YOUR HONOR, IS  
AGAIN, HIS IDEO-SYNCRATIC THINKING, HOW HE CANNOT  
UNDERSTAND THAT THE PROCESS WHICH HE USED TO TRY  
TO NEGOTIATE A SETTLEMENT WITH HIS FORMER WIFE  
AND SON, THE TRAUMA OF THE PROCESS ITSELF, AND  
THAT'S AGAIN JUST THE LACK OF INSIGHT AND THE  
LACK OF EMPATHY THAT'S CAUSED FROM HIS AUTISM,  
NOT BECAUSE HE DOESN'T CHOOSE TO, HE DOES NOT  
UNDERSTAND HE CLEARLY DOES NOT UNDERSTAND THAT  
WHAT HE DID AND HOW HE WENT ABOUT IT IS WHAT WAS  
SO HARMFUL, NOT THE FACT THAT HE WANTED TO  
NEGOTIATE A SITUATION OF SOME KIND OF JOINT  
CUSTODY AND I THINK THE OTHER THING THAT  
STRIKES ME IS HOW IDEO-SYNCRATIC HIS THINKING IS,  
THAT I'M NOT SURE THAT IF ANYONE GAVE INPUT ON

1           WHAT THE MODEL CUSTODY EVALUATION WOULD BE, BUT  
2           SOMEHOW IN HIS MIND IT WAS THREE YEARS FOR EACH  
3           PARENT, AND SINCE, MRS HADDON HAD HIM FOR SIX  
4           YEARS IT WAS HIS TURN TO HAVE HIM FOR SIX YEARS  
5           SO, AGAIN, IT'S VERY CONSISTENT WITH HIS  
6           PERVASIVE DEVELOPMENTAL DISORDER IT'S CLEAR HE  
7           LOVES THIS CHILD, IT'S CLEAR HE WANTED TO SPEND  
8           TIME WITH HIM, BUT HIS ABILITY TO UNDERSTAND THE  
9           EFFECTS OF THE WAY HE WENT ABOUT IT AND THE HARM  
10          IT'S CAUSED OTHER IS VERY CONSISTENT WITH HIS  
11          ILLNESS, AND NOT HIM BEING RUDE AND NOT HIM BEING  
12          REMORSELESS

13                           MR LUGINBILL THANK YOU, YOUR

14 HONOR

15 (NOTE Blank lines on this page do not indicate any  
16 part of record has been omitted Headers on testimony  
17 pages and hard page breaks between testimony are now  
18 required by the Court See next ensuing page for  
19 sequential continuation of record )

EXAM - DR SCHWARTZ-WATTS BY THE COURT

81

EXAMINATION OF DR SCHWARTZ-WATTS

BY THE COURT

Q DO YOU KNOW HOW LONG HIS TREATMENT WITH DR ABEL  
LASTED?

A HE, AFTER HE, AFTER THE STALKING CHARGES I KNOW  
THAT WITH THE MEDICAL LICENSING THAT THEY  
REQUIRED, HE WENT -- DR ABEL MAINLY DOES AN  
EVALUATION PROCESS AND THEN HE WENT INTO THE  
BRADFORD CLINIC IN ALABAMA, AND HE WAS STILL  
UNDER CARE, HE HAD BEEN SEEN SIX MONTHS PRIOR TO  
THIS, BUT HE CERTAINLY WASN'T IN THE LEVEL OF  
CARE I THINK HE NEEDED HE NEEDED MUCH MORE  
SUPERVISION, MUCH MORE INTERACTION, AND MUCH MORE  
SUPPORT THROUGH THIS

(NOTE Blank lines on this page do not indicate any  
part of record has been omitted Headers on testimony  
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required by the Court See next ensuing page for  
sequential continuation of record )

REDIRECT - DR SCHWARTZ-WATTS BY MR LUGINBILL

82

REDIRECT EXAMINATION OF DR SCHWARTZ-WATTS

BY MR LUGINBILL

Q AND ACTUALLY, DOCTOR, DID ANYBODY THERE HAVE A  
DIAGNOSIS, HAD ANYBODY AT THAT POINT DIAGNOSED  
HIM?

A I DON'T KNOW, I STILL DON'T HAVE THE RECORDS  
DR HADDON WAS VERY COOPERATIVE, YOUR HONOR, HE  
SIGNED THE RELEASES, AND WE'VE BEEN TRYING TO GET  
THEM SINCE NOVEMBER, WE'VE CONTACTED BOTH  
FACILITIES AGAIN SO, I'M NOT AWARE THAT THEY  
DID HE CERTAINLY HAD -- HE HAD NO  
UNDERSTANDING, IF HE HAD BEEN DIAGNOSED WITH THAT  
HE WAS NOT AWARE OF THAT DIAGNOSIS

MR LUGINBILL AND YOUR HONOR,  
JUST FOR THE COURT'S INFORMATION, I WAS PROVIDED AS  
HIS ATTORNEY THAT FIRST TIME WITH A COPY OF THAT  
PURSUANT TO THE AGREEMENT THAT THEY HAD WITH THE BOARD  
AND WITH THE TREATING FACILITY THAT I WAS NOT ALLOWED  
TO SHARE WITH DR HADDON, AND THAT I HAD TO RETURN TO  
THEM, BUT I WAS ALLOWED TO READ IT PRIOR TO IT BEING  
PRESENTED AT HIS BOARD HEARING I WILL TELL YOU AS AN  
OFFICER OF THE COURT THERE WAS NO DIAGNOSIS OF  
PERSONALITY DISORDER AT THAT POINT

THE COURT YOU CAN STEP DOWN  
THANK YOU, MA'AM

MR. LUGINBILL YOUR HONOR, I

UNDERSTAND COMPLETELY THE STATE ASKING FOR A  
SIGNIFICANT SENTENCE I EVEN UNDERSTAND TO SOME EXTENT  
THE STATE ASKING THE COURT NOT TO BE MERCIFUL, THAT  
THAT ILLNESS IS, IN FACT, NOT A MITIGATING BUT AN  
AGGRAVATING CIRCUMSTANCES, AND I HAVE TO TAKE SOME  
MEASURE OF ACCEPTANCE OF THAT I THINK AS A MATTER OF  
LAW, THE FACT THAT HE'S BEING SENTENCED TO GUILTY BUT  
MENTALLY ILL MEANS THAT THERE IS, AS A MATTER OF LAW,  
A MITIGATING CIRCUMSTANCES I MEAN, THAT'S WHAT IT IS,  
IT IS MITIGATING CIRCUMSTANCE I KIND OF ANALOGIZE IT  
TO, THIS IS SOMEBODY WHO SAW THE STOP SIGN AND WANTED  
TO STOP AT THE STOP SIGN BUT COULDN'T MAKE HIS FOOT GO  
TO THE BRAKE YOU KNOW, THE RESULT'S THE SAME, YOU  
KNOW, HE GOES INTO THE INTERSECTION AND CAUSES A  
WRECK, AND WE'RE HERE TODAY BECAUSE OF THAT WRECK HE  
DIDN'T WANT IT TO HAPPEN, HE COULDN'T STOP IT FROM  
HAPPENING IN OUR SOCIETY I THINK WE'VE GOT TO TAKE  
THAT INTO ACCOUNT, OTHERWISE, WE'RE GOING TO BE DOING,  
YOU KNOW, WE'RE GOING TO BE TREATING PEOPLE WHO HAVE  
REAL MENTAL DISORDERS AND WHO CAUSE, ARE THE ACTORS OF  
THE SITUATIONS THAT THEY ARE NOT INTENDING AND DO NOT  
WANT TO HAVE HAPPEN

SO, THE KEARSE FAMILY, TO ALL OF  
YOU, I DON'T, I DON'T HAVE ASBERGER'S, I KNOW HOW IT

1       AFFECTED YOU     SERGEANT MURDAUGH, I KNOW HOW IT  
2       AFFECTED YOU     YOU HAD A GUN GO OFF TEN FEET FROM YOU  
3       I KNOW HOW IT AFFECTED YOU     I SERVED TIME IN THE  
4       MILITARY, I KNOW     SO, ON BEHALF OF SCOTT I WILL MAKE  
5       THE APOLOGY THAT HE CAN'T, HE'S NOT CAPABLE OF MAKING  
6       TO YOU     I WILL ALSO TELL YOU, I'VE SPENT MANY, MANY  
7       HOURS WITH HIM, AND HE LOVES THIS CHILD MORE THAN HIS  
8       OWN LIFE

9                         JUDGE, I'LL SAY SIMPLY, HE LOVES  
10       THIS CHILD     HE FOCUSED ON IT MORE ANY OF US WOULD  
11       AT SOME POINT WE WOULD HAVE WALKED AWAY, WE WOULD HAVE  
12       SAID, WE'VE LOST, AND WE WOULD HAVE WALKED AWAY     HE  
13       CAN'T, CAN'T DO IT     WHAT I'M ASKING FOR TODAY, JUDGE,  
14       IS A SENTENCE THAT TAKES INTO ACCOUNT WHAT HE DID,  
15       TAKES INTO ACCOUNT WHO HE IS AND THE DISABILITY THAT  
16       HE SUFFERS WITH, AND CRAFTS A SOLUTION THAT PREVENTS  
17       OTHER OCCURRENCES     THE BURGLARY, FIRST, CARRIES  
18       FIFTEEN YEARS, BUT IT CAN BE SUSPENDED     THIS IS A  
19       CASE WHERE IT SHOULD BE SUSPENDED     HE NEEDS ENOUGH  
20       TIME THAT HE CAN GO BE SEEN BY DONNA AND HER TEAM  
21       HE'LL HAVE PROBATIONARY SENTENCE YOU CAN TACK ON TO  
22       HOWEVER MANY YEARS YOU GIVE HIM     THE TERMS OF THAT  
23       PROBATION, HE ABSOLUTELY MUST BE THAT HE CONTINUE TO  
24       FOLLOW UP EVERY WEEK, EVERY MONTH, WHATEVER THIS  
25       COURT, WHATEVER THE TREATING PROFESSIONALS SAY THAT HE

1 NEEDS TO DO IF HE MISSES IT, THEN WE BRING HIM BACK  
2 AND WE PUT HIM BACK IN THE INSTITUTIONALIZED SETTING  
3 AND HE GETS HIS TREATMENT THERE BUT I'M NOT ASKING  
4 FOR A STRAIGHT PROBATIONARY SENTENCE, I DON T WANT  
5 ANYBODY TO THINK THAT, BUT I DI DO THINK FIFTEEN  
6 YEARS, TWENTY YEARS IS NOT CALLED FOR HERE YOU KNOW,  
7 I'VE HAD MANSLAUGHTER PLEAS GET LESS THAN THAT,  
8 VEHICULAR HOMICIDES GET LESS THAN THAT AND THOSE ARE  
9 PEOPLE THAT KNEW WHERE THEY COULD HAVE DONE AND COULD  
10 HAVE STOPPED IT, BUT THEY MADE BAD DECISIONS IN A  
11 SPLIT SECOND, AND WE UNDERSTAND THAT IN THE LAW AND WE  
12 GIVE THEM LESS TIME THE LAW NEEDS TO UNDERSTAND HERE  
13 AGAIN THAT HE'S DONE WHAT HE COULD DO I DON'T KNOW  
14 HOW MANY YEARS IS RIGHT YOU'VE BEEN DOING THIS  
15 LONGER THAN I HAVE, AND I'LL DEFER TO YOU AND WE'LL  
16 ACCEPT THE COURT'S SENTENCE, BUT LIFE, THAT END OF THE  
17 SPECTRUM IS JUST, IS NOT THE APPROPRIATE THING, IT'S  
18 JUST NOT I ASK THE COURT TO USE YOUR WISDOM, YOU'VE  
19 BEEN DOING THIS A LONG TIME, I THINK YOU'RE A VERY  
20 FAIR MAN AND I KNOW DONNA CAN HELP THIS MAN AND  
21 HE'S GOT A LOT TO OFFER SOCIETY AT THE END OF THE DAY  
22 IF WE CAN GET HIM BACK WHERE HE BACK WHERE HE CAN BE  
23 SAFELY RELEASED TO WHERE HE'S NOT A HARM TO NICHOLAS  
24 OR TO THE KEARSESES, HE WANTS TO MAKE UP FOR IT, HE  
25 WANTS TO BE ABLE TO USE THE ABILITIES HE HAS TO MAKE

1 UP FOR THE HARM HE'S CAUSED DUE TO HIS DISABILITY HE  
2 WANTS TO DO IT, HE DESPERATELY WANTS TO DO IT JUDGE,  
3 HE ASKED ME, WE TRIED TO GO, AND THE SOLICITOR WILL  
4 BACK ME UP, HE ASKED ME IF HE COULD GO TO AFGHANISTAN  
5 AND WORK BASICALLY FOR FREE, UNDER FIRE, AS A DOCTOR,  
6 BECAUSE HE HAD HIM UP THERE, THERE'S AN ARTICLE, I  
7 STILL HAVE IT, THAT SAYS THAT THEY DON'T HAVE AND  
8 DOCTORS, FIELD DOCTORS UP THERE, AND PEOPLE ARE DYING  
9 THAT DON'T NEED TO DIE HE WANTED TO GO THERE AND DO  
10 THAT OBVIOUSLY, UNDER THESE SITUATIONS WE UNDERSTAND  
11 THAT THAT'S NOT POSSIBLE HE DIDN'T UNDERSTAND THAT  
12 WASN'T POSSIBLE, IT MADE SENSE TO HIM A CERTAIN  
13 NUMBER OF YEARS, BUT IT DOESN'T NEED TO BE TEN TO  
14 FIFTEEN, IT JUST DOESN'T NEED TO BE THAT MUCH AND  
15 I'LL DEFER TO THE COURT FOR THE SENTENCE

16 THANK YOU, JUDGE, AND AGAIN MY  
17 APOLOGIES TO ALL

18 THE COURT IT'S MY ELEVENTH YEAR  
19 ON THE BENCH, AND YOU DON'T GET USE TO THINGS LIKE  
20 ~~THIS IT'S A UNIQUE SITUATION, IT'S A TRAGIC~~  
21 SITUATION, IT'S A TRAGIC SITUATION FOR BOTH FAMILIES  
22 MRS KEARSE, YOU ARE A BRAVE WOMAN THE CASE IS  
23 CERTAINLY COMPLICATED BY DR HADDON'S MENTAL PROBLEMS  
24 ONE OF THE FUNCTIONS OF A COURT IN ISSUING A SENTENCE  
25 IS PUNISHMENT I DON'T THINK DR HADDON HAS ANY IDEA

1 OF THE TRAUMA HE PUT THESE PEOPLE THROUGH I DON'T  
2 THINK HE HAD THE SLIGHTEST CLUE I DON'T, I MEAN, I  
3 TRY TO APPRECIATE WHAT SHE WENT THROUGH THAT MORNING  
4 AND THAT CHILD WENT THROUGH, BUT I'M SURE I CAN'T DEAL  
5 WITH THAT EITHER AND I DON'T THINK THE DOCTOR HAS  
6 THE SLIGHTEST CLUE ABOUT THAT

7 I CERTAINLY DON'T QUESTION DR  
8 HADDON'S LOVE FOR HIS SON, THAT'S OBVIOUS, PAINFULLY  
9 OBVIOUS IT'S A TRAGEDY THAT HIS CONDITION WASN'T  
10 RECOGNIZED YOU ALL HEARD DR SCHWARTZ-WATTS SAY,  
11 IT'S AN INHERITED CONDITION, AND SO, WE CERTAINLY NEED  
12 TO BE ON GUARD WITH ANYBODY THAT MIGHT HAVE PROBLEMS  
13 THAT HAVE NOT SHOWN THEMSELVES YET, BUT THAT MIGHT,  
14 BECAUSE WE CERTAINLY DON'T WANT A SITUATION LIKE THIS  
15 TO HAPPEN AGAIN I DON'T UNDERSTAND HOW HE COULD HAVE  
16 BEEN EVALUATED AND TREATED SINCE TWO THOUSAND AND FOUR  
17 WITHOUT THIS BEING PICKED UP ON, AND THAT'S WHAT  
18 CONCERNS ME MOST

19 IN ADDITION TO THE PUNISHMENT  
20 ~~ASPECT, THERE'S PREVENTION TO PROTECT SOCIETY~~ WITH  
21 THE SITUATION IN THIS COURTROOM TODAY I QUITE FRANKLY  
22 CAN'T RECALL A SITUATION WHERE I FELT THAT I'M THE  
23 ONLY PERSON THAT CAN PROTECT SOCIETY IN THIS CASE, AND  
24 I DON'T HAVE BUT ONE WAY TO DO IT AND I COMMEND YOU,  
25 MR LUGINBILL, ON THE PRESENTATION YOU'VE MADE AND

1 YOUR CONCERN FOR THE DOCTOR, AND I HAVE THAT CONCERN  
2 ALSO BUT I HAVE A REAL QUESTION ABOUT BEING ABLE TO  
3 PROTECT SOCIETY WHETHER HE WOULD HURT THAT CHILD, I  
4 DON'T KNOW, BUT I CERTAINLY CAN'T ASSUME THAT HE WOULD  
5 NOT HURT THAT CHILD AT SOME POINT IN TIME OR THE  
6 KEARSEES OR ANYBODY ELSE THAT STOOD IN HIS WAY,  
7 REGARDLESS OF WHAT HE THINKS HIS INTENTIONS ARE

8 SENTENCE OF THE COURT

9 THE SENTENCE ON INDICTMENT 2008-837,  
10 ASSAULT OF A HIGH AND AGGRAVATED NATURE, IS THAT YOU BE  
11 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A  
12 PERIOD OF TEN YEARS

13 ON INDICTMENT 838 AND 839, THE  
14 INDICTMENTS FOR KIDNAPING, IT'S THE SENTENCE THE COURT  
15 THAT YOU BE COMMITTED TO THE STATE DEPARTMENT OF  
16 CORRECTIONS FOR A PERIOD OF THIRTY YEARS

17 ON INDICTMENT 841, INDICTMENT FOR  
18 BURGLARY IN THE FIRST DEGREE, THE SENTENCE OF THE COURT  
19 IS THAT YOU BE COMMITTED TO THE STATE DEPARTMENT OF  
20 CORRECTIONS FOR A PERIOD OF FORTY YEARS

21 THESE SENTENCES ARE CONCURRENT

22 TAKE THE PRISONER OUT, PLEASE, AND  
23 TAKE HIM OUT OF THE COURTHOUSE, BACK TO THE COMPLEX

24 THE SENTENCES ARE ALL CONCURRENT

25 MR LUGINBILL THANK YOU, YOUR

1 HONOR

2 THE COURT ALRIGHT MR LUGINBILL,  
3 I THINK YOU PROBABLY NEED TO TAKE THE FAMILY OF THE  
4 DEFENDANT OUT FIRST AND MR PASCOE, YOU CAN TAKE THE  
5 FAMILY OF THE VICTIMS OUT TO THE - - -

6 SOLICITOR PASCOE YES, SIR, THANK  
7 YOU, YOUR HONOR

8 THE COURT --- GRAND JURY ROOM, AND  
9 BE SURE THE HALL IS CLEAR BEFORE THEY LEAVE

10 SOLICITOR PASCOE YES, SIR

11

CERTIFICATE

I, THE UNDERSIGNED, MRS HARRY A WALKER, OF ROWESVILLE, SOUTH CAROLINA, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR ORANGEBURG COUNTY, SOUTH CAROLINA, ON THE TWELFTH DAY OF JANUARY, 2009

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO

DATE DECEMBER 14, 2009

Harry A Walker  
(MRS ) HARRY A WALKER

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ORANGEBURG )

COURT OF GENERAL SESSIONS  
 FIRST JUDICIAL CIRCUIT

State of South Carolina, )  
 )

v )

Werner Scott Haddon, )

Defendant )

MOTION TO RECONSIDER SENTENCE

2008 GS-38-0837

2008-GS-38 0838

2008-GS-38 0839

2008-GS 38-0840

Now comes the Defendant, who, by and through his undersigned counsel of record, would move before this Honorable Court for an Order reconsidering the sentence pronounced on the Defendant on January 12, 2008

Following a plea of Guilty but Mentally Ill (GBMI), the Court sentenced the Defendant as follows on the above-captioned indictments

|                 |                       |          |
|-----------------|-----------------------|----------|
| 2008-GS-38-8037 | AHAN                  | 10 years |
| 2008-GS-38-0838 | Kidnapping            | 30 years |
| 2008-GS-38-0839 | Kidnapping            | 30 years |
| 2008-GS-38-0840 | Burglary First Degree | 40 years |

These sentences were to run concurrent to each other and the defendant was given credit for time served since his arrest on May 21 2008

The Defendant appeals to this Court to reconsider its sentences on the grounds that they are excessive to accomplish the stated goal of protecting the victims from Defendant. These sentences are a *de facto* life sentence. Such a sentence is inappropriate in a case where there is a mitigating factor of mental illness as a matter of law. While the full range of sentences available under the laws of this state are still available to a sentencing court in a GBMI case, the court must also consider the effect of the Defendant's mental illness on his individual culpability. The Court must consider whether the nexus between the punishment imposed and the defendant's blameworthiness is proportional when crafting its sentence. In this case, the Defendant asserts

ATTEST TRUE COPY

ORANGEBURG COUNTY SOUTH CAROLINA

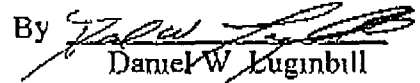
that his Asperger's Syndrome, or more generally his Autism disorder is the proximate causation of the criminal behavior. That is, but for his disease causing him to fixate on the concept of split custody, no criminal behavior would ever have occurred. Thus, while he was able to realize his conduct was morally wrong, he was unable to abandon his plans.

The Court's motivation to protect the victims in this case is both understandable and commendable. That goal, however, can be fully achieved with a much lower sentence. Dr. Schwartz-Watts testified that once the minor child reaches the age of majority, Dr. Haddon's fixation on parenting would likely dissipate. While she could not say with medical certainty that he would never fixate on another subject, an impossible task for any psychiatrist, she clearly indicated that he could be treated, and that the treatment would drastically reduce the risk of his reoffending against both these victims and any other, unforeseen, individuals.

The Defendant would respectfully ask that this Court suspend its sentence on the Kidnapping and Burglary charges to 10 years, with 5 years probation. Special conditions of probation would include no contact with the victims, and continued outpatient treatment as recommended by his treating psychiatrists while incarcerated. This sentence would allow sufficient time to pass to render the underlying issues which led to Dr. Haddon's criminal behavior moot. It thus protects the victims from the risk of future harm. Dr. Haddon would be no less than 56 years of age upon his release. The rates of reoffending at his age are extremely low. Further, there would be the threat of re-institutionalization if he failed to comply with outpatient treatment or gave any indication of reoffending. This sentence would also allow Dr. Haddon's son, once an adult, the opportunity to choose whether he wished to have any relationship with his father outside the confines of the state mental hospital.

For the foregoing reasons, the Defendant prays this Court reconsider its sentence

LUGINBILL LAW FIRM, LLC

By 

Daniel W. Luginbill

P O Box 527

Bamberg, SC 29003

(803) 245-0076

Attorney for the Defendant

Bamberg, SC  
January 14 2009

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

IN THE COURT OF GENERAL SESSIONS  
CASE NO 2008-GS-38-0837 - 0842

STATE OF SOUTH CAROLINA )  
 )  
Plaintiff, )

Vs

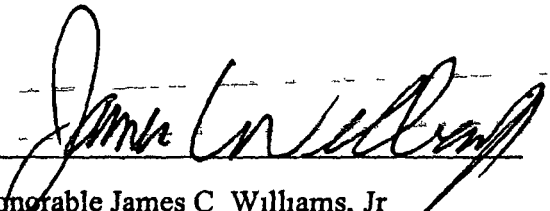
ORDER

WERNER SCOTT HADDON, )  
 )  
Defendant )  
\_\_\_\_\_ )

2010 MAY - 7 1 P 12 14  
FILED FOR RECORD  
WINNIE B CLARK  
CLERK OF COURT  
ORANGEBURG, SC

After carefully considering all of the matters presented in the Defendant's Motion for  
Reconsideration, the Motion is DENIED

AND IT IS SO ORDERED

  
\_\_\_\_\_  
Honorable James C Williams, Jr

Dated *April 22, 2010*  
Orangeburg, S C

FORM 5

2010-CP-38-1054

STATE OF SOUTH CAROLINA )

County of Orangeburg )

2010 JUL 21

FIN THE COURT OF COMMON PLEAS

Werner Scott Haddon SCDC 332800 )

Full name and prison number (if any) of Applicant )

v )

State of South Carolina )

APPLICATION FOR

POST-CONVICTION RELIEF

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 furnish his 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 back 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.

ATTEST: TRUE COPY  
*Wynne B Clark*  
 CLERK OF COURT  
 ORANGEBURG COUNTY, SC

- 1 Place of detention Leiber CI, Ridgville, SC
- 2 Name and location of Court which imposed sentence Orangeburg County General Sessions Court
- 3 Name(s) of co-defendant(s) (if any) None
- 4 The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed

(a) 2008-GS-38-837, 2008-GS-38-838, 2008-GS-38-839

2008-GS-38-840, 2008-GS-38-842 2008-GS-38-841

- (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

5 The date upon which sentence was imposed and the terms of the sentence

- (a) January 11, 2009 - forty (40) years, 85%  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

6 Check whether a finding of guilty was made

- (a) ☒ after a plea of guilty, but mentally ill  
 (b) after a plea of not guilty \_\_\_\_\_  
 (c) after a plea of nolo contendere \_\_\_\_\_

7 Did you appeal from the judgment of conviction or the imposition of sentence?

No

8 If you answered "yes" to (7), list

- (a) the name of each Court to which you appealed

I N/A  
 II \_\_\_\_\_  
 III \_\_\_\_\_

- (b) the result in each such Court to which you appealed

I N/A  
 II \_\_\_\_\_  
 III \_\_\_\_\_

- (c) the date of each such result

I N/A  
 II \_\_\_\_\_  
 III \_\_\_\_\_

- (d) if known, citations of any written opinion or orders entered pursuant to such results

I N/A  
 II \_\_\_\_\_  
 III \_\_\_\_\_

9 If you answered "no" to (7), state your reasons for not so appealing

- (a) Based on attorney's advice

(b) \_\_\_\_\_

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

10 State concisely the grounds on which you base your allegation that you are being held in custody unlawfully

(a) **Ineffective assistance of counsel** \_\_\_\_\_

(b) \_\_\_\_\_

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

11 State concisely and in the same order the facts which support each of the grounds set out in (10)

(a) **Failure to achieve a change of venue** \_\_\_\_\_

(b) **Failure to achieve a plea agreement** \_\_\_\_\_

**Misleading advice to plead Guilty But Mentally Ill**

(c) **The judge considered information outside of the record** \_\_\_\_\_

12 Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

13 If you answered "yes" to any part of (12), list with respect to each petition, motion or application

(a) the specific nature thereof

I N/A \_\_\_\_\_

II \_\_\_\_\_

III \_\_\_\_\_

IV \_\_\_\_\_

(b) the name and location of the Court in which each was filed

I N/A \_\_\_\_\_

II \_\_\_\_\_

III \_\_\_\_\_

IV

(c) the disposition thereof

I

N/A

II

III

IV

(d) the date of each such disposition

I

N/A

II

III

IV

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition

I

N/A

II

III

IV

14 Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15 If you answered "yes" to (14) identify

(a) which grounds have been presented

I

N/A

II

III

(b) the proceedings in which each ground was raised

I

N/A

II

III

- 16 If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented
- (a) There has been no delay in presenting this PCR application
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
- 17 Were you represented by an attorney at any time during the course of
- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes
- 18 If you answered "yes" to one or more parts of (17), list
- (a) the name and address of each attorney who represented you
- I Daniel Luginbill, Esq., Wilson, Luginbill and Kirkland,  
Bamberg, SC 29003
- II \_\_\_\_\_
- III \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you
- I Arraignment, First and Second Hearings, Trial and  
Sentencing hearing, Reconsideration Hearing
- II \_\_\_\_\_
- III \_\_\_\_\_

19 State clearly the relief you seek in filing this application

Sentence reduction

20 Are you now under sentence from any other court that you have not challenged?

No.

Revised 3/2003

STATE OF SOUTH CAROLINA )

County of Dorchester )

VERIFICATION

I, Werner Scott Haddon, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application, that I know the contents thereof, that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application, and that the matters and allegations therein set forth are true

Werner Scott Haddon

SWORN to and subscribed before me this 13th  
day of July, 2010

Sylvia Jones (LS)  
Notary Public

My Commission Expires 1/24/2018

2010 JUL 21 P 1 36  
FILED  
CLERK  
OF

**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, Werner Scott Haddon, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true

- (1) I am the applicant in this action and I believe I am entitled to redress
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof

Werner Scott Haddon  
Applicant

SWORN or affirmed to and subscribed before me this

20th day of July, 2010

S. Jones  
Notary Public

My Commission Expires

1/24/2018

2010 JUL 21 P 1 36  
 RECEIVED  
 CLERK OF COURT  
 AND  
 FILED FOR RECORD  
 MISSOURI  
 CLERK OF COURT  
 SC

|                               |   |                                    |
|-------------------------------|---|------------------------------------|
| STATE OF SOUTH CAROLINA       | ) |                                    |
|                               | ) | IN THE COURT OF COMMON PLEAS       |
| COUNTY OF ORANGEBURG          | ) |                                    |
|                               | ) |                                    |
|                               | ) | 2010-CP-38-1054                    |
|                               | ) |                                    |
| Werner Scott Haddon, #332800, | ) |                                    |
|                               | ) |                                    |
| Applicant,                    | ) |                                    |
|                               | ) |                                    |
| v                             | ) | <b>RETURN</b>                      |
|                               | ) | (Appointment of Counsel Requested) |
| State of South Carolina,      | ) |                                    |
|                               | ) |                                    |
| Respondent                    | ) |                                    |
| _____                         | ) |                                    |

The Respondent, making its Return to the application for post conviction relief (PCR) filed July 21, 2010, would respectfully show this Court

I

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court The Applicant was indicted for Assault and Battery of a High and Aggravated Nature (“ABHAN”) (2008-GS-38-0837), two (2) counts of Kidnapping (2008-GS-38-0838 & 0839), two (2) counts of Assault with Intent to Kill (“AWIK”) (2008-GS-38-0840 & 0842), and Burglary – 1<sup>st</sup> Degree (2008-GS-38-0841) Daniel Lugenbill, Esquire, represented him On January 12, 2009, the Applicant pled guilty but mentally ill He was sentenced by the Honorable James C Williams, Jr to ten (10) years for ABHAN (2008-GS-38-0837), to thirty (30) years for each count of Kidnapping (2008-GS-38-0838 & 0839), to forty (40) years for Burglary – First Degree (2008-GS-38-0841) All sentences were to be served concurrently

The remaining charges were *nolle prossed* pursuant to the plea Applicant did not appeal his conviction and sentence

Attached herewith and incorporated herein are the records of the Orangeburg County Clerk of Court regarding the subject conviction and the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript The Respondent reserves the right to amend this Return upon receipt of any relevant materials

## II

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons

- 1 Ineffective assistance of counsel
  - a "Failure to achieve a change of venue "
  - b "Failure to achieve a plea agreement "
  - c "Misleading advice to plead guilty but mentally ill "
  - d "The judge considered information outside of the record "

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing S C Code §17-27-50 All amendments should be made well in advance of an evidentiary hearing by counsel of record Rule 11, SCRPC

## III

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application Butler v State, 286 S C 441, 334 S E 2d 813 (1985) Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be

relied upon as having produced a just result " Strickland v Washington, 466 U S 668, 104 S Ct 2052, 2064, 80 L Ed 2d 674, 692 (1984), Butler, 334 S E 2d 813

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U S 668. The Applicant must overcome this presumption in order to receive relief. Cherry v State, 300 S C 115, 386 S E 2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S C at 117, 386 S E 2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S C at 117-18, 386 S E 2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v Lockhart, 474 U S 52, 106 S Ct 366, 88 L Ed 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v State, 279 S C 264, 305 S E 2d 247 (1983).

## IV

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied

## V

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on the issue of ineffective assistance of counsel

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W McINTOSH  
Chief Deputy Attorney General

SALLEY W ELLIOTT  
Assistant Deputy Attorney General

MARY S WILLIAMS  
Assistant Attorney General

By Mary S Williams  
ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
P O Box 11549  
Columbia, SC 29211  
Telephone (803) 734-3737

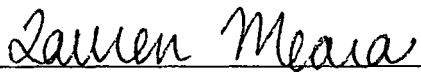
Feb 4, 20 11

|                              |   |                              |
|------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA      | ) |                              |
|                              | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF ORANGEBURG         | ) |                              |
|                              | ) |                              |
|                              | ) | 2010-CP-38-1054              |
|                              | ) |                              |
| WERNER SCOTT HADDON, 332800, | ) |                              |
|                              | ) |                              |
| Applicant,                   | ) |                              |
|                              | ) |                              |
| vs                           | ) | AFFIDAVIT OF SERVICE BY MAIL |
|                              | ) |                              |
| STATE OF SOUTH CAROLINA,     | ) |                              |
|                              | ) |                              |
| Respondent                   | ) |                              |
| _____                        | ) |                              |

- 1 I am an employee of the Respondent in the above-captioned action
- 2 Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail
- 3 I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid

**Belinda Davis-Branch, Esquire**  
**1111 Doyle Street**  
**Orangeburg, SC 29115**

DATED this 7th day of February, 2011

  
\_\_\_\_\_  
Lauren Meara, Legal Assistant  
For Respondent

1 State of South Carolina ) In the Court  
2 County of Orangeburg ) Of Common Pleas

3 Docket No 2010CP3801054  
4

5  
6 Werner Scott Haddon, )  
7 Applicant, )  
8 vs ) Transcript of Record  
9 State of South Carolina, )  
10 Respondent )

11  
12 June 9, 2011  
13 St George, South Carolina  
14

15  
16 B E F O R E

17 The Honorable Diane S Goodstein, Judge  
18

19 A P P E A R A N C E S

20 Belinda Davis-Branch, Esquire  
21 Attorney for Applicant

22 Mary S Williams, Esquire  
23 Attorney for the Respondent  
24

25 Brenda J Sigwald, Circuit Court  
P O Box 206, Jackson, South Carolina 29831

I N D E X

|                                       | <u>Page</u> |
|---------------------------------------|-------------|
| Werner Scott Haddon                   |             |
| Direct Examination by Ms Davis-Branch | 4           |
| Cross-Examination by Ms Williams      | 14          |
| Daniel W Luginbill                    |             |
| Direct Examination by Ms Williams     | 19          |
| Cross-Examination by Ms Davis-Branch  | 25          |
| Certificate of Reporter               | 35          |

E X H I B I T S

| <u>NO</u> | <u>DESCRIPTION</u> | <u>PAGE</u> |
|-----------|--------------------|-------------|
| A-1       | Petitioner's Notes | 15          |

1 MS WILLIAMS May it please the Court, Your Honor?

2 THE COURT Yes

3 MS WILLIAMS Mr Haddon's Case number is

4 2010CP381054 Mr Haddon was indicted for assault and  
5 battery of a high and aggravated nature, two counts of  
6 kidnapping, two counts of assault with intent to kill and  
7 one count of burglary in the first degree Dan Luginbill  
8 represented him on those charges And on January 12th  
9 2009, he entered a guilty plea of -- it was guilty but  
10 mentally ill -- and Judge Williams sentenced him to 40  
11 years on burglary first-degree The other sentences were  
12 consumed into that, so the assault with intent to kill  
13 charges were not prosecuted

14 So he -- he is just serving a sentence for burglary  
15 first, two counts of kidnapping and assault and battery of  
16 a high and aggravated nature

17 This application was filed July 21st, 2010, and  
18 he's alleged ineffective assistance of counsel and he's  
19 here today with Ms Davis-Branch

20 THE COURT Very well

21 Yes, ma'am, Ms Davis-Branch, anything  
22 preliminarily before you call you're first witness?

23 MS DAVIS-BRANCH No, Your Honor, other than I  
24 just asked your clerk to copy something for me

25 THE COURT Wonderful

1 MS DAVIS-BRANCH If I could have just one minute  
2 to get that

3 THE COURT Certainly Of course That will give  
4 me an opportunity to take a quick look and see what I have  
5 here

6 (WHEREUPON the Court was looking through the file )

7 THE COURT All right Yes, ma'am?

8 MS DAVIS-BRANCH Yes, Your Honor, the petitioner  
9 is ready

10 THE COURT Very well Listening to you

11 MS DAVIS-BRANCH Thank you, Your Honor We would  
12 like to call our first witness, please, Dr Haddon

13 THE COURT Yes, sir, come on around Mr Haddon  
14 as best you can Raise your right hand

15 THEREUPON,

16 WERNER SCOTT HADDON,  
17 after being duly sworn, testified as follows

18 THE COURT Thank you Please be seated And when  
19 you're seated, state your full name for the record

20 THE WITNESS My name is Werner Scott Haddon

21 THE COURT And your first name is spelled  
22 W-e-r-n-e-r?

23 THE WITNESS That's correct

24 THE COURT Thank you

25 Your witness

1 MS DAVIS-BRANCH Thank you, Your Honor

2 DIRECT EXAMINATION

3 By Ms Davis-Branch

4 Q Dr Haddon, you are, obviously, incarcerated?

5 A Yes, I'm currently incarcerated at Lieber

6 Q And how long have you been there?

7 A For three years

8 Q And you were sentenced three years ago?

9 A Yes, ma'am

10 Q Okay And --

11 A 2008

12 Q And you recall --

13 A 2009, January 2009

14 Q Yes, sir Do you recall the trial judge at that  
15 time?

16 A Jimmy Williams

17 Q Okay And, of course, you recall the name of your  
18 trial counsel?

19 A Yes, ma'am

20 Q What was his name?

21 A Dan Luginbill represented me during the hearing

22 Q Was Mr Luginbill appointed by counsel -- or by --  
23 was he appointed by the Court or did you retain him  
24 privately?

25 A No, I retained him

1 Q Okay And were -- did you have a relationship with  
2 him prior to retaining him?

3 A Yes, Mr Luginbill had represented me on the  
4 charges -- charges which resulted in the misdemeanor  
5 charge, which that charge was in 2004 and was resolved, I  
6 believe, in 2007

7 Q So the current charges that you were sentenced for  
8 three years ago, were you comfortable with your trial  
9 counsel? Did you have any trust in him? Faith in him?

10 A I had faith before the hearing, but after the  
11 hearing, I see that some of that faith was misplaced

12 Q Okay And you have filed a PCR application,  
13 correct?

14 A Yes I have filed a PCR application

15 Q And in your application, have you alleged that  
16 Mr Luginbill was ineffective?

17 A Yes The basis of my PCR application is  
18 ineffective assistance of counsel

19 Q Okay And are there more than one reasons why you  
20 think Mr Luginbill was ineffective?

21 A Yes, there are four or five areas where I think  
22 Counsel was ineffective and had these areas been dealt with  
23 in a different manner, the outcome of this trial would have  
24 been very different and the outcome is suspect given the  
25 counsel received

1 Q Okay What was the first reason? Or what is the  
2 first reason?

3 A The first reason that I felt that counsel was  
4 ineffective was that Dan's failure -- I'm sorry, I may call  
5 him Dan I fully respect Mr Luginbill Mr Luginbill  
6 failed to receive a new venue for my case Early on, we  
7 talked about getting a new venue and felt -- both of us  
8 felt that this was a very important aspect of the case and  
9 I thought that it was being planned It was only suddenly  
10 after we began to speak about a GBMI plea and the time  
11 relative to the 180 Day Rule that I realized that a change  
12 of venue was not, in fact, being planned, and so I  
13 challenged him on that

14 And he basically said because the jury wasn't going  
15 to be held that the case wouldn't be moved It didn't have  
16 as grave of importance But I always felt that the judges  
17 too could be biased by the negative media and knowing, of  
18 course, that negative media was circulated about my case,  
19 and I think that the outcome would have been much different  
20 had this trial not been tried or heard in front of a judge  
21 subject to that

22 In addition, it put me in front of a judge who had  
23 ruled on the misdemeanor case and I think he clearly, based  
24 on his own comments, considered material that was outside  
25 of the record when he sentenced me

1 Q Okay Let's go back to a couple of things that you  
2 said For the record, what did you plead to? Not the  
3 acronyms, but the actual

4 A Guilty but mentally ill

5 Q Okay Secondly, you indicated that Judge Williams  
6 was the presiding judge at the first charge?

7 A Yes, ma'am Judge Williams was the presiding judge  
8 at both cases, the misdemeanor and --

9 Q And do you feel that the sentencing that you  
10 received was in the aggregate because of the current charge  
11 and the first charge?

12 A Oh, there's no question in my mind, and based on  
13 the judge's comments that he has synthesized -- basically  
14 he took my first charge, which had a maximum incarceration  
15 or penalty of one year and he took my second charge which  
16 had a maximum penalty of life and he synthesized the  
17 sentence between the two saying that -- that I'm a threat  
18 to society, and that he's going to incarcerate me to  
19 prevent me from creating a crime, where I know myself and  
20 I've lived a life, a law-abiding life, I've never even been  
21 in the fist fight in my whole life and this is not the kind  
22 of person I am

23 So he's -- beyond that my entire case surrounded my  
24 parenting my child My child has just turned 15 and we've  
25 never argued -- I wish to be released before my child turns

1 18 I'm, you know, I'm an educted -- I'm a medical doctor  
2 I understand that once a child reaches adulthood, your  
3 parenting responsibilities change dramatically and I have  
4 an adult child already, so I understand the nature of the  
5 process

6 Q Let me ask you this, Doctor Werner There was  
7 testimony -- or was there testimony given by a psychiatrist  
8 at your hearing?

9 A Yes, Dr Donna Swartz-Watts

10 Q Okay

11 A I was consulted by my team and she testified on my  
12 behalf

13 Q And do you recall what Dr Swartz diagnosed you as  
14 having?

15 A Dr Swartz-Watts diagnosed me with Asperger's  
16 trait It's a personality disorder that's common in  
17 society One in 250 carry this trait It is not by any  
18 means a trait that makes a person violent In fact, it's  
19 sheer --

20 Q I just want to know what she diagnosed you with

21 A Oh, I'm sorry

22 Q Okay So she diagnosed you as having -- what was  
23 the name of the disease?

24 A Asperger's trait

25 Q Okay And do you recall whether or not the Court

1 asked Dr Swartz at that time whether or not there was a  
2 cure to that disease?

3 A Yes, specifically that was the only question that  
4 the Court, Mr Williams, Judge Williams, directed back to  
5 Dr Swartz-Watts was, is there a cure for this

6 Q And --

7 A Her answer was no There's no more cure for  
8 Asperger's personality trait than there is a cure for  
9 having blue eyes

10 Q Okay And was there any comment made by the judge  
11 at that time, which stated that since there was no cure  
12 that -- let me put it this way Was the word preventive --  
13 preventive of future conduct on your behalf, was that a  
14 part of your sentencing?

15 A Oh, that was definitely a part of the sentence I  
16 need to add to what the interchange there between Judge  
17 Williams and Donna Swartz-Watts Donna Swartz-Watts had  
18 testified that there were things that, even though there  
19 is no cure, the trait can't be taken away from me, there  
20 are other psychological consultation -- there is treatment  
21 in that respect, and that she did recommend to the Court  
22 that I could be monitored in a close situation by a  
23 professional and that under those circumstances I could be  
24 in society at large and not incarcerated and function  
25 without any threat So that was made clear, but apparently

1 Judge Williams did not dwell on that or accept that

2 Q Okay Do you know whether or not there was a  
3 motion filed on your behalf to have Judge Williams recused  
4 from the case since he, perhaps had ruled against you in a  
5 prior case?

6 A I am unaware of any attempt to remove him from the  
7 case

8 Q Okay And you said there with other reasons where  
9 you were dissatisfied with Attorney Luginbill Was there a  
10 second reason?

11 A Yes, ma'am My second complaint for ineffective  
12 assistance of counsel regarded the open plea which, I was  
13 asked to put forth any mention -- consented to I resented  
14 this in the beginning I think at the time the pretrial  
15 the pre-hearing time, the prosecution was asking for  
16 25 years incarceration And I was resisting until on a  
17 Friday when Dan came to county court system, he went over  
18 to the solicitor's office, who just happened to be in and  
19 said, Oh, look for burglary one, yes, the minimum is I  
20 think 25 years or such, but all of it can be suspended, and  
21 at that point in time with a GBMI and I consented to that

22 But I think that the consenting to an open plea was  
23 very devastating and I actually got sentenced to a much  
24 greater degree of incarceration than the prosecution was  
25 even asking for

1 Q Was there a third or is there a third complaint  
2 that you have in regard to the representation of Mr  
3 Luginbill?

4 A My third complaint really is the advice to plead  
5 guilty but mentally ill, GBMI Mr Luginbill, being an  
6 attorney should have known how that plea would play out in  
7 a court situation The plea was offered to me because,  
8 basically we felt that -- or it was argued that Dr  
9 Swartz-Watts was a sympathetic friend and that if I were to  
10 be incarcerated at the Guillion Center she would be able to  
11 take over my psychiatric care there We got along well and  
12 that seemed to be fine

13 In addition there was an argument made that there  
14 were better living conditions at the Guillion Center, that  
15 I could potentially become a runner and essentially assist  
16 in the treatment of patients there -- not be a medical  
17 doctor, but help them in their care I did go to the  
18 Guillion Center I was evaluated there, but none of these  
19 events have ever materialized and right now I'm serving in  
20 the general population at Lieber, which is one of the worst  
21 three level yards there is

22 Q Do you have a fourth complaint, Dr Werner?

23 A Yes, ma'am The fourth complaint that I have  
24 basically regards the lack of preparation We were not --  
25 my family and I were not prepared for the format that was

1 used I was fully expecting a family-court-type situation  
2 where you had a very directed question and answer format  
3 and the format that was used basically was one where the  
4 prosecution's witness got up and they read from prepared  
5 statements, and my family and I basically just handled this  
6 on an impromptu basis

7 This was a very emotional issue in regards to  
8 taking my child away from me in a custody battle that I  
9 fought for 12 years That emotionality definitely hurt my  
10 case, especially in lieu of a GBMI plea, which made me look  
11 for very ineffective

12 So basically, I think there were four big things  
13 that Dan, even though he represented me in a very  
14 professional way, he fell short in those One was asking  
15 me the -- or not getting a change of venue, which would  
16 help me a great deal He allowed the judge to consider  
17 material outside of the record Secondly was the fact that  
18 he didn't reach a plea agreement, which may have inclined  
19 the judge somewhat to a much shorter sentence, that he  
20 prepares well for the trial and that he really induced me  
21 to plead guilty but mentally ill, which really opened the  
22 door for this excessive sentence, based on prevention, when  
23 I committed a crime, which I did not hurt anybody

24 Q Dr Werner, do you believe that Mr Luginbill acted  
25 differently or had provided you different representation

1 that the outcome of your plea agreement, or maybe going to  
2 trial if you had gone to trial would have been different?

3 A Yes There's no question that given different  
4 counsel that the outcome of this hearing would have been  
5 very different I think that the outcome of this hearing  
6 was suspect, given the counsel that I received

7 Q Okay And how long did you -- were you in jail  
8 prior to going to your plea?

9 A I was just under the 180 Day Rule

10 Q One hundred and eighty Day Rule Okay And did  
11 Mr Luginbill come to see you during that time?

12 A Yes He did visit with me on four or five  
13 occasions

14 Q Okay And you've been glancing at some information  
15 in front of you What is that that you're looking at?

16 A Specifics of what I just spoke about, that the  
17 issues that I had and I think we've accomplished most of  
18 the points I guess the only other point which actually is  
19 included in this paperwork is that I am resident of North  
20 Carolina and that if I were to be released that -- we did  
21 have a case go into North Carolina having electronic  
22 monitoring and that's something that I tried to have  
23 discussed at this hearing, but wasn't, that I'm not -- four  
24 hours away from Orangeburg and I think that electronic  
25 monitoring should be sufficient and that if I had a new

1 hearing, perhaps I could bring this up There might be  
2 more acceptance now for electronic monitoring You're  
3 looking at a cost of one million dollars if I complete my  
4 current sentence And I am not a threat to society, I'm  
5 not a threat to Nicholas and I'm not a threat to Ginger

6 Q Okay

7 A So

8 Q What -- and this is the document that you have  
9 prepared?

10 A Yes, it is

11 Q Okay

12 MS DAVIS-BRANCH Your Honor, the petitioner would  
13 like to admit as Petitioner's Exhibit 1 -- and I'll show  
14 this to you If we may, as part of the record on behalf of  
15 the petitioner

16 Just a moment, Your Honor

17 THE COURT Absolutely take your time

18 MS WILLIAMS Your Honor, I don't have any  
19 objection to this I think it supports the largest part of  
20 his testimony

21 THE COURT Very well We'll mark that as  
22 Applicants Exhibit No 1

23 (WHEREUPON Applicant's Exhibit No 1 was marked and  
24 entered into evidence )

25 MS WILLIAMS Yes Thank you, Your Honor

1 MS DAVIS-BRANCH Dr Werner, answer any questions  
2 that Ms Williams may have for you, representative for the  
3 State

4 THE WITNESS Thank you

5 CROSS-EXAMINATION

6 By Ms Williams

7 Q Dr Haddon, you understood that you could receive  
8 up to a life sentence when you pled guilty this day, is  
9 that correct?

10 A Yes, I did

11 Q And you understand that if you were successful  
12 today, you would go back to a trial?

13 A Yes, I do

14 Q And would you want to pursue a plea or a trial -- a  
15 different plea?

16 A I really haven't thought about how I would handle a  
17 new situation, but what I was asking for was a  
18 resentencing, so the element of my guilt is not in  
19 question I'm not asking the Court to try the obvious,  
20 simply to resentence on a more appropriate level

21 Q All right I think -- I don't have anymore  
22 questions Thank you

23 THE COURT Okay Any redirect examination?

24 MS DAVIS-BRANCH No, Your Honor That was our  
25 only witness and we would like the cross-examine Mr

1 Luginbill once she puts him on the stand

2 THE COURT I understand

3 Dr Haddon, I want to be sure that you understand  
4 the remedy that's available to you Your last comment was  
5 that you would -- you are asking for a resentencing --

6 THE WITNESS Yes, Your Honor

7 THE COURT -- on what you consider to be a more  
8 appropriate sentence I want to be sure, though, that you  
9 understand that that is not relief that is available to you  
10 from this Court What is available as relief for you from  
11 this Court, from the post conviction relief is simply to  
12 vacate your current sentence and then send you back for a  
13 new trial

14 Now, if you chose -- and then who knows what would  
15 happen at that point In other words, there would either  
16 be a trial on all of the charges or there could perhaps be  
17 negotiations for a plea anew But it is so important to me  
18 that you understand that resentencing is not a remedy that  
19 is available to you in this proceeding Do you understand  
20 that?

21 THE WITNESS Well, I understand that this is a  
22 gateway to that process And I really beg for you to keep  
23 that gateway open and to send me to there I understand  
24 that the successful PCR applications are almost nil

25 THE COURT You are correct It is a gateway and I

1 just want you --

2 THE WITNESS I just beg the system for being as  
3 competent that you don't have to sentence many people for  
4 PCR But I really do ask that you keep this gateway open  
5 for me that I can go back and get an appropriate sentence

6 THE COURT Okay I just wanted to be sure that  
7 you understood that that's the process and that you --

8 THE WITNESS Yes, ma'am

9 THE COURT -- because most of the time, most folks  
10 that file applications for PCR, they just want a downward  
11 departure, if you will -- they want a downward sentence  
12 And I just want to be sure that you understand that --

13 THE WITNESS Well, I understand the situation, I'm  
14 exposing myself to a life sentence But I also understand  
15 that 40 years, that would have me leaving the prison system  
16 at age 82 Some basically it's a functional life sentence  
17 I have --

18 THE COURT I just wanted to be sure you  
19 understood

20 Come on back to Ms Davis-Branch's table

21 MS DAVIS-BRANCH We're done, Your Honor

22 THE COURT Very well Yes, ma'am?

23 MS WILLIAMS We're going to call Mr Dan  
24 Luginbill

25 THE COURT Okay

1           THEREUPON,

2                           DANIEL W   LUGINBILL,

3   after being duly sworn, testified as follows

4           THE COURT    Very well    When you are seated, if you  
5   would state your full name for the record and spell your  
6   last name

7           THE WITNESS   Daniel W   Luginbill,

8   L-u-g-i-n-b-i-l-l

9           THE COURT    Very well    Your witness

10                           **DIRECT EXAMINATION**

11   By Ms   Williams

12   Q           Mr   Luginbill, can you tell me briefly about your  
13   legal experience and how you came to represent Mr   Haddon  
14   in this matter?

15   A           I'm a 2000 graduate of the University of South  
16   Carolina, School of Law   I've been continuing in practice  
17   since that date in Bamberg, South Carolina   I was  
18   initially practicing with the law firm of Early and Ness  
19   I had represented Dr   Haddon in some family court matters  
20   briefly   We ultimately had to withdraw from representation  
21   in family court due to an alleged or raised conflict of  
22   interest regarding some prior representation from  
23   Mr   Early, but I had gotten to know Dr   Haddon for some  
24   period of time before we had to get out of the case

25           He came back to me at some point -- I don't

1 remember yet -- I think I was still with Early and Ness  
2 when he came back for a stalking charge that had been  
3 brought against him We were able to get that worked down  
4 to a misdemeanor charge and then there was also a contempt  
5 of court action that was brought contemporaneously with the  
6 stalking charge that I represented him in family court on  
7 after his ex-wife waived any conflict that may or may not  
8 exist at that point And I was able to represent him in  
9 that

10 After this incident occurred, the family contacted  
11 me and I agreed to represent him on the charges that we're  
12 here for today

13 Q Now you had mentioned that you all had initially  
14 discussed this as a trial Tell me how initially you guys  
15 started -- what you started thinking in terms of a trial?

16 A The only way that this was ever going to be a trial  
17 was if the solicitor's office was just taking a very hard  
18 line to where there was just absolutely nothing to lose in  
19 a plea The problem with this case, obviously, as a trial,  
20 is that in the process of trying to obtain his son, he was  
21 interrupted by law enforcement So there was multiple law  
22 enforcement witnesses

23 There was a grandmother who was obviously taken at  
24 the same time She was going to be a witness and as Dr  
25 Haddon said today, the facts of what he did are not

1 particularly in doubt, so a trial would have been a futile  
2 effort The claims to make any grounds and to get the best  
3 service was to try to control the consequences of the  
4 actions

5 Q And how did you go about doing that?

6 A The first thing we did was look at the strength of  
7 the case Was there anything that we could do procedurally  
8 to try to get any evidence that would have -- could we have  
9 suppressed anything, could we have kept anything out And  
10 then we focussed, really on the motivation, to try to  
11 explain that this was a culmination of a 13-year-custody  
12 fight that Dr Haddon had had no prior history outside this  
13 custody fight

14 He'd been a law-abiding citizen He'd been a  
15 surgeon, had dedicated his life to helping people, was not  
16 a threat to society in general, certainly, and that -- and  
17 just try to focus on a sentence that was going to keep him  
18 incarcerated beyond the child's 18th birthday, wherein the  
19 custody fight would have been over one -- at that point  
20 there's no more custody fights because he's an adult

21 Q And how did it come to be that you had Dr  
22 Swartz-Watts evaluate him and felt like that was a proper  
23 tact to pursue here?

24 A I had used Dr Swartz-Watts in the past I have  
25 also had Dr Swartz-Watts testify against clients of mine

1 in the past I knew that she had been a witness in Judge  
2 Williams court several times and that he respected her  
3 opinion, and I felt that she was going to give us a good  
4 chance of leaving a positive impression with Judge  
5 Williams

6 Q Talk to me briefly about change of venue and any  
7 thoughts that you may have had in that regard?

8 A The change of venue -- and, of course, Scott still  
9 continues to struggle with this concept, but a change of  
10 venue was going to be, in effect -- it only would have been  
11 changed to either Dorchester County or it would have been  
12 changed to Calhoun County The demographics of both of  
13 those counties are no better and probably worse if Dr  
14 Haddon would have gone to trial

15 The same judges -- your likelihood of taking the  
16 plea in front of Judge Williams doesn't go down It stays  
17 pretty much the same The only other choice in all  
18 likelihood would have been Judge Goodstein I didn't feel  
19 there was an appreciative difference in how the two would  
20 view the case And so it would have been an effort in  
21 futility

22 In addition, I really didn't think that the motion  
23 to change venue would have been successful in any event  
24 There was significant press initially after it happened,  
25 but then it was essentially silent after that There was

1 nothing in the paper between the initial incident and the  
2 plea

3 Q Tell me about any plea offers or negotiations that  
4 may have been -- taken place

5 A The plea offer was -- we were able to reduce some  
6 of the assault and battery with intent to kill charges We  
7 did attack the assault and battery with intent to kill on  
8 the police officers That was based on the firing or the  
9 discharge of the weapon that occurred during the incident

10 I maintained then and I maintain now and I think we  
11 were able to show some degree of clarity that the discharge  
12 of the weapon was involuntary The weapon did not  
13 discharge until after he had been tasered I think we were  
14 finally able to get the solicitor's office to come around  
15 to that way of thinking and they withdrew either one or two  
16 of the charges on that aspect

17 Of course, you still had the pointing of the  
18 weapon, which there was nothing we could do about that  
19 That was on tape There were several witnesses The  
20 pointing of the weapon at the officers was just -- that was  
21 a charge we were going to have to live with The  
22 solicitor's office at no time -- and understand that this  
23 was primarily a -- although Tommy Scott worked on the case  
24 some, primarily the solicitor, David Pascoe was the one  
25 handling this case They never really made an offer It

1 was, you can plead -- we can -- you know, we'll work with  
2 you as far as what you're going to plea to, but we are not  
3 going to make a recommendation in court

4 But he was basically -- the 25 years that I spoke  
5 of -- was just -- we would not object to anything over 25  
6 years, but they were never willing to cap that That was  
7 never on the table

8 MS WILLIAMS Court's indulgence for one moment

9 THE COURT All right

10 By Ms Williams

11 Q And tell me about any preparations you made with  
12 Dr Haddon -- for him during the allocution, the  
13 sentencing, any preparations you may have done with him as  
14 to his statement to the Court

15 A With Dr Haddon, it was always a back and forth  
16 discussion of whether or not to allow him to make a  
17 statement to the Court I strongly encouraged him not to  
18 I tried to dissuade him from speaking to the Court as best  
19 I could At the end of the day, it's his decision and he  
20 chose -- he said he wanted to speak to the Court and he did  
21 speak to the Court We did not prepare a rehearsed  
22 statement We did not go over what he was going to say  
23 because quite frankly, I didn't want him to say anything

24 Q And tell me what your advice was regarding the  
25 effects of a guilty but mentally ill plea

1 A My advice was that he would go to -- not  
2 necessarily the place that he went to, but he would be  
3 evaluated there and based on the evaluation that was there,  
4 Dr Swartz-Watts indicated that she would be a part of that  
5 and that she would -- if she was able to, she would support  
6 his staying there and he could possibly, you know, be of  
7 assistance to her

8 It was made clear to him, however, that it depends  
9 on the outcome of the evaluation There was no guarantee

10 Q And the possibility of incarceration at a  
11 Department of Corrections facility? Did you explain that  
12 to him?

13 A Yes

14 MS WILLIAMS I don't think I have anymore  
15 questions for Mr Luginbill

16 THE COURT Very well Cross-examination

17 **CROSS-EXAMINATION**

18 By Ms Davis-Branch

19 Q How you doing Mr Dan?

20 A I'm fine

21 Q Good Mr Luginbill, the change of venue, I just  
22 wanted to ask you a couple of questions about that Was it  
23 ever in your consideration to go to trial for -- on behalf  
24 of Dr Haddon? Was that ever --

25 A Yeah, we considered it early on Again, though, I

1 mean the -- the trial would only determine guilt and guilt  
2 was never at issue So a change of venue for a trial would  
3 only have effected the determination of guilt

4 Q Okay And you would agree that publicity was a lot  
5 in the beginning?

6 A Initially there was newspaper articles, there was  
7 the video that was posted on a web site We captured all  
8 that and we made copies of all that and I was prepared to  
9 get affidavits about their newspaper, about their  
10 circulation and the sort of things that you would have to  
11 show that a jury pool could have been tainted

12 Obviously, however, and it just goes -- it's --  
13 once you make a decision to take your chances with a plea  
14 and try to focus your efforts in that regard, tainting of  
15 the jury pool is irrelevant There's no case law to  
16 support a change of venue because the judge may have  
17 witnessed it That's just not -- unless the judge has some  
18 personal knowledge from outside of the courtroom of the  
19 events themselves, you have no grounds to transfer venue  
20 based on the judge who he has going to hear the plea

21 Q And as his attorney, do you think the amount of  
22 publicity may have been heightened because of Dr Haddon's  
23 profession?

24 A No question about it

25 Q Okay If -- you talked a little bit about on

1 direct examination that there was some discussion about a  
2 plea Take me through that whole process again

3 A We met several times over four, five, six visits in  
4 the jail

5 Q What were you after? Let me ask that -- what kind  
6 of plea were you after or seeking, in other words?

7 A What kind of -- a plea to what charges?

8 Q Yes A plea to the charges -- in other words, he  
9 pled guilty but mentally insane Is there something else  
10 that you thought would be more appropriate for the  
11 circumstances of his case?

12 A Well, I mean, if you could have gotten a mentally  
13 incompetent plea, a plea that would have been -- or a  
14 finding that would have said that he was unable to conform  
15 his -- a true insanity plea, but there was no medical  
16 evidence to support that Dr Swartz-Watts evaluated him  
17 and would not give that opinion So a true insanity plea,  
18 if that's what you're asking me, there was no evidence to  
19 support that

20 Q A true insanity -- let me ask you this If he  
21 had -- if you had gone to trial for whatever reason you had  
22 gone to trial, what would have been the maximum sentence he  
23 would have received?

24 A Life

25 Q Do you believe that his sentence that he did

1 receive is tantamount to life?

2 A Well, it's irrelevant what I believe, but

3 Q As his attorney?

4 A He'll get out when he gets out It's a  
5 mathematical function My opinion on it is irrelevant

6 Q Would you answer the question, please?

7 A I have no idea I mean, I mean it's been so  
8 long --

9 Q Okay So you don't have any idea?

10 A It depends on how long he lives

11 Q Let's -- let me ask you some questions about the  
12 advice that you gave him to plea I know you went to see  
13 him Do you recall how many times you went to see him?

14 A I didn't keep a record of it

15 Q Okay Less than five?

16 A It was clearly over five

17 Q Over five times Okay And when did you begin in  
18 your analysis to say that this is the most appropriate  
19 thing for you to plea to

20 A Once all the discovery was in and the strength of  
21 the State's case was very apparent

22 Q And did he understand that?

23 A Yes Dr Haddon at no point requested a full on  
24 jury trial because he never denied --

25 Q He never denied he did it?

1 A He never denied he did it

2 Q Right Exactly So at the time that you went to  
3 the plea agreement, it was understood by him that he was  
4 going to be pleading guilty to that -- guilty but mentally  
5 insane?

6 A Correct

7 Q Okay

8 THE COURT Guilty but mentally ill

9 MS DAVIS-BRANCH I'm so sorry

10 THE COURT That's okay It's just because it  
11 has --

12 MS DAVIS-BRANCH It certainly does, Your Honor  
13 I apologize

14 By Ms Davis-Branch

15 Q He never hesitated about that plea at all?

16 A He resisted pleading guilty but mentally ill  
17 because he did not believe that he was, in fact, mentally  
18 ill

19 Q Okay But that would not have been -- I mean, I  
20 know what he believed, but that wouldn't have been his  
21 decision to make, correct?

22 A Well, he would have had to authorize me to make the  
23 plea and to seek a guilty but mentally ill plea and he  
24 would have to stand up and enter the plea of guilty but  
25 mentally ill So, yeah, he does have to -- he has a say so

1 in that He could have refused to have said that and I  
2 would have respected that and we would have pled straight  
3 up

4 Q Right But he did not repute it?

5 A He did not repute it because, again, our plan at  
6 that point -- once the Court accepted a guilty but mentally  
7 ill plea, you now have as an indisputable fact within the  
8 case, a mitigating factor You now had as a matter of law  
9 a mitigating factor that the judge must consider and that  
10 was, we felt, the best chance we had to ameliorate the  
11 situation and put our focus on the fact that you could  
12 essentially incapacitate him beyond the time that his son  
13 was going to be a minor, thereby ending the custody  
14 dispute

15 This act -- those criminal charges are -- were  
16 simply -- it was very clear and that's what we argued that  
17 it was the ongoing custody fight that started shortly after  
18 this child was born

19 Q Let me ask you this --

20 A Our argument was or our focus was -- our strategy  
21 was incapacitate him beyond the time that the child would  
22 be an adult and at that point if the child wants to have a  
23 relationship with Dr Haddon, that's between the grown  
24 adult child and Dr Haddon And the Court doesn't have to  
25 intervene, the family court doesn't have to intervene,

1 | there's nothing to protect the child from at this point

2 | Q           Okay    Were you surprised of the sentence when it  
3 | was rendered?

4 | A           I was disappointed in the sentence, yes

5 | Q           What were you expecting?

6 | A           I don't know that I had an expectation, you know  
7 | 15 years, something like that, something that would have  
8 | taken him probably until the child was 21 or 22, somewhere  
9 | in that range was really where we put our focus    If I had  
10 | pulled the rabbit out of the hat, that's where we would  
11 | have been

12 | Q           Okay    And once the sentencing was over, what did  
13 | you do in response to the sentencing?

14 | A           We -- can you be more specific in your question?

15 | Q           Did you file a motion for reconsideration?

16 | A           We did file a motion for reconsideration

17 | Q           Okay    And was that denied?

18 | A           It was

19 | Q           Okay    Did you file a direct appeal or notice of  
20 | appeal on behalf of Dr   Haddon?

21 | A           We talked about that    We did not file a direct  
22 | appeal of it    The sentence was a legal sentence    He pled  
23 | guilty    A direct appeal, we felt, just wasn't -- I was not  
24 | going to do it for him    It would have been turned over to  
25 | indigent defense to prosecute the appeal    I told him I

1 would have to have filed the appropriate motions, that I  
2 didn't feel there was grounds for the appeal Other  
3 than -- we talked about that after the sentencing itself  
4 and then I went to see him at the facility and we talked  
5 about it again and we did not file an appeal

6 Q In your experience as an attorney, even though you  
7 may have felt -- may have had little faith in the direct  
8 appeal, would it not have been prudent to do one any way?

9 A No

10 Q Why not?

11 A Waste of time

12 Q But you would not have been handling it, correct?

13 A It doesn't matter There's no grounds for the  
14 appeal

15 Q In your opinion?

16 A In my opinion And he agreed

17 Q Judge Williams -- you were aware of the fact that  
18 Judge Williams presided as the initial trial regarding the  
19 stalking charge with Dr Haddon?

20 A I pled him --

21 Q That's right You were the trial counsel?

22 A Yes

23 Q Do you think that had any effect on the sentencing  
24 for this case?

25 A I think the charge itself did I think the fact

1 that Judge Williams heard it did not

2 Q Okay

3 MS DAVIS-BRANCH Your Honor, may I have a moment,  
4 please

5 THE COURT You may

6 MS DAVIS-BRANCH Thank you

7 Your Honor, the petitioner has no further  
8 questions

9 THE WITNESS I would like to clarify one thing  
10 that I said just to make it clear for the record and that  
11 it was correct We did file a direct appeal I thought we  
12 had We withdrew that and there should be a stipulation of  
13 dismissal in the file It was withdrawn on July 2nd

14 By Ms Davis-Branch

15 Q In your file I believe it's part of the State's  
16 records?

17 MS WILLIAMS It's not part of my records, but if  
18 that's what he has, I don't dispute it

19 By Ms Davis-Branch

20 Q So you did file a direct appeal?

21 A We filed a direct appeal and then withdrew it

22 Q Okay You as the attorney, not for the indigent  
23 defense office?

24 A No As the attorney upon -- after consultation and  
25 agreement by Mr Haddon

1 MS DAVIS-BRANCH Okay No further questions,  
2 Your Honor

3 THE COURT Very well Cross-examination?

4 MS WILLIAMS Nothing from the State

5 THE COURT Very well Is this witness free to  
6 leave?

7 MS WILLIAMS He is, Your Honor

8 THE COURT Very well All right Do you have any  
9 additional witnesses Ms Williams?

10 MS WILLIAMS No, ma'am, I don't

11 THE COURT And you, Ms Davis-Branch?

12 MS DAVIS-BRANCH No, ma'am

13 THE COURT Very well Thank you both very much  
14 I will take these matters under advisement and notify you  
15 by letter of my decision and ask one of you to draft for me  
16 an order

17 Thank you all

18

19 \* \* \* \* \* END OF TRANSCRIPT \* \* \* \* \*

20

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1 State of South Carolina )  
2 County of Aiken ) **Certificate of Reporter**

3  
4  
5  
6 I, THE UNDERSIGNED, Brenda J Sigwald,  
7 Official Court Reporter for the Fifth Judicial Circuit of  
8 the State of South Carolina, do hereby certify that I  
9 reported the proceedings in the captioned case in the Court  
10 of Common Pleas in and for the State of South Carolina on  
11 the 9th day of June, 2011

12 I FURTHER CERTIFY that the foregoing pages,  
13 numbered 3 through 34 constitute a true, accurate and  
14 complete transcript of said hearing

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

17 IN WITNESS WHEREOF, I have hereunto set my hand and  
18 seal at Aiken County, this 20th day of December, 2011

19

20

21

22

23

24

25

*Brenda J Sigwald*

Brenda J Sigwald,  
Court Reporter and Notary Public  
For the State of South Carolina  
My commission expires  
January 4, 2020

STATE OF SOUTH CAROLINA )  
COUNTY OF ORANGEBURG )  
)  
)  
)  
Werner Scott Haddon, # 332800, )  
)  
)  
Applicant, )  
)  
v )  
)  
State of South Carolina, )  
)  
)  
Respondent )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT

2010-CP-38-1054

ORDER OF DISMISSAL

201 SEP 27 A 9 48

**PROCEDURAL HISTORY**

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 21, 2010. The Respondent made its Return on February 4, 2011. An evidentiary hearing into the matter was convened on June 9, 2011, at the Dorchester County Courthouse. The Applicant was present at the hearing and was represented by Belinda Davis-Branch, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Dan Luginbill, Esquire ("counsel"). This Court also had before it a copy of the transcript of the proceedings against the Applicant, the records of the Orangeburg County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections.

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. The Applicant was indicted for Assault and Battery of a High and Aggravated Nature ("ABHAN") (2008-GS-38-0837), two (2) counts of Kidnapping (2008-GS-

ATTEST TRUE COPY  
*Winnifred B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SOUTH CAROLINA  
*2010 10 79*

38-0838 & 0839), two (2) counts of Assault with Intent to Kill ("AWIK") (2008-GS-38-0840 & 0842), and Burglary – 1<sup>st</sup> Degree (2008-GS-38-0841) Daniel Lugenbill, Esquire, represented him On January 12, 2009, the Applicant pled guilty but mentally ill He was sentenced by the Honorable James C Williams, Jr to ten (10) years for ABHAN (2008-GS-38-0837), to thirty (30) years for each count of Kidnapping (2008-GS-38-0838 & 0839), to forty (40) years for Burglary – First Degree (2008-GS-38-0841) All sentences were to be served concurrently The remaining charges were *nolle prossed* pursuant to the plea Applicant did not appeal his conviction and sentence

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons

- 1 Ineffective assistance of counsel
  - a "Failure to achieve a change of venue "
  - b "Failure to achieve a plea agreement "
  - c "Misleading advice to plead guilty but mentally ill "
  - d "The judge considered information outside of the record "

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S C Code Ann §17-27-80 (1985)

#### **Ineffective Assistance of Counsel**

Applicant alleges he received ineffective assistance of counsel In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application Rule 71 l(e), SCRPC, Butler v State, 286 S C 441, 334 S E 2d 813 (1985) Where ineffective assistance of



counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result " Strickland v Washington, 466 U S 668, 104 S Ct 2052, 2064, 80 L Ed 2d 674, 692 (1984), Butler, 286 S C 441, 334 S E 2d 813 (1985)

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment Butler, 286 S C 441, 334 S E 2d 813 (1985) The Applicant must overcome this presumption to receive relief Cherry v State, 300 S C 115, 386 S E 2d 624 (1989)

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel First, the Applicant must prove that counsel's performance was deficient Under this prong, attorney performance is measured by its "reasonableness under professional norms " Cherry, 300 S C at 117, 385 S E 2d at 625 (citing Strickland) Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different " Cherry, 300 S C at 117-18, 386 S E 2d at 625

With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial Hill v Lockhart, 474 U S 52, 106 S Ct 366, 88 L Ed 2d 203 (1985) In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel Al-Shabazz v State, 338 S C 354, 527 S E 2d 742 (1999) A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by

showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial Roscoe v State, 345 S C 16, 546 S E 2d 417 (2001) A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases " Hill v Lockhart, 474 U S 52, 56, 106 S Ct 366, 369 (1985) A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements Crawford v U S, 519 F 2d 347 (4<sup>th</sup> Cir 1975), Edmonds v Lewis, 546 F 2d 566 (4<sup>th</sup> Cir 1976) The allegations made in the application and at the hearing all boil down to a claim of ineffective assistance of counsel, and therefore must all be tested based on the Strickland v Washington standard

*Failure to Achieve a Change of Venue*

Applicant alleges first that counsel was ineffective for failing to achieve a change of venue for Applicant to enter his plea Applicant testified that early on in counsel's representation, both he and counsel believed that a change of venue was important Applicant went on to say that later in their discussions, counsel explained to Applicant that a change of venue was no longer important as Applicant planned to enter a guilty plea and therefore partiality of a jury pool would not matter Applicant contends a change of venue should still have been sought as Judge Williams, the plea judge, was affected by partiality in this case and even took into consideration some items not part of the record at the plea, such as Applicant's prior criminal record, during his sentencing

Counsel testified that he did consider changing venue for Applicant's plea, but chose not to do so because the change in venue would transfer the case to Calhoun County, a county in which counsel believed the demographic would be no more advantageous to Applicant and in which the same judges presided as in Orangeburg county. Counsel stated that he was not aware of any media coverage concerning Applicant's case that would affect the impartiality of potential jurors or judges, warranting a change of venue. Counsel then stated that it is his belief that once a defendant decides to enter a plea rather than proceed to trial, the possibility of a tainted jury pool is irrelevant and that there is no case law that he knows of to support a change of venue based on media coverage tainting a plea judge. Additionally, counsel went on to say that he did not believe such a motion would be successful, and even if it were, he did not believe there would be an "appreciable difference" in having a different judge hear Applicant's case.

I find that Applicant has failed to show counsel was ineffective in this regard. Counsel's testimony reveals that he assessed the situation in full and, in the exercise of his professional judgment, did not see the need for a change of venue. It has been well established that our courts should be wary of second-guessing defense counsel's trial strategies, especially where counsel can articulate a valid reason for employing such a strategy. (See Whitehead v. State, 308 S C 119, 417 S E 2d 530 (1992) ) For that reason, I find that counsel was not ineffective in failing to make a motion for change of venue. Further, I find that even if counsel had made a motion for change of venue, Applicant has failed to prove the motion would have been granted, or that he would have been prejudiced by the denial of such a motion. "A motion for a change of venue is addressed to the sound discretion of the trial judge and will not be disturbed absent an abuse of discretion." State v. Caldwell, 300 S C 494, 388 S E 2d 816 (1990). Therefore, Applicant has

wholly failed to carry his burden in this regard in proving counsel was ineffective based on the Strickland v Washington standard

*Failure to Achieve a Plea Agreement*

Applicant's second contention is counsel was ineffective for allowing him to enter an "open plea" without recommendation or negotiation from the state as to what the sentence should or would be. Applicant testified he resisted entering an open plea without negotiation from the beginning, but that counsel had advised him after speaking with the solicitor that the entirety of any sentence Applicant received could be suspended.

Counsel testified the solicitor took a "hard-line" on this case from the very beginning, making advantageous plea negotiations very difficult. He went on to state that the facts leading to the charges were never in doubt, and because of that, the solicitor never made any plea offers to the Applicant and refused to make a recommendation as to sentencing. Counsel went on to say the State wasn't going to object to any sentence given over twenty-five years either.

I find Applicant has failed to prove counsel was ineffective in this regard as well. I find counsel's testimony to be credible as to attempting to seek an advantageous plea offer and find that Applicant has failed to prove any deficiency in counsel's performance where the solicitor makes the decision not to enter into plea negotiations or recommendations, despite counsel's attempts to elicit an advantageous plea offer for Applicant. Therefore, Applicant has failed to carry his burden in this regard.

*Misleading Advice to Induce Guilty But Mentally Ill Plea*

As stated above, an Applicant in PCR that pleads guilty on counsel's advice may only collaterally attack the voluntary and knowing nature of his guilty plea by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the

defendant would not have pled guilty and would have insisted on going to trial Roscoe, supra. Therefore, this allegation is essentially a claim of ineffective assistance of counsel that rendered a guilty plea involuntary.

At the PCR hearing, Applicant testified he believed counsel should have known how entering a "guilty but mentally ill" plea would have played out. Applicant testified that counsel told him that Dr. Donna Schwartz-Watts, a mental health doctor who testified at Applicant's plea, would take over care of Applicant at a mental health center, where Applicant would be subjected to better conditions than at a Department of Corrections institution, and this induced Applicant to enter his plea. Counsel then testified that he had extensive discussions with Applicant prior to the entry of this plea, during which counsel made it abundantly clear that he was making no promises of exactly what the outcome would be of entering a guilty but mentally ill plea, where he would be incarcerated, or the conditions of his incarceration. Counsel stated that he only told Applicant that Dr. Schwartz-Watts would be part of the evaluating team and made no promises as to what her role would be after the entry of his plea. He then went on to state that, although a full insanity plea would have been more beneficial to Applicant, there was no finding of insanity made by the evaluating doctors, so that was not an option Applicant could pursue.

I find counsel's testimony to be credible. Conversely, I find Applicant's testimony to not be credible. Based on the testimony presented at the PCR, I find that Applicant did not prove by a preponderance of the evidence that counsel was ineffective in his representation based on Applicant's entry of this plea. Further, I find that Applicant's plea of guilty but mentally ill was entered knowingly and voluntarily after being fully and adequately advised by competent counsel acting within the range of competence demanded of attorneys in criminal cases.

7  
pg 779

For the reasons discussed above, the Applicant has failed to carry his burden in this action. Therefore, this Court finds that the application must be denied and dismissed in its entirety.

### CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

Except as discussed above, this Court finds that the Applicant failed to raise any other allegations cognizable in PCR at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v Fairway Oaks Villas Horizontal Property Regime, 307 S C 339, 415 S E 2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v BMI, Inc., 292 S C 153, 158-59, 355 S E 2d 282 (Ct App 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

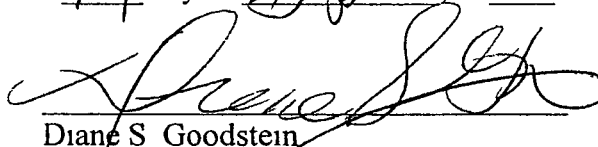
This Court advises Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v State, 305 S C 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71 1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your

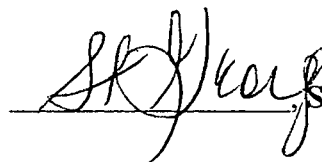
attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal

**IT IS THEREFORE ORDERED**

- 1 That the Application for Post-Conviction Relief must be denied and dismissed with prejudice, and
- 2 The Applicant must be remanded to the custody of the Respondent

**AND IT IS SO ORDERED** this 14 day of Sept, 20 11

  
Diane S. Goodstein  
Presiding Judge  
First Judicial Circuit

  
South Carolina

## ARREST WARRANT

**J-695787**

## STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

## THE STATE

against

WERNER SCOTT HADDON

Address 1 R                     F. zone                      SSN                     Sex M Race W Height 5-11 Weight                     DL State N DL#                     DOB                      Agency ORI#                     Prosecuting Agency ORANGEBURG DEPT OF PUBLICProsecuting Officer S/A C M BUSTLE SROffense ASSAULT & BATTERY WITH THE INTENT TO KILL Offense Code 0014Code/Ordinance Sec. 16-03-0620

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of

ORANGEBURG

The accused is to be arrested and brought before me to be dealt with according to law

Signature of Judge

(L S)

Date                     

## RETURN

A copy of this arrest warrant was delivered to defendant WERNER SCOTT HADDON

on May 28, 2008                      
Signature of Constable/Law Enforcement Officer

## RETURN WARRANT TO

ORANGEBURG MUNICIPAL COURT

PO BOX 1425

320 MIDDLETON STREET

ORANGEBURG, SC 29116

## STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

Personally appeared before me the affiant S/A C M BUSTLE, SR whobeing duly sworn deposes and says that defendant WERNER SCOTT HADDONdid within this county and state on 05/21/2008 to 05/21/2008 violate the criminal laws of theState of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG)

in the following particulars

DESCRIPTION OF OFFENSE 16-03-0620 / ASSAULT & BATTERY WITH THE INTENT TO KILL

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 MAY 21 2008 AT APPROX 0630 HRS ONE WERNER SCOTT HADDON DID VIOLATE SECTION 16-03-0620 OF THE SC CODE OF LAWS IN THAT HE COMMITTED THE OFFENSE OF ASSAULT AND BATTERY WITH THE INTENT TO KILL ON THE ABOVE DATE AND TIME SGT MURDAUGH PSO BROOKS PSO BRADACS PSO BRIGHTWELL AND CPL FORY RESPONDED TO

ON A ARMED ROBBERY ALARM ONCE ON SCENE THE ABOVE NAMED OFFICERS ENCOUNTERED THE DEFENDANT WALKING DOWN THE DRIVEWAY OF THE INCIDENT LOCATION WITH ONE ARM WRAPPED AROUND HIS SON NICHOLAS AND A PISTOL IN THE OTHER SGT MURDAUGH ORDER THE DEFENDANT TO STOP AT WHICH TIME HE BEGAN TO BACK UP THE DEFENDANT THEN FIRED A SINGLE SHOT IN THE DIRECTION OF SGT MURDAUGH PSO BRIGHTWELL AND CPL FORY SGT MURDAUGH AND PSO BROOKS RETURNED FIRE NEUTRALIZING THE THREAT THE DEFENDANT WAS ARRESTED AND TRANSPORTED TO PALMETTO RICHLAND HOSPITAL

Signature of Affiant

Affiant's Address                     Affiant's Telephone                      3

## STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 05/21/2008 defendant WERNER SCOTT HADDON

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

☐ County/ ☒ Municipality of ORANGEBURG ) as set forth belowDESCRIPTION OF OFFENSE ASSAULT / ASSAULT AND BATTERY WITH INTENT TO KILL (ABWIK)

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 the 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 05/21/2008                                          (L S )  
BARNEY M HOUSERJudge Code 6496Judge's Address                     Judge's Telephone                     

Issuing Court

☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

WITNESSES

DOCKET NO 2008GS38-0037

hereby waive presentment to the Grand Jury

The State of South Carolina

2008 JUN -4 A II 20 County of

FILED FOR RECORD  
LISA W MIZELL  
CLERK OF COURT  
ORANGEBURG, SC

ORANGEBURG

COURT OF GENERAL SESSIONS

June 02, 2008 TERM

Defendant

I  
hereby appear in my own proper person and  
plead guilty to the within indictment or to

Defendant

Witness

C C C PLS AND G S

S/A C M BUSTLE, SR

Arresting Agency  
SLED

ARREST WARRANT NUMBER

J695787

Arrested May 28, 2008

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury  
Date June 4, 2008

Date JUN 04 2008

VERDICT

THE STATE  
vs

Werner Scott Haddon

Indictment for

ASSAULT W/INTENT TO KILL

SC Code Common Law  
CDR Code 0768  
Class MIS-UNC

Foreperson of Petit Jury  
Date

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

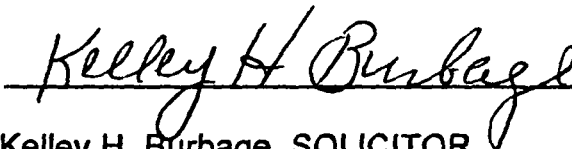
INDICTMENT  
2008GS38-0837

At a Court of General Sessions, convened on June 02, 2008 the Grand Jurors of Orangeburg County present upon their oath

**ASSAULT W/INTENT TO KILL**

That Werner Scott Haddon, did in Orangeburg County, on or about May 21, 2008, with malice aforethought commit an assault upon the victim, Sgt Murdaugh, with intent to kill the said victim, including but not limited to shooting at the victim and as a result violated the Common Law offense of Assault with Intent to Kill

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

  
Kelley H Burbage SOLICITOR

COUNTY OF ORANGEBURG  
STATEVS  
WERNER SCOTT HADDONAKA  
Race W Sex M Age 49

DOB \_\_\_\_\_ SS# \_\_\_\_\_

Address \_\_\_\_\_

City State Zip \_\_\_\_\_

DL# \_\_\_\_\_ SID# \_\_\_\_\_

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS Guilty But Mentally Ill  
TO ASSAULT OF A HIGH AND AGGRAVATED NATUREin violation of COMMON LAW of the S C Code of Laws bearing CDR Code # 0009☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1' or Lewd Act)

The charge is ☐ As Indicted ☒ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury \_\_\_\_\_ (defendant initial)The plea is ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State

ATTEST

W. Scott Haddon Defendant David W. Lull Attorney for Defendant SC Bar # 6852WHEREFORE the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,  
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_ provided that upon the service of \_\_\_\_\_ 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☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S C Code §17-25-135

## SPECIAL CONDITIONS

☐ RESTITUTION ☐ Deferred ☐ Def Waives Hearing ☐ Ordered PTUP \_\_\_\_\_

Total \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms \_\_\_\_\_

Obtain GED ☐☐ set by SCDPPPS \_\_\_\_\_

Attend Voc Rehab or Job Corp \_\_\_\_\_

Recipient \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐

\*Fine \$ \_\_\_\_\_

Random Drug/Alcohol Testing ☐

§14-1-206 (Assessments 107 5%) \$ \_\_\_\_\_

Fine may be pd in equal consecutive weekly/monthly

§14-1-211(A)(1) (Conv Surcharge) \$100 \$ 100.00pmts of \$ \_\_\_\_\_ Beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund

§14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_

§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_

Other \_\_\_\_\_

§35 13 (Public Def/Prob) \$500 \$ \_\_\_\_\_

§73 3 1B TP (Law Enforce Funding) \$25 \$ 25.00

§33 7, 1B TP (Drug Court Surcharge) \$100 \$ \_\_\_\_\_

§50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

3% to County (if paid in installments) \$ 3.90§90 11 TP (SCCA Surcharge) \$5 \$ 5.00TOTAL \$ 132.90☐ Appointed PD or appointed other counsel §35 13 TP☐ Requires \$500 be paid to Clerk during probationMerion S. Edgemon Jr  
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Court Reporter Harry Dot WalkerJudge Code  
Sentence Date

## ARREST WARRANT

J-695790

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

THE STATE

against



Werner S Haddon

WERNER SCOTT HADDON

Address DR

Phone SSN

Sex M Race W Height 5-11 Weight

DL State N DL#

DOB Agency ORI# SC0380100

Prosecuting Agency ORANGEBURG DEPT OF PUBLIC

Prosecuting Officer S/A C M BUSTLE SR

Offense KIDNAPPING

Offense Code 0095

Code/Ordinance Sec. 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of

ORANGEBURG

The accused

is to be arrested and brought before me to be  
dealt with according to law

Signature of Judge

(L S)

Date

## RETURN

A copy of this arrest warrant was delivered to

defendant WERNER SCOTT HADDON

on May 28, 2008

Signature of Constable/Law Enforcement Officer

## RETURN WARRANT TO

ORANGEBURG MUNICIPAL COURT

PO BOX 1425

320 MIDDLETON STREET

ORANGEBURG, SC 29116

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

Personally appeared before me the affiant S/A C M BUSTLE, SR who

being duly sworn deposes and says that defendant WERNER SCOTT HADDON

did within this county and state on 05/21/2008 to 05/21/2008 violate the criminal laws of th

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG )

make the following particulars

DESCRIPTION OF OFFENSE 16-03-0910 / KIDNAPPING

FILED FOR RECORD  
LISA W MIZELL  
CLERK OF COURT  
ORANGEBURG 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 MAY 21 2008 AT APPROX 0630 HRS ONE WERNER SCOTT HADDON DID VIOLATE SECTION 16-03-0910 OF THE SC CODE  
OF LAWS IN THAT HE COMMITTED THE OFFENSE OF KIDNAPPING ON THE ABOVE DATE AND TIME THE DEFENDANT MR  
HADDON WENT TO THE RESIDENCE OF WHICH IS LOCATED IN THE CITY LIMITS OF  
ORANGEBURG SC WHILE AT THE RESIDENCE THE DEFENDANT ARMED WITH A GLOCK PISTOL FORCED MS VIRGINIA  
KEARSE TO OPEN THE BACK DOOR OF THE RESIDENCE SO HE COULD GAIN ENTRY TO TAKE HIS SON NICHOLAS BY  
FORCE ONCE INSIDE THE RESIDENCE THE DEFENDANT GRABBED NICHOLAS AROUND THE NECK AND PULLED HIM OUT  
OF THE RESIDENCE ONCE OUTSIDE THE DEFENDANT WAS CONFRONTED BY OFFICERS THE DEFENDANT FIRED ONE  
SHOT IN THE DIRECTION OF OFFICERS AT WHICH TIME OFFICERS RETURNED FIRE NEUTRALIZING THE THREAT THE  
DEFENDANT WAS ARRESTED AND TRANSPORTED TO PALMETTO RICHLAND HOSPITAL. THIS INCIDENT TOOK PLACE WITH  
IN THE CITY OF ORANGEBURG SC

Signature of Affiant

Affiant's Address

Affiant's Telephone

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 05/21/2008 defendant WERNER SCOTT HADDON

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

☐ County/ ☒ Municipality of ORANGEBURG ) as set forth below

DESCRIPTION OF OFFENSE KIDNAPPING / KIDNAPPING

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 the 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 05/21/2008

Barney M Houser (L S)

Judge Code 6496

Judge's Address

Judge's Telephone

Issuing Court

☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

Case NR-01252

**WITNESSES**

2008 JUN -4 A 11 21

FILED FOR RECORD  
LISA W HIZELL  
CLERK OF COURT  
ORANGEBURG SC

S/A C M BUSTLE, SR

Arresting Agency  
SLED

ARREST WARRANT NUMBER

J695790

Arrested May 28, 2008

ACTION OF GRAND JURY  
TRUE BILL

Foreperson of Grand Jury  
Date June 4, 2008

Date JUN 04 2008

VERDICT

Foreperson of Petit Jury  
Date

DOCKET NO 2008GS330-0030

The State of South Carolina

County of

ORANGEBURG

COURT OF GENERAL SESSIONS

June 02, 2008 TERM

THE STATE  
vs

Werner Scott Haddon

Indictment for

KIDNAPPING

SC Code 16-03-910  
CDR Code 0095  
Class FEL-A

After being fully advised as to my legal rights, I  
hereby waive presentment to the Grand Jury

Defendant

I  
hereby appear in my own proper person and  
plead guilty to the within indictment or to

Defendant

Witness

C C C PLS AND G S

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

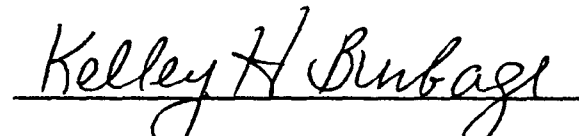
INDICTMENT  
2008GS38-0838

At a Court of General Sessions, convened on June 02, 2008 the Grand Jurors of  
Orangeburg County present upon their oath

**KIDNAPPING**

That Werner Scott Haddon, did in Orangeburg County, on or about May 21, 2008,  
willfully and unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away one  
Nicholas Haddon, without authority of law This offense being a violation of Section  
§16-3-910 of the South Carolina Code of laws, (1976 as amended)

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

  
Kelley H Burbage SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG  
STATEINDICTMENT/CASE# 2008 GS-38 0838VS  
WERNER SCOTT HADDONAW# J-695790AKA  
Race W Sex M Age 49Date of Offense MAY 21, 2008DOB        SS#       S C Code § 16-3-910Address       CDR Code # 0095City State Zip       

SENTENCE SHEET

DL#        SID#       In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO KIDNAPPINGin violation of § 16-3-910 of the S C Code of Laws bearing CDR Code # 0095☐ NON VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1<sup>st</sup> or Lewd Act)The charge is ☒ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury        (defendant initial)The plea is ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence ☐ Recommendation by the State

ATTEST

       Solicitor        Defendant        Attorney for Defendant 6852 SC BarWHEREFORE the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed        yearsand/or to pay a fine of \$        provided that upon the service of        days/months/years and/or paymentof \$        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☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S C Code §17-25-135

## SPECIAL CONDITIONS

☐ RESTITUTION ☐ Deferred ☐ Def Waives Hearing ☐ OrderedPTUP       Total \$        plus 20% fee        \$              days/hours Public Service EmploymentPayment Terms       Obtain GED ☐☐ set by SCDPPPS       Attend Voc Rehab or Job Corp       Recipient       May serve WE beginning       Substance Abuse Counseling ☐

\*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 \$       \$35 13 (Public Def/Prob) \$500 \$       \$73 3 1B TP (Law Enforce Funding) \$25 \$ 25.00\$33 7 1B TP (Drug Court Surcharge) \$100 \$       \$50-21 114(BUI Breath Test Fee) \$50 \$       \$56-5 2942(J) (Vehicle Assessment) \$40/ea \$       3% to County (if paid in installments) \$ 3.90\$90 11 TP (SCCJA Surcharge) \$5 \$ 5.00TOTAL \$ 133.90Random Drug/Alcohol Testing ☐

Fine may be pd in equal consecutive weekly/monthly

pmts of \$        Beginning         
\$        paid to Public Defender FundOther       ☐ Appointed PD or appointed other counsel §35 13 TP☐ Requires \$500 be paid to Clerk during probationMarion S. Edgemong  
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Court Reporter

Harry Dot Walker

Judge Code

Sentence Date

01141-12-09

## ARREST WARRANT

J-695791

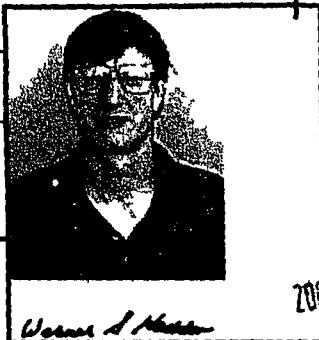
STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

THE STATE

against



STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

Personally appeared before me the affiant S/A C M BUSTLE, SR who

being duly sworn deposes and says that defendant WERNER SCOTT HADDON

did within this county and state on 05/21/2008 to 05/21/2008 violate the criminal laws of the

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG)

in the following particulars

DESCRIPTION OF OFFENSE 16-03-0910 / KIDNAPPING

FILED FOR RECORD

1. I, the undersigned, 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 MAY 21 2008 AT APPROX 0630 HRS ONE WERNER SCOTT HADDON DID VIOLATE SECTION 16-03-0910 OF THE SC CODE OF LAWS IN THAT HE COMMITTED THE OFFENSE OF KIDNAPPING ON THE ABOVE DATE AND TIME THE DEFENDANT MR HADDON WENT TO THE RESIDENCE OF WHICH IS LOCATED IN THE CITY LIMITS OF ORANGEBURG SC WHILE AT THE RESIDENCE THE DEFENDANT ARMED WITH A GLOCK PISTOL FORCED MS VIRGINIA KEARSE TO OPEN THE BACK DOOR OF THE RESIDENCE SO HE COULD GAIN ENTRY TO TAKE HIS SON NICHOLAS BY FORCE ONCE INSIDE THE RESIDENCE THE DEFENDANT GRABBED NICHOLAS AROUND THE NECK AND PULLED HIM OUT OF THE RESIDENCE ONCE OUTSIDE THE DEFENDANT WAS CONFRONTED BY OFFICERS THE DEFENDANT FIRED ONE SHOT IN THE DIRECTION OF OFFICERS AT WHICH TIME OFFICERS RETURNED FIRE NEUTRALIZING THE THREAT THE DEFENDANT WAS ARRESTED AND TRANSPORTED TO PALMETTO RICHLAND HOSPITAL THIS INCIDENT TOOK PLACE WITH IN THE CITY OF ORANGEBURG SC

Signature of Affiant

Affiant's Address

Affiant's Telephone

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 05/21/2008 defendant WERNER SCOTT HADDON

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

☐ County/ ☒ Municipality of ORANGEBURG ) as set forth below

DESCRIPTION OF OFFENSE KIDNAPPING / KIDNAPPING

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 the 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 05/21/2008

BARNEY M HOUSER  
(L.S.)

Judge Code 6496

Judge's Address

Judge's Telephone

Issuing Court

☐ Magistrate☒ Municipal☐ Circuit

Form Approved by  
S.C. Attorney General  
July 26, 1990  
SCCA 518

ORIGINAL

WERNER SCOTT HADDON

Address

Phone SSN

Sex M Race W Height: 5-11 Weight:

DL State N DL#

DOB Agency OR# SC0380100

Prosecuting Agency ORANGEBURG DEPT OF PUBLIC

Prosecuting Officer S/A C M BUSTLE SR

Offense KIDNAPPING

Offense Code 0095

Code/Ordinance Sec. 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of

ORANGEBURG

The accused

s to be arrested and brought before me to be  
dealt with according to law

Signature of Judge

(L.S.)

## RETURN

copy of this arrest warrant was delivered to  
defendant WERNER SCOTT HADDON

May 28, 2008

Signature of Constable/Law Enforcement Officer

## TURN WARRANT TO

ORANGEBURG MUNICIPAL COURT

BOX 1425

20 MIDDLETON STREET

ORANGEBURG, SC 29116

**WITNESSES**

2008 JUN -4 A 11 21

FILED FOR RECORD  
LISA W. MIZELL  
CLERK OF COURT  
ORANGEBURG SC

S/A C M BUSTLE, SR

Arresting Agency  
SLED

**ARREST WARRANT NUMBER**

J695791

Arrested May 28, 2008

ACTION OF GRAND JURY  
**TRUE BILL**

Foreperson of Grand Jury  
Date June 4, 2008

Date JUN 04 2008

**VERDICT**

Foreperson of Petit Jury  
Date

**The State of South Carolina**

County of

**ORANGEBURG**

**COURT OF GENERAL SESSIONS**

**June 02, 2008 TERM**

**THE STATE  
vs**

**Werner Scott Haddon**

**Indictment for  
KIDNAPPING**

SC Code 16-03-910  
CDR Code 0095  
Class FEL-A

After being fully advised as to my legal rights I  
hereby waive presentment to the Grand Jury

Defendant

I  
hereby appear in my own proper person and  
plead guilty to the within indictment or to

Defendant

Witness

C C C PLS AND G S

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

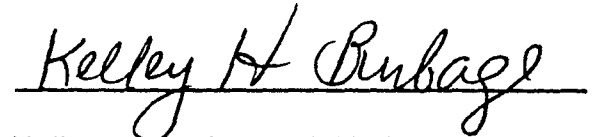
INDICTMENT  
2008GS38-0839

At a Court of General Sessions, convened on June 02, 2008 the Grand Jurors of Orangeburg County present upon their oath

**KIDNAPPING**

That Werner Scott Haddon, did in Orangeburg County, on or about May 21, 2008, willfully and unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away one Virginia Kearse, without authority of law This offense being a violation of Section §16-3-910 of the South Carolina Code of laws, (1976 as amended)

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

  
Kelley H Burbage SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG  
STATE

INDICTMENT/CASE# 2008 GS- 38 0839

VS  
WERNER SCOTT HADDON

AW# J-695791  
Date of Offense MAY 21, 2008  
S C Code § 16-3-910  
CDR Code # 0095

AKA \_\_\_\_\_  
Race W Sex M Age 49  
DOB \_\_\_\_\_ SS# \_\_\_\_\_  
Address \_\_\_\_\_  
City State Zip \_\_\_\_\_  
DL# \_\_\_\_\_ SID# \_\_\_\_\_

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS (6BMT)  
TO KIDNAPPING

in violation of § 16-3-910 of the S C Code of Laws bearing CDR Code # 0095

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

The charge is ☒ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury \_\_\_\_\_ (defendant initial)  
The pleas ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State

ATTEST W. Scott Haddon Defendant James L. Williams Attorney for Defendant 105525 SC Bar  
Solicitor

WHEREFORE the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,  
for a determinate term of 30 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

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S C Code §17-25-135

SPECIAL CONDITIONS

☐ RESTITUTION ☐ Deferred ☐ Def Waives Hearing ☐ Ordered PTUP \_\_\_\_\_

Total \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms \_\_\_\_\_

Obtain GED ☐

☐ set by SCDPPPS \_\_\_\_\_

Attend Voc Rehab or Job Corp \_\_\_\_\_

Recipient. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐

|                                        |         |                  |
|----------------------------------------|---------|------------------|
| *Fine                                  | \$      |                  |
| §14-1-203 (Assessments 107 5%)         | \$      |                  |
| §14-1-211(A)(1) (Conv Surcharge)       | \$100   | \$ <u>100.00</u> |
| §14-1-211(A)(2) (DUI Surcharge)        | \$100   | \$               |
| §56-5-2995 (DUI Assessment)            | \$12    | \$               |
| §35 13 (Public Def/Prob)               | \$500   | \$               |
| §73 3 1B TP (Law Enforce Funding)      | \$25    | \$ <u>25.00</u>  |
| §33 7, 1B TP (Drug Court Surcharge)    | \$100   | \$               |
| §50-21-114(BUI Breath Test Fee)        | \$50    | \$               |
| §56-5-2942(J) (Vehicle Assessment)     | \$40/ea | \$               |
| 3% to County (if paid in installments) |         | \$ <u>3.90</u>   |
| §90 11 TP (SCCJA Surcharge)            | \$5     | \$ <u>5.00</u>   |
| TOTAL                                  |         | \$ <u>133.90</u> |

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 §35 13 TP  
☐ Requires \$500 be paid to Clerk during probation

PRESIDING JUDGE

Judge Code  
Sentence Date

Marion S. Edgemon Jr  
Clerk of Court/ Deputy Clerk

Court Reporter Harry Dot Walker

James L. Williams  
1014  
1-12-09

**J-695786**

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

THE STATE

against



Werner S Haddon

WERNER SCOTT HADDON

Address \_\_\_\_\_

Phone \_\_\_\_\_ SSN \_\_\_\_\_

Sex M Race W Height 5-11 Weight \_\_\_\_\_State N DL# \_\_\_\_\_DOB \_\_\_\_\_ Agency OR# SC0380100Prosecuting Agency ORANGEBURG DEPT OF PUBLICProsecuting Officer S/A C M BUSTLE SROffense ASSAULT & BATTERY WITH THE INTENT TO KILL Offense Code 0014Code/Ordinance Sec. 16-03-0620

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of  
ORANGEBURG The accusedto be arrested and brought before me to be  
bail with according to law

Signature of Judge

(LS)

RETURN

copy of this arrest warrant was delivered to  
defendant WERNER SCOTT HADDONMay 28, 2008Capt. M B Bustle

Signature of Constable/Law Enforcement Officer

TURN WARRANT TO

ORANGEBURG MUNICIPAL COURT

BOX 1425

20 MIDDLETON STREET

ORANGEBURG, SC 29116

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

Personally appeared before me the affiant S/A C M BUSTLE, SR whobeing duly sworn deposes and says that defendant WERNER SCOTT HADDONdid within this county and state on 05/21/2008 to 05/21/2008 violate the criminal laws of theState of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG)

in the following particulars

DESCRIPTION OF OFFENSE 16-03-0620 / ASSAULT & BATTERY WITH THE INTENT TO KILLI 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 factsON MAY 21, 2008 AT APPROX 0630 HRS ONE WERNER SCOTT HADDON DID VIOLATE SECTION 16-03-0620 OF THE SC CODE  
OF LAWS IN THAT HE COMMITTED THE OFFENSE OF ASSAULT AND BATTERY WITH THE INTENT TO KILL ON THE ABOVE  
DATE AND TIME SGT MURDAUGH PSO BROOKS PSO BRADACS PSO BRIGHTWELL AND CPL FORY RESPONDED TOON A ARMED ROBBERY ALARM ONCE ON SCENE THE ABOVE NAMED OFFICERS ENCOUNTERED THE  
DEFENDANT WALKING DOWN THE DRIVEWAY OF THE INCIDENT LOCATION WITH ONE ARM WRAPPED AROUND HIS SON  
NICHOLAS AND A PISTOL IN THE OTHER SGT MURDAUGH ORDER THE DEFENDANT TO STOP AT WHICH TIME HE BEGAN  
TO BACK UP THE DEFENDANT THEN FIRED A SINGLE SHOT IN THE DIRECTION OF SGT MURDAUGH PSO BRIGHTWELL  
AND CPL FORY SGT MURDAUGH AND PSO BROOKS RETURNED FIRE NEUTRALIZING THE THREAT THE DEFENDANT WAS  
ARRESTED AND TRANSPORTED TO PALMETTO RICHLAND HOSPITAL

Signature of Affiant

Affiant's Address \_\_\_\_\_

Affiant's Telephone \_\_\_\_\_

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

**ARREST WARRANT**

TO ANY LAW ENFORCEMENT OFFICER IN 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 05/21/2008 defendant WERNER SCOTT HADDON

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

☐ County/ ☒ Municipality of ORANGEBURG) as set forth belowDESCRIPTION OF OFFENSE ASSAULT / ASSAULT AND BATTERY WITH INTENT TO KILL (ABWIK)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 the 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 05/21/2008BARNEY M HOUSERJudge Code 6496

Judge's Address \_\_\_\_\_

Judge's Telephone \_\_\_\_\_

Issuing Court

☐ Magistrate☒ Municipal☐ Circuit

Case 08-01252

ORIGINAL

WITNESSES

DOCKET NO 2008GS38-0840

After being fully advised as to my legal rights, I  
hereby waive presentment to the Grand Jury

164

The State of South Carolina

County of

2008 JUN -4 A 11 20

ORANGEBURG

FILED FOR RECORD  
LISA W MIZELL  
CLERK OF COURT  
ORANGEBURG SC

S/A C M BUSTLE, SR

COURT OF GENERAL SESSIONS

Arresting Agency  
SLED

June 02, 2008 TERM

ARREST WARRANT NUMBER

J695786

Arrested May 28, 2008

THE STATE  
vs

Witness

C C C PLS AND G S

ACTION OF GRAND JURY  
TRUE BILL

Werner Scott Haddon

Foreperson of Grand Jury  
Date June 4, 2008

Date JUN 04 2008

Indictment for

VERDICT

ASSAULT W/INTENT TO KILL

SC Code Common Law  
CDR Code 0768  
Class MIS-UNC

Foreperson of Petit Jury  
Date

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

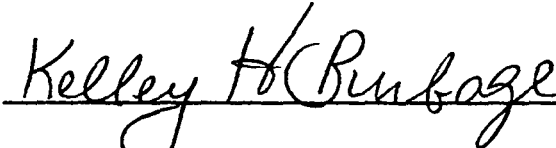
INDICTMENT  
2008GS38-0840

At a Court of General Sessions, convened on June 02, 2008 the Grand Jurors of  
Orangeburg County present upon their oath

**ASSAULT W/INTENT TO KILL**

That Werner Scott Haddon, did in Orangeburg County, on or about May 21, 2008, with  
malice aforethought commit an assault upon the victim, PSO Brightwell, with intent to  
kill the said victim, including but not limited to shooting at the victim and as a result  
violated the Common Law offense of Assault with Intent to Kill

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

  
Kelley H Burbage SOLICITOR

# General Sessions Tracking Sheet

## Indictment # 2008GS3800840

Name Haddon Weiner Scott

AKA

Addr

SSN#

Sex M Race W

DOB

DL#

Warrant/Ticket # J695786

Date of Arrest 05/28/2008

Date of Offense 05/28/2008

Date Rcv by Clerk 05/30/2008

Magistrate Clerk Of Court C P, G S, And Family Court

Counts Code 0014/Assault / Assault and battery w/ Intent to Kill (ABWIK)

Indictment # 2008GS3800840

## Disposition Information

1 Transmitted to SOL &amp; SCCA

2 Disp Received by Clerk

3 Date of Disposition

Disposition

☐ 1 Guilty plea

☐ 2 Trial guilty

☐ 3 Trial not guilty

☒ 4 Dism/Not Pros/Pros Ended

☐ 5 Judicial Commitment

☐ 6 Judicial Dismissal

☐ 7 Remanded

☐ 8 Dismissed at Prelim

☐ 8 No Bill

☐ 9 Failure to Appear

☐ 10 Other

Explain

Explain

Explain

Explain

Explain

Pled Guilty To Other Charge

Judge

Defense Atty

Counts Code

Sentence

Court Reporter

Solicitor

Kelley H. Bunbage

1/12/09

## ARREST WARRANT

J-695789

## STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of  
ORANGEBURG

## THE STATE

against



WERNER SCOTT HADDON

Address \_\_\_\_\_

Phone \_\_\_\_\_ SSN \_\_\_\_\_

Sex: M Race: W Height: 5-11 Weight: \_\_\_\_\_DL State: N DL#: \_\_\_\_\_DOB: \_\_\_\_\_ Agency ID#: SC0380100Prosecuting Agency: ORANGEBURG DEPT OF PUBLICProsecuting Officer: S/A C M BUSTLE SROffense: BURGLARY 1ST

Offense Code

0079

Code/Ordinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of

ORANGEBURG

The accused

is to be arrested and brought before me to be  
dealt with according to law

Signature of Judge

(L S)

Date \_\_\_\_\_

## RETURN

A copy of this arrest warrant was delivered to

defendant WERNER SCOTT HADDON

on May 28, 2008

[Signature]  
Signature of Constable/Law Enforcement Officer

## RETURN WARRANT TO

ORANGEBURG MUNICIPAL COURT

PO BOX 1425

120 MIDDLETON STREET

ORANGEBURG, SC 29116

## STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

Personally appeared before me the affiant S/A C M BUSTLE, SR whobeing duly sworn deposes and says that defendant WERNER SCOTT HADDONdid within this county and state on 05/21/2008 to 05/21/2008 violate the criminal laws of theState of South Carolina for a violation of ☐ County/ ☒ Municipality of ORANGEBURG

In the following particulars

DESCRIPTION OF OFFENSE: 16-11-0311 / BURGLARY 1ST

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 MAY 21 2008 AT APPROX 0630 HRS ONE WERNER SCOTT HADDON DID VIOLATE SECTION 16-11-0311 OF THE SC CODE  
OF LAWS IN THAT HE COMMITTED THE OFFENSE OF BURGLARY 1ST ON THE ABOVE DATE AND TIME THE DEFENDANT MR  
HADDON WENT TO THE RESIDENCE OF \_\_\_\_\_ WHICH IS LOCATED IN THE CITY LIMITS OF  
ORANGEBURG SC WHILE AT THE RESIDENCE THE DEFENDANT ARMED WITH A GLOCK PISTOL FORCED MS VIRGINIA  
KEARSE TO OPEN THE BACK DOOR OF THE RESIDENCE SO HE COULD GAIN ENTRY TO TAKE HIS SON NICHOLAS BY  
FORCE ONCE INSIDE THE RESIDENCE THE DEFENDANT GRABBED NICHOLAS AROUND THE NECK AND PULLED HIM OUT  
OF THE RESIDENCE ONCE OUTSIDE THE DEFENDANT WAS CONFRONTED BY OFFICERS THE DEFENDANT FIRED ONE  
SHOT IN THE DIRECTION OF OFFICERS AT WHICH TIME OFFICERS RETURNED FIRE NEUTRALIZING THE THREAT THE  
DEFENDANT WAS ARRESTED AND TRANSPORTED TO PALMETTO RICHLAND HOSPITAL THIS INCIDENT TOOK PLACE WITH  
IN THE CITY OF ORANGEBURG SC

Signature of Affiant

Affiant's Address

## STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ORANGEBURG

Affiant's Telephone

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 05/21/2008defendant WERNER SCOTT HADDON

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

☐ County/ ☒ Municipality of ORANGEBURG ) as set forth belowDESCRIPTION OF OFFENSE BURGLARY / BURGLARY (AFTER JUNE 20, 1985) - FIRST 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 the 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 05/21/2008

[Signature]  
BARNEY M HOUSER

Judge Code 6496

Judge's Address

Judge's Telephone

Issuing Court

☐ Magistrate☒ Municipal☐ Circuit

ORIGINAL

WITNESSES

The State of South Carolina

County of

2008 JUN -4 11 20 ORANGEBURG

FILED FOR RECORD

LISA W. HAZELL  
CLERK OF COURT  
ORANGEBURG, SC

COURT OF GENERAL SESSIONS

June 02, 2008 TERM

S/A C M BUSTLE, SR

Arresting Agency

SLED

ARREST WARRANT NUMBER

J695789

Arrested May 28, 2008

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date June 4, 2008

VERDICT

Werner Scott Haddon

Indictment for

BURGLARY - 1ST DEGREE  
(DWELLING)

SC Code 16-11-0311

CDR Code 0079

Class FEL-EXM(V)

After being fully advised as to my legal rights I  
hereby waive presentment to the Grand Jury

Defendant

I  
hereby appear in my own proper person and  
plead guilty to the within indictment or to

Defendant

Witness

C C C PLS AND G S

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

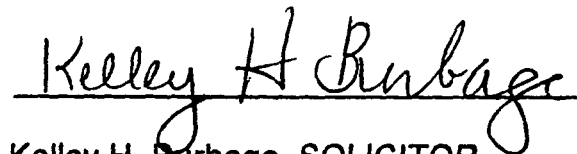
INDICTMENT  
2008GS38-0841

At a Court of General Sessions, convened on June 02, 2008 the Grand Jurors of  
Orangenburg County present upon their oath

**BURGLARY - 1ST DEGREE (DWELLING)**

That Werner Scott Haddon, did in Orangenburg County, on or about May 21, 2008,  
willfully and unlawfully enter the dwelling of Virginia Kearse Haddon without consent  
and with the intent to commit a crime therein and that the defendant did enter the  
dwelling while armed with a deadly weapon, and/or during the hours of darkness This  
offense being a violation of Section §16-11-0311 of the South Carolina Code of laws,  
(1976 as amended)

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

  
Kelley H Burbage SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG  
STATEINDICTMENT/CASE# 2008 -GS- 38 0841VS.  
WERNER SCOTT HADDONAW# J-695789AKA  
Race W Sex M Age 49Date of Offense MAY 21, 2008

DOB \_\_\_\_\_ SS# \_\_\_\_\_

S C Code § 16-11-311CDR Code # 0079

Address \_\_\_\_\_

City State Zip \_\_\_\_\_

DL# \_\_\_\_\_ SID# \_\_\_\_\_

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO BURGLARY FIRST DEGREEin violation of § 16-11-311 of the S C Code of Laws bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1<sup>st</sup> or Lewd Act)The charge is ☒ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury \_\_\_\_\_ (defendant initial)The plea is ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State

ATTEST

W. M. Papp Solicitor W. Scott Haddon Defendant J. W. Papp Attorney for Defendant 6852 SC BarWHEREFORE the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 40 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☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S C Code §17-25-135

## SPECIAL CONDITIONS

☐ RESTITUTION ☐ Deferred ☐ Def Waives Hearing ☐ Ordered

PTUP \_\_\_\_\_

Total \$ \_\_\_\_\_ plus 20% fee \$ \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms \_\_\_\_\_

Obtain GED ☐☐ set by SCDPPPS \_\_\_\_\_

Attend Voc Rehab or Job Corp \_\_\_\_\_

Recipient. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐

\*Fine

|                                        |         |                  |
|----------------------------------------|---------|------------------|
| §14-1-208 (Assessments 107 5%)         | \$      | _____            |
| §14-1-211(A)(1) (Conv Surcharge)       | \$100   | \$ <u>100.00</u> |
| §14-1-211(A)(2) (DUI Surcharge)        | \$100   | \$ _____         |
| §58-5-2995 (DUI Assessment)            | \$12    | \$ _____         |
| §35 13 (Public Def/Prob)               | \$500   | \$ _____         |
| §73 3, 1B TP (Law Enforce Funding)     | \$25    | \$ <u>25.00</u>  |
| §33 7 1B TP (Drug Court Surcharge)     | \$100   | \$ _____         |
| §50-21-114(BUI Breath Test Fee)        | \$50    | \$ _____         |
| §56-5-2942(J) (Vehicle Assessment)     | \$40/ea | \$ _____         |
| 3% to County (if paid in installments) | \$      | \$ <u>3.90</u>   |
| §90 11 TP (SCCJA Surcharge)            | \$5     | \$ <u>5.00</u>   |
| TOTAL                                  |         | \$ <u>133.90</u> |

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 §35 13 TP☐ Requires \$500 be paid to Clerk during probationMarion S. Edgemong  
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE

Court Reporter

Harry Aot Walker

Judge Code

Sentence Date

01141-12-09

**J-695788**

**STATE OF SOUTH CAROLINA**

☐ County/ ☒ Municipality of  
**ORANGEBURG**

**THE STATE**  
against



*Werner S. Haddon*

**WERNER SCOTT HADDON**

Address \_\_\_\_\_

Phone \_\_\_\_\_ SSN \_\_\_\_\_

Sex M Race W Height 5-11 Weight \_\_\_\_\_

DL State N DL# \_\_\_\_\_

DOB \_\_\_\_\_ Agency ORI# SC0380100

Prosecuting Agency ORANGEBURG DEPT OF PUBLIC

Prosecuting Officer S/A C M BUSTLE SR

Offense ASSAULT & BATTERY WITH THE INTENT  
TO KILL Offense Code 0014

Code/Ordinance Sec. 16-03-0620

This warrant is **CERTIFIED FOR SERVICE** in the

☐ County/ ☒ Municipality of  
ORANGEBURG The accused

s to be arrested and brought before me to be  
lealt with according to law

\_\_\_\_\_  
Signature of Judge (L.S.)

ate \_\_\_\_\_

**RETURN**

copy of this arrest warrant was delivered to  
defendant WERNER SCOTT HADDON

May 28, 2008

*Capt M. L. Adams*  
Signature of Constable/Law Enforcement Officer

**TURN WARRANT TO**

ANGEBURG MUNICIPAL COURT  
BOX 1425  
20 MIDDLETON STREET  
ANGEBURG, SC 29116

**STATE OF SOUTH CAROLINA**

☐ County/ ☒ Municipality of  
**ORANGEBURG**

Personally appeared before me the affiant S/A C M BUSTLE, SR whc  
being duly sworn deposes and says that defendant WERNER SCOTT HADDON  
did within this county and state on 05/21/2008 to 05/21/2008 violate the criminal laws of th  
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ORANGEBURG  
in the following particulars:

**DESCRIPTION OF OFFENSE** 16-03-0620 / ASSAULT & BATTERY WITH THE INTENT TO KILL

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 MAY 21 2008 AT APPROX 0630 HRS ONE WERNER SCOTT HADDON DID VIOLATE SECTION 16-03-0620 OF THE SC CODE  
OF LAWS IN THAT HE COMMITTED THE OFFENSE OF ASSAULT AND BATTERY WITH THE INTENT TO KILL ON THE ABOVE  
DATE AND TIME SGT MURDAUGH PSO BROOKS PSO BRADACS PSO BRIGHTWELL AND CPL FORY RESPONDED TO  
ON A ARMED ROBBERY ALARM ONCE ON SCENE THE ABOVE NAMED OFFICERS ENCOUNTERED THE  
DEFENDANT WALKING DOWN THE DRIVEWAY OF THE INCIDENT LOCATION WITH ONE ARM WRAPPED AROUND HIS SON  
NICHOLAS AND A PISTOL IN THE OTHER SGT MURDAUGH ORDER THE DEFENDANT TO STOP AT WHICH TIME HE BEGAN  
TO BACK UP THE DEFENDANT THEN FIRED A SINGLE SHOT IN THE DIRECTION OF SGT MURDAUGH PSO BRIGHTWELL  
AND CPL FORY SGT MURDAUGH AND PSO BROOKS RETURNED FIRE NEUTRALIZING THE THREAT THE DEFENDANT WAS  
ARRESTED AND TRANSPORTED TO PALMETTO RICHLAND HOSPITAL

Signature of Affiant \_\_\_\_\_

**STATE OF SOUTH CAROLINA**

☐ County/ ☒ Municipality of  
**ORANGEBURG**

Affiant's Address \_\_\_\_\_

Affiant's Telephone \_\_\_\_\_

**ARREST WARRANT**

**TO ANY LAW ENFORCEMENT OFFICER IN 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 05/21/2008 defendant WERNER SCOTT HADDON

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

☐ County/ ☒ Municipality of ORANGEBURG ) as set forth below

**DESCRIPTION OF OFFENSE** ASSAULT / ASSAULT AND BATTERY WITH INTENT TO KILL (ABWIK)

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 the 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 05/21/2008 \_\_\_\_\_ )

*Barney M. Houser* (L.S.)  
BARNEY M HOUSER

Judge Code: 6496

Judge's Address \_\_\_\_\_

Judge's Telephone \_\_\_\_\_

Issuing Court.

☐ Magistrate

☒ Municipal

☐ Circuit

**ORIGINAL**

Case 08-01252

WITNESSES

DOCKET NO 2008GS38-0842

After being fully advised as to my legal rights I  
hereby waive presentment to the Grand Jury

The State of South Carolina

County of

ORANGEBURG

2008 JUN -4 A 11 20

FILED FOR RECORD  
LISA W MIZELL  
CLERK OF COURT  
ORANGEBURG SC

S/A C M BUSTLE, SR

COURT OF GENERAL SESSIONS

Arresting Agency

June 02, 2008 TERM

SLED

Defendant

ARREST WARRANT NUMBER

J695788

Arrested May 28, 2008

Defendant

Witness

C C C PLS AND G S

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury  
Date June 4, 2008

Date

JUN 4 2008

Werner Scott Haddon

Indictment for

ASSAULT W/INTENT TO KILL

VERDICT

SC Code Common Law

CDR Code 0768

Class MIS-UNC

Foreperson of Petit Jury  
Date

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )

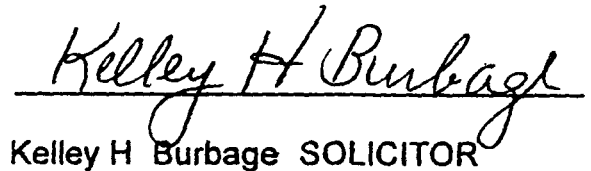
INDICTMENT  
2008GS38-0842

At a Court of General Sessions, convened on June 02, 2008 the Grand Jurors of Orangeburg County present upon their oath

**ASSAULT W/INTENT TO KILL**

That Werner Scott Haddon, did in Orangeburg County, on or about May 21, 2008, with malice aforethought commit an assault upon the victim, Cpl Fory, with intent to kill the said victim, including but not limited to shooting at the victim and as a result violated the Common Law offense of Assault with Intent to Kill

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

  
Kelley H Burbage SOLICITOR

General Sessions Tracking Sheet  
Indictment # 2008GS3800842

Name Haddon Werner Scott

AKA

Addr

SSN#

Sex M Race W

DOB

DL#

Warrant/Ticket # J695788

Date of Arrest 05/28/2008

Date of Offense 05/28/2008

Date Rcv by Clerk 05/30/2008

Magistrate Clerk Of Court C P, G S, And Family Court

Counts Code 0014/Assault / Assault and battery w  
Intent to Kill (ABWIK)

Indictment # 2008GS3800842

Disposition Information

- 1 Transmitted to SOL & SCCA
- 2 Disp Received by Clerk
- 3 Date of Disposition

- Disposition 1 Guilty plea
- 2 Trial - guilty
- 3 Trial -- not guilty
- ✓ 4 Dism/Not Pros/Pros Ended
- 5 Judicial Commitment
- 6 Judicial Dismissal
- 7 Remanded
- 8 Dismissed at Prelim
- 8 No Bill
- 9 Failure to Appear
- 10 Other

Explain Pled guilty to other charge

Explain

Explain

Explain

Explain

Explain

Judge

Defense Atty

Counts Code

Sentence

Court Reporter

Solicitor Kelley H Ambage  
1/12/09