

RECEIVED

JUN 25 2018

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Newberry County

Honorable G. Thomas Cooper, Circuit Court Judge

HENRY DELOS ANDERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002065

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED FEBRUARY 10, 2014	1
INDICTMENTS AND SENTENCING SHEETS	654
APPLICATION FOR POST-CONVICTION RELIEF FILED AUGUST 25, 2014	663
RETURN.....	672
AMENDED APPLICATION FOR POST-CONVICTION RELIEF FILED MAY 2, 2017	677
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 5, 2017	680
APPLICANT’S EXHIBIT NO. 1 (LETTER DATED MARCH 29, 2013)	758
APPLICANT’S EXHIBIT NO. 2 (JUDGE ADDY NOTES AND EMAIL)	762
APPLICANT’S EXHIBIT NO. 3 (LETTER TO CLERK DATED OCTOBER 15, 2013).....	767
APPLICANT’S EXHIBIT NO. 4 (LETTER TO TAYLOR DANIEL DATED NOVEMBER 1, 2013)	768
APPLICANT’S EXHIBIT NO. 5 (EMAIL OFFER)	770
APPLICANT’S EXHIBIT NO. 6 (EMAIL SOLICITOR).....	771
APPLICANT’S EXHIBIT NO. 7 (EMAILS SOLICITOR).....	773
APPLICANT’S EXHIBIT NO. 8 (LETTER/DISCOVERY).....	824
APPLICANT’S EXHIBIT NO. 9 (NOTICE OF APPEAL).....	825
APPLICANT’S EXHIBIT NO. 10 (TRANSCRIPT DATED MARCH 22, 2013).....	829
APPLICANT’S EXHIBIT NO. 11 (NOTICE OF APPEARANCE).....	848
ORDER OF DISMISSAL FILED SEPTEMBER 18, 2017	849

1 here, this is what you recall that Henry had on?

2 A He had those shorts on.

3 Q He had these shorts on?

4 A Yes.

5 Q What about the shirt?

6 A I can't recall that shirt.

7 Q Now, so you seen these clothes and you seen these
8 shorts and you seen this gun? You have seen this gun
9 before, right?

10 A Yes. I have seen the gun before.

11 Q Okay. So, how old are your boys, your children?

12 A 7, 10 and 18.

13 Q On January 30th, was that a week day?

14 A Yes.

15 Q What about school, did they have to go to school that
16 day?

17 A Yes.

18 Q So, after you saw him what happened next? After you
19 saw Henry around 7:00 o'clock, or thereabouts, 7:15,
20 whatever, what happened next?

21 A I asked him to come in the room where his nephew was
22 so he wouldn't fall out of the bed because I was going to
23 take my kids to school.

24 Q So you were getting ready to leave?

25 A Yes.

1 Q So you left the house?

2 A Yes.

3 Q So after that you don't know what happened when the
4 police came or none of that?

5 A Well, when the police came it was after 12:00 noon.

6 Q So you was there?

7 A Yes.

8 Q What happened when the police came?

9 A They asked for Henry.

10 Q And what did you tell them?

11 A He wasn't here.

12 Q So what happened next?

13 A They asked could they come in and search and I said,
14 yes.

15 Q Did they ask you anything about a gun the first time?

16 A No.

17 Q What happened after that?

18 A They searched the house and then they asked me could
19 I get in touch with Henry and I said, yes, I would see
20 about it. So, I called my brother, Bobby, I talked to him
21 on the phone and asked him was Henry at his house. And he
22 said, yes. So, then the police told me, well, don't tell
23 him that the police is looking for him because he might
24 run. I said, he is not that type of person. So I told
25 Bobby to tell Henry to come to the house because the

1 police was looking for him. He said, okay, he was on his
2 way.

3 Q And where was Henry's car at that time?

4 A In the yard.

5 Q In the yard?

6 A Yes.

7 Q You don't know nothing about no video or nothing like
8 that, do you?

9 A No.

10 Q So, were you in the room when they got the gun?

11 A Yes.

12 Q Where did they get the gun from?

13 A From under the bunk bed mattress.

14 Q Under the bunk bed mattress. And why was it under
15 the mattress?

16 A One of the kids, Henry said, one of the kids that
17 came to the house was playing with it and he took it out
18 of the other room that he was in and put it under the
19 mattress.

20 Q So, and that is all you know, you don't know a thing
21 about sex, you don't know nothing about none of that?

22 A No.

23 Q No further questions.

24 THE COURT: Cross?

25 MR. SCOTT: None from the State, Your Honor.

1 THE COURT: You may step down.

2 MR. MOSLEY: We call Lisa Anderson.

3 Lisa Anderson, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Mosley:

7 Q State your name.

8 A Lisa Anderson.

9 Q Good day, have you had a good day?

10 A So far so good.

11 Q Now, who are these people over here, these people on
12 this front row, who are these people?

13 A It is my brother, Bobby. That is my brother, Randy.
14 That is my sister-n-law, Rosalyn.

15 Q Where do you live?

16 A [REDACTED], South Carolina.

17 Q Who is that seated over there at the table?

18 A That is my nephew.

19 Q How long have you known him?

20 A All of his life.

21 Q All of his life?

22 A Yes.

23 Q You know you are to tell the truth, nothing but the
24 truth so help you God, don't you?

25 A Yes.

1 Q What church did Henry go to?

2 A Little River Zion.

3 Q Did you ever see him at the church?

4 A No, I never went to church with Henry at that church.

5 Q You never did. You know whether the victim went to
6 that church or not?

7 A They tell me she belongs there.

8 Q You are not here to be a witness about what went on,
9 are you?

10 A No.

11 Q Why not?

12 A Because I don't know anything about what went on.
13 All I know is, I work third shift. I don't know.

14 Q You work third. What shift would that be, give me
15 the hours?

16 A I go in at 7:00 in the night and get off at 5:30 in
17 the morning.

18 Q And that is what occurred around January 30th of
19 2015?

20 A Yes.

21 Q You had gotten off at 5:30 in the morning?

22 A Yes.

23 Q What time did you get home?

24 A Usually I get home around 6:30, 6:15, 6:30 sometime.

25 Q Was Randy there when you got there?

1 A Who?

2 Q Excuse me, I mean was Henry there when you got there
3 or do you know whether or not he was at home?

4 A I don't know because usually when I get home I do my
5 little duties and then I go in my room. I know a few
6 minutes later he comes in the room where I am at.

7 Q So you don't know whether or not he was there or not?

8 A I do not, sir.

9 Q Did you hear Henry's car pull up?

10 A No, sir.

11 Q So when you got home was Henry's car in the yard?

12 A I don't know, it was kind of dark when I usually get
13 home. So, I was just assuming that it was already here.

14 Q You don't recall?

15 A I don't recall.

16 Q So, what eventually happened that morning, if
17 anything, that you recall?

18 A I don't recall anything happen because I do my duty
19 and I go to bed like I always do, around about, maybe
20 11:30 or so. They wake me up and tell me the police is in
21 there looking for Henry.

22 Q And so what happened then, were you in the room when
23 anything happened when they found the gun up underneath
24 the mattress?

25 A I did come to that door. I went to that door with

1 them in that room.

2 Q You did?

3 A Yes.

4 Q And could you identify the police officer that got
5 the gun underneath the mattress?

6 A I cannot.

7 Q You said the gun was staring you in the face?

8 A That is the gun that they said they took from in
9 there, yes.

10 Q You ever seen that gun being shot, being fired?

11 A Not that I can recall.

12 Q Have you ever seen a clip to it?

13 A Maybe when I was younger, I don't know.

14 Q Who does the gun belong to?

15 A To my father.

16 Q How did the gun get in Henry's room?

17 A That I do not know.

18 Q You don't know. Do you know whether or not Henry had
19 a car wreck?

20 A Oh, I do know that.

21 Q Tell us about what you know about that?

22 A Because he calls me, I had got up to go to work and
23 he was going to work, he go to work in front of me. So,
24 he calls back and say, Lisa, I done wrecked my car. And
25 he said, I can't get out. I told him to call 911.

1 Q When he said, I can't get out. Was it two cars
2 collision or just a one car collision?

3 A Just a one car.

4 Q Do you know what happened?

5 A It looked like he just veered off the road in between
6 some trees.

7 Q So, before a couple of days did his car take missing?

8 A It sure did.

9 Q Who had it?

10 A I don't know, the wrecker service took it when they
11 picked it up.

12 Q Did you ever see Henry and the victim here, did you
13 ever see them together at your house?

14 A Yes, I have seen her there.

15 Q Did she ever have her children with her?

16 A Yes, she have had those children there.

17 Q Okay. Have you ever seen them go hunting together?

18 A That I cannot recall because I am usually asleep most
19 of the time.

20 Q You work on third shift?

21 A That's correct.

22 Q So you miss out on a lot?

23 A That's correct.

24 Q No further questions.

25 THE COURT: Cross?

1 MR. SCOTT: Nothing from the State, Your Honor.

2 THE COURT: You can step down.

3 MR. MOSLEY: We call Henry Anderson.

4 HENRY ANDERSON, being

5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 By Mr. Mosley:

8 Q Henry, are these the clothes you had on your back in
9 January of last year, the shirt, is this the shirt you had
10 on?

11 A Yes, sir.

12 Q Is it the same pants?

13 A Yes, sir.

14 Q Where has this shirt and these pair of pants been
15 since January 30th of 2013, where have those clothing
16 been?

17 A In Newberry, at Newberry county jail.

18 Q So those same pants and clothes?

19 A Yes, sir.

20 Q They have been there the whole time?

21 A They have been there the whole time.

22 Q And you don't know whether nobody has examined them
23 or nothing like that?

24 A No, sir.

25 Q So, this is the shirt?

1 A That is the shirt.

2 Q And these are the pants?

3 A Yes, sir. Those are the shorts.

4 Q Now, could you describe the weather on January the
5 13th of 2013?

6 A Well, at 6:00 o'clock it was kind of cold, like when
7 I went out to start my car it was cold. But once I got to
8 the victim's, Tywanda's house it was kind of nippy, it
9 wasn't that cold, kind of chilly.

10 Q Okay. So you were driving your car?

11 A Yes, sir.

12 Q Where was you working at back then?

13 A The same plant Lisa works at.

14 Q And you were raised in your grandparents home?

15 A Yes sir, that is correct.

16 Q And who lived in the house with you?

17 A My Aunt Lisa; my Aunt Cindy; my Uncle Richard; my
18 Grandma, Dottie Mae Anderson; my Granddaddy, JW Anderson;
19 my cousin, Jamie; my cousin, Kemaro and my cousin, Jay.

20 Q Now, do you have any children?

21 A I have two.

22 Q Two children. What are their names and where are
23 they located?

24 A One of them's name is Amony D. , (phonetic). She
25 is in Greenville. She stays on Highway 25, right across

- 1 the road from Whitmire High School. My other child is in
2 Greenwood, she stays in Village Square. Her name is
3 McKenzie F. , (phonetic).
- 4 Q How old are you right now?
- 5 A I am 25 years old.
- 6 Q 25 years old. You got a GED?
- 7 A Yes, sir.
- 8 Q From where?
- 9 A From Piedmont.
- 10 Q You hadn't been to college?
- 11 A No, sir.
- 12 Q And you only went to the eighth grade?
- 13 A Yes, sir.
- 14 Q How long total would you say that you have been
15 familiar with Tywanda [REDACTED], how long have you known her?
- 16 A I have been knowing her for about six years.
- 17 Q Six years?
- 18 A Yes, sir.
- 19 Q And you knew her initially from where?
- 20 A From church.
- 21 Q What is the name of the church?
- 22 A Little River Zion Baptist Church.
- 23 Q And did you see her in church?
- 24 A Yes, sir.
- 25 Q And what attracted you to her?

1 A Her beauty, her looks.

2 Q So, you have known her for six years. Why did it
3 take you so long to dating her?

4 A Because she was already in a relationship.

5 Q Okay, with who?

6 A That I cannot answer.

7 Q Did you know she had children?

8 A At that point and time, no.

9 Q When did you find out?

10 A I found out like as, you know, as time progresses
11 that she had kids. I have been friends with her and I
12 know about her first one and then she told me about her
13 second one.

14 Q So, but at the time, so when did you actually first
15 start dating her, like seeing her.

16 A February of 2012.

17 Q February of 2012?

18 A Yes, sir. She came over to the house.

19 Q She came over to?

20 A My grandparents house where I live.

21 Q How did y'all start courting, how did that occur?

22 A We have been friends. We had been texting back and
23 forth just like, hey, how are you doing. Just texting
24 just to see how you are doing or this and that. We didn't
25 really click until like she told me that she was single.

1 And I just started--

2 Q She told you that she was just what?

3 A Single. She wasn't involved with nobody or nothing
4 like that.

5 Q Single, single meaning that--

6 A She wasn't dating anybody.

7 MR. SCOTT: Objection, Your Honor, hearsay of what
8 Tywanda may have said or told him.

9 THE COURT: This is by way of background. I am going
10 to let the questions and answers stand. Go ahead, please.

11 Q So, did you have a cell phone?

12 A Yes, sir.

13 Q Did you have a computer?

14 A Yes, sir.

15 Q You had been at Tywanda's house, ever been at her
16 house?

17 A Yes, sir.

18 Q So, y'all are dating early on as of February 2012?

19 A Yes, sir.

20 Q Did Tywanda know that you had had children?

21 A I had told her.

22 Q Is the answer, yes?

23 A Yes, sir.

24 Q Did you have a car?

25 A I got my car in July, July of 2012.

1 Q 2012. Was Tywanda, since you have been knowing her
2 did she always have access to a car?

3 A Yes, sir.

4 Q Did she ever live any place other than at her mama's
5 house?

6 A No sir, not that I recall.

7 Q Well, at the time you were dating Tywanda was she in
8 school?

9 A Yes, sir.

10 Q Which school was she going to?

11 A Newberry College.

12 Q Newberry College?

13 A Yes, sir.

14 Q And tell us about that, what about her going to
15 school. Did you ever go to the school with her?

16 A Yes, sir. I went numerous times but I never went in
17 the classroom with her. I was always in another room just
18 until she got finished taking her test or went to class or
19 something like that.

20 Q Is that why you had on the Newberry jogging shorts?

21 A Those came from her one day when I was down at her
22 house. I was wanting to play basketball with her brother
23 and them. And I didn't have no basketball shorts on. So
24 she gave me those shorts.

25 Q What, if anything, did you do with regard to, you

1 know, Tywanda's children. What did you do with them?

2 A Like take them out, I took them to the zoo, took them
3 to Jumping Jacks. Used to spend time like, treat them as
4 my kids. Letting them have a father figure or something
5 like that around.

6 Q You and Tywanda, did y'all have sex?

7 A Yes, sir.

8 Q When?

9 A At her house.

10 Q At her house?

11 A Yes, sir.

12 Q Now, when you would have sex at her house, tell us
13 how that would occur?

14 A We only had sex there one time.

15 Q One time?

16 A Yes, sir.

17 Q Where at?

18 A In her room.

19 Q What time of day was it?

20 A It was at night.

21 Q Was anybody home?

22 A Yes. The people that stay there were there.

23 Q How did you get inside the house?

24 A She had me jump through the window, like she snuck me
25 through the window.

1 Q Did y'all talk about using a condom when having sex?

2 A No, sir.

3 Q What, if anything, happened with regard to her
4 getting pregnant?

5 A We wanted to have a kid, we wanted to have a child.

6 Q So, in other words, did y'all keep a journal, a book?

7 A Yes, sir.

8 Q And did you read her, I guess love letters in this
9 journal right here. When she would sign her name how
10 would she sign it?

11 A XOXO.

12 Q What does that mean, XOXO?

13 A Love you, kisses, smooches, you know, however you
14 want to take it.

15 Q For example, I want to show you a letter dated
16 December 9th of 2012. Where was that book located?

17 A This book was located in my trunk.

18 Q What is in that book, are you writing her and she is
19 writing you?

20 A We are writing back and forth.

21 Q In the same book?

22 A In the same book.

23 Q When y'all do that do y'all do that, y'all sit down
24 together and you give the book to her?

25 A It was like, when I am not there she will write in

1 it. But when we meet up she will give it back.

2 Q When you are not where?

3 A With her over her house or together. She will write
4 something in there that she wants me to read.

5 Q Read the letter that she wrote to you in December of
6 2012.

7 MR. SCOTT: Your Honor, that is not the perfect way
8 to move it into evidence, Your Honor.

9 MR. MOSLEY: Excuse me, Judge, I think a juror is
10 raising their hand.

11 JUROR: I can't see the defendant's face for the
12 shorts and the shirt, I am sorry. I am not trying to be a
13 pain but I think it is important to see his face.

14 THE COURT: Move those over, please.

15 MR. MOSLEY: Pull your chair forward so she can see
16 you. Your Honor, the State has marked those as exhibits.
17 They identified them, they didn't introduce them into
18 evidence so now we will put them into evidence.

19 MR. SCOTT: No objection, Your Honor.

20 THE COURT: That will be, State's 20 is in evidence.

21 (Whereupon, State's Exhibit 20 was admitted into
22 evidence.)

23 Q Let me ask you this, in December of 2012 did you
24 think that Tywanda [REDACTED] was obsessed with you based upon
25 that letter?

1 A Yes, sir.

2 Q Read the letter.

3 A It said, this is December 9th, '12. Hey Baby, I am
4 writing you to tell you that I love you. I really enjoyed
5 the dinner and a movie. The dinner more than the movie.
6 I want to say thank you for everything. Sorry if I have
7 been distance lately, I am working on it and I really, it
8 really ain't you, it is me.

9 Q By that time she had had the miscarriage, right?

10 A Yes, sir.

11 Q When did she have the miscarriage?

12 A On my birthday, [REDACTED] 2012.

13 Q What does the next letter say?

14 A This is taken the very next day. 12/10/12. Baby, I
15 enjoyed the conversation we had last night. It was much
16 needed. Sorry about saying we don't need to get a house.
17 I was talking out of frustration. Thanks for being
18 understanding. Mah, kisses.

19 Q Say what now?

20 A At the bottom it says, mah, like she was blowing a
21 kiss.

22 Q That is her handwriting?

23 A Yes, sir.

24 Q And the next one is you?

25 A Yes, sir.

1 Q You wrote her a letter?

2 A Yes, I responded back to what she was writing.

3 Q Okay. But the mah, is that her writing down there?

4 A No, that is mine.

5 Q So that is December 11?

6 A Yes.

7 Q And then December 16th?

8 A Yes.

9 Q And it ends December 22nd?

10 A Yes.

11 Q And this has been in your car the whole time?

12 A Yes, sir.

13 Q So, read the last one to the ladies and gentlemen of
14 the jury.

15 A Okay.

16 Q Who wrote that one?

17 A The victim, Tywanda [REDACTED].

18 Q What did she say?

19 A It was good to see you today. Thank you for being
20 here for me, even with us having our problems. I love
21 you. I love the message you told me on your phone today.
22 It was very sweet. I also want to thank you for trying to
23 change. I have a headache so I will write you later so
24 good night. XOXO.

25 Q Y'all spent Christmas together?

1 A Yes, sir?

2 Q Day after Christmas, the 26th?

3 A Yes, sir.

4 Q 27th?

5 A Yes, sir.

6 Q 28th?

7 A No, sir.

8 Q Now, when I say y'all spent time together, y'all
9 would have sex just about every day, wouldn't you?

10 A Yes, sir.

11 Q Name some other places you would have sex at?

12 A Beasley Road in Newberry.

13 Q In the car?

14 A And in the car. And [REDACTED], Kendall Woods, [REDACTED]
15 in the woods, behind my grandma's house, in the deer
16 stand, in her car, anywhere we could get it on.

17 Q Now, what happened on December 29th?

18 A December 29th, we became more frustrated with each
19 other. She kept saying that I was smothering her like I
20 wasn't giving her no room to recover over the miscarriage
21 or anything. But I felt like I was being more supportive,
22 to sit there and talk to her and let her know that it
23 wasn't really affected just her, it was really affecting
24 me too. And we become more agitated with each other so we
25 broke up that day.

1 Q How do you break up?

2 A Well, after watching a movie, the Cromer Scores, I
3 went home. She broke up with me over the phone. She said
4 that she thinks we should just be friends right now. And
5 that we can, you know, resume in the future to try to get
6 back together. But right now we just need our space. I
7 took it as us being friends so I thought it was okay.

8 Q What was so important about January 23rd, 22nd?

9 A What was so important about it?

10 Q Let me ask you this question. Did you go by her
11 house?

12 A Yes, sir.

13 Q And when you went back there on January the 22nd,
14 what time of the day was it?

15 A 11:00, it was in the afternoon.

16 Q 11:00 in the morning?

17 A Yes.

18 Q So you went by there before you had the wreck?

19 A Yes.

20 Q And who was home when you went over to her house?

21 A Her mother.

22 Q And where was she sitting at?

23 A She was sitting on the left side of her husband on
24 the couch facing, it was like facing towards the door.

25 Q Did anybody open the door?

1 A No.

2 Q How did you get inside?

3 A She told me to come on in, I knocked and she told me
4 to come on in.

5 Q Where was Tywanda at?

6 A Tywanda wasn't there, she was on the phone with me.

7 Q Why did you go by there?

8 A To drop her son's games off and to see if I could get
9 my possessions so I wouldn't have to keep coming over
10 there.

11 Q What type of clothes did you have on?

12 A I had on a red collard shirt, a red and white striped
13 collard shirt, some bluejeans and some polo shoes.

14 Q And did you have a gun in your waistband?

15 A No, I did not.

16 Q You are telling the ladies and gentlemen that when
17 you went by there you didn't have this gun stuck down in
18 your pants?

19 A No, I did not.

20 Q You didn't have that gun stuck down in your pants?

21 A No, sir.

22 Q Her mother, how far inside the house is her mother
23 from you when you went in there?

24 A When I went in the house I walked directly up to her
25 to give her the games.

1 Q What?

2 A I walked directly up to her to give her her son's
3 games to her. That is how close I was to her.

4 Q What time, let me ask you this. Why would you put a
5 gun to your head and try to commit suicide?

6 A I fell into a state of depression over many things.
7 I thought I lost my mother, I thought, you know, me and my
8 baby's mama was going through some difficult times. So, I
9 felt like it was suitable at this time.

10 Q Where did you take the video at?

11 A In my room.

12 Q In your room?

13 A Yes, sir.

14 Q And you had this gun to your head?

15 A Yes, sir.

16 Q And what time did you send that video to her?

17 A It was like 9:00, 10:00 o'clock.

18 Q 9:00, 10:00 o'clock in the morning?

19 A Yes, sir.

20 Q So by the time you went by the house she had already
21 seen the video?

22 A Yes, sir.

23 Q What?

24 A Yes, sir.

25 Q When did you have the wreck?

- 1 A I had the wreck around 6:00, 6:00 later on that
2 evening on my way to work.
- 3 Q On your way to work?
- 4 A Yes, sir.
- 5 Q So you had sent it but she had blocked it out?
- 6 A No, she seen it.
- 7 Q She seen it?
- 8 A Yes, sir.
- 9 Q Now, does that mean when you went by the house, you
10 went by the house at what time?
- 11 A I went around, I went to the house at 11:00.
- 12 Q 11:00 o'clock?
- 13 A Yes.
- 14 Q And you had that gun in your pants?
- 15 A No, sir.
- 16 Q Well, did the grandmama know that you had seen the
17 video?
- 18 A No, she did not.
- 19 Q You were driving around that day with the gun in the
20 car?
- 21 A No, sir.
- 22 Q You are sure about that?
- 23 A Yes, I am.
- 24 Q And you had the wreck later on?
- 25 A Yes, I did.

1 Q That means you took the gun back to the house and put
2 it up under your mattress?

3 A No, the gun never left the house.

4 Q Have you ever shot that gun?

5 A No, sir.

6 Q Never have?

7 A No, sir.

8 Q Why did you have it in the mattress in your room?

9 A The gun was moved from one room because of a
10 neighbor's child was sitting there playing with it. And I
11 felt like I was obligated because since I am the next
12 oldest in the house, with nobody around, I felt obligated
13 to move it for safety purposes.

14 Q So let me ask you this question right here. Tywanda
15 ever been in your bedroom with her boys?

16 A Yes, sir.

17 Q And where was the gun at then?

18 A Still up under the mattress.

19 Q And did she know the gun was in there?

20 A No, she did not.

21 Q Tywanda didn't know the gun was in there?

22 A No, she did not. The only guns that she knew that
23 were in the room would be shotguns and rifles, but they
24 were moved out of the room due to her kids being in there.

25 Q So, did the, after you had the wreck did any law

1 enforcement agency ask to look in your car?

2 A A highway patrolman searched my car to see if I was
3 intoxicated or to see, you know, anything. And he came by
4 the hospital and gave me a sheet to turn into my insurance
5 company. And he said that I was not intoxicated, that he
6 was just following protocol.

7 Q So, you are telling the ladies and gentlemen of the
8 jury that the highway patrolman had access to your car?

9 A Yes, sir.

10 Q And didn't see the gun in the car?

11 A That is correct. They did not find no weapons in my
12 car.

13 Q You don't ride around with that gun in your car?

14 A I don't ride around with any weapons.

15 Q How long did it take you to drive from your house to
16 Tywanda's house?

17 A Exactly like 20, 21 minutes to be on the head.

18 Q On the morning of January 30th, 2013, what time did
19 you leave your house?

20 A 6:10.

21 Q 6:10?

22 A Yes, sir.

23 Q So you would have gotten over there to her house
24 right about what?

25 A 6:30, 6:31.

1 Q Okay. And did you send her a text message telling
2 her you was coming?

3 A Yes, I did.

4 Q Did she know you were coming?

5 A She should know, she should have knew I was coming.

6 Q Okay. Now, what were you going over there for?

7 A To get the rest of my possessions.

8 Q Be specific.

9 A I was going over there to get the money that her
10 brother owed me, the rest of my video games that I had not
11 received from her brother. And my coat and a couple of my
12 shirts that I had left over there.

13 Q Did you get your coat?

14 A Yes, I did get my coat.

15 Q You got your coat. What happened to the coat?

16 A I was holding onto the coat the whole time.

17 Q You were holding onto the coat, was the coat in your
18 car?

19 A Not when I went down there, no.

20 Q Was the coat in your car when you were over there
21 having sex?

22 A Over there when we were having sex? On the 30th?

23 Q Yes.

24 A Yes, the coat was in my car.

25 Q So the coat was in your car?

1 A Yes.

2 Q Where was the coat located at?

3 A In the backseat of my car.

4 Q So you had thrown it back there?

5 A Yes.

6 Q Who gave you the coat?

7 A The victim, Tywanda [REDACTED].

8 Q Now, when you got to Tywanda [REDACTED]'s house that
9 morning what were you driving?

10 A My 2004 Chevy Impala.

11 Q Where did you park once you got there?

12 A I parked right behind the victim's car.

13 Q Parked behind her car?

14 A Yes, sir.

15 Q And once you parked what was the next thing you did?

16 A I got on my car and sat on the hood.

17 Q Got out of your car and sat on the hood?

18 A Yes, sir.

19 Q How long did you sit out there before she came out?

20 A Probably sat out there maybe like three to four
21 minutes before she came outside.

22 Q So she did come out?

23 A Yes, sir. Prior to that she sent me a text message
24 that said, okay, hold on.

25 Q So that is going to be in one of these text messages?

- 1 A No, that is the text message that never showed up.
- 2 Q It got blocked?
- 3 A Yes.
- 4 Q You are out there and she comes out of the house?
- 5 A Yes, sir.
- 6 Q If you are parked there on the side of the house can
7 somebody on the inside of the house see y'all out there?
- 8 A No, sir.
- 9 Q Why not?
- 10 A Because we are on the side of the house and there are
11 no windows on the side of the house.
- 12 Q No windows on the side of the house?
- 13 A No, sir.
- 14 Q Now, how was Tywanda dressed?
- 15 A Tywanda came outside with a black shower cap on, a
16 gray fleece over her, some blue jean pants and some black
17 shoes and some white socks with pink around the top of
18 them.
- 19 Q And was any skin showing?
- 20 A No, sir.
- 21 Q She just, she was dressed?
- 22 A She was dressed like she just wanted to hurry up and
23 give me my things so she can go back inside.
- 24 Q She was hurry up and do what now?
- 25 A Just bring me my things so she can go back inside.

1 It was like she just put on clothes, not like she was
2 going to work or anything. She just threw something on.

3 Q And after she came out and she gave you the coat why
4 didn't you just go on about your business?

5 A Before she gave me my coat I approached her and asked
6 her a question. The question was, why couldn't we still
7 be friends.

8 Q When she first approached you did she give you a hug?

9 A No.

10 Q She didn't?

11 A No.

12 Q Now, you were sitting on the hood of your car?

13 A Yes, sir.

14 Q And you were sitting on the hood of your car with
15 these pants on?

16 A Yes, sir.

17 Q These pants right here with this gun in your pocket?

18 A No, sir.

19 Q Well, the gun was in the car on the seat?

20 A No, sir.

21 Q This is a Newberry shirt. You had the gun up
22 underneath you like this?

23 A No, sir.

24 Q You are lying?

25 A No, sir.

1 Q Now, did she eventually give you a hug?

2 A Yes, she does.

3 Q Tell us about that.

4 A I extended my arms to give her a hug. She came in
5 and the way that she came in is that she wrapped one arm
6 around my back and the other down like going towards the
7 crotch area. Both of my hands were on her back. So, when
8 I stepped back I asked her a question. And I asked her, I
9 was like, why are you doing this.

10 Q Why is she doing what?

11 A Why is her hand in between my legs.

12 Q And what was her response?

13 A She responded that she was wet and that she felt
14 horny. And then I responded, what does that got to do
15 with me.

16 Q When was the last day y'all had had sex?

17 A The last day that we had sex?

18 Q Before January 30th?

19 A Would have been like around the 16th or 14th of
20 January when I went and picked her up from work.

21 Q But you didn't have sex with her in between January
22 25th and no time like that?

23 A Yeah.

24 Q What day?

25 A The 26th.

1 Q The 26th of January?

2 A Yes.

3 Q Were y'all still talking at that time?

4 A We was on and off talking about how I was going to
5 get my stuff.

6 Q Where did y'all have sex on January 26th?

7 A On [REDACTED].

8 Q Inside the car or outside the car?

9 A Inside the car.

10 Q Why did y'all have sex on the outside of the car on
11 January 30th?

12 A Because she wanted a quickie and this is what she
13 told me, as long as you can make it quick so I can get
14 back to get dressed so I can go to work is fine with me.

15 Q Did y'all have any quickie's before?

16 A Yes. Plenty of them.

17 Q So, y'all are at the car, her car is in front of your
18 car?

19 A Yes.

20 Q And the first thing she did was give you your coat?

21 A Yes, sir.

22 Q And what did you do with the coat?

23 A I put the coat on the hood of my car.

24 Q The hood of your car?

25 A Yes, sir.

1 Q And then what?

2 A And then we were standing there still talking.

3 Q Okay.

4 A And then that is when she answered my question when I
5 asked her why we couldn't be friends. And then that is
6 when she said, she stated, you put a gun to your head.
7 And I was like, what does that have to do with me, being
8 friends. That has nothing--

9 Q She was talking to you about you putting a gun to
10 your head?

11 A Yes, sir.

12 Q So, in other words, the report by one of the other
13 officers, it says that, you know, she was concerned about
14 you putting a gun to her head. She was complaining to you
15 about putting a gun to your head, right?

16 A Yes.

17 Q She was asking you why?

18 A Yes.

19 Q Why did you put a gun to your head?

20 A Because I thought, like I explained the first time, I
21 was going through a state of depression. I thought I had
22 lost my mother due to what my grandma had told me. And me
23 and my baby's mama was going through some problems.

24 Q You and your baby's mama?

25 A Yes, sir.

1 Q What do you mean by that?

2 A Me and my child's mother, Felicia Foster was going
3 through some problems of our own.

4 Q What does that have to do with Tywanda?

5 A It has nothing to do with the victim.

6 Q Go ahead.

7 A So, when I stated that it had nothing to do with her,
8 she remarked that, if you will put a gun to your head you
9 will put a gun to my head too. That is when I told her
10 that I have never in my life, in the past tried to hurt
11 you. Why would I do something so stupid, try to do this
12 now.

13 Q So what happened next?

14 A So, I asked her, do you want to go somewhere and
15 talk. And she said, yes, as long as you get me back, you
16 know, to get dressed and, you know, get ready for work and
17 everything. That is fine, I can't take no longer than
18 what I have.

19 Q What was your understanding as to the time she was
20 suppose to be at work?

21 A The times she go to work is like 7:30. I know she
22 gets to work at 7:30, 8:00 o'clock.

23 Q Where does she work?

24 A U-Save on Wilson Road.

25 Q So, in other words, how did you feel about this

1 quickie?

2 A It was just an ordinary quickie, it was just get in
3 and get out.

4 Q So, what happened next?

5 A So, she said yes. She walked to my car, to the
6 passenger side, opened the door. I walked to my driver's
7 side door which I had to walk around, you know, the car to
8 open up my driver door. When I got in, before I stuck the
9 key in, I asked her again, are you sure it is okay for us
10 to go, you know, for me to move my car. She said, yes, I
11 am pretty sure. So, when I crunk my car up and I got
12 ready to throw it in reverse I asked her again, to make
13 sure, you know, it was all right. She said, yes. So I
14 backed up which is like a little driveway on top of the
15 hill. I backed up, went over to Stoney Battery to the
16 phone tower.

17 Q Had y'all ever had sex over there before?

18 A No, we had never had sex on Stoney Battery Road.

19 Q Go ahead.

20 A So once I got over there I turned my car off and I
21 just sat there. I was like, why are you throwing our
22 friendship away that meant everything to you at the
23 beginning. You know, you wanted to be friends with me,
24 you wanted to do this and do that. Now, it is like you
25 don't want nothing to do with me just because I put a gun

1 to my head, that has nothing to do with me. It is not
2 threatening you, it is not putting your life in danger.
3 Then that is when she made the comment, she was like, if
4 you are going to do this quickie then come on. So I got
5 out of my car and I walked to the front of my car. I
6 didn't even walk to her side of the door or anything. She
7 got out on her own. And then that is when, like, she was
8 sitting there in my lap and then I got up and then she
9 turned around.

10 Q She was sitting there?

11 A Yeah, like, the way that I was sitting on the hood is
12 like my bottom was sitting on the hood but she was pressed
13 up against, you know, my midsection.

14 Q So, she was facing you?

15 A No. The back of her was like--

16 Q The back of her was into you.

17 A Yes. The back of her was in the front of me.

18 Q Right. But y'all were facing the same direction?

19 A Yes.

20 Q What happened next?

21 A So she turns around, unbuttons her pants and just
22 pulls them down. So, I stepped back, pulled my, you know,
23 my Johnson out and goes in her.

24 Q Did y'all have any foreplay?

25 A We have plenty of times but not on this particular

1 day.

2 Q What happened next?

3 A I am hitting her, like I took my right hand and I
4 went between her legs. I start rubbing on her click.

5 Q Did you take her panties off?

6 A No, she pulled her own panties off. She pulls them
7 down, she pulls them down, they are not off, she pulls
8 them down.

9 Q They were not all the way off, they were down?

10 A They were just down. So, I took my right hand and I
11 stuck them between her legs and I was plying with her
12 click. I took my left hand I was, you know, playing with
13 her titty, her left breast. And then so I am hitting her,
14 hitting her, hitting her and all I hear her saying, you
15 are going to give me this, you are going to give me that.

16 Q What did you say to her, did you say anything about
17 wanting baby?

18 A No. She stated that she wanted a baby the whole time
19 I was hitting her from the back she was like, she was like
20 are you going to give me a baby, are you going to give me
21 this. I never once said out of my mouth that you are
22 going to have my baby.

23 Q What happened next?

24 A I end up busting, ejaculating. I pulled out and then
25 pulled my pants up. She lifts up, pulls her underwear up,

1 pulls her pants up and she is getting in the car. Then I
2 get in the car, I crank up and then I take her home.
3 Before she gets out I gave her a hug. And this is what I
4 told her, I was like, I know this will be our last time
5 talking and, you know, whatsoever. I was like, but I
6 hope, God Bless you on anything that you are trying to
7 accomplish in the future. And I was like, if you can just
8 text me to make sure I get home safe. She said, okay.
9 So, she got out of the car and I pursued it to go home.

10 Q And how long do you think these sexual activities
11 took?

12 A No more than probably like ten minutes.

13 Q So what time did you get back to the house?

14 A I got back to the house like at 7:15, 7:15 to 7:20.

15 Q Who was home when you got home?

16 A My grandma, Dolly Mae Anderson; my granddaddy, JW
17 Anderson.

18 Q Who knew that you were at the house?

19 A My Aunt Lisa and my Aunt Cindy.

20 Q They knew you were there?

21 A Yes, sir.

22 Q You ever had sex with one of her sister's?

23 A Yes, I did.

24 Q Who.

25 A Katrina Brown.

- 1 Q When?
- 2 A December 23rd to be exact.
- 3 Q Are you lying about that too?
- 4 A No, I am not. Have no reason to lie.
- 5 Q How do you know her?
- 6 A I know her from the victim and the victim's mother,
7 from just being around them.
- 8 Q When would you have had an opportunity to have sex
9 with Katrina?
- 10 A When I took her home.
- 11 Q What are you doing taking her home?
- 12 A She didn't have a ride home so I volunteered to take
13 her home.
- 14 Q When did that happen?
- 15 A December 23rd.
- 16 Q Of what year?
- 17 A 2012.
- 18 Q So, tell us about the details of that. What was
19 going on on that day?
- 20 A I volunteered to take Katrina Brown home.
- 21 Q Where was y'all at?
- 22 A At first we were on [REDACTED].
- 23 Q Whose house?
- 24 A The victim, Tywanda [REDACTED].
- 25 Q You were over there. Who else was over there?

1 A Her mother, Ernest Brown; her sister, Sharonda, Sue
2 and I think Demetri Bates was there.

3 Q So, what were y'all talking about and why was there a
4 conversation about you having to take her home?

5 A See, she wanted to go home but her husband, Chris,
6 wasn't there. So I was already about to get ready to go
7 home. And I don't stay that far from the victim or her
8 sister's house. Her sister stays in Joanna which ain't
9 nothing like ten mintues from my house. So I volunteered
10 to shoot her to her house.

11 Q What time of day was it?

12 A It was like around 6:00, 7:00.

13 Q P.M.?

14 A Yes, sir.

15 Q So you and her sister are riding to your house?

16 A Just me and the victim's sister.

17 Q Yeah. The victim's sister was riding to your house?

18 A Riding to her house.

19 Q You had a conversation about what?

20 A We started off up a conversation about how she felt
21 about me. And then I was like, I can't talk to you like
22 that because I go with your sister, me and your sister is
23 talking. And then she was like, I didn't mean to get you
24 in trouble with Chris last time that you were talking
25 about my tattoo. But I felt like he was jealous.

1 Q Of a tattoo?

2 A Yes.

3 Q She has got a tattoo?

4 A Yes, sir.

5 Q Where at?

6 A It is on her arm, she has one on her arm and she has
7 one on her back.

8 Q Why would that get you in trouble?

9 A See, it was an incident that went on around Easter
10 that she thought I was calling her tattoo fake. And her,
11 well her husband took upon himself to get involved. And
12 all I was saying was that it looked her tattoo was faded,
13 that needed to go around with some ink job. And so she
14 was like, I didn't mean to get him all riled up and stuff
15 like that. And I was like, it is okay. I was like, I
16 have been in situations worse than this one and it caused,
17 you know, involving another man. I said I have been in
18 situations like this. And she was like, well, if it means
19 anything I am sorry. And I was like, you ain't got to
20 keep apologizing. The only thing you have to do, you
21 know, is go your way and let me go my way. You know, let
22 bygones be bygones. And then she started up another
23 conversation about how long, you know, do me and Tywanda
24 are going to be together. And I asked her, why would she
25 ask me a question like that. And she was like, I see

1 that, you know, you ain't coming over here like you used
2 to, are y'all having some type of problem. So, I
3 explained to her that we were going through our ins and
4 outs.

5 Q Where is all of this going on, inside of your car?

6 A No, this is going on inside of my car on the way to
7 her house.

8 Q Okay.

9 A So, I discussed the ins and outs about why we wasn't
10 so close like we used to like me going over her house and
11 stuff like that.

12 Q Going over whose house, Tywanda's house?

13 A Tywanda's house.

14 Q So you were explaining to her sister about the
15 problems that y'all were having?

16 A Yes, sir. She felt it was relevant for her to sit
17 there and play doctor, like she was trying to fix the
18 situation.

19 Q So you ended up there over at her sister's house?

20 A Yes.

21 Q So, that was the end of that. You dropped her off
22 and you go home?

23 A Dropped her off and went in her house.

24 Q Were you invited in?

25 A She invited me in.

1 Q Who was home?

2 A Nobody but her and her kids.

3 Q Where were the kids at?

4 A See, the kids were in the backseat. She has three
5 boys.

6 Q Where was the kids at when you went in the house?

7 A They were running around.

8 Q Keep going.

9 A So when I get ready to sit there and I sat down, we
10 started talking more. She was like, why would she put
11 herself away from you when all you did was be good to her
12 and her boys. So I explained it to her. And then she was
13 like, yeah, that kind of makes sense if she was going
14 through this just last month, she would need some time to
15 recuperate to get herself together. So I was like, why do
16 females always push away when this kind of tragedy comes
17 up. Why would they push way from the person that they are
18 trying to have a baby by.

19 Q So, wait a minute now. Where are the chaps at, are
20 they in the house?

21 A Yes. At this time Chris had already came back home.

22 Q Who is Chris?

23 A Chris is her husband.

24 Q He had come back home?

25 A Yes.

1 Q And then what happened?

2 A Chris came and got the kids. And it was like I was
3 getting ready to walk out the door.

4 Q He came to the house?

5 A With his daughter and he came and got the boys.

6 Q And where was you at?

7 A I was getting ready to walk out the door.

8 Q And?

9 A And then that is when, he rushed out or he just
10 walked out like he just said, what's up or something like
11 that.

12 Q Left you in there?

13 A Yeah.

14 Q You didn't leave?

15 A No.

16 Q What happened next?

17 A So we are still conversating. And she was like, she
18 just told Chris it didn't matter, you know, about
19 whatever. We were just sitting there talking about
20 Tywanda. He just left. So we keep on talking--

21 Q Was she married at the time?

22 A Yes. Around this time, yes, she was married. So, we
23 are still talking about the miscarriage. And I kept
24 asking her more questions about it because I was being
25 curious. I asked her, how can you have the miscarriage

1 two weeks later after finding out that you were pregnant.
2 And she was like, most people drink vinegar or they do
3 something to them to have a miscarriage, like they don't
4 want to have your baby. And then she was like, why. I
5 was like, well, Tywanda find out that she was pregnant and
6 then two weeks later around my birthday she had a
7 miscarriage. So, we kept on talking and then was like,
8 well, why are y'all together anyways. And I was like your
9 sister wanted to talk to me. And I wanted to talk to your
10 sister. And she was like, you are too cute to be with my
11 sister anyways. So it led to one thing, it led to her
12 sitting there right next to me. So we kept on talking.

13 Q So you think you are cute?

14 A No, I don't think I am cute, I think I am handsome.

15 Q So, what did happened?

16 A It led to her sitting in my lap and us having sex.
17 It wasn't a whole hour, it wasn't nothing like that. It
18 was more than just like a quickie. I don't feel bad about
19 it.

20 Q Say what now?

21 A I don't feel bad about sleeping with her sister.

22 Q So that means you can do anybody. Okay. So, the
23 question is, did you point a firearm at Tywanda [REDACTED]?

24 A No sir, I never had no firearm on me.

25 Q She wanted to have sex?

1 A Yes, she did. My intentions were not to have sex, to
2 go to her house to have sex with her.

3 Q Say that again.

4 A My intentions were not to go to Tywanda [REDACTED]'s house
5 that morning to have sex with her.

6 Q And the coat was in the car?

7 A When she first gave it to me I threw it on the hood.

8 Q And then when you drove off?

9 A I put the coat in the backseat.

10 Q The backseat. Now, and the coat, once the police got
11 to your car, the coat should have been in the car?

12 A Yes, sir.

13 Q They got the gun?

14 A Yes, sir.

15 Q They got the gun from where?

16 A Out of my room.

17 Q Where happened to the gun?

18 A In Investigator Lominack's truck.

19 Q What did Ms. Kate Epps, the police officer tell you,
20 to cause you to change your story?

21 A This is what she told me. She was like, we know that
22 you already had sex with the victim because they are doing
23 a rape kit. You might as well come on out and just tell
24 us that you had sex with the victim. Investigator
25 Lominack never asked me did I have sex with the victim.

1 His direct question was, did I have a confrontation or a
2 conflict with the victim, Tywanda [REDACTED]. I told him, no.
3 We had no conflict or confrontation. So I felt like it
4 was irrelevant for him to, you know, to bring up the fact
5 that we had sex. That was a whole different question.

6 Q Was your coat in Tywanda [REDACTED]'s car?

7 A No, she came out of the house with it.

8 Q Came out of the house with it?

9 A Yes, sir. She never walked up to her car.

10 Q Your car was parked behind her car?

11 A Yes, sir.

12 Q Were they facing the road or facing the--

13 A --it was facing the bridge, they, downhill.

14 Q Away from the house?

15 A Yes.

16 Q So in order to leave you had to back up?

17 A Back up.

18 Q You had to walk around to get in the drivers side?

19 A Yes, sir.

20 Q And you walked around to get in the driver's side,
21 assuming you had a gun, this gun right here, so that means
22 that she could have easily ran back into the house?

23 A Yes sir, assuming if I had a gun.

24 Q Okay. Come down for a minute. So, now many times
25 did she hug you that day?

1 A A total of three.

2 Q I am going, hold the pants up to you. These are the
3 pants you had on?

4 A Yes, sir.

5 Q Now, which side you were standing on next to her?

6 A Just like this.

7 Q And are you right handed or left handed?

8 A I am right handed.

9 Q And she was standing to which side of you or she was
10 never to the side of you?

11 A She was never to the side of me.

12 Q She was always to the front of you?

13 A Yes, sir.

14 Q You are right handed?

15 A Yes, sir.

16 Q And that is your right hand?

17 A Yes, sir.

18 Q Now, how are you going to get this gun out of your
19 pocket and put it to her head?

20 A I don't know, I didn't have the gun on me.

21 Q If you let those pants go right now what is going to
22 happen?

23 A Going to fall to the ground.

24 Q Let it go. Okay. The shirt got any pockets in it?

25 A No, sir.

1 Q Hold it up to you. This is the shirt you had on?

2 A Yes, sir.

3 Q Okay. And the pants you had on?

4 A Yes, sir.

5 Q Take this shirt and put it around the gun. Now, you
6 didn't, you know, you didn't have the gun and do like
7 that, did you?

8 A No, sir.

9 Q No further questions.

10 THE COURT: Ladies and gentlemen, we will take a
11 break. We are going to take five minutes. Don't talk
12 about the case yet. We will have you back in a few
13 minutes.

14 (Whereupon, the jury was excused from open court for
15 a break.)

16 THE COURT: We will take about five minutes.

17 (Whereupon, a short break was taken.)

18 THE COURT: Would y'all be opposed to coming back.
19 If they want to come back tomorrow morning would y'all be
20 opposed to doing that?

21 MR. SCOTT: I can come back. That is fine.

22 THE COURT: See what Mr. Mosley wants to do. Let's
23 bring the jury in.

24 (Whereupon, the jury came into open court at
25 approximately 4:16 p.m.)

1 THE COURT: Let the record reflect the jury is back
2 and seated. Ladies and gentlemen of the jury, I am going
3 to give you something to think about here. I am going to
4 tell you kind of where we are. Ever since I started
5 practicing some of the best Judges who I work with and
6 tries to be very respectful of jury times and obligations,
7 we all hopefully know you gentlemen know it is Valentines
8 Day, February the 14th. And I understand that many of you
9 may have plans for this evening. Under the heading of
10 respectful concerning jurors obligations, what I am
11 telling you is that when we take another break if y'all
12 decide that you would rather come back tomorrow morning to
13 finish this case, we will finish with this witness and see
14 where we stand. But if y'all decide that you want to come
15 back tomorrow and finish this case up, I have discussed
16 this with the attorneys, the clerk, my court reporter and
17 everyone concerned and we are all willing to do that if
18 some of you have plans tonight that cannot be changed,
19 cannot be altered. I know how many restaurants will force
20 you to put a deposit down if you made certain
21 reservations. I don't know what your plans are but I am
22 giving you that, leaving that up to your discretion. If
23 you want to come back on Tuesday, Monday is a Holiday, if
24 you want to come back on Tuesday that would be fine too.
25 But this will end up being y'all's decision, if we finish

1 on this evening or if we come back tomorrow or Tuesday.
2 So that is the decision that I am going to ask y'all to
3 make a call on here shortly. I have no plans this
4 evening. My wife is working from 9:00 to 11:00 o'clock pm
5 shift at the hospital. With that the record should reflect
6 that the defendant is back on the stand. Mr. Anderson, I
7 will remind you that you are under oath. And at this
8 point, Solicitor, cross-examination.

9 CROSS-EXAMINATION

10 By Mr. Scott:

11 Q Mr. Anderson, you said you and Tywanda started seeing
12 each other February of 2012, is that right?

13 A Yes sir, that is correct.

14 Q So y'all were together about eight months?

15 A Ten months and four days to be exact.

16 Q Ten months, four days.

17 A Ten months and four days to be exact.

18 Q And during that time you had began treating her kids
19 like they were your own kids, right?

20 A Yes, I have.

21 Q You would follow her to college?

22 A Yes, she would ask me to come with her, not follow
23 her.

24 Q I thought you were working though?

25 A See, at that point and time at the beginning I didn't

1 have a job. I didn't get my first job until May.

2 Q She would be in class and you would be in the next
3 room over just sitting there waiting on her?

4 A Yes, she asked me to come.

5 Q Like a puppy dog?

6 A If that is what you want to call it.

7 Q And you were attracted to her beauty and looks is
8 what you said?

9 A Yes, I mean she is very beautiful and very
10 intelligent.

11 Q You realize you have been looking at her a lot since
12 you have been up here, don't you?

13 A I have been looking at everybody.

14 Q But you have been focusing on Tywanda a good bit,
15 haven't you?

16 A No, I have been focusing in on the white wall.

17 Q You realize you were sort of smiling to yourself when
18 you were talking about sexual escapades with her?

19 A Was I smiling. I can't see myself smiling.

20 Q Do you know when you smile?

21 A Yes.

22 Q Now, you seen these texts that you have sent them
23 during this time period, haven't you?

24 A Yes, I have.

25 Q You have had them in your possession for some time

1 now, haven't you?

2 A Yes, I have.

3 Q You say you have seen the one where you talk about
4 moving to North Carolina with an uncle. Is it this uncle
5 over here?

6 A No.

7 Q Who was it?

8 A It is my Uncle Kevin Foster, my mother's brother.

9 Q And had you ever really intended to move to North
10 Carolina?

11 A Yes.

12 Q Why didn't you go?

13 A Because due to the circumstances I had a job down
14 here I was trying to get a job up there. Before I quit a
15 job I was trying to get another one so I will be reliable
16 to be on my feet while I am up there. You just don't quit
17 a job and go up there without a job. Who is going to
18 support you.

19 Q Was it your intent to move to North Carolina?

20 A Yes, it was.

21 Q And at the time you are talking about your belongings
22 and her belongings, how y'all are going to make this
23 exchange, y'all had broken up December 29th, right?

24 A That is correct.

25 Q Why were you so against mailing her her stuff?

1 A I didn't feel the need to mail her stuff. She didn't
2 get it in the mail, why should I have to mail it back to
3 her.

4 Q Well, she clearly states that she wants you to mail
5 it to her, she doesn't want--

6 A Clearly in the beginning she said you can drop them
7 off.

8 Q Or mail it?

9 A Okay. That is a choice, ain't it.

10 Q Or you meet her in the Walmart parking lot, right?

11 A Couldn't meet her in Walmart parking lot because I
12 was with my aunt and my nephew and my two cousins at the
13 doctor's office on January--

14 Q That doesn't make any sense.

15 A Why it doesn't. On January the 29th we were at the
16 doctor's office.

17 Q Do you know on January the 29th that specific text
18 was sent?

19 A I am pretty sure. I know where I was.

20 Q What is the one, I don't mail nothing?

21 A I had never mailed nothing in my life, no
22 possessions.

23 Q But she is asking you to do that, you just refused to
24 do it?

25 A No, she says you can mail it. You can, she didn't

1 say mail me my stuff, she said you can which means you can
2 either bring it or you can mail it.

3 Q 8:55 p.m., the date of January the 21st. Tywanda
4 writes to you, okay, I am sorry to hear that and after
5 today's events I wouldn't be comfortable around you any
6 more. Sorry, I am going to have to ask you not to text,
7 call or come here anymore?

8 A Yes.

9 Q Did you understand that text from her?

10 A Yes, I did. Quite clear.

11 Q But then you decided to defy that?

12 A To defy, no.

13 Q You continued to contact her, didn't you?

14 A To get my possessions.

15 Q She asked you not to contact her anymore?

16 A To get my possessions is why I contacted her.

17 Q She says, can you please mail my class ring before
18 Sunday. I will mail you your things. You wrote, no, you
19 can come get it. I don't mail nothing. If you want to
20 come get it, if not it will be a loss--

21 A It will be your loss.

22 Q It will be what?

23 A That will be her loss. I had never mailed nothing in
24 my life. The same way that she got her stuff was the same
25 that it was going to be returned to her.

1 Q Your testimony is that you are not going to mail it
2 because you are going to force a confrontation with her,
3 right?

4 A No. Force no confrontations with anybody.

5 Q You are not going to meet in a public place, you are
6 going to go to her house, aren't you?

7 A I went by there twice, not for a confrontation.

8 Q After she told you not to go there?

9 A I went there on the 21st to get my possessions from
10 her mother.

11 Q Is that the time you had a gun in your waistband?

12 A I never had no gun in my waistband.

13 Q Her mother described that gun being in your
14 waistband?

15 A She described it, it doesn't mean that I had it.

16 Q Why did you say you had it for a purpose, what was
17 your purpose?

18 A I didn't say I had nothing for a purpose.

19 Q How would you describe these texts. You had to put
20 in your words, your texts to her and her texts back.

21 A The texts state clearly that I just wanted my
22 possessions. How we were going to each other possessions
23 to them. She said she wanted to mail them, I just wanted
24 to get my stuff so I could move on.

25 Q I mean, they tend to get a little bit angry, don't

1 they?

2 A How angry do you think they get.

3 Q I am asking you.

4 A No.

5 Q 9:34 p.m. on January the 21st, you might as well call
6 the police, Tywanda, you ain't getting nothing until I get
7 my money from you and your brother and coat and stuff.
8 Did you call the cops?

9 A No, I started to call them.

10 Q What is this warrant you are talking about getting
11 out on her?

12 A I had talked to my daddy's girlfriend's cousin. He
13 works with Laurens County Sheriffs Department. And he
14 told me that I could file a warrant for stolen property
15 because I have already done made contact with the victim
16 about getting my stuff back. She has not, you know,
17 returned nothing. She has acted like she didn't know
18 where it was, like she didn't want to meet at the church.
19 My aunt has already tried to contact her, she blocked
20 their number, she made no effort to even return my stuff.

21 Q Why didn't you go forward and do that instead of
22 showing up at her house when she said, don't come to my
23 house, don't contact me, Henry, leave me alone?

24 A Because I felt like I should just do down there and
25 get it.

1 Q That is what you felt like you should do?

2 A Yes.

3 Q Even though law enforcement said you need to swear
4 out a warrant if you really want that stuff back. You
5 need to be escorted there with law enforcement. Did you
6 know there was an incident report involving you?

7 A No.

8 Q You didn't know about that?

9 A No.

10 Q They had you on trespass notice of that house?

11 A I never received no trespass notice or a restraining
12 order so how would I know.

13 Q Well, what is she talking about here, January the
14 27th, 6:57 p.m.

15 A Read it.

16 Q I took out a warrant on you for my stuff so you have
17 until Wednesday to bring me my stuff or you are going to
18 jail?

19 A Deputy Crain told me to use, it was like no forcing
20 but to get her to sit there and realize that she needs to
21 go ahead and hand me my stuff over so we can go our
22 separate ways. Never did take nothing out.

23 Q Why not, wouldn't that have been the better route to
24 have taken?

25 A I didn't feel the need to sit there and take one out,

1 it would be like for what. It was just possessions, it is
2 nothing serious.

3 Q You sure seem serious about the coat, how many texts
4 did you send her about the coat. What kind of coat is
5 this anyway?

6 A Like an American Eagle, it has cotton on the inside.
7 It is a nice coat.

8 Q It is nice enough for you to show up with a gun to
9 get it back?

10 A No, I never had a gun.

11 Q Not enough for you to show up at 6:00 a.m. in
12 Newberry County when you live up in Laurens County to get
13 this coat?

14 A Yes, I stayed twenty minutes from the victim.

15 Q That is in the dark hours in the morning?

16 A Because I knew the victim would be up, I knew the
17 victim, you know, she was getting ready to go to work.

18 Q Why didn't you show up at work?

19 A I have at previous times but she didn't have my
20 stuff. She was joking around about her finding my stuff.
21 I took her stuff to her job in front of her boss, handed
22 her stuff over to her.

23 Q That is when you were spinning out in the parking
24 lot?

25 A Then spinned out.

1 Q What day was that that she asked you to go to Walmart
2 that you are talking about?

3 A January the 29th.

4 Q 8:31 a.m. I found your coat, come to the Walmart
5 parking lot to get it or you just prefer I mail it?

6 A I didn't respond back to it.

7 Q No, you can bring it to my house. I brought your
8 stuff to you and the warrant says for me not to come to
9 your house or anything. You can bring it today. Why did
10 you do that.

11 A Clearly stating to get her to come to me.

12 Q Why?

13 A Why should I have to come all the way into Newberry
14 to meet her at Walmart parking lot.

15 Q You came all the way to Newberry to go to her house
16 twice?

17 A It is only twenty minutes, Newberry at Walmart is
18 more than twenty minutes from me.

19 Q How much more?

20 A Can't be exact.

21 Q Why can't she mail it to you?

22 A I don't do the mailing business.

23 Q That doesn't make sense. She can't mail it to you,
24 this is force or mean with her?

25 A I didn't force or mean with her.

1 Q Now, the text you testified to on direct that on the
2 morning of January the 30th and we have got the text, I
3 mean you have reviewed them all?

4 A I have reviewed everything.

5 Q 6:31 a.m. I am outside, bring me my coat, right?

6 A Yes.

7 Q You testified that she says, okay, hold on. That
8 text never showed up. What does that mean?

9 A I got a text from her.

10 Q Where is it?

11 A It is not on there.

12 Q Did you erase it?

13 A No, I didn't erase nothing. If y'all subpoenaed my
14 records from my phone company--

15 Q We have got the phone right here, show me the text.

16 A How can I show you when somebody obviously, not
17 pointing any fingers in the courtroom, tried to open it up
18 and didn't know the password and locked it.

19 Q Do you know the password?

20 A No.

21 Q You don't know your own password?

22 A I know my password but, no.

23 Q What are you saying?

24 A I don't know my Google account password.

25 Q You forgot that too?

1 A Yes, it has been years since I know.

2 Q That text disappeared and you forgot your password?

3 A That text never disappeared.

4 Q Where is the text?

5 A The text is on, why didn't y'all subpoena my phone
6 records.

7 Q I am asking you a question. Where is the text?

8 A The text is in the phone but how can I get the phone
9 if I don't know my Google account information.

10 Q Okay. You seen her text message, right, it is just
11 not on there?

12 A Yeah, her's is on there.

13 Q Show me where it says, okay, I am coming right out.

14 A Show me that it is in my phone. Why y'all got her's
15 and didn't have mine.

16 Q We have got your phone, I am asking you to unlock it.

17 A How can I unlock it, I don't know my password.

18 Q I will move on. January 30th, she comes outside,
19 what was the description of what she was wearing again?

20 A She had on a black shower cap, a gray fleece
21 lightened jacket, it was a light jacket, more like a
22 sweater. Some blue jean pants, some black tennis shoes,
23 white socks with the pink around the top.

24 Q That is highly descriptive of someone's clothing from
25 a year ago.

1 A You want to know how I know this?

2 Q Yes.

3 A There is a light pole on the side and I have very
4 good memory. There is a light pole on the side there and
5 you can clearly see what a person is wearing if you are
6 standing right there in front of you.

7 Q Why the socks with pink around the top?

8 A Yeah.

9 Q Your version of what happened out there, you are a
10 little bit of a lady's man, aren't you?

11 A Lady's man.

12 Q Well, you have got this woman out there at 6:30 a.m.
13 with a shower cap on, after all of these texts, y'all were
14 fussing about this coat and she is asking you not to talk
15 with her anymore--

16 A Really--

17 Q Now wait a minute. She grabs you and hugs you and
18 then grabs your crotch, right?

19 A Yeah.

20 Q May I borrow a term from your lawyer and say,
21 halleluiah. How did you find a woman like that. You are
22 just so handsome?

23 A I mean I have plenty of women's to do that. I mean,
24 she knew how to turn me on, she knew how to get what she
25 wants.

1 Q She wanted a quickie at 6:31 a.m., January 30th,
2 outside in the morning?

3 A It wouldn't be her first quickie in the morning,
4 around that time.

5 Q Okay. And it was after she had seen this?

6 A Yeap.

7 Q And she is propositioning you for a quickie outside
8 at 6:30 a.m. in the morning, a January morning?

9 A Yes, that was correct.

10 Q That was after she sent you the text, okay, I am
11 sorry to hear that. And after today's events I wouldn't
12 feel comfortable around you anymore. Sorry, but I am
13 going to have to ask you not to text, call or come here
14 anymore?

15 A That was after I had my wreck when she sent that.

16 Q But then after that text message to you, all of a
17 sudden she is wanting a quickie outside of her home?

18 A Yes, we have numerous altercations where we end up
19 having sex.

20 Q Right, that is when things were good. I mean,
21 nobody--

22 A Hold on, what do you mean things were good. We had
23 numerous times when we were almost broke up but sex made
24 it better.

25 Q I mean y'all had consensual sex during those ten

1 months, y'all were together before you broke up December
2 29th?

3 A And this was consensual sex too.

4 Q The night before, the morning before, okay, I am
5 mailing it. You say, if you do you are still going to
6 jail. I am not playing, you will go to jail time. Bring
7 me my shit to me. 8:46, bring my stuff to my house today,
8 don't play, what is so hard about you bringing me my
9 stuff. I will be down there about 6:45 or 7:00 to get my
10 coat. That turned her on, didn't it?

11 A You would have to ask the victim what turns her on.

12 Q Let me ask you. You testified upon seeing you out
13 there wearing shorts, she grabs you, hugs you, grabs your
14 crotch and then tells you she is horny, wearing a shower
15 cap on her head?

16 A Yeah, what is so hard.

17 Q Halleluiah. Talk about the video, the reason you
18 produced that little video because you were having trouble
19 with Felicia?

20 A Yes, sir. And the thought of me losing my mother to
21 cancer.

22 Q Why did you send that video to Tywanda then, why not
23 send it to Felicia?

24 A See, I sent it to Tywanda because the night before
25 that me and Tywanda was having problems. Tywanda wanted

1 to be in a relationship but be more than friends. And she
2 kept referring to me as I fucked up a good friendship. So
3 that is why I sent it to her, because I was in a
4 depression, a state of depression. That is a person with
5 a mental problem would do.

6 Q You have a mental problem?

7 A I have, oh no.

8 Q Why not send this video to Felicia, you said you were
9 having trouble with her. That is why you made the video.
10 Why bring Tywanda into all of this.

11 A No. I didn't say I made a video of her. I said it
12 was referenced to what I was going through.

13 Q Then why send it to Tywanda, let Felicia deal with
14 that.

15 A Deals with a lot of stuff. Me and Tywanda was going
16 through problems. Me and my baby's mama was going through
17 problems.

18 Q How does it help sending a video with you with a gun,
19 I don't understand, how does that help you deal with your
20 problems, how does that help Tywanda help you deal with
21 your problems?

22 A How?

23 Q Yes.

24 A She wouldn't have to worry about me no more. I was
25 suicidal at that time.

1 Q Why send it to her?

2 A That is one less problem that she would have to worry
3 about.

4 Q I don't understand, why would you send her a video of
5 you with a gun to your head.

6 A That would be one less friend that she wouldn't have
7 to worry about. She said that I fucked up a good
8 friendship. I was letting her know I was sorry. And I
9 felt suicidal that day.

10 Q At any rate, January 30th, you really were just a
11 reluctant participant, weren't you? You were there to
12 talk about, why throw a friendship away. All she is
13 trying to do is have sex with you.

14 A Friendship means more than just sex.

15 Q You were the reluctant participant though, she was
16 the one, she is the aggressor, right. She is trying to
17 have sex with you. All you want to do is talk about
18 y'all's friendship, right?

19 A All I wanted was to get my stuff.

20 Q Okay. All she is wanting to do is talk about this
21 quickie, you are going to do this quick and come on. Is
22 that what she said?

23 A Yes, she said it numerous times.

24 Q Because you are so handsome?

25 A No. You are talking about--

1 Q That is improper, you can't address the Judge like
2 that.

3 A My bad.

4 Q You said you were handsome before, you thought you
5 were?

6 A Yeah. I am handsome, plenty of people have told me I
7 am handsome.

8 Q Tywanda--

9 A Has told me I am handsome.

10 Q How could she help herself by grabbing your crotch?

11 A I don't know, she grabbed it plenty of times.

12 Q After she had sent all of these texts asking you to
13 leave her alone. Mail this stuff, let me mail it.

14 A She grabbed my crotch when we was friends.

15 Q But y'all aren't friends at this point. You are
16 begging to be friend, she is saying, leave me alone. Your
17 texts are right here.

18 A And she still grabbed my crotch.

19 Q That is why she reported it to the police, right?

20 A Reported what to the police?

21 Q That you had raped her under a cell phone tower. Why
22 do you think you are here?

23 A I raped her, no, I didn't have no involvements in a
24 rape. It was consensual.

25 Q It was consensual sex?

1 A That's right.

2 Q That is why you didn't even tell the cops you had sex
3 to begin with. After two statements that you finally
4 admit you had sex with her?

5 A No.

6 Q Yes.

7 A Garrett Lominack never asked me did I have sex with
8 the girl. He asked me did I have a confrontation or
9 conflict with the girl. He never made a statement about
10 me having sex.

11 Q State's number 25. I got up and left my house at
12 6:10 which it takes twenty minutes to get to her house.
13 When I got to her house it was about 6:30 so I texted her,
14 told her to bring my coat and stuff outside. She
15 responded five minutes later and said, okay, hold on.
16 Came outside and gave me my coat and stuff. Then I asked
17 her why, in a eight year relationship over something that
18 didn't have anything to do with her, she said she didn't
19 feel comfortable with me, being around me. So then I
20 backed up, what is that word.

21 A Caught.

22 Q So I backed up and caught 34/121, to bear off on
23 Stoney Battery Road until I got to Belfast. Then I rode
24 Belfast until I get to Highway 56, then I turn onto 560
25 which I went home.

1 A That's right.

2 Q That is a lot of detail in that statement, right, I
3 mean you are talking about every road that you took back
4 to Laurens?

5 A That's right.

6 Q You didn't think sex under a cell phone tower would
7 have been something you should mention if you are going to
8 talk about all of that detail?

9 A No, he never told me what I was being locked up for.

10 Q He probably didn't ask you which direction you took
11 home, to name all of these roads?

12 A He asked me where I went, to be exact, he asked me
13 where I went so I answered his question about every detail
14 where he told me.

15 Q You don't think that would have been, unless somebody
16 has you in handcuffs and taking you to the sheriffs
17 department and they are telling you what you are excused
18 of, you don't think that would have been something--

19 A He didn't tell me what I was being accused of, he
20 just told me that the victim, Tywanda [REDACTED], said that we
21 had a confrontation. He never told me what I was being
22 charged with. I didn't find out what I was being charged
23 with until I hit Newberry County jail when I was getting
24 booked in.

25 Q You don't think that would have been something that

1 they would have carried you down, if they asked you, did
2 you have any kind of run in with Tywanda [REDACTED] today, that
3 y'all had sex?

4 A He didn't ask so I didn't reveal. The confrontation
5 is like a dispute, did I go down there to argue with her.
6 No. Did I hit her. No.

7 Q What else have you not revealed, what other questions
8 do I need to ask you to get to the whole story?

9 A I don't know, that is something that you need to
10 think about.

11 Q I have been thinking about it for some time.

12 A Okay.

13 Q Let me tell you, your story doesn't make any sense.

14 MR. MOSLEY: Objection, Your Honor.

15 A Making sense to me.

16 THE COURT: Sustained.

17 MR. MOSLEY: Objection, objection.

18 THE COURT: Sustained.

19 Q What changed between the first statement and the
20 second statement, all of a sudden the sex part of the
21 story is something you feel law enforcement needs to know?

22 A The second statement is when I wrote in front of Kaye
23 Epps, when she kept saying that, I know you had sex with
24 the victim, she is at the hospital getting a rape kit
25 done. We know that you raped her, we know that it was for

1 sex.

2 Q I thought you said they didn't tell you what the
3 allegations were until you got back to the jail?

4 MR. MOSLEY: Objection, Your Honor.

5 A She told me.

6 THE COURT: Hold on, objection, Your Honor.

7 A He didn't tell me--

8 THE COURT: One second. What is the objection.

9 A I say Garrett Lominack didn't tell--

10 THE COURT: Hold on. What is your objection.

11 MR. MOSLEY: I will withdraw the objection.

12 THE COURT: You may continue, sir.

13 Q So, during the second statement they tell you what
14 the allegations were?

15 A He told me.

16 Q You just told me--

17 A No, he didn't tell me.

18 Q Didn't you just say you didn't find out what you were
19 charged with until you were booked at the jail?

20 A Yeah. But if you are sitting there and she said, we
21 knew you had sex and a rape kit comes across. What is the
22 first thing you are going to think.

23 Q You just said she said what you were charged with was
24 a rape?

25 A The first thing that comes across your mind, a rape

1 kit was done, what are you going to think, what crosses
2 your mind.

3 Q Did you not just testify that--

4 A Yes, I did.

5 Q When did you find out what the allegations were?

6 A When she asked me about sex I wrote it in my
7 statement. I didn't find out about the charges until I
8 hit Newberry County when I was talking to, she revealed
9 what I was being charged with. I had no prior knowledge
10 of anything that I was being charged with a kidnapping or
11 a pointing and presenting in a criminal sexual conduct
12 first degree.

13 Q That second statement, talk about sending a text
14 about your coat. She responded, okay, hold on. And then
15 she came out and gave me my coat and then I asked her to
16 sit in my car and stay and talk so I drove off to the
17 phone talk spot. And we got out and she pressed her butt
18 against me and then I felt on her and she never said stop
19 so I kept on and then it turned into sex. Where is all
20 the stuff about her grabbing your crotch and asked for a
21 quickie and everything?

22 A She just asked me did we have sex, she didn't ask
23 whether it led up to sex. She didn't say put it in full
24 detail, she just simply said, did you have sex. She
25 didn't say, what led up to it.

1 Q Sex under cell phone tower at 6:30 a.m. Just a
2 detail you didn't think was important enough to put in
3 your first statement?

4 A No, not when he didn't direct that question.

5 Q Tell me what you meant, at 6:53 a.m., the best thing
6 for you to do is text me and be here as a friend with a
7 benefit.

8 A There is text messages missing when she texted me.
9 She said, what do you think I should do and I said for the
10 best thing for me to do is be friends with me like old
11 days with benefits.

12 Q What does that mean?

13 A Friends with benefits.

14 Q What does that mean?

15 A Like simple, be friends and just have sex with the
16 person like you have been doing.

17 Q What did it mean, at 7:45 a.m. when you say, okay, I
18 am going to make another trip down there and you can't
19 text me then I will just make you fear me.

20 A What is in there, voice texting. It wasn't fear, it
21 was here. You know, you get there and you hit the mic on
22 your phone and you say something and you look and it is
23 not exactly what you said. It is exactly what it is.

24 Q Okay. what you meant is I am going to make another
25 trip down there, if you can't text me I will just make you

1 fear me?

2 A And then I was just going to stand there and just sit
3 there and talk.

4 Q Okay.

5 A The same way that I went down there the first time.
6 I stood there and asked her questions.

7 Q Siri or something or other voice recognition texting
8 apps. Is that what you are talking about?

9 A Yes.

10 Q That is spelled, IMMA I-M-M-A?

11 A No, it was spelled, I'm. And then it has some other
12 ones. Try it on your phone.

13 Q Henry, you see the text I am talking about, okay, I
14 am going to make another trip?

15 A Yeah, that would be a blocked text message at January
16 30th at 7:45.

17 Q You are saying the auto correct voice text, I'm going
18 to?

19 A See, on my phone it wasn't wrote like this. It was
20 okay. See I have a voice recognition texting, I can
21 either text by hand or text by voice.

22 Q But your voice recognition spelled that right?

23 A Spelled plenty of words in here wrong.

24 Q Okay.

25 A Can't is spelled wrong.

1 Q Including fear, suppose to be here, right?

2 A Yeah.

3 Q Okay. During your direct with your lawyer you said
4 that you, you never talked about you are going to have my
5 baby. But she is telling me you are going to have my
6 baby, or I am going to have your baby while you are having
7 sex with her at the phone tower?

8 A Yeah, she has done told me plenty of times that she
9 wanted a baby.

10 Q And you wrote 8:04 a.m., you are going to have my
11 baby, question mark.?

12 A It is a question.

13 Q You thought she was trying to set you up?

14 A Really in truly, yeah.

15 Q Why did you think that?

16 A Because she wasn't acting right.

17 Q What do you mean?

18 A Like, the way she said it she was going to sit there
19 and text me to make sure I got back home safe. And she
20 never texted me except for, where are you at, it didn't
21 feel right.

22 Q Why would you just assume that she suddenly setting
23 you up though?

24 A Not really a setup. It is just like, something
25 wasn't right. You know, you been talking, you been

1 talking to this girl about getting your stuff and all of a
2 sudden you have sex and then she tells you that she is
3 going to make sure you get home safe. And she doesn't
4 text you, that wouldn't ring a bell in your head?

5 Q No.

6 A Why?

7 Q Why did she need to text you to make sure you got
8 home safe?

9 A She always has.

10 Q Now explain again why you thought she was setting you
11 up. This was before the police came, isn't it?

12 A Yeah. Way before.

13 Q Why do you think she was setting you up?

14 A Not really setting me up. Just like, it wasn't
15 something right about it. It wasn't something, I know as
16 soon as she said that she was going to sit there and text
17 me to make sure I got home because she normally texts me,
18 worry, what are you doing, what road are you on. Or she
19 will just call me.

20 Q Why do you think she would text you if she asked you
21 you not to speak with her anymore?

22 A Just respect, respect to make sure one person gets
23 home safe. It didn't have nothing to do with her not, you
24 know, not me not texting her. But she is sitting there
25 saying she is going to text me and make sure I got home,

1 that just shows me that she respects me. And if she cared
2 about my safety.

3 Q The fact that she didn't text you to make sure you
4 got home safe, in Henry Anderson's mind he suddenly thinks
5 how Tywanda [REDACTED] is setting him up?

6 A Something suspicious about it.

7 Q But you said it, right, you said you are setting me
8 up?

9 A Yeah, I did say that.

10 Q Help us to understand. What about her not, her not
11 texting you to ask if you got home safe. In your mind it
12 was about she was setting you up.

13 A Not really setting me up. It just wasn't right. I
14 have been knowing this girl for eight years. I have been
15 dating her for ten months and four days. Every time I get
16 ready to go home she would sit there and text me, even
17 when we were friends. I left her house she would text and
18 call me to make sure I got home. On this particular day
19 you say you are going to text me to make sure I got home
20 and you didn't text me. No.

21 Q You just assume she is setting you up?

22 A I assumed something was wrong. Something wasn't
23 right.

24 Q Whose words was it, you are setting me up?

25 A I texted it.

1 Q Okay. So your words?

2 A I texted it, I am not denying it, I texted it.

3 Q You reviewed the text messages, right?

4 A With my attorney.

5 Q So, after all of these text messages back and forth,
6 it was surprising to you that she didn't care to text you,
7 what would have made you think that she would have cared,
8 texting you and asking you if you got home safe?

9 A A lot, old friends.

10 Q What in this text messaging thread would of made you
11 think that she was on those kind of terms with you at this
12 point?

13 A She didn't have to be on good terms to make sure
14 somebody got home safe.

15 Q It is your testimony, sex on January the 30th at 6:30
16 in the morning, 6:00 o'clock in the morning, dark outside,
17 January the 30th?

18 A 6:00 o'clock in the morning, I wasn't down here.

19 Q What time was it?

20 A To be exact, I arrived at her house at 6:31 a.m. At
21 6:00 o'clock I was still at my house.

22 Q 6:31 a.m., January 30th, dark outside, shower cap on
23 her head?

24 A Yeah.

25 Q Before she has got to be at work, all of these texts,

1 she is out in front of her house grabbing your crotch,
2 leading you to the cell phone tower to have sex in the
3 woods?

4 A She has done it numerous times.

5 Q Okay.

6 A Like she would grab my crotch on the couch while her
7 mama was in the room.

8 Q And right after that, 7:45 a.m., okay I will make
9 another trip down there. If you can't text me then I will
10 just make you fear me.

11 A It is not fear, it is suppose to say here. Really
12 just to talk.

13 Q But you were just a reluctant participant, right?
14 You just wanted to talk about friendship, right?

15 A That's it. I had no intention of having sex with her
16 anyways. My intention was to go down there and get my
17 possessions, my belongings.

18 Q That is all.

19 THE COURT: Redirect.

20 REDIRECT EXAMINATION

21 By Mr. Mosley:

22 Q Henry, you wanted to move to North Carolina to be
23 with your mother's brother?

24 A Yes, sir.

25 Q You say that there is some evidence on the phone that

1 did not come out, you don't know your password?

2 A Yeah, I don't know my password. It is like when you
3 lock your phone, like when somebody is trying to open your
4 password or they don't know your password. It locks it
5 and that has been like a year ago and I done forgot the
6 password.

7 Q How many passwords do you have for your phone?

8 A I have one but the way, it is like a lock screen. It
9 is designed for it so people like who you know is going to
10 open up your phone and go through your stuff. I tried it
11 just the other day and I noticed that it was locked. And
12 it said too many uses of patterns.

13 Q So, no further questions.

14 THE COURT: All right. You can step down. Call your
15 next witness, please.

16 MR. MOSLEY: The defense rest.

17 THE COURT: Will the State be offering anything in
18 reply?

19 MR. SCOTT: No, Your Honor.

20 THE COURT: If y'all will approach real quick.

21 (Whereupon, a bench conference was held with the
22 Court and the attorneys.)

23 THE COURT: Ladies and gentlemen, I have talked to
24 the attorneys. Their closing arguments would probably
25 take about an hour. My instructions to you would probably

1 take about fifteen to twenty minutes. I have also got to
2 speak to the attorneys about the instructions I am going
3 to give to you. I have to have a formal conference with
4 them on the record before we can proceed. So if you will
5 adjourn to the jury room, don't talk about the case. But
6 see if y'all can reach a resolution on whether you want to
7 keep going tonight, whether you would like to break and
8 resume at whatever time y'all decide tomorrow morning or
9 on Tuesday. Those are your three options, keep going,
10 come back tomorrow morning or on Tuesday. All right. Let
11 the bailiff know what y'all decide to do and we will have
12 you back in here in a few moments.

13 (Whereupon, the jury was excused from open court for
14 a break.)

15 THE COURT: Mr. Mosley, have you had a chance to
16 review the charges?

17 MR. MOSLEY: Kind of sort of but not, I see you are
18 charging them with the primary charge. And then we have
19 the lessor included offense of second degree. I guess you
20 are giving them what--

21 THE COURT: I basically gave them three options
22 because just from the testimony that I was working off of
23 yesterday there could be a reasonable question as to
24 whether the defendant had a weapon in his possession at
25 the time of the intercourse. Obviously the central issue

1 in this case is certainly the question of consent. But at
2 the same time a jury is entitled to believe a part of a
3 witness' testimony and reject the remaining part. And
4 conceivably they could conclude that there was forced
5 coercion but a weapon not involved or aggravated, from the
6 testimony of the victim yesterday or the testimony of Ms.
7 ██████, I believe that she did state that she was pushed
8 against the car with the defendant's hands upon her back.

9 MR. MOSLEY: I didn't hear that.

10 THE COURT: I may have mischaracterized that.
11 Solicitor, what is your take on the charges and the
12 options on that particular question. What was your
13 recollection, Solicitor?

14 MR. SCOTT: Your Honor, the gun was always present.
15 I don't know, I tend to agree with you that she was
16 unclear whether he had it in his hands during the coitus,
17 I guess, that it was always there and she was always very
18 keen to its presence.

19 THE COURT: I don't disagree that that does become a
20 jury issue though in light of the defendant having denied
21 the gun being in his possession.

22 MR. SCOTT: Then I guess the analysis would be all or
23 nothing. Because I don't know, his version is just
24 strictly consensual. Her's is that there was a deadly
25 weapon involved.

1 THE COURT: And I am happy to go that route, Mr.
2 Mosley, if that is the way you feel, if you feel it is an
3 all or nothing that is fine.

4 MR. MOSLEY: I tend to think and I may talk to my
5 client about this but the fact that the gun is in evidence
6 and it goes to confuse the jury, give them a lessor
7 included offense, at the time everything is the same
8 except with second degree. But it tends to go adverse to
9 what the charge is and this whole notion of the
10 kidnapping. Because if you take the second degree out, in
11 other words, this just may well be an all or nothing
12 because if you take the gun out and there is no
13 kidnapping, in other words, we take the gun out and there
14 is no kidnapping, if you take the kidnapping out then
15 there is almost like the case goes away. Because if she
16 comes out the door to the house to get with him and there
17 is no gun, she voluntarily came out of the house. So,
18 when did the kidnapping occur. So it is almost like an
19 all or nothing type of thing. And to charge this lessor
20 included offense there is a question as though the State
21 don't know what they are doing. And it is almost like,
22 well, we really don't know who we are going to charge
23 everything. They are the ones that knew from the
24 beginning about this case and they could have made the
25 choice, well, we will just charge with second degree

1 because we can't prove the gun. They based their whole
2 case on, well, it has got to be rape because kidnapping
3 occurred.

4 THE COURT: I understand and if you are telling me
5 for tactical reasons you would rather go all or nothing
6 that is fine. I know that you said you wanted to speak
7 with your client for just a few moments about that. I
8 will afford you that opportunity. What did the jury
9 decide they want to do?

10 BAILIFF: They want to stay.

11 THE COURT: Okay, I need to call, let me make a quick
12 call and check on the kids and we will be right back on
13 the record. You can discuss that with your client and we
14 will confirm this up.

15 (Whereupon, a short break was taken.)

16 THE COURT: We are back on the record. The defendant
17 is present. We were discussing jury charges. Mr. Mosley,
18 what was it that you were seeking from the Court.

19 MR. MOSLEY: Well, we were deciding the charges with
20 regard either or in the three categories in criminal
21 sexual conduct in the first, second, third degree. That
22 the scheme of things, I think when you take the sex out of
23 it there may be an aggravated assault or even a simple
24 assault charge that may be more conducive in terms of the
25 facts that come out in court.

1 THE COURT: Which level of assault are you suggesting
2 that the Court charge?

3 MR. MOSLEY: Simple assault.

4 THE COURT: Simple assault and battery?

5 MR. MOSLEY: Simple assault.

6 THE COURT: Factually where would there be a simple
7 assault and battery, as I see it it was either consensual
8 encounter, going back to your argument initially it was
9 either a consensual encounter or it was not. Any touching
10 would have been consensual in nature. I am struggling to
11 see where there is facts that would support a assault and
12 battery third degree type of a charge.

13 MR. MOSLEY: Well, the testimony as I heard it was, I
14 assume he had a gun. I assume he had a gun, in other
15 words the testimony unequivocally from the victim's
16 standpoint, the only time that there was some notion, on
17 the victim's direct examination she said I assume there
18 was a gun. She was actually coached by the prosecutor
19 attorney into saying that there was a gun. He brought on,
20 I mean redirect, he brought the victim down off the
21 witness stand and coached her through this process of
22 saying that he had a gun. And he was even upset about
23 whether or not she was sure, she was sure whether or not
24 he had a gun or not. You can't tell me then I said, wait
25 a minute, he was unsure and he went through this colloquy

1 and now we have the clothing up here, the shirt and the
2 pants and there is no, this is not a hoody, this has no
3 province to it. The pants is so flimsy, the gun barely
4 would fit in there, it would fall to the ground. So,
5 where is the gun.

6 THE COURT: Let's assume for the moment that you are
7 accurate or that your statement of what's been introduced
8 is accurate, if there was no gun and it was a threat in
9 use of force because that is what I am hearing you say.
10 Am I wrong?

11 MR. MOSLEY: I mean, the threat use of force was the
12 video. In other words, turned it around and talked about,
13 if you put the gun to your head, you put the gun to her
14 head and he really meant his hand, because the context of
15 that statement that didn't come into evidence. But the
16 whole notion that there was a gun is still way out there
17 in left field.

18 THE COURT: I still don't see, you are referencing
19 the video as a threat of force. The victim, Ms. [REDACTED],
20 could believe was directed at her but that was a suicide
21 threat directed solely at the defendant himself.

22 MR. MOSLEY: That is exactly but the characterization
23 by the prosecution and by the victim herself, well, if you
24 will shoot yourself then you will do anything to me and
25 that is the way it is coming off. Otherwise, the video is

1 irrelevant.

2 THE COURT: I think the video would be relevant to
3 show state of mind or to show the pattern or what the
4 defendant was thinking and the way the relationship in the
5 State's theory of the case, the way the relationship
6 spiraled out. The reason I asked you that question is for
7 CSC second degree, that is the reason I thought last night
8 it may appropriate to include that. It states that, the
9 charge on that states that aggravated coercion means that
10 the defendant threatened to use force or violence of a
11 high and aggravated nature to overcome the victim or
12 another person if the victim reasonably believed that the
13 defendant had the present ability to carry out the threat.
14 Aggravated coercion may also exist if the defendant
15 threatened to retaliate further by the infliction of
16 physical harm, kidnapping or extortion under certainties
17 of aggravation against the victim or any other person.

18 MR. MOSLEY: And that person would be who, himself.

19 THE COURT: I think there was testimony that the
20 defendant had threatened to come back and kill everybody
21 at the house, or words to that effect.

22 MR. MOSLEY: Yes, but that, that is something that is
23 separate and apart behind the atmosphere that was
24 generated by the gun. In other words, certainly, he is
25 going to come back, even at that point when she says that,

1 the question is, where is the gun and what are we talking
2 about. And the relevancy of the gun is diametrically
3 opposed to the gun being used as a coercion, when the
4 statute says to other persons then the statute, you know,
5 the threat. Unequivocally prior to this incident, prior
6 to this day there has never been any evidence that this
7 defendant would threaten the victim.

8 THE COURT: I understand that. We are only dealing
9 with the evidence, let's try and stay focused on what I am
10 asking, Mr. Mosley. You are asking for a charge, yes or
11 no, on simple assault and battery, assault and battery
12 third degree. Is that correct?

13 MR. MOSLEY: Any of those assault charges that is
14 outside of the context of the criminal sexual conduct
15 statute. In other words, the criminal sexual conduct
16 statute, it sounds, my understanding is, if he is
17 convicted of first, second or third--

18 THE COURT: Mr. Mosley, that's irrelevant to this
19 decision, okay. Whether or not he has to register as a
20 sex offender or all of the other collateral consequences
21 is irrelevant to this discussion because I am only
22 concerned with the existence or non-existence of evidence
23 at this point and time. Correct me if I am wrong, assault
24 and battery third degree. Assault and battery, it
25 involves an unlawful touching. Where is the evidence of

1 unlawful touching for an assault and battery third degree.
2 We will get to assault and battery second degree in a
3 moment. But tell me where I am missing the boat on that.

4 MR. MOSLEY: Pulling her pants down.

5 THE COURT: If the testimony is that it was a
6 consensual encounter, again, if it was consensual then
7 there was no unlawful touching.

8 MR. MOSLEY: She is saying that she didn't want to
9 have sex.

10 THE COURT: Correct, which goes to the consensual
11 issue of consent.

12 MR. MOSLEY: I understand--

13 THE COURT: There is no dispute that they had sex.
14 The only issue is whether or not it was consensual or not.
15 Both the defendant in this case, the defendant stated that
16 they had sex. The complaining witness, Ms. [REDACTED], stated
17 that they engaged in intercourse. The question was, was
18 it consensual, was it rape. That is all that the Court
19 has to deal with here. If I am looking at other lessor
20 includes under 16-3-600, person commits the offense of
21 assault and battery in the first degree if the person
22 unlawfully, A., injures another person and the act injures
23 another person and the act involves non-consensual
24 touching of the private parts of a person either above or
25 under the clothing with lewd and lascivious intent. The

1 problem with that, where is the injury of another person.
2 There has been no testimony of an injury, I don't know,
3 does the State have a position on this. I haven't asked
4 you to chime in.

5 MR. SCOTT: The A&B third?

6 THE COURT: Well, I am certain that the State's
7 position on A&B third but the, generally lessor included,
8 assault and batteries, the CSC seconds, CSC third, what
9 the Court should charge.

10 MR. SCOTT: I don't think there are lessor included's
11 other than CSC, in this particular case. The only one I
12 can even realistically see is CSC second. CSC first,
13 truly with the, her testimony there was a gun involved and
14 I am being raped under a cell phone tower. His is, she
15 comes on to me, I never had a gun, we had consensual sex.
16 He is guilty of nothing, the testimony he has put out
17 there. He is guilty of CSC first degree if you would
18 believe Tywanda. The only reason I would even think about
19 CSC second, just to, the way these are sort of nebulas
20 writings as far as, the aggravating force compared to
21 aggravating coercion. To me it seems to include the
22 threat of using a deadly weapon, that automatically bumps
23 up to aggravating force. And you can basically jump to
24 that level from aggravated coercion. Which aggravated
25 coercion simply, just the general threat. To me if they

1 specifically talk about the deadly weapon, to me it just
2 kind of automatically bumps over that CSC first. There
3 has been really two stories. Is that either she was
4 raped, sex without consent with the use of a deadly weapon
5 and a kidnapping.

6 MR. MOSLEY: It sounds like to me, Judge, my
7 colleague is disagreeing with your charge of second degree
8 and third degree criminal sexual conduct. He wants either
9 or, that is what I believe.

10 MR. SCOTT: To me it is almost the analysis between
11 aggravated coercion and aggravated force. It would almost
12 be strong armed robbery and armed robbery. Aggravated
13 coercion would just be the general threat of force.
14 However, the pistol just bumps it up that one level. I
15 guess the analogy that comes to mind is bank robbery, the
16 testimony, the guy says, I didn't do anything. And the
17 teller says he clearly had a pistol that he was pointing
18 at me during this robbery.

19 THE COURT: Well, Mr. Mosley, anything else that you
20 would like to offer or suggest?

21 MR. MOSLEY: I believe, it is almost like you are
22 giving some credence to the thoughtful process, not by the
23 Court, by the jury. And what they are thinking. It is a
24 touch call.

25 THE COURT: I certainly believe that there is

1 testimony in the record that would support a lessor
2 included of CSC second. Clearly, I am charging CSC first.
3 I am going to charge CSC second. I am not going to charge
4 CSC third because I tend to agree that that would not
5 apply in this particular scenario and it doesn't sound
6 like Mr. Mosley really even wants CSC third, he would
7 rather have assault. I am struggling again, with looking
8 at the exact text of, and I was typically, under the old
9 law at least there was a body of law that established that
10 ABHAN, the common law of misdemeanor of ABHAN was a lessor
11 included under certain circumstances of this particular
12 type of a thing. But here there has been no testimony of
13 any injury. And, again, I think the fifty cent question
14 is consent. So the jury could reasonably conclude that
15 the weapon, although present in the car was not used, the
16 jury could reasonably conclude from the testimony of the
17 victim, because she said she did not see the weapon at the
18 time of the assault, didn't know where it was after they
19 left the car, they could reasonably conclude based upon
20 her testimony that a weapon was present in the car but it
21 was not on the defendant's person at the time of the
22 actual assault therefore it was not used in the actual
23 assault. That would support a charge of CSC in the second
24 degree. At the same time the jury could conclude that
25 this entire encounter, they could believe the defendant's

1 version and conclude that the entire encounter was
2 consensual. Again, the primary question here is whether
3 consent was given. If consent was not given there is
4 evidence to support a charge to the jury of CSC second.
5 There is similarly evidence, if consent was not present or
6 if they find consent was not present to support the charge
7 of CSC first. So I will be charging on those two. And
8 that is where I am.

9 MR. MOSLEY: Could I see your charge on consent.

10 THE COURT: Certainly, it is very short and to the
11 point and I am having to, because of the lateness of the
12 hour I am having to email this over to the Court House so
13 that the Clerk of Court can print it off, run it back over
14 here. But I will give you, just from my bench book, I
15 will give you my charge on consent because that is where I
16 took it from. Just remember to give it back to me.

17 MR. MOSLEY: I am using Ralph King Anderson's, that
18 is what I use, I use his charge book.

19 THE COURT: The charge that I have is that the
20 defendant has raised the defense that Ms. [REDACTED]
21 voluntarily consented to the sexual intercourse. The
22 defendant does not have to prove that the victim
23 consented, instead the State must prove beyond a
24 reasonable doubt that the victim did not consent. If you
25 find that the victim consented to the sexual intercourse

1 you must find the defendant not guilty. That is the
2 charge that I have got. I respect Judge Anderson a great
3 deal but sometimes I have difficulty understanding some of
4 his charges. I kind of like the short, simple and to the
5 point. I can give you that instruction. Very good. Let's
6 have the jury in, please.

7 (Whereupon, the jury came into open court at
8 approximately 5:40 p.m.)

9 THE COURT: Let the record reflect the jury is back
10 and seated. Ladies and gentlemen, the bailiff told me
11 that y'all wanted to keep at it this evening and I do
12 appreciate that. And I want to apologize for the weather
13 delay. We have now reached that portion of the trial
14 where the attorneys are going to give their closing
15 summation or their closing argument to you. I will tell
16 you it is normal for a lawyer to talk about what facts
17 have been presented or have not been presented during the
18 course of their closing argument. Okay. However, if
19 anything that the attorneys tell you about the facts, if
20 that differs from what your recollection of the facts is
21 you should go with your recollection of the facts because
22 you are the judges of the facts, okay. So, for example,
23 if the attorneys said that on Wednesday of this week it
24 was sunny and eighty degrees outside and your recollection
25 is that on Wednesday of this week it was freezing cold and

1 'snowing outside you should go with your recollection as
2 opposed to what the attorneys say. The way that we will
3 proceed is that the State will open first on the law, they
4 will be followed by Mr. Mosley and then the State will get
5 the last and final argument to you. Solicitor, you are
6 recognized for your closing, sir.

7 MR. SCOTT: Thank you, Your Honor. If it please the
8 Court.

9 THE COURT: Yes, sir.

10 MR. SCOTT: Ladies and gentlemen, thank y'all for
11 your patience. You have had a long week, having snow days
12 and now we are back at it again and we are here on Friday
13 afternoon, Valentine's Day. First of all, I will kind of
14 go over the law in regards to the charge Mr. Anderson is
15 facing. You heard the charges earlier. Criminal sexual
16 conduct first degree, kidnapping and pointing and
17 presenting a firearm. Those are the three charges that
18 you heard all of this testimony regarding. The Judge is
19 going to instruct you at the end of the closing arguments
20 what the law is. If ever my interpretation differs from
21 him always go with his version. Criminal sexual conduct,
22 first degree, is rape. That means, that is the common
23 term for it Mr. Anderson is accused of. Essentially the
24 way the law defines first degree criminal sexual conduct,
25 is a sexual battery. That is number one, okay. You have

1 got to find that there was some sort of penetration,
2 sexual intercourse. Again, oral sex, that was never the
3 case in this case, intercourse. Both parties admit there
4 was intercourse. Ms. [REDACTED] says it was un-consensual,
5 non-consensual, I guess. And Henry Anderson says it is
6 consensual sex. But the sexual battery is a sexual
7 intercourse involved in this case, the actual penetration.
8 Then if you find that there was a sexual battery you must
9 then decide whether there was an aggravated force used to
10 accomplish that sexual battery. Aggravated force,
11 according to the laws of South Carolina, means physical
12 force or physical violence of a high and aggravated nature
13 to overcome the victim. This includes the threat of using
14 a deadly weapon. So the testimony was from the victim,
15 Ms. [REDACTED] that there was a pistol aimed at her head and
16 she was operating under the threat of that deadly weapon
17 and she was overcome by Mr. Anderson at the cell phone
18 tower, that is how he accomplished the rape, the threat of
19 that deadly weapon. As a fallback, aside the gun there is
20 another way you can find an aggravated force being used
21 and that is the victim was also a victim of forceable
22 confinement, kidnapping, robbery, extortion, burglary,
23 housebreaking or any other similar act or offense. So,
24 that comes to our second charge. He is also charged with
25 kidnapping. Let me go back to CSC first, sexual battery

1 of the intercourse and then we are loading two aggravating
2 factors. It can be either or, it can only be one
3 aggravated factor or two. We are saying it is a deadly
4 weapon being used, that is an aggravating factor. Or for
5 some reason you don't find that you can still find that
6 she was a victim of a kidnapping, that is an aggravated
7 factor. I hope that makes sense, essentially the
8 allegations are rape, rape while being kidnapped. Now,
9 let me go into kidnapping. The kidnapping in this case
10 was Henry Anderson meeting Tywanda [REDACTED] outside. She
11 demonstrated pointing a gun at her head and forcing her
12 into his car. You always see kidnapping in Hollywood or
13 depicted in media as the victim whose is bound by the
14 ankle and wrists and duct taped, maybe blindfolded and put
15 into the trunk of a car. But the law as far as kidnapping
16 is that a defendant knowingly and unlawfully seized,
17 confined, inveigle, decoy, kidnapped, abducted or carry
18 away another person without authority of law. Basically
19 if the victim in her mind feels as though she is confined,
20 feels as though she is unfree to leave and she is being
21 held against her will, that is a kidnapping. He doesn't
22 actually have to physically constrain her. Her testimony
23 was that she couldn't scream, she couldn't run, she
24 couldn't fight back because of that gun. In her mind she
25 had to submit to this confinement or else there would be

1 ramifications that she would be shot. Kidnap is to remove
2 a person against his will by unlawful force or fraud. So
3 that is the kidnapping, a confinement at gunpoint, in the
4 car and then at the cell tower where she was unfree to
5 leave and she was being held against her will. Pointing
6 and presenting a firearm, that basically is what it sounds
7 like. Must prove the defendant did present or point at
8 another person, a loaded or unloaded firearm. The
9 testimony was from Tywanda [REDACTED], again, that outside her
10 [REDACTED] house that Mr. Anderson did grab her and what
11 appears to be a decoy type hug and then pointing a gun at
12 her temple was her testimony. Now, I have got to prove
13 all of this beyond a reasonable doubt. And you are going
14 to hear about reasonable doubt. The defense attorney and
15 the Judge is going to go over it a good bit. But any time
16 there is a prosecution, any time someone is convicted of
17 any crime from here to California and they are convicted
18 by a jury of their peers they had to have been found
19 guilty beyond a reasonable doubt. In the U.S., that is
20 the standard. That is the burden that the State always
21 has. And the important thing to remember is that it is
22 beyond a reasonable doubt. Reasonable being the operating
23 word there that we all need to keep in mind. Because it
24 doesn't mean beyond any doubt, it doesn't mean beyond all
25 doubt. I don't know that there is any case, a Solicitor

1 or a defense attorney or a jury can know with one-hundred
2 percent certainty because we weren't there. None of us
3 were there at [REDACTED], none of us were there at
4 Stoney Battery Road at that cell phone tower. So what we
5 do is we listen to the evidence and we make deductions and
6 we use our reason and common sense and we are able to
7 understand, you know, what went on there. You don't have
8 to find one-hundred percent certainty all of the facts.
9 You have to understand them beyond a reasonable doubt. I
10 think the best way that reasonable doubt is described and
11 I think the Judge's charge has it. It is the kind of
12 understanding of a case that you are firmly convinced of
13 their guilt. If you get back there and you all are
14 talking and y'all decide you are firmly convinced that
15 Henry Anderson is guilty of these charges, that is beyond
16 a reasonable doubt, that is the, I think to me that is the
17 easiest way to describe that burden of proof. If you are
18 all back there and then somebody comes up with, I kind of
19 doubt this happened because of this. You can say, well,
20 is that a really reasonable conclusion to draw from the
21 facts. Don't be afraid to use your common sense. I
22 always say, there is no sign outside the courtroom to
23 check your common sense here. I think y'all have kind of
24 come to the conclusion, I imagine, I think you can all
25 totally agree that this is a little bit different than TV.

1 I think, when you go back and deliberate and you use your
2 reasonable thought process, your combined common sense,
3 you are the collective conscious of Newberry County.
4 Newberry County is represented by you guys. I mean, it is
5 a pretty good section of the community, a lot of different
6 backgrounds. What y'all will do is combine that good
7 horse sense and review the facts as they were presented
8 and then come up with a conclusion. At the end I am going
9 to ask you to find Mr. Henderson guilty beyond a
10 reasonable doubt of criminal sexual conduct first degree,
11 kidnapping and pointing and presenting a gun. Thank you.

12 THE COURT: Mr. Mosley, you are recognized for your
13 closing.

14 MR. MOSLEY: Thank you. Gentlemen, ladies, I am
15 thankful for your attention. I know I may have been
16 fussing a little bit and fussing at some of y'all for
17 talking and I apologize for that. I would also, I was
18 noting that some of Mr. Anderson's family over here was
19 joking, you know, I apologize for that. I just apologize
20 and apologize if I have done anything that may appear to
21 you to be bad, I am almost sorry I said halleluiah. Okay.
22 The setting in the whole process that we have been through
23 today has over years of history, even the atmosphere in
24 the courtroom is strategically according. My colleague
25 rushed to that table there on purpose in a trial. The

1 burden of proof, civil or criminal is always given to the
2 State or the plaintiff. They are closest to me for the
3 purpose of the whole system. And the defendant sits
4 further away. I don't know why that is the case, that is
5 just the way it is. Even now the State argues the law, I
6 get to argue, he gets the last word. That is the key. No
7 matter what I say, when I get through talking you won't
8 get nothing but Mr. Mosley said this, Mr. Mosley said
9 that. It is going to turn into, it is almost seem like I
10 am at fault for being here today. That is the strategy.
11 I am sort of long winded. I have been all over the place
12 in practicing law and everything, life experience. Let's
13 deal with some dynamics here and now let's look at the
14 word, power. A good friend of mine in California said,
15 power is the ability to define reality, and to have the
16 other person to adhere to your definition of reality as if
17 it is theirs. One guy recently said, what you talking
18 about, Mosley? Think about that. Power is the ability to
19 define reality and have the other person adhere to your
20 definition of reality. So, in this case we have two
21 people. We have the victim and we have the defendant, Mr.
22 Anderson. Who has the power. Does the young lady have
23 the power to define reality, we have the gift of power to
24 convince somebody else to go along with her definition of
25 reality as if it is theirs. I surmise that she has done

1 exactly that. She has convinced Newberry County law
2 enforcement that she has got power. And her version of
3 the facts, way before January 30th was not only probable
4 cause but also beyond a reasonable doubt. Now, from that
5 in mind let's look at what we are dealing with. We live
6 in a great Country. Our theologians on Sunday morning
7 would have us believe all of us are central by nature.
8 Think about that. We know that the classic, classic thing
9 we are dealing with here today is the presumption of
10 innocence. Now under the rule of law I could, I could, I
11 haven't done it, I could ask the Court to recognize the
12 jury and the Court could probably take judicial notice
13 that the real definition of the presumption of innocence,
14 even our good buddy Benjamin Franklin, one of our founding
15 fathers in American, presumption of innocence really means
16 this. That our society would rather see nine guilty men
17 go free than lock up a innocent man. Think about that.
18 Nine guilty men go free rather than to lock up one
19 innocent man. So that means a lot of guilty people are
20 free because of the presumption of innocence and beyond a
21 reasonable doubt. When you live in a nation that is
22 sinful by nature. All of us, all of us, from the Judge
23 down to the cats and dogs would be in jail. So the system
24 intentionally, intentionally says that well, as long as
25 you can get away with something and not get caught then

1 don't worry about it. Now, I would like to practice law
2 where I would go to my crime and say, man, tell me the
3 truth. Are you guilty. And he would tell me yes or no
4 and I would come in court and then we would have a real
5 good system. So then I could convince any argument to a
6 jury and I don't have to believe any criminal crime. I
7 can actually say he is guilty as sin and defend him to the
8 hilt and if I am paid enough money and enough tricks that
9 he would go free. So, pay attention, pay real attention
10 to the underlying philosophy, schisms and isms about this
11 glorious system, our rule of law. In a sense when you
12 think like that, that is why Humpty Dumpty and all his
13 kings and horses did not put Humpty Dumpty that fell off
14 the wall back together again. And I think that after all
15 of this storm and lovers quarrel, it has been ironic
16 because from day one, from day one we knew that somebody,
17 from day one this is what you knew. It is a possibility
18 that a person could be riding down the road headed
19 somewhere, intending to go there and their mind can trick
20 them and they can drive somewhere else. As a matter of
21 fact, today when I was riding to court, I listen to the
22 radio, I listen to the educated radio station and they
23 happen to have a great discourse, in the last couple of
24 days and on the radio this morning about, as a matter of
25 fact this morning it was about with the context of

1 Valentines Day, it was about Dopamine that creates sexual
2 excitement, makes you get high. And the question was on
3 the radio station this morning was, well, they were trying
4 to figure out what creates the Dopamine in people that
5 will not only be the short term sexual gratification but
6 would also last a longer marriage. And there was a very
7 interesting program that I thought about as I was driving
8 this morning. Because it is symbolic of what this case is
9 about. I think one of my colleagues at the beginning used
10 the word, this case is about obsession, obsession. Two
11 young people. As a matter of fact, if you look at their
12 family composition they are about even. Listen to one guy
13 tell stories about divorces and what makes marriages last.
14 And one guy said, well, two young people to understand
15 when they get married and have families that they really
16 need to consider whether or not their families are even.
17 Because you just didn't marry the other person, you
18 married the other person's family. But it seemed like to
19 me, to be quite honest, we have basis to disfunctional
20 families. To come to this courtroom and show this in
21 work. Ain't nobody picking on their family, no. We have
22 had the unique experience in going through the secret
23 crevices of peoples family and Newberry should be ashamed.
24 To have there two families going on like this, both of
25 them with children out of wedlock, both of them with

1 parents in the house while the chaps are bringing in and
2 having sex. Now, I mean halleluiah, you hang out with me
3 I will have you saying halleluiah. That comes from a
4 unique place and I challenge anybody to deal with the
5 truth. Somebody told me, the truth is neither right nor
6 wrong, it just hurts. Now, you are going to have to do
7 something that is called the verdict, that is to tell the
8 truth. There is two sides to every story, it ain't two
9 sides to every story, three sides to every story. Your
10 side, the other side and the truth. That is the way that
11 goes. That is the way that goes. The unique thing about
12 our system though is we found out some years ago that
13 well, this is a better system. Let's let the people from
14 our community decide this fussing and fighting. Let's put
15 the idealistic concept of justice before the citizens from
16 the same community, you know, and let them decide the
17 facts. Now, at the beginning the Judge talked to you
18 about the facts. The facts isn't going to come to Thomas
19 Mosley. I ain't got up there to take no witness stand.
20 The facts come from the witness stand. And what I recall,
21 the eyewitness, the young lady, look at her. What I
22 recall that young lady saying is that, I assume he had a
23 gun. My colleague, I cross-examined her, didn't bring her
24 out, did what I had to do to her, he is going to bring her
25 out of the chair, hallelujah, and all you heard her say

1 all day long when he had that video clicking over there,
2 yes sir, yes sir, yes sir, yes sir, yes sir. The cell
3 phone and the internet has taken over our lives. I was in
4 court down here in Columbia one day in juvenile court and
5 I heard a guy say, a mama trying to control her little
6 daughter and it ended up being, the cell phone has become
7 a gorilla in our society. All they had to do, all the
8 State had to do to straighten out this doubt was number
9 one, don't rely just on the cell phone to get the
10 evidence. The records from the phone company, they have
11 had a whole year to do more than just the cell phone and
12 this issue of doubt. And to not ask the young lady what
13 happened but to flash on the screen all them records and
14 all you heard her say was what, yes sir, yes sir, yes sir.
15 Who was testifying. Let me ask y'all this question right
16 here. Y'all know from listening to the testimony that
17 they was fussing over what. What were they fussing over.
18 A coat, a coat. What happened to the coat, what happened
19 to the coat. What happened to the coat when he went to
20 get it. I would have thought that they could have put
21 Humpty Dumpty back together again and filled in all of
22 those gaps by just doing their due diligence. The coat
23 should have been in evidence. The clothes she had on on
24 the day she got so called raped, the law ain't rape, the
25 law don't say rape. The Judge is going to read you, it

1 don't even use that terminology. Why, because we have
2 become a sophisticated society. And you change the law.
3 We are not playing games with people no more. Put it like
4 this, my study of history says this. Beginning with
5 history there was something called a thesis. Then there
6 was the antithesis. And rather than for there to be,
7 Albert Einstein, he has got a mind. For rather than there
8 to be the thesis of life and the antithesis of life, it is
9 all coming together. Why not have a system that is kind
10 of solving problems rather than a system whereby somebody
11 wins, somebody loses. So, where is the coat, first. He
12 went there to get the coat, when she came out the door,
13 what she had one. Mind you what she said on the witness
14 stand, what did she have one. He said she had on a little
15 skimpy dress type thing. The last person they called, I
16 don't remember what she had on. They didn't say nothing
17 about that. You are going to see the rape kit, what she
18 had on. All they did was cut her panties and examine them
19 and find semen. We already knew that it was consensual.
20 I submit to you and by no means am I challenging you to
21 try to solve this case because this will worry you to
22 death to try to solve this case by what these people did.
23 It really will. But if you think about what the law is
24 going to challenge you to do, if you have a doubt, he is
25 not guilty. There is a lot of doubt because the

1 statement, look at the timing of when they sent things to
2 SLED. And all they confirmed that they had consensual
3 sex. Now, the last witness that the State had, she was
4 hell bent on testifying, no, they didn't have sex. In
5 other words, somebody hell bent on saying that if they
6 didn't have consensual sex they didn't have sex at all.
7 Okay. So, you will be able to put this together. And I
8 still affirm my belief in a system not to contradict my
9 colleagues about somebody statistically being outside that
10 door talking about, I am coming now. Don't forget me when
11 you go in there. Don't forget the thirteenth juror.
12 Little common sense. I beg of you to use your common
13 sense but at the same time remember what people would do.
14 And then if you start asking questions, when I am arguing
15 or trying to persuade you, I can't do one thing. This is
16 what I can't do by law. I can't suggest to you what to
17 argue, what would you do, what would you do. We have
18 rules. We know these rules and when we step outside of
19 the rules and when we don't. But I put to you in these
20 peoples shoes, you certainly have the right to listen and
21 you use your own life experiences and say, well, man this
22 is a fantastic start. Now, unfortunately for the
23 prosecution and I don't know about you but this guy don't
24 sound like he got no eighth grade education. He is smart,
25 he is smart, he is real smart. I would agree that he was

1 obsessed with this young lady and rightfully so. Now,
2 where there is other points whereby things don't fit. And
3 you know they didn't have the coat. Okay. And we know
4 they didn't have the clothing that she had on. There is
5 another question is, this gun. Now, when the Judge reads
6 to you the first degree criminal sexual conduct and second
7 degree criminal sexual conduct, when he reads you the law
8 it is going to trigger some things in you that is going to
9 make you think, well, he became guilty of this so he has
10 got to be guilty of this. Because you go from one degree
11 to another degree, depending upon whether or not there is
12 a kidnapping, definition of aggravated assault. The Judge
13 is going to charge you these things. He is going to
14 charge you for example, direct and circumstantial
15 evidence. Some evidence has been directly to the incident
16 and some is indirect. Direct evidence is the testimony of
17 a person who claims to have actual knowledge of a fact.
18 It is the main fact to be proved. Circumstantial evidence
19 is proof of a chain of facts and circumstances indicating
20 an existence of a fact. For example, the video. The
21 video is real damaging, real damaging. It puts the, two
22 things about that. The defendant, he is foolish enough to
23 love a woman so much that he is going to hurt himself.
24 Then he is going to be on a cell phone fussing with the
25 woman and have a wreck. Okay. Now, but the problem, that

1 is circumstantial evidence indicating the existence of a
2 fact. They are trying to prove something but they are
3 using circumstantial evidence. And throughout this whole
4 development of facts. If you follow the timeline you will
5 see that this, for example, there is a question about
6 whether or not in between a period of time is a delay and
7 there is no communication. Well, that is a gap there that
8 I think Lominack and them, they could have helped this
9 out. They could have said, well, man, let's get these
10 phones and get everything out of these phones so we won't
11 have this doubt. He said that after everything cleared
12 the area, you know, he had sex with her a couple of times,
13 she didn't, they didn't call her back up to refute that.
14 As a matter of fact all the State had to do was to change
15 his sequence of witnesses and you would have got a better
16 understanding of its case. Why are they going to put her
17 up first and then suppress everybody and all the State had
18 to do was save the eyewitness for later on. Put her up
19 first and dig a hole to get out of. And the chief
20 investigating officer set here the whole time and heard
21 everything. Credibility of a witness, credibility simply
22 means believability. It becomes your duty as jurors to
23 analyze and to evaluate the evidence and determine which
24 evidence convinces you of its truth. You have to be able
25 to know and to determine that the evidence is showing you

1 that the person is acting of the truth in determining the
2 believability of a witness who has testified in this case.
3 You may believe one witness or several witnesses or
4 several witnesses over one witness. You may believe a
5 part of the testimony of a witness and reject the
6 remaining part. You may believe part of what Mr. Anderson
7 says, part of it is not true. The same thing for the
8 victim, the same thing for the police officers. You may
9 believe of a witness in its entirety or reject the
10 testimony of a witness in its entirety. You may believe
11 what any witness exhibited to you, any biased, prejudiced.
12 You may also consider the appearance of a witness. Now,
13 let's talk about this for a minute. Normally in a case
14 and I so appreciate y'all, we have got some good eye
15 contact going on. We are communicating. I asked whether
16 or not a crime had been committed. The gun, that is a big
17 gun, it was described. What if he did have the gun.
18 Whether or not there was circumstances or aggravating
19 circumstances. Each one of you are independent of what
20 was going on. Remember when you go back to deliberate and
21 go over all of the evidence and find my client not guilty.
22 Y'all have no one to reward and no enemies to punish.
23 Just make sure that I firmly believe beyond a reasonable
24 doubt, Mr. Mosley is right, all of the kings horses and
25 all the kings men can put Humpty Dumpty together again.

1 What are y'all going to do, go find the coat, what are you
2 going to do, go subpoena the records. What are you going
3 to do, bring the coat in that she was suppose to have on,
4 contradiction. That was every where in this case and
5 unfortuantley the doubt is there. Now, this whole thing
6 about the society that is based upon this. You have to go
7 through every iota of evidence. If y'all knew everything
8 about everything there wouldn't be no doubt in your mind.
9 Halleluiah. Y'all find my client not guilty for criminal
10 sexual conduct, kidnapping and possession of a weapon.

11 THE COURT: Thank you, Mr. Mosley. Solicitor, you
12 are recognized for your final statement.

13 MR. SCOTT: Thank you, Your Honor. This case isn't
14 about obsession, it is about fixation, it is about an
15 unhealthy fixation that Henry Anderson had on Tywanda
16 ██████████ And it is a fixation that left unchecked it grew
17 and grew and grew until we finally come to this violent
18 conclusion on January the 30th. And it is all right
19 there, we all get to kind of sit back and read these text
20 messages and watch these videos and see him become more
21 and more unhinged. Like he says, the man is just
22 obsessed. We have all been in relationships. We have
23 probably all had relationships come to an end. But we
24 move on, we all move on. It is just the inability to move
25 on in cases like this. Typically matters of the heart

1 leads to some of the most violent crimes. People tend to
2 be irrational when they are talking about relationships or
3 getting into relationships and one party may not agree
4 that it should be over. You can't force someone to be
5 with you. Don't you remember your mother ever telling
6 you, one day you are going to find Prince Charming. And
7 your father assured you that there is other fish in the
8 sea. Henry Anderson should have been able to take to
9 heart but couldn't. He was in a force with Tywanda [REDACTED]
10 to submit to his will. All right. She made it very
11 clear, look man, it is over, bring me my rings back, let
12 me get my brother's video games back. I don't know what I
13 have got of yours but I am perfectly happy to exchange it
14 to you. Can I mail it, can we meet at Walmart. No, that
15 is not good enough. He is going to force this
16 confrontation, this interaction because he can't let go.
17 People come into your life, people fade away. But you
18 can't make somebody, you can't force somebody to be your
19 friend. You can't force somebody to be your girlfriend.
20 You can't force someone to have your baby. So after
21 dating for some time, you know, that was the test.
22 December 29th Tywanda basically said, you are suffocating
23 me, we have kind of reached the conclusion, maybe we had
24 some good times, like all couples we have had some bad
25 times too. Mr. Anderson, he was kind of the same way, he

1 was watching some movie and she was watching another.
2 They all kind of agreed it was December 29th and it
3 happened over the phone. He doesn't take it well, he
4 cannot move on. This downward spiral we are talking
5 about, he is becoming more and more unhinged, pointing a
6 gun at his head, talking about ending it all. Begging
7 with her, pleading with her, meet with me, I want to be
8 your friend, continuing to text her despite this block on
9 her cell phone. He tells Tywanda he is moving away, that
10 is an attempt for them to meet up and exchange belongings.
11 There was a psychiatrist and it is five stages of grief,
12 five stages of loss. She recognizes this as a terminal,
13 for people to read the end of their life. And we go
14 through a sort of unpredictable set of pages that
15 ultimately led to, it is denial, it is anger, it is
16 bargaining, depression, finally acceptance. You can see
17 Henry Anderson go through every one of the stages. He
18 never got to acceptance though because he could not accept
19 that Tywanda [REDACTED] would not be with him. You can
20 certainly see the anger. Bargaining, and please, just be
21 my friend. That is bargaining. I need you in my life.
22 Depression. Facebook, Twitter, it is too much in our
23 life. But in a case like this, we don't have to take
24 Tywanda's word for it. It is mapped right there for us, a
25 very clean way for all of us to step back a year later and

1 see how things happen. On January the 21st right up to
2 January 30th you can see hour by hour how things happen of
3 Tywanda [REDACTED]'s accounting of the events. Henry Anderson
4 took his hand and he told you his version. I didn't say I
5 was going to come down there and make you fear me. I
6 meant, I am going to come down there and I want you to
7 hear me. She responded. I told her I was outside with
8 the coat but that text magically just kind of disappeared.
9 I don't remember that password. Hunting, a lot of talk
10 about hunting, two aunts testified, talk about this
11 jacket, talk about having sex in deer stands, talk about
12 what she was wearing the day. How does any of that help
13 you all figure out what happened January 30th. Ask
14 yourselves why they kept trying to throw these things at
15 you. Where is the jacket, I don't know. He was arrested
16 six hours after this happened. You really think that is
17 what he was wearing, you don't think he changed clothes by
18 the time the cops came. Tywanda said he was wearing a
19 black coat. Her underwear, why do I need to show y'all
20 that. It was already testified to that the semen was
21 found in it. It was an admission that he had sex with
22 her. And his version is, he is just a romeo. It is
23 appropriate we are talking about a Romeo here on
24 Valentine's Day because this man, he finds himself very
25 handsome. You know, despite all of those text messages,

1 ladies and gentlemen, don't worry about those. It appears
2 that she is trying to avoid this guy but to hear him talk
3 women just can't avoid a man like him. 6:30 a.m., January
4 the 30th his story is Tywanda [REDACTED] is out there with a
5 hair net, she can't keep her hands off of him. She is
6 grabbing him. What woman does that. What woman does that
7 after receiving a video from this guy where he has got a
8 gun to his head. What woman does that after two days
9 before she told him, I don't want to talk to you any more.
10 I mean, he just shows up at my mom's house with a gun, now
11 he is sending me a video of yourself with a gun to your
12 head. But then his version is, she is out there just
13 putting herself all over him. Is that credible. I
14 thought it was interesting, I really did. I don't know
15 how Tywanda felt about it but as he set up here he just
16 kind of looked at it and he kind of smirked a lot of times
17 when he talked about sex. And I thought it was
18 interesting, the whole time he was referring as a victim.
19 Why did he do that. I told y'all about the law before.
20 This is a rape case. Mr. Mosley is right, it is not on
21 the books as a rape but that is what it is. Forced sex,
22 un-consented sex, nonconsensual sex. Allegations are
23 here, this aggravated force used, the weapon, she is under
24 the threat of this weapon. She has already had it held
25 against her head. In her mind, what does she think is

1 going to happen if she fights that. She testified she
2 thought she might get shot, didn't know what he would do.
3 The same with the kidnapping. She is confined against her
4 will, he has threatened her with this gun, aimed at her
5 temple. One time the lawyer did, I hope I didn't do this,
6 he sort of waived the gun and I just saw that barrel. I
7 know it is unloaded, I know it has got the lock on it but
8 the feeling you get just seeing a barrel across your face
9 is sort of a, I don't know what Tywanda was feeling when
10 she had that at her forehead. I just plead with y'all to
11 look at this case with common sense. You are going to
12 have all of this evidence, you will have the videos,
13 pictures, everything. Why didn't he, oh, he did have sex
14 but it was consensual. He did all of those texts. Y'all
15 please check your common sense at the door, follow all of
16 these red herrings I have been throwing out there. I am
17 going to try to chase these rabbits. I want y'all to
18 think about hunting rifles. I want y'all to think about
19 sex in deer stands. Isn't it convenient that he had that
20 pistol under his mattress, it is just a big convenient
21 coincidence here. Mr. Mosley said that if there is any
22 doubt you have to rule in favor of Henry Anderson. That
23 is not true, I told you that was going to happen. It is
24 beyond a reasonable doubt. I just want to leave you with,
25 Henry Anderson does have a lot of rights. His lawyer got

1 up here and talked about presumption of innocence and
2 power and who had power on January the 30th, who had the
3 pistol, it wasn't Tywanda [REDACTED]. He has got rights. He
4 has got a jury of his peers. But in this courtroom
5 victims have rights too. Tywanda [REDACTED] has got some
6 rights still. Ladies and gentlemen, go back there and get
7 together, talks about the facts of the case, talk about
8 all of the evidence and deliberate and use your reason.
9 Come back and find him guilty of criminal sexual conduct
10 first degree, kidnapping and pointing and presenting a
11 firearm. Thank you.

12 THE COURT: All right. Ladies and gentlemen, now it
13 becomes my obligation to instruct you on the law that
14 applies in this particular case. And the way that this
15 has been done at least, the way this has traditionally
16 been done in the twenty plus years that I have been
17 practicing law is the Judge would basically sit up here
18 and read to you seventeen pages of law and you are suppose
19 to sit there and absorb all of this and understand it.
20 That is how it has traditionally been done. I have always
21 found that to be a little bit unreasonable especially
22 since like most people, it took me three years to learn
23 this in law school so I don't expect you to learn this in
24 fifteen minutes. So what I am saying, I am going to give
25 you a copy of these instructions to you in written form

1 that you can refer to in your deliberations if you need
2 to. Please don't, you know, consider only parts of the
3 instructions, consider the instructions as a whole.
4 Additionally if you need any further assistance
5 understanding what I am explaining to you now or what I
6 explain to you in these instructions I can help you on
7 questions that concern the law. Just send me a note and
8 tell me what you are having trouble about and I will bring
9 you back in here and try to explain the law to you. At
10 this point and time it is not possible to receive any
11 additional testimony. You have to judge this case based
12 on the evidence that has been presented. So if you have a
13 factual question or a question about something that was
14 not introduced into evidence and it wasn't addressed there
15 is no way to reopen the record at this point and time.
16 But certainly I can help you concerning any questions of
17 law.

18 Now, ladies and gentlemen, the indictments in this
19 particular case charge the defendant, Mr. Anderson, with
20 the offenses of criminal sexual conduct in the first
21 degree, kidnapping and pointing and presenting a firearm.
22 I remind you that the fact that Mr. Anderson was charged,
23 arrested and indicted in this case is not evidence and it
24 cannot be considered by you as evidence of guilt nor does
25 it create any presumption or inference of guilt. These

1 indictments, these documents are simply the formal written
2 instruments which contain the charges made against Mr.
3 Anderson, the formal documents by which these cases are
4 brought into court. Again, the indictments in this case
5 allege several different offenses against the defendant.
6 The charges are criminal sexual conduct first degree,
7 kidnapping and pointing and presenting a firearm. Each
8 indictment charges a separate and distinct offense and you
9 must decide each indictment separately on the evidence and
10 the law applicable to it uninfluenced by your decision as
11 to the other charges or indictments. The defendant may be
12 convicted or acquitted on any or all of the offenses
13 charged. You will be asked to write a separate verdict of
14 guilty or not guilty for each indictment.

15 Now, ladies and gentlemen, the defendant in this case
16 has plead not guilty to these indictments. And that plea
17 puts the burden on the State to prove him guilty. A
18 person charged with committing a crime in South Carolina
19 is never required to prove himself innocent. I instruct
20 you that it is an important rule of law that the defendant
21 in a criminal trial, no matter what the seriousness of the
22 crime may be will always be presumed to be innocent of the
23 crime for which the defendant, or for which the indictment
24 was issued unless guilt has been proven by evidence
25 satisfying you of that guilt beyond a reasonable doubt.

1 This presumption of innocence does not end when you begin
2 your deliberations but it accompanies the defendant
3 throughout the trial until you reach a verdict of guilt
4 based on evidence satisfying you of that guilt beyond a
5 reasonable doubt. The presumption of innocence, ladies
6 and gentlemen, is like a robe of righteousness placed
7 about the shoulders of the defendant. It remains with him
8 until it has been stripped from him by evidence satisfying
9 you of his guilt beyond a reasonable doubt. Ladies and
10 gentlemen, the presumption of innocence is not merely a
11 legal theory, it is not just a legal phrase. It is a
12 substantial right which every defendant is entitled unless
13 you, the jury, are satisfied through the evidence of his
14 guilt beyond a reasonable doubt.

15 What is a reasonable doubt in the eyes of the law. A
16 reasonable doubt is the kind of doubt that would cause a
17 reasonable person to hesitate to act. The State has the
18 burden of proving the defendant guilty beyond a reasonable
19 doubt. And some of you may have been jurors in civil
20 cases where you were told it is only necessary to prove
21 that a fact is more likely true than not true, such by the
22 preponderance or the greater weight of the evidence. In
23 criminal cases the State's proof must be more powerful
24 than that, it must be proof beyond a reasonable doubt.
25 Proof beyond a reasonable doubt is proof that leaves you

1 firmly convinced of the defendant's guilt. Now, there are
2 very few things in this world that we know with absolute
3 certainty. And in criminal cases the law does not require
4 proof that overcomes every possible doubt. If based on
5 your consideration of the evidence you are firmly
6 convinced that the defendant is guilty of the crime
7 charged you must find the defendant guilty. If on the
8 other hand you think there is a real possibility that the
9 defendant is not guilty you must give him the benefit of
10 the doubt and find him not guilty.

11 Now, ladies and gentlemen, I remind you that during
12 this trial you and I have certain duties to perform. As
13 the trial Judge is it my responsibility to preside over
14 the trial of this case and I also have the duty to rule on
15 the admissibility of the evidence offered during the
16 trial. You can consider only the competent evidence
17 before you. So any testimony that was ordered stricken
18 from the record you should disregard that, you should
19 consider only the testimony which has been presented from
20 the witness stand as well as any exhibits which have been
21 made a part of the record in this case. I instruct you
22 that under the law questions of counsel are not evidence.
23 Similarly statements made by the Court or the attorneys in
24 ruling on or arguing any evidentiary matter does not
25 constitute evidence in this case and cannot be considered

1 by you in your deliberations.

2 Now, I have the additional duty to charge you the law
3 that applies. As the presiding Judge I am the sole Judge
4 of the law. It is your duty to accept and apply the law
5 as I state it to you. So if you already have any ideas to
6 what the law is or what the law ought to be and it
7 disagrees with what I now tell you the law is you must
8 abandon this idea because you are sworn to accept and
9 apply the law as I now state it to you. In every case
10 tried before a jury the jury becomes the sole and
11 exclusive judge of the facts in a case. A trial Judge
12 cannot intimate, state, comment on or make any statement
13 to a jury about the facts in a case. Since you, the jury,
14 are the sole Judges of the facts you are not to infer from
15 what I have said during the progress of this trial in
16 ruling upon the admissibility of evidence or otherwise or
17 anything that I say to you now that I have any opinion
18 about the facts in this case. Ladies and gentlemen, the
19 law does not permit me to have any opinion about the
20 facts. This is a matter solely for you, the jury, to
21 determine. As jurors it is your duty to determine the
22 effect, the value, the weight and truth of the evidence
23 presented during a trial.

24 I instruct you that there are two types of evidence
25 which are generally presented during a trial, direct

1 evidence and circumstantial evidence. Direct evidence is
2 the testimony of a person who claims to have actual
3 knowledge of a fact such as an eyewitness. It is evidence
4 which immediately establishes the main fact to be proven.
5 Circumstantial evidence is the proof of a chain of facts
6 and circumstances indicating the existence of a fact. It
7 is evidence which immediately establishes collateral facts
8 from which the main fact may be inferred. Circumstantial
9 evidence is based on inference and not on personal
10 knowledge or observation. Now, the law makes absolutely
11 no distinction between the weight or value to be given to
12 either direct or circumstantial evidence nor is a greater
13 degree of certainty required of circumstantial evidence
14 than of direct evidence. You should weigh all the
15 evidence, after weighing all of the evidence if you are
16 not convinced of the defendant's guilt beyond a reasonable
17 doubt you must find him not guilty.

18 Now necessarily, ladies and gentlemen, you must
19 determine the credibility of witnesses who have testified
20 in this case. And credibility simply means believability.
21 It becomes your duty as jurors to analyze and to evaluate
22 the evidence and determine which evidence convinces you of
23 its truth. In determining the believability of witnesses
24 who have testified you may believe one witness over
25 several witnesses or several witnesses over one witness.

1 You may believe a part of the testimony of a witness and
2 reject the remaining part of the testimony of that same
3 witness. You may believe the testimony of a witness in
4 its entirety or reject the testimony of a witness in its
5 entirety. You may consider whether the witness has,
6 whether, you may consider whether any witness has
7 exhibited to you any interest, biased, prejudiced or other
8 motive in this case. And you may also consider the
9 appearance and manner of a witness while on the witness
10 stand.

11 Now, ladies and gentlemen, the defendant in this case
12 is charged with the offense of criminal sexual conduct in
13 the first degree. The first element which the State must
14 prove beyond a reasonable doubt is that the defendant
15 engaged in a sexual battery with the victim. A sexual
16 battery is defined as sexual intercourse, cunnilingus,
17 fellatio, anal intercourse or any intrusion however slight
18 of any part of the person's body or of any object into the
19 genital or anal openings of another person's body. If you
20 find that the State has not shown beyond a reasonable
21 doubt that a sexual battery occurred then stop
22 deliberating and your verdict would have to be not guilty.
23 If you find a sexual battery did occur you must then
24 decide whether the State has proven beyond a reasonable
25 doubt that the defendant used aggravated force to

1 accomplish the battery. And you have two options here,
2 either the defendant used aggravated force to accomplish
3 the sexual battery. Aggravated force means the use of
4 physical force or physical violence of a high and
5 aggravated nature to overcome the victim. This includes
6 the threat of using a deadly weapon. Or you can find that
7 the victim submitted a sexual battery while the victim was
8 also the victim of forceable confinement, kidnapping,
9 robbery, extortion, burglary, housebreaking or any other
10 similar act or offense. Now, ladies and gentlemen, if you
11 find that the State has failed to prove beyond a
12 reasonable doubt that the defendant is guilty of first
13 degree criminal sexual conduct you may consider whether
14 the State has proven that the defendant is guilty of
15 second degree criminal sexual conduct. Second degree
16 criminal sexual conduct contains all the elements of first
17 degree criminal sexual conduct except the circumstances of
18 aggravation. Instead the State must prove beyond a
19 reasonable doubt that the defendant used aggravated
20 coercion to accomplish the sexual battery. Aggravated
21 coercion means that the defendant threatened to use force
22 or violence of a high and aggravated nature to overcome
23 the victim or another person, that the victim reasonably
24 believed that the defendant had the present ability to
25 carry out the threat. Aggravated coercion may also exist

1 if the defendant threatened to retaliate in the future by
2 the infliction of physical harm, kidnapping or extortion
3 under circumstances of aggravation against the victim or
4 any other person.

5 Now, ladies and gentlemen, with respect to the charge
6 of criminal sexual conduct. The defendant has raised the
7 defense that Ms. [REDACTED] voluntarily consented to sexual
8 intercourse. I instruct you that the defendant does not
9 have to prove that the victim consented. Instead the
10 State must prove beyond a reasonable doubt that the victim
11 did not consent. If you find that the victim consented to
12 the sexual intercourse you must find the defendant not
13 guilty.

14 Ladies and gentlemen, the defendant is also charged
15 with kidnapping. The State must prove beyond a reasonable
16 doubt that the defendant knowingly and unlawfully seized,
17 confined, inveigled, decoyed, kidnapped, abducted or
18 carried away another person without authority of law. To
19 do a thing unlawfully is to do it willfully, against the
20 law. Knowingly means with knowledge, consciously and not
21 accidentally. Seize means to take hold of or, to take
22 hold of suddenly or forceably. Confine means to limit,
23 restrict or enclose within bounds imprisoned or shut or
24 keep in. Inveigle means to lure, entice or lead astray by
25 false representations, promises or other deceitful means.

1 Decoy means to lure by or is if by decoy. Decoy is
2 something to entice a person into a trap. Kidnap is to
3 remove a person against his will by unlawful force or by
4 fraud. Abduct means to carry out secretly by force for an
5 illegal purpose. Ladies and gentlemen, carry away means
6 to remove. I instruct you that the State does not have to
7 prove that the defendant did all of these things. Instead
8 if you find beyond a reasonable doubt that the defendant
9 did any of these things you may find the defendant guilty
10 of kidnapping. I instruct you that something done without
11 authority of law is something done, the law doesn't
12 sanction, permit, allow, condone or provide justification
13 for. Furthermore the kidnapping does not have to be for
14 any personal or monetary gain or any legal purpose but may
15 be for any reason whatsoever.

16 Now, ladies and gentlemen, the defendant finally is
17 charged with pointing and presenting a firearm. Through
18 this charge the State must prove beyond a reasonable doubt
19 that the defendant presented or pointed at another person
20 a loaded or unloaded firearm.

21 Ladies and gentlemen, there are several possible
22 verdicts which you may find in this case and I have worked
23 up a verdict form to help guide in the deliberations. And
24 the way that this works, Mr. Foreman and ladies and
25 gentlemen, is basically I have asked you a series of

1 questions here. It is pretty self-explanatory but I am
2 just going to briefly go over it. Okay, I don't think you
3 will have any trouble following it. The first question
4 makes the statement, we, the jury in the above captioned
5 case on the charge of criminal sexual conduct first degree
6 unanimously find Henry D. Anderson and there are two
7 options for you there. Not guilty or guilty. Okay.
8 There is no significance whatsoever in the order to which
9 I state these verdicts. It is just that one has to be
10 stated first. If you find that the State has met its
11 burden of proving beyond a reasonable doubt that Mr. [REDACTED]
12 is guilty of criminal sexual conduct first degree the
13 Foreperson would initial guilty and move on to question
14 three. If, however, you find that the State has failed to
15 meet its burden of proving criminal sexual conduct in the
16 first degree you would initial right here next to not
17 guilty and proceed to question two. Okay. Question two,
18 you would then consider the offense of criminal sexual
19 conduct in the second degree, the same routine as before,
20 guilty or not guilty. Everyone has to be unanimous or the
21 whole jury has to be unanimous. And then you move to
22 question three that ask the same question of you about the
23 kidnapping. And question four that ask the same question
24 about the pointing and presenting charge. All right. If
25 you can't understand just let me know, I will try to

1 explain it better to you but I think you will be able to
2 follow this. Now, as I said a minute ago, ladies and
3 gentlemen, your verdict has to be a unanimous one. That
4 is all twelve of you have to agree. In South Carolina we
5 do not have majority verdicts, I hope we never have
6 majority verdicts. So all of you have to agree on the
7 verdict and when the verdict has been agreed to, Mr.
8 Foreman, if you will initial as appropriately on the form
9 and then sign your name on the second page, knock on the
10 door and let the bailiff know that you have reached a
11 verdict and we will bring you back here in the courtroom
12 in just a moment. Now, ladies and gentlemen, I remind you
13 that in this case you have been selected as impartial
14 jurors who have absolutely no personal interest in the
15 outcome of the case. You have no friends to reward, no
16 enemies to punish and your verdict must speak the truth
17 under the law as I have instructed you and the facts as
18 you find them to be. I am going to ask that you return to
19 your jury room but don't begin your deliberations yet.
20 You will be able to shortly but your cue to begin
21 deliberations will be receipt of these instructions, the
22 verdict form and all of the evidence in the case and my
23 asking the alternate to step out. So that will be when
24 you begin your deliberations, when you get all of this
25 stuff, that is when you can start discussing it. I will

1 ask that you return to the jury room but don't start
2 deliberating yet, I will let you know when you can. Thank
3 you.

4 (Whereupon, the jury was excused from open court.)

5 THE COURT: The jury is out, exceptions, additions
6 from the State?

7 MR. SCOTT: None from the State, Your Honor.

8 THE COURT: From the defense, subject to your earlier
9 motions?

10 MR. MOSLEY: The only thing that may ask a curative
11 charge on and that is something, I have some concern about
12 towards the spirit in our society that my colleague
13 sometime misquote the law and that is victims don't have
14 rights. And my point being that, my understanding of the
15 Constitution Amendment that was made, victims have
16 procedural due process rights but victims don't have
17 substantive rights before any court of law. And that was
18 a very last statement that my colleague made but I want to
19 challenge that because I don't understand, I don't know
20 whether or not our community, based upon the public
21 narrative understands that when we decided to amend our
22 laws that we didn't give victims any vigilante position
23 with regard to having some substantive right as we
24 normally speak within the law. She only has a right to
25 notification of proceedings and the process. But I just

1 think, I may be too sensitive to that, Judge, but I have
2 that argument a lot and I don't know whether or not, I
3 would have accepted that had my colleague said, well,
4 Tywanda has, you know, procedural rights versus--

5 THE COURT: Mr. Mosley, I think I understand exactly
6 where you are coming from and I do appreciate your point
7 on that. I do not know that the Court has ruled whether
8 or not the victims bill or rights affects substantive or
9 procedural rights but at the very least there are rights
10 which are enumerated.

11 MR. MOSLEY: Excuse me, the only procedure--

12 THE COURT: And I would not disagree with that
13 characterization but certainly there are nonetheless
14 rights. The right to appear, the right to participate and
15 the right to have a voice. So, whether those--

16 MR. MOSLEY: Different from than what we normally
17 call the right privilege, rights meaning that we have some
18 god given right to freedom of speech and those types of
19 things.

20 THE COURT: And I am trying to get this to the jury
21 so let me go ahead and rule, Mr. Mosley. I have heard
22 enough argument. Thank you. The point has been made, I
23 appreciate that. Obviously, there was not a contemporary
24 objection at the time of the closing arguments so perhaps
25 I would have been inclined to go down that road. But I

1 think that the instructions that I have given clearly and
2 definitively explain who has the burden in the case and
3 who has the burden to prove absolutely nothing. That is
4 quite apparent even on the charge that I gave to the jury
5 on the consent issue. So, I will let the charge as given
6 stand. If y'all can make sure we have the exhibits
7 together we will send those back and we will be asking the
8 alternate to step out.

9 (Whereupon, the jury started deliberations at
10 approximately 7:10 p.m.)

11 (Whereupon, the alternate was excused at
12 approximately 7:11 p.m.)

13 THE COURT: We will go back on the record in the
14 State versus Anderson, the defendant is present with
15 counsel. The jury has sent me a question. The question
16 is as follows, what will happen if we have a jury that
17 can't come to a decision. So, I will tell them what will
18 happen if a jury cannot reach a decision. It sounds like
19 they are somewhat requesting an Allen charge and I will
20 basically give it if there is no other suggestions or
21 issues to that. We will mark this as a Court's 1.

22 (Whereupon, Court's Exhibit 1 was marked for
23 identification only.)

24 THE COURT: Bring them in.

25 (Whereupon, the jury came into open court at

1 approximately 9:13 p.m.)

2 THE COURT: Ladies and gentlemen, I have received
3 your question. And basically the question states, sir,
4 what will happen if we have a jury that can't come to a
5 decision. Essentially, ladies and gentlemen, in a
6 nutshell the case would have to be tried again at a later
7 point and time and I am going to, because it sounds like
8 y'all are having difficulty reaching a decision, give you
9 some further instructions on this particular problem
10 because this does happen from time to time. And I will
11 tell you that, it says that you are having difficulty
12 agreeing on a verdict. And I said earlier, of course,
13 your verdict has to be unanimous. Ladies and gentlemen,
14 when something is in dispute it is not often easy for two
15 people to agree. So when twelve people have to agree it
16 becomes even more difficult and in most cases absolute
17 certainty can't be reached or expected. But you have got
18 a duty to make every reasonable effort for each unanimous
19 decision in this case and in doing this you should of
20 course consult with one another and express your own
21 views, listen to the opinions of your fellow jurors and
22 let everybody know how you feel and why you feel that way
23 and discuss your differences with open minds. I am sure
24 you have been doing that and continue doing that in a
25 minute. Now, although the verdict of the jury has to be

1 unanimous, every one of you has your right to your own
2 opinion. The verdict you agree to has to be your own
3 verdict. The result of your own convictions and you
4 should not give up your firmly held beliefs merely to be
5 in agreement with your fellow jurors. The majority should
6 consider the minorities position and the minority should
7 consider the majorities position. You should carefully
8 consider and respect the opinions of each other and
9 reevaluate your position for reasonableness, correctness
10 and impartiality. Let's lay aside all outside matters and
11 reexamine the questions before you based upon the law and
12 the evidence in this case. If you don't agree on the
13 verdict in this case, ladies and gentlemen, I will have to
14 declare a mistrial. And in that case it doesn't mean
15 anyone wins and it doesn't mean anyone loses, it just
16 means that at some future time I will try this case again
17 with some other jury sitting exactly where you are, the
18 same participants, the same attorneys, the same witnesses
19 will come and basically ask the same questions and get
20 essentially the same answers and we will go through the
21 whole process over again. Now, you were selected in the
22 same manner and from the same source as any future jury
23 will be and there is no reason, ladies and gentlemen, for
24 me to suppose that this case will ever be submitted to
25 twelve more intelligent, impartial and conscientious and

1 competent jurors than you or that, or clear evidence can
2 be presented at a future point and time by one side or the
3 other. Therefore I am going to ask that you take these
4 comments into account and return to your deliberations and
5 just let me know how things progress, if you will. Okay.
6 So with that if you can return to your deliberations and
7 Mr. Foreman, if you find that the matter is just hopefully
8 deadlocked let me know. All right. Thank you very much.

9 (Whereupon, the jury continued deliberations at
10 approximately 9:18 p.m.)

11 MR. MOSLEY: Judge, one of the juror's tapped Mr.
12 Lominack on the, asked him something. I want to know what
13 that was, why would that juror pick him out.

14 THE COURT: I didn't notice that but did he say
15 anything to you, Mr. Lominack?

16 MR. LOMINICK: She said something, I didn't hear what
17 she said and I just shook my head and didn't even make
18 contact.

19 THE COURT: You did not hear what she said to you.

20 MR. LOMINICK: I did not hear what she said.

21 MR. MOSLEY: Let me ask you this. Why would she tap
22 you?

23 MR. LOMINICK: I don't know, you would have to ask
24 her. I don't know who she is.

25 MR. MOSLEY: Judge, that is the same as previously,

1 where they was talking to other jurors.

2 THE COURT: Was that the lady who had been sitting on
3 the first row for most of the time who also had difficulty
4 seeing the witness at some point and asked us to move, the
5 lady in the shorts?

6 MR. MOSLEY: Two of them sitting on the front row.
7 The long hair, she was, she actually walked over to
8 Lominack and looked at him and tapped him and said
9 something.

10 THE COURT: I can't speak to that. I am happy, I
11 mean, I am happy that the officer didn't make contact and
12 obviously respond back. Regrettably, the record probably
13 doesn't reflect this but we are in an extremely close
14 quarters here and it is very, very difficult. I know that
15 the State has struggled and we have all struggled not to
16 invade the, for lack of a better word, the personal space
17 of the jury. The chairs in this courtroom are very, very
18 close to the attorneys, to the witnesses and everybody
19 else. I don't know what to say. I don't want to inquire
20 of that juror, because I am hesitant to inquire of that
21 juror unless the defense feels I should. I am hesitant to
22 inquire of her about this matter. I feel like that has
23 the potential to intrude into what she finds, the facts to
24 be. Do you have any other suggestions, Mr. Mosley?

25 MR. MOSLEY: Not really, Judge. They probably seen

1 the same thing I did.

2 THE COURT: I will take your word that it happened.
3 I just don't know what to do about it.

4 MR. MOSLEY: I appreciate Mr. Lominack's candor about
5 it. But who knows.

6 THE COURT: All right. Very well, we will remain at
7 ease then and we will see what happens.

8 MR. MOSLEY: Thank you.

9 THE COURT: We will be off the record.

10 (Whereupon, a break was taken waiting on the
11 verdict.)

12 THE COURT: I am told that the jury has reached a
13 verdict. Anything before we receive the verdict from the
14 State?

15 MR. SCOTT: No, Your Honor.

16 THE COURT: From the defense?

17 MR. MOSLEY: No, Your Honor.

18 THE COURT: Let's have them in, please.

19 (Whereupon, the jury came into open court at
20 approximately 10:47 p.m.)

21 THE COURT: Mr. Foreman, I am told that the jury has
22 reached a verdict. All twelve jurors have agreed on that
23 verdict?

24 MR. FOREMAN: Yes, sir.

25 THE COURT: All right. Madam Clerk, if you will

1 publish the verdict, please.

2 CLERK OF COURT: The State of South Carolina versus
3 Henry Anderson. We, the jury, in the above case on the
4 charge of criminal sexual conduct first degree unanimously
5 find Henry D. Anderson guilty.

6 We, the jury, in the above captioned case on the
7 charge of kidnapping unanimously find Henry D. Anderson
8 guilty.

9 We, the jury, in the above captioned case on the
10 charge of pointing and presenting a firearm unanimously
11 find Henry D. Anderson guilty.

12 Signed Von R. James, Foreperson. Ladies and
13 gentlemen of the jury, if this is your verdict please
14 indicate by raising your right hand.

15 (Whereupon, all jurors raised their hand.)

16 THE COURT: Let the record reflect that all twelve
17 jurors did in fact raise their right hand. Anything
18 further for the jury before they are discharged from the
19 State?

20 MR. SCOTT: No, Your Honor.

21 THE COURT: From the defense?

22 MR. MOSLEY: A couple of observations, Judge, I still
23 want to point out to the Court that I did see one of the
24 jurors tap Mr. Lominack on the knee. And when I was out
25 in my truck, the jury didn't see me but I know I seen

1 several of the jurors out there during their smoke break
2 and they was fussing about something. I don't know what
3 it said. Plus, Your Honor, just to edify to the Court,
4 Mr. Anderson is in the holding room right there and the
5 first thing he said when he came there, he told me, he
6 said, Mr. Mosley, it doesn't look good. He heard the
7 deliberations through the door and he said, look like they
8 found me guilty. Thank you.

9 THE COURT: Thank you very much, Mr. Mosley. I
10 appreciate those observations. Obviously, I would need
11 them to be brought to my attention in a timely manner but
12 thank you very much for informing me of that. Ladies and
13 gentlemen, I appreciate your work on this case, I
14 genuinely do. I will tell you that this is never an easy
15 thing for twelve people to come in here and make a
16 decision. And I have come to respect in 20 plus years of
17 practicing law, I have come to respect what it is that
18 jury's do and the effort that they have. And every time
19 the jury makes a decision and it makes national news and
20 some people criticize it and some people support it, I
21 reflect back on the struggle that the jury goes through
22 every time they have to decide a case like this or any
23 other case. So now that you have had a case of our system
24 perhaps you can have an appreciation or maybe even offer
25 commentary the next time somebody publically criticizes a

1 jury's verdict. I am not going to keep y'all any further
2 because you have been here for a while. I will let you
3 know that that motion that you felt a short a while ago,
4 we thought it was a train but it turns out it was a very
5 small earthquake that is centered somewhere off the outer
6 banks of North Carolina. So it was felt by the entire
7 State. We have no further information about that but I
8 figured I would go ahead and tell you so that when you get
9 home your husband or wife or significant other, whatever
10 the case may be, can ask you did you feel the quake. So
11 now you can say you have experienced an earthquake. The
12 Clerk does have your checks for you. The only thing that
13 remains with regard to this case is sentencing. I will
14 be, you are more than happy to stay. It is a very late
15 hour, so if you want to go no harm. I certainly won't
16 feel offended. At this point and time we will pass out
17 checks and if anybody wants to stick around you can feel
18 free to just fill in that back row there where your Clerk
19 of Court, Ms. Bowers, is sitting. With that you are
20 discharged except for the person, I need you to sign the
21 actual indictments, the verdict on the actual indictments.
22 Okay. The rest of you are free to go, free to stay,
23 whatever you choose to do.

24 (Whereupon, the jury was excused from open court.)

25 THE COURT: Mr. Mosley, I assume you move for a new

1 trial, is that correct, sir?

2 MR. MOSLEY: Yeah, I mean, I would, Judge. I don't
3 know what good it does to be quite honest. I just think
4 that there was some question in the jurors minds. As a
5 matter of fact, I think the Court observed the jury and
6 polled them collectively and if they are gone now. We
7 have got one, two, three, four jurors still here. I don't
8 know what they are waiting for but I think, the alternate,
9 he disregarded his wife and hung around, I don't know what
10 for. They act like this is some big time criminal sitting
11 here next to me. But it is what it is, Judge. Judge, and
12 I don't mean to be disparaging towards nobody. I just
13 speak my mind. And I am an officer of the Court and great
14 standing for 35 years. But I think that there is some
15 serious questions about this case, the way it was handled.
16 If I could figure out some prosecutorial misconduct by my
17 colleague I would seriously determine that. And I will
18 address, I still don't understand why one of the jurors
19 would go out of her way to tap the law enforcement
20 officer, Mr. Lominack, on the knee and make some comment
21 that nobody else knew about. I think that is some serious
22 grounds right there, there is some question of maybe some
23 impropriety. My colleague made a big deal of who is
24 looking at who during the course of this trial and I think
25 that was very inappropriate. There has been a lot of

1 people in here that has been given some strange looks
2 themselves. I say all of that, you know, not to be
3 disrespectful, Your Honor. I think what I have seen is a
4 mockery of justice, they act like this was a joke, it
5 wasn't no joke. It was serious business here. And some
6 serious misconduct on my colleague, Mr. Dale Scott's part,
7 on pretrial discovery. He lied on me in front of my
8 colleague, the public defender, about the pretrial
9 discovery materials. He lied, he lied, he lied. And I
10 call Charles Verner oatmeal if he wants to have a talk
11 about that. And I will say that in front of his boss, Mr.
12 Stumbo. So now whether or not that reaches the grounds of
13 a new trial I don't know, Judge, I am just speaking my
14 mind.

15 THE COURT: I appreciate that, I always appreciate
16 candor. I do agree with you on one point, certainly this
17 is a serious matter. No issues involving discovery
18 violations were brought to the Court's attention pretrial
19 so I can't speak to those. So as far as I am aware there
20 is no record of those unless those were handled before
21 another Judge. The jury has rendered its verdict. Moving
22 for a new trial, of course, is procedural and I think
23 perhaps necessary in order to preserve some of the
24 arguments or some of the motions that you made for
25 purposes of appeal. So I will deny your motion for a new

1 trial and I will also note that you have renewed all of
2 your previous motions. At this point the way I typically
3 handle this, certainly I will be more than happy to hear
4 anything in the way of what the, Ms. [REDACTED] may want to
5 tell me and then I will be more than happy to entertain
6 anything that Mr. Anderson or you, Mr. Mosley, would care
7 to say. So I don't know if she cares to make an address
8 but if she doesn't that is fine, if she does that is fine
9 too. However y'all want to handle it.

10 MR. STUMBO: Your Honor, I did discuss this with Ms.
11 [REDACTED]. I know Mr. Scott and Mr. Daniel were busy getting
12 the paperwork ready and I discussed this with her before
13 the start of these proceedings. And I did want her to,
14 she wanted to sit up here and is very nervous, did not
15 want to directly address Your Honor but ask me to relay to
16 Your Honor to give this man what he deserves, a lot of
17 jail time. And what she went through that night was
18 obviously a life changing, very dramatic, and she will
19 never be the same. Judge, she did want Your Honor to know
20 that and she is a very quiet person. And I did want us to
21 relay that to Your Honor for her. And, Your Honor, just
22 for the record, I respect what Mr. Mosley has to say but,
23 you know, if he has any allegations that these guys have
24 committed misconduct I will very strongly object to that
25 and take offense to that. If he has any legitimate

1 grounds that we committed prosecutorial misconduct he
2 needs to take that up with disciplinary counsel in
3 Columbia and not just throw that out there in court
4 without any basis. That is all we have, Your Honor. And
5 I don't know if Mr. Scott or Mr. Daniel want to have
6 anything, a presentation. Ms. [REDACTED] is here, Your Honor,
7 and I think has said her peace through us and through her
8 testimony in this case.

9 THE COURT: Thank you very much, Solicitor. Mr.
10 Scott, I think you indicated to me previously that Mr.
11 Anderson has no prior criminal history of any kind?

12 MR. SCOTT: That's correct, Your Honor.

13 THE COURT: All right. Mr. Mosley, I am certainly
14 happy to hear anything that you may want to present.

15 MR. MOSLEY: Judge, be respectful to any woman that
16 brings these types of allegations, I just want to remind
17 the Court and Solicitor Stumbo, respectfully, that the, as
18 my colleague said during his closing argument that victims
19 have rights. And I think if you check the law carefully
20 as I have with regard to the constitutional change that
21 was made a certain number of years ago, when that occurred
22 the proper term to use, to edify to the public what the
23 law is that victims have procedural rights of notice and
24 to be heard during what the Court does. But the, our
25 government did not change the law whereby the, for

1 example, the caption to the case would be Tywanda [REDACTED]
2 versus Mr. Henry Anderson. In other words, respectfully
3 to victims and we see it posted all over the Country is
4 that is our society were to continue along this ploy
5 whereby the public narrative creates such sensationalisms
6 we are going to end up in the old days. And so victims do
7 have rights. But they are not substantive rights like
8 defendants have. If you check, when the law changed and
9 the case law and the law says, notice. But the victim has
10 no right through your office, Mr. Stumbo, to appeal to
11 the, to this Court and say that she wants him to have the
12 maximum amount of time. That is not her right. That is
13 not her right that she has through you.

14 THE COURT: Mr. Mosley, I realize this is the first
15 time you have worked with me on a particular case.

16 MR. MOSLEY: I am just saying what the law is, Judge.
17 If I have misquoted the constitution or what I understand
18 the law to be in regard to victims rights then I will
19 gladly receive that from the Court and I will receive some
20 type of admonition that I am quoting the law wrong. But I
21 think that is a serious matter when we take these types of
22 issues so casual, so to speak, and say well, she wants the
23 maximum time.

24 THE COURT: First of all, MR. Mosley, I did not hear
25 her say that she wanted the maximum time. I heard she

1 wanted, she felt that jail time was appropriate and that
2 substantial time is the characterization that the
3 Solicitor used. Second of all, having not worked with me
4 before on a case like this, I give everyone a great deal
5 of opportunity to speak and put on the record what they
6 want to put on the record and I feel like I have afforded
7 you that opportunity. You may very well be correct that
8 we are not talking about substantive constitutional rights
9 when it comes to the rights of a victim and where those
10 two conflict. I believe you would be correct that the
11 right of insuring, or the Court's functioning insuring
12 that justice to be done for a particular defendant is
13 perhaps superior. But at the very least I do believe that
14 a victim of a crime does have the right to address the
15 Court and to offer the Court her input. That is what I
16 have heard here today. With regard to sentencing, is
17 there anything that you would care to say on behalf of
18 your client before the Court will pass the sentence and of
19 course I will be more than happy to entertain anything
20 that you may want to say yourself, Mr. Anderson.

21 MR. MOSLEY: Well, Henry, what do you want to say
22 before you are sentenced. Stand up.

23 MR. ANDERSON: First of all I just want to say,
24 thanks for being the Judge, it is great having you as a
25 Judge. Second of all, I felt like there was some

1 inconsistencies with the, okay, I feel like, you know, I
2 shouldn't be given a lot of time due to my background. I
3 have not been to jail, have not been in trouble with the
4 law. I have no prior convictions whatsoever. These are
5 my first three. I am still not guilty and I am not a
6 danger to anybody. I just want a fair sentence through
7 your eyes.

8 THE COURT: Thank you, Mr. Anderson.

9 MR. MOSLEY: Judge, his family may want to say
10 something.

11 THE COURT: I can tell he has good family support, if
12 there is anything that y'all want to tell me I will be
13 more than happy to hear from y'all.

14 MS. ANDERSON: I really don't think he did this.
15 That is all I have to say?

16 THE COURT: Anything further.

17 MR. MOSLEY: Thank you.

18 THE COURT: One housekeeping matter, I assume he has
19 been in jail since his arrest, is that correct?

20 MR. SCOTT: Yes, Your Honor.

21 THE COURT: And he was arrested on the 30th?

22 MR. SCOTT: January the 30th. That is 380 days for
23 the record.

24 THE COURT: Thank you, sir. Mr. Anderson, I have
25 taken a number of things into account in arriving at the

1 sentence. And just so the record is clear and people
2 knows where this Court stands, in all candor, Mr.
3 Anderson, if this Court had any hesitation with the
4 verdict that was imposed, sir, motion or no motion by your
5 attorney the Court would not hesitate in granting you a
6 new trial. I have sat through three days of testimony and
7 in all candor, sir, I must agree with the jury's verdict.
8 And certainly any time you can get twelve people to agree
9 on a verdict that indicates a level of reliability that's
10 perhaps unheard of in any other occasion. So, I respect
11 and agree with the verdict that was imposed and if I had
12 any concerns or qualms about it you would have a new trial
13 faster than, well, faster than that earthquake we
14 experienced a few moments ago. With regard to Ms. [REDACTED],
15 ma'am, you are a very brave individual. Most people
16 wouldn't have the courage to see this kind of a thing
17 through. Mr. Anderson, you have no prior criminal history
18 and certainly I have taken that into account and afforded
19 you some measure of leniency. At the same time I disagree
20 that you are not a danger. Everything that I have seen,
21 everything I have witnessed indicates to me the State's
22 theory of this case is accurate, that for whatever reason
23 you became obsessed with Ms. [REDACTED] events spiraled out of
24 control and your personal life. And I am reminded that
25 rape, it has nothing to do with sex, it has to do with a

1 person's power over another individual. It is an effort
2 for a man to express his power and domination over another
3 individual. And I can think of few things in this world
4 more violent or more horrendous than to sexually assault
5 at gunpoint someone that you profess to love. You don't
6 even have the benefit of the mitigation that perhaps you
7 were under the influence of some substance, not that that
8 would excuse it but it would at least perhaps explain it
9 in some way where the Court is more familiar with in
10 situations like this. What I have done, Mr. Anderson, is,
11 I have taken all of that into account. On indictment 238
12 the sentence of the Court is, sir, is that you are
13 committed to the Department of Corrections for 20 years.
14 You are to receive credit for the time you have served in
15 jail, 380 days. You will have to be placed on the sex
16 offender registry upon your release. And you will be
17 prohibited from ever possessing a firearm.

18 The sentence on indictment 240, that is the pointing
19 and presenting charge is 5 years, credit 380 days in jail.

20 On indictment 239, sentence of the Court is that you
21 are committed to the Department of Corrections for 30
22 years, provided upon the service of 20 years. The balance
23 is suspended and you are placed on probation for 5 years.
24 Again you are given credit for the 380 days that you have
25 served in jail. The primary reason I am placing you on

1 probation on that charge after you have finished serving
2 that 20 year sentence is that I have ordered here that you
3 are to have no contact whatsoever with Ms. [REDACTED] or her
4 family. Once released you will have to cooperate with voc
5 rehab or job corp through the probation department and be
6 subject to random drug testing. At some point in the
7 future, Mr. Anderson, you will be getting out of jail, you
8 would be getting out of jail even if I had given you the
9 full 30 year maximum on the two principle offenses. I
10 would rather there be some supervision of you and some
11 incentive for you to stay away from Ms. [REDACTED] once you are
12 released from prison. So that is one of the reasons, one
13 of the primary reasons I have suspended that sentence.
14 Mr. Anderson, all sentences will run concurrently with
15 each other. That means they will run at the same time.
16 You have ten days to file notice of intent to appeal this
17 verdict and you have one year after exhaustion of your
18 direct appellate rights to file any action for post
19 conviction relief. I wish you luck, sir.

20 MR. MOSLEY: Thank you, Your Honor.

21 THE COURT: We are off the record.

22 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

23

24

25

CERTIFICATE OF REPORTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Newberry, South Carolina on the 10th day of February, 2014.

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

January 13, 2015

s/ Joy E. Holston

Joy E. Holston, Court Reporter

My Commission expires: March 13, 2016

WITNESSES

Nick Bouknight
Newberry County Sheriff

WARRANT NUMBER

2013A3610100064

TRUE BILL

Linda M. Crompton

Foreman of the Grand Jury

Date: 4-19-13

VERDICT

Gilty

Von R. Jones 2-14-14

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

April Term, 2013

Indictment # 2013-GS-36-0238

THE STATE

vs.

Henry Delos Anderson

INDICTMENT FOR

Criminal Sexual Conduct

§16-3-652

CDR: 0160

THE STATE OF SOUTH CAROLINA**INDICTMENT FOR**

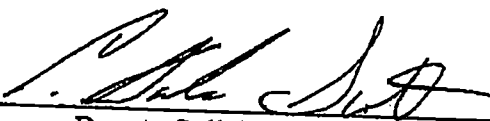
COUNTY OF NEWBERRY

**Criminal Sexual Conduct
§16-3-652**

At a Court of General Sessions, convened on the 19th day of April, 2013, the Grand Jurors of Newberry County present upon their oath:

That Henry Delos Anderson, in Newberry County, on or about January 30, 2013 willfully and unlawfully commit criminal sexual conduct in the first degree by willfully and unlawfully using aggravated force to engage in sexual battery with [REDACTED] or the said victim did submit to sexual battery by the said defendant under circumstances where [REDACTED] was also the victim of forcible confinement, kidnapping, robbery, extortion, burglary, housebreaking, or any other similar offense or act, in violation of Section 16-3-652 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 cases made and provided.



Deputy Solicitor

WITNESSES

Nick Bouknight
Newberry County Sheriff

WARRANT NUMBER

2013A3610100065

TRUE BILL

Linda M. Crayton

Foreman of the Grand Jury

Date: 4-19-13

VERDICT

Guilty

Wm R. Jones 2-14-14

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

April Term, 2013

Indictment # 2013-GS-36-0239

THE STATE

vs.

Henry Delos Anderson

INDICTMENT FOR

**Kidnapping
§16-3-910**

CDR: 0095

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF NEWBERRY

**Kidnapping
§16-3-910**

At a Court of General Sessions, convened on the 19th day of April, 2013, the Grand Jurors of Newberry County present upon their oath:

That Henry Delos Anderson, in Newberry County, on or about January 30, 2013 willfully and unlawfully with criminal intent, seize, confine, inveigle, decoy, kidnap, abduct or carry away [REDACTED] without authority of law, in 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 cases made and provided.


Deputy Solicitor

WITNESSES

Nick Bouknight
Newberry County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

April Term, 2013
Indictment # 2013-GS-36-0240

WARRANT NUMBER

2013A3610100066

THE STATE

vs.

Henry Delos Anderson

TRUE BILL

Lynida M. Crusto

Foreman of the Grand Jury

Date: 4-19-13

INDICTMENT FOR

Pointing and Presenting Firearms at a Person
§16-23-410

VERDICT

Guilty

Wm R. Jones 2-14-14

Foreman

CDR: 0122

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

INDICTMENT FOR**Pointing and Presenting Firearms at a Person
§16-23-410**

At a Court of General Sessions, convened on the 19th day of April, 2013, the Grand Jurors of Newberry County present upon their oath:

That Henry Delos Anderson, in Newberry County, on or about January 30, 2013 willfully and unlawfully without just cause or excuse present or point a firearm at Twanda Monique Brown, in violation of Section 16-23-410 of the South Carolina Code of Laws, 1976, as amended.

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


Deputy Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Newberry

STATE

vs.

Henry Delos Anderson

INDICTMENT/CASE#: 13-GS-36-0238

AW#: 2013A3610100064

Date of Offense: 1/30/2013

S.C. Code §: 16-3-652

CDR Code #: 0160

AKA:

Race: B

Sex: M

Age: 25

DOB:

Address:

City, State,

DL#

SID#

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Criminal Sexual Conduct 1st Degree

CONVICTED OF or PLEADS

In violation of § 16-3-652 of the S.C. Code of Laws, bearing CDR Code # 0160

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

(GSC w/minor 1st or Lawd Act)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s Initials)

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

ATTEST:

[Signature]

73081

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 20 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: 13-65-36-239 and 240

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. Credit 380 days = paid.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

PTUP

Total: \$ _____ plus 20% fee: _____ \$ _____

_____ days/hours Public Service Employment

Payment Terms: Jackie S. Bowers, Clerk of Court, Newberry, South Carolina, do hereby certify that this is a true

Obtain GED

Set by SCDBPS of the original on file in this office.

Attend Voc. Rehab. Or Job Corp. _____

Recipient:

FEB 18 2014
[Signature]
Clerk of Court

May serve W/E beginning

Substance Abuse Counseling

*Fine:

\$14-1-206 (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	\$
\$58-1-288 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
\$14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
\$14-1-213 (Drug Court Surcharge)	\$150	\$
\$50-21-114 (BUI Breath Test Fee)	\$50	\$
\$58-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>390</u>
TOTAL	\$	\$ <u>13390</u>

Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning \$ _____ Paid to Public Defender Fund

Other: Sex Offender Registry
Defendant shall be prohibited from
owning a firearm.

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

Clerk of Court/Deputy Clerk Elizabeth P. Hall

Court Reporter: Jay Holston

Presiding Judge [Signature]

Judge Code: 259

Sentence Date 2-14-14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Newberry

STATE

vs. Henry Delos Anderson

INDICTMENT/CASE#: 13-GS-36-0239

AKA: _____
Race: _____ Sex: M Age: 25
DOB: _____ SSN: _____
Address: _____
City, State, Z: _____
DL# _____ SID# _____

AW#: 2013A3610100065
Date of Offense: 1/30/2013
S.C. Code §: 16-3-910
CDR Code #: 0095

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or PLEADS

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 1st or Lewd Act)

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

ATTEST: [Signature] 73081
Solicitor SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, SC Bar #
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 30 days/months/years and or payment
of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for 5
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 13-65-36-238 and 240
 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. Credit 350 days = paid.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-66 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP _____
_____ days/hours Public Service Employment

Payment Terms: Inklip S. Boyer, Clerk of Court, Newberry,
South Carolina, do hereby certify that this is a true
 Set by SCDPPPS copy of the original on file in this office.

Obtain GED
Attend Voc. Rehab. Or Job Corp. Upon release

Recipient: FEB 18 2014
[Signature]
Clerk of Court

May serve W/E beginning
Substance Abuse Counseling

*Fine:		
§14-1-208 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ 100.00
§58-5-2995 (DUI Assessment)	\$12	\$ 12.00
§58-1-288 (DUI Breath Test)	\$25	\$ 25.00
Proviso 47.9 (Public Def/Prob)	\$500	\$ 500.00
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§50-21-114 (BUI Breath Test Fee)	\$50	\$ 50.00
§58-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 40.00
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 37.50
TOTAL		\$ 1337.50

Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

Other: No contact of Victim or
her family upon release from
SCDC.

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

Clerk of Court/Deputy Clerk Elizabeth P. Falds
Court Reporter: Jay K. [Signature]

Presiding Judge [Signature]
Judge Code: 2159
Sentence Date 2-14-14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Newberry

STATE

vs
Henry Delos Anderson

INDICTMENT/CASE#: 13-GS-36-0240

AW#: 2013A3610100066

Date of Offense: 1/30/2013

S.C. Code §: 16-23-410

CDR Code #: 0122

AKA: _____
Race: B Sex: M Age: 25

DOB: _____ SS#: _____

Address: _____

City, State, _____

DL# _____ SID# _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Pointing and Presenting a Firearm

In violation of § 16-23-410 of the S.C. Code of Laws, bearing CDR Code # 0122

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS \$17-25-45

(CSC w/minor 1st or Lewd Act)

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

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

ATTEST: [Signature] 73081

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,

for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ 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: 13-65-36-239 and 238

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. Credit 380 days - 2013.

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

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED

Set by SCOPPPS' original on file in this office.

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine:

Substance Abuse Counseling

\$14-1-208 (Assessments 107.5%)

Random Drug/Alcohol Testing

\$14-1-211 (A)(1)(Conv. Surcharge) \$100

Fine may be pd. in equal consecutive weekly/monthly

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

prmts. of \$ _____ Beginning _____

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

\$ _____ Paid to Public Defender Fund

\$56-1-286 (DUI Breath Test) \$25

Other: _____

Proviso 47.9 (Public Def/Prob) \$500

\$14-1-212 (Law Enforce. Funding) \$25

\$14-1-213 (Drug Court Surcharge) \$150

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

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

Proviso 90.5 (SCCJA Surcharge) \$5

3% to County (if paid in installments)

TOTAL \$133.90

Clerk of Court/Deputy Clerk [Signature]

Presiding Judge [Signature]

Judge Code: 2159

Sentence Date: 2-14-14

STATE OF SOUTH CAROLINA

County of NEWBERRY

In the Court of Common Pleas

HENRY D. ANDERSON, #358826
Full name and prison number (if any) of Applicant.

vs.

STATE OF SOUTH CAROLINA
Name of Respondent.

FILED
NEWBERRY COUNTY
2014 AUG 25 PM 10 19
JACKIE S. BOWERS
CLERK OF COURT

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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention LEE CORRECTION INSTITUTION, 990 WISACKY HWY.,
BISHOPVILLE, S.C. 29010

2. Name and location of Court which imposed sentence NEWBERRY COUNTY GENERAL SESSIONS
COURT, POST OFFICE DRAWER 10, NEWBERRY S.C. 29108

3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:

- (a) 13-GS-36-0238, CSC 1st degree
- (b) 13-GS-36-0239, Kidnapping
- (c) 13-GS-36-0240, Pointing Presenting A FIREARM

4. The date upon which sentence was imposed and the terms of the sentence:

- (a) FEBRUARY 14, 2014, 20 YRS.
- (b) FEBRUARY 14, 2014, 30 YRS.
- (c) FEBRUARY 14, 2014, 5 YRS

I, Jackie S. Bowers, Clerk of Court, Newberry, South Carolina, do hereby certify that this is a true copy of the original on file in this office.
AUG 26 2014 <i>Jackie S. Bowers</i>
Clerk of Court

5. Check whether a finding of guilty was made

- (a) after a plea of guilty _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____

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

YES

7. If you answered "yes" to (6), list

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

- i. THE SOUTH CAROLINA COURT OF APPEALS
- ii. _____
- iii. _____

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

- i. DISMISSED UNDER SCACR 267 (A), 203, 203(d)(B)(i), 203(d)(B)(i)
- ii. AND 221 (b)
- iii. _____

(c) the date of each such result:

- i. JULY 9, 2014
- ii. _____
- iii. _____

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

- i. TRIAL COURT CASE NO. 2013-GS-36-0024D
- ii. _____
- iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
- (b) _____
- (c) _____

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

- (a) TRIAL COUNSEL DENIED APPLICANT THE RIGHT TO A DIRECT APPEAL OF THE
- (b) CONVICTIONS
- (c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) WHITE V. STATE, APPEAL, REVERSED AND REMANDED
- (b) _____
- (c) _____

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO

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

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

15. If any ground set forth in (9) 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) TRIAL COUNSEL MR. THOMAS E. MOSLEY, failed to cure the deficiencies
- (b) AS LISTED IN SOUTH CAROLINA COURT OF APPEALS LETTER DATED FEBRUARY 28,
- (c) 2014, NOTICE OF APPEAL WAS NOT FORMATTED TO COMPLY WITH RULE 267(A), AND 203, SCACR.

16. 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? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. MR. THOMAS E. MOSLEY, ESQUIRE
- ii. _____
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. ARRAIGNMENT
- ii. TRIAL
- iii. SENTENCING, APPEAL

18. State clearly the relief you seek in filing this application.

GRANTED THE RIGHT TO DIRECT APPEAL THE CONVICTIONS FROM TRIAL AND OR REVERSE OR REMAND CONVICTIONS

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

NO



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1880
FAX: (803) 734-1838
www.sccourts.org

March 12, 2014

Mr. Thomas E. Mosley, Esquire
PO Box 8362
1018 Price Ave.
Columbia SC 29202

Re: The State v. Henry D. Anderson
Appellate Case No. 2014-000360

Dear Mr. Mosley:

This office is in receipt of your letter dated March 6, 2014. In order to be relieved as counsel you must file a motion under Rule 264, SCACR. I recommend you contact Appellate Defense to see if it has taken over representation in the case. Be sure to serve your client and opposing counsel with any motion to be relieved.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Henry Delos Anderson, 00358826
Christopher Dale Scott, Esquire
Salley W. Elliott, Esquire
Robert Michael Dudek, Esquire

cc:

Henry Delos Anderson, 00358826

Christopher Dale Scott, Esquire

Alan McCrory Wilson, Esquire

Salley W. Elliott, Esquire

Robert Michael Dudek, Esquire

Thomas E. Mosley, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 25, 2014

The Honorable Jackie S. Bowers
PO Drawer 10
Newberry SC 29108-0010

REMITTITUR

Re: The State v. Henry D. Anderson
Lower Court Case No. 2013GS3600240
Appellate Case No. 2014-000360

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Henry Delos Anderson, 00358826
Christopher Dale Scott, Esquire
Alan McCrory Wilson, Esquire
Salley W. Elliott, Esquire
Robert Michael Dudek, Esquire
Thomas E. Mosley, Esquire

The South Carolina Court of Appeals

The State, Respondent,

v.

Henry Delos Anderson, Appellant.

Appellate Case No. 2014-000360

The Honorable Frank R. Addy, Jr.
Newberry County
Trial Court Case No. 2013GS3600240

ORDER

Counsel for the appellant, Mr. Thomas E. Mosley, has failed to cure the deficiencies as listed in the letter from the Court on February 28, 2014. Specifically that the notice of appeal was not formatted to comply with Rule 267(a) and Rule 203 of the SCACR. The notice of appeal was not accompanied by a redacted copy of the order(s) and/or sentencing sheet(s), as required by Rule 203(d)(B)(ii) of the SCACR. Also, a proof of service was not provided, as required by Rule 203(d)(B)(i) of the SCACR. No motion to be relieved as counsel was filed. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy

CLERK

Columbia, South Carolina

FILED

July 9, 2014

STATE OF SOUTH CAROLINA

County of Bishopville

VERIFICATION

I, HENRY DELOS ANDERSON, # 358826, 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.

SWORN to and subscribed before me this 19 day of Aug, 2014
Debra Series (L.S.)
Notary Public

FILED
NEWBERY COUNTY
2014 AUG 25 AM 10 20
JACKIE S. BOWERS
CLERK OF COURT

My Commission Expires: 11-4-2015

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, HENRY DELOS ANDERSON, # 358826, 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 therefor.

SWORN or affirmed to and subscribed before me this 19 day of Aug, 2014
Debra Series
Notary Public

My Commission Expires 11-4-2015

STATE OF SOUTH CAROLINA)
 COUNTY OF NEWBERRY)
)
)
 Henry D. Anderson, #358826,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 EIGHTH JUDICIAL CIRCUIT

2014-CP-36-0401

RETURN

The Respondent, making its Return to the application for post conviction relief (PCR) filed August 5, 2014, 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 Newberry County Clerk of Court. The Applicant was indicted at the April 2013 term of the Newberry County Grand Jury for Criminal Sexual Conduct, 1st degree (2013-GS-36-0238), Kidnapping (2013-GS-36-0239) and Pointing and Presenting a Firearm (2013-GS-36-0240). The Applicant was represented by Thomas E. Mosely, Esquire. On February 10-14, 2014, the Applicant underwent trial by jury and was convicted of all charges as indicted. The Honorable Frank R. Addy, Jr. sentenced the Applicant to imprisonment for twenty (20) years Criminal Sexual Conduct, 1st degree, thirty (30) years, concurrent, for Kidnapping and five (5) years, concurrent, for Pointing and Presenting a Firearm.

A Notice of Appeal was timely filed on behalf of the Applicant. The South Carolina Court of Appeals, by written Order dated July 9, 2014, dismissed the Applicant's appeal for counsel's failure to comply with Rule 267(a) and Rule 203 SCACR. The Remittitur was sent on July 15, 2014.

Attached herewith and incorporated herein are the records of the Newberry County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, the Applicant's application and the trial 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:

- I. "Ineffective Assistance of Trial Counsel"
 - a. "Trial counsel denied applicant the right to a direct appeal of the convictions"

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, SCRCP.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their 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 Applicant's allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

February 10, 2015.

STATE OF SOUTH CAROLINA)

COUNTY OF NEWBERRY)

HENRY ANDERSON, #358826)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

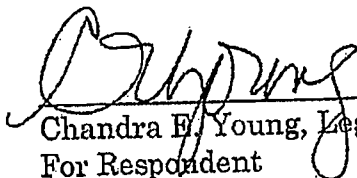
2014-CP-36-0401

AFFIDAVIT OF SERVICE BY MAIL

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(s) by depositing same in the United States mail, postage prepaid:

Laura McCall Saunders
 PO Box 731
 Lauren SC 29360

DATED this 10th day of February, 2015.


 Chandra E. Young, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

HENRY D. ANDERSON #358826,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
CA# 2014-CP-36-0401

AMENDED PETITION FOR
POST CONVICTION RELIEF

COPY

COMES NOW, the Petitioner Henry Delos Anderson, hereinafter "Petitioner", by and through his undersigned counsel files this Amended Petition for Post-Conviction Relief pursuant to South Carolina Code Annotated 17-27-10 et seq. and requests that his application for Post-Conviction Relief be granted for the following reasons:

1. Petitioner requests to be granted a belated appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974) because Petitioner did not make a knowing and intelligent decision not to pursue an appeal, because Petitioner requested that trial counsel file and appeal, and trial counsel failed to timely cure the deficiencies as listed in the letter from the Court of Appeals to trial counsel on February 28, 2014, causing the Appeal to be dismissed. Petitioner has therefore suffered prejudice in the form of an unjust procedural error due to trial counsel's deficient performance.
2. Petitioner requests a new trial on the grounds of ineffective assistance of counsel pursuant to Strickland v. Washington, 466 U.S. 668, 104 S.Ct.

2052, 80 L.Ed.2d 674 (1984). Specifically, Petitioner alleges that trial counsel was deficient in his performance such that Petitioner was prejudiced for the following reasons:

- a. That trial counsel failed to prepare an Order for Bond after Petitioner was granted a bond by The Honorable Frank Addy on March 22, 2013 which included home detention, but counsel for Petitioner failed and/or refused to prepare an Order granting the Defendant bond. Therefore, Defendant remained incarcerated.
- b. That trial counsel failed to convey the State's plea offer to Petitioner, which was conveyed to trial counsel by the State on October 24, 2013 via electronic mail.
- c. That trial counsel failed to request that the Jury be charged with the lesser included offenses of Criminal Sexual Conduct – Second Degree and Criminal Sexual Conduct – Third Degree.

WHEREFORE, Petitioner respectfully prays for the aforesaid relief to include a new trial on the basis of ineffective assistance of trial counsel pursuant to Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); a belated appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974); and for such other relief as the Court deems just and proper.

Laura M. Saunders, Esquire
The Law Offices of Laura M. Saunders, LLC
102 Church Street
Post Office Box 731
Laurens, South Carolina 29360
Phone: (864) 681-4444
Facsimile: (866) 654-0282
Email: lmsaunderslaw@gmail.com


Laura M. Saunders (SC #77957)

Attorney for the Petitioner

May 2, 2017
Laurens, South Carolina

State of South Carolina)
County of Newberry) Court of Common Pleas

2014-CP-36-00401

Henry Delos Anderson) Post Conviction Relief
vs.) Transcript of Record

State of South Carolina)
Defendant)

June 5, 2017
Laurens, South Carolina

B E F O R E:

Honorable G. Thomas Cooper, Jr., Judge

A P P E A R A N C E S:

Justin Hunter, Assistant Attorney General
Attorney for the State

Laura Saunders, Esq.
Attorney for the Applicant

Joy E. Holston
Official Court Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X O F W I T N E S S E S

(IC) - Denotes In Camera
(AW) - Denotes Applicant's Witness
(SW) - Denotes State's Witness

(AW) Henry Anderson

Direct examination by Ms. Saunders:	5
Cross-examination by Mr. Hunter:	34
Redirect examination by Ms. Saunders:	44

(AW) Thomas Mosley

Direct examination by Ms. Saunders:	46
Cross-examination by Mr. Hunter:	61
Redirect examination by Ms. Saunders:	67

Certificate of Court Reporter:	78
--------------------------------	----

	<u>EXHIBITS</u>				
	<u>Applicant's</u>				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
1					
2					
3					
4	1	Letter 3/29/2013		X	13
5	2	Judge Addy's Notes and Email		X	15
6	3	Letter to Clerk 10/15/13		X	17
7	4	Letter to Taylor Daniel 11/1/13		X	19
8	5	Email Offer 10/24/13		X	23
9	6	Email Solicitor 5/1/2017		X	23
10	7	Emails Solicitor		X	23
11	8	Letters-Discovery		X	26
12	9	Notice of Appeal		X	46
13	10	Transcript 3/22/13		X	15
14	11	Notice of Appearance		X	28
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

1 THE COURT: You may proceed.

2 MR. HUNTER: Good morning, Your Honor, may it please
3 the Court. The first case today is Henry Anderson versus
4 State of South Carolina. It is 2014-CP-36-401. Your
5 Honor, he was indicted at the April 2013 term in Newberry
6 County for criminal sexual conduct first degree,
7 kidnapping and pointing and presenting a firearm. He was
8 represented by Mr. Thomas Mosley. And on February 10th
9 through 14th, 2014 he underwent a jury trial before Judge
10 Addy where he was found guilty as indicted. A notice of
11 appeal was filed, however the Court of Appeals dismissed
12 the appeal on July 9th, 2014 for failure to comply with
13 Rule 267. A Remitter was sent down July 15th of 2014. He
14 filed this current action on August 5th of 2014. He is
15 present today represented by Ms. Laura Saunders.

16 THE COURT: Ms. Saunders.

17 MS. SAUNDERS: Thank you, Your Honor, may it please
18 the court. My name is Laura Saunders, I was appointed on
19 September the 17th, 2014 to represent Mr. Anderson. I
20 was, at the time, serving as a 608 Contract Attorney. So
21 finally we are here today to hear the evidence on Mr.
22 Anderson's application for PCR. I had submitted to your
23 Clerk, Your Honor, a timeline, it is just a one-page
24 timeline just help to guide us through since the dates are
25 so long ago. And there is several issues with Mr. Mosley

1 being relieved. But, and we have also premarked some
2 exhibits, I think the total is ten, so that, just to make
3 things a little bit easier. At this time I will call
4 Henry Anderson to the stand.

5 HENRY ANDERSON, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Ms. Saunders:

9 Q Mr. Anderson, would you please state your name for
10 the record.

11 A My name is Henry Anderson.

12 Q Where are you from?

13 A Mountville, South Carolina.

14 Q How old are you?

15 A 28.

16 Q Where did you go to high school?

17 A I didn't.

18 Q Did you get your GED?

19 A Yes, ma'am.

20 Q And so, back in 2013 when it was alleged that you
21 committed the offense of criminal sexual conduct in the
22 first degree, how old were you?

23 A 23.

24 Q And where were you living at the time?

25 A Mountville.

1 Q Who were you living with?

2 A My grandparents.

3 Q And so when this happened, did the police call you to
4 come into the station or did they come to your house and
5 arrest you or arrest you on the job or what?

6 A They came to my grandparents house.

7 Q Did they take you in or did they arrest you right
8 then and there?

9 A No, they said they wanted to question me and they
10 never had no warrant to arrest me or anything, they were
11 just questioning me.

12 Q Okay. So, did they arrest you that day, later that
13 day?

14 A Yeah.

15 Q So how did it come to be that, well let's back up a
16 little bit. You are currently incarcerated, correct?

17 A Yes, ma'am.

18 Q And you are housed where?

19 A At Perry Correctional Institution.

20 Q Okay. What is your current sentence?

21 A 20 years.

22 Q So how much time have you done of that 20?

23 A Four years.

24 Q Okay.

25 THE COURT: The return says 30.

1 MS. SAUNDERS: I believe it is 30, Your Honor, I am
2 checking the transcript just to make sure.

3 THE COURT: I am looking at the sentencing sheet.

4 MS. SAUNDERS: I believe it was a 30 year sentence
5 but it was suspended on the service of 20 years as to a
6 particular indictment.

7 Q Is that how you understand it, Mr. Anderson?

8 A Yes, ma'am.

9 Q So your current sentence, active time, is 20 years?

10 A Yes, ma'am.

11 Q And everything else was run concurrent?

12 A Yes, ma'am.

13 Q So you understand what you were convicted of?

14 A Yes, ma'am.

15 Q What was that?

16 A Criminal sexual conduct first degree, kidnapping and
17 pointing and presenting a firearm.

18 Q So how did it come to pass that Mr. Mosley became
19 your attorney?

20 A We hired him at the bond, to give us a bond.

21 Q Who is we?

22 A Me and my Aunt Cindy Anderson.

23 Q Okay. So can you explain to the Court a little bit
24 more about how you got Mr. Mosley as your attorney?

25 A I came in contact with Mr. Mosley by an inmate by the

1 name of Christopher Penny. He told me he was good at
2 getting bonds. So I gave his name to my Aunt and his
3 number and everything, he came and we went up for a bond
4 and everything. Back in March, it was like March 22nd,
5 23rd, somewhere around in there. We went before the
6 Honorable Judge Frank Addy. And I was suppose to have had
7 house arrest. But I was suppose to have moved from my
8 current location to go to stay with my uncle. Everything
9 was agreed upon and then we just left the court after
10 that.

11 Q All right, you had a bond hearing on March 22nd,
12 2013?

13 A Yes, ma'am.

14 Q And when you left that hearing you understood that
15 you were suppose to be leaving that jail at some point
16 later on, in a few days, on house arrest, right?

17 A Yes, ma'am.

18 Q And who came and testified at that hearing?

19 A My uncle was the one that testified and said that he
20 would take me in.

21 Q Well, excuse me, he testified but he was questioned
22 by the Judge on that, right?

23 A Yes.

24 Q And you were going to live where?

25 A At [REDACTED] which is in Simpsonville.

1 Q Okay. Were they going to help you pay for the
2 supervision on house arrest?

3 A Yes. My uncle agreed to pay the \$300.00 dollars a
4 month for the supervision.

5 Q Did you have a job at the time you were arrested?

6 A Yes, ma'am.

7 Q What were you doing, do you remember?

8 A I was working up at a BMW plant.

9 Q Okay. So if you had gotten out on house arrest what
10 would you have been able to do?

11 A I could have did a lot, like go back to church, go to
12 school, help my lawyer or, you know, help the financial
13 status of my case.

14 Q And you could have helped pay for your lawyer, you
15 could have helped pay for your home detention, you could
16 have continued to work and you could have worked on your
17 defense, correct?

18 A Yes, ma'am.

19 Q You never got out on the detention?

20 A No, ma'am.

21 Q Did you ever call your lawyer and ask him what was
22 going on?

23 A Yeah, I called the lawyer as I wrote the Clerk of
24 Court to see what was going on.

25 Q Let's back up. You said you called your attorney,

1 what did he say?

2 A Mr. Mosley, I spoke to Ms. Mosley and asked him what
3 Mr. Addy's decision was. Mr. Mosley replied back that he
4 wasn't my attorney any more, he done got me bond and stop
5 calling his MF phone because my family didn't put no money
6 on his phone to call.

7 Q Okay. So, it was your understanding that you got a
8 bond for home detention, right?

9 A Yes, ma'am.

10 Q But you couldn't have done the paperwork to get you
11 out of the jail, right?

12 A Yes, ma'am.

13 Q Whose responsibility did you think that was?

14 A Mr. Mosley's.

15 Q Do you remember if the Judge ever said, Mr. Mosley,
16 do an order?

17 A No, ma'am.

18 Q So that was just something that was beyond your
19 control, you needed help with that, right?

20 A Yes, ma'am.

21 Q Was it ever done?

22 A No.

23 Q You stayed in jail until the day you started your
24 trial, is that right?

25 A Yes, ma'am.

1 Q So let's move on.

2 MS. SAUNDERS: May I approach the witness, Your
3 Honor?

4 THE COURT: Yes, ma'am.

5 Q I am going to show you a letter that was in the
6 Clerk's file in the Newberry County Court House. Do you
7 recognize that letter?

8 A Yes, ma'am.

9 Q And you wrote the Clerk on March the 29th of 2013,
10 that was just a few days after your bond hearing, right?

11 A Yes, ma'am.

12 Q And you indicated in that letter that you were trying
13 to get information about your bond hearing, correct?

14 A Yes, ma'am.

15 Q Why?

16 A Because it has been, it had been like a week and I
17 hadn't heard nothing from the Judge, I haven't heard
18 nothing or any information on the bond.

19 Q Okay. And you indicated in your letter that you
20 didn't have your lawyer anymore?

21 A Uh-huh.

22 Q Okay, so Mr. Mosley had already told you, I don't
23 represent you anymore, right?

24 A Yes, ma'am.

25 Q You were trying to see if Judge Addy had made any

1 decision on your house arrest, right?

2 A Yes, ma'am.

3 Q And you kept saying you didn't have a paid lawyer,
4 right?

5 A Yes, ma'am.

6 Q Okay. And you said in your letter that you were
7 writing the Clerk because no one has informed you on
8 anything and you are trying to get your stuff, what is
9 your stuff?

10 A My motion to discovery.

11 Q So you wanted to see that discovery material, right?

12 A Yes, ma'am.

13 Q And what do you understand as discovery material?

14 A Discovery as in what the State has against me.

15 Q Okay. Do you feel that you had the right to view
16 that information, the information that the State had used
17 in building a case against you?

18 A Yes, ma'am.

19 Q Okay. So, on the same day, the handwriting is a
20 little different, you might have had some help with
21 writing these letters. But did you submit a Rule 5
22 request for discovery to the Clerk's office?

23 A Yes, ma'am.

24 Q Did you think you were unrepresented at that time so
25 you were going to have to do it on your own?

1 A Yes, ma'am.

2 Q Had you filled out an application for a public
3 defender?

4 A No, ma'am. They, they tried to appoint me one but he
5 never came to see me whatsoever since I had been in the
6 County.

7 Q And that would have been Mr. Verner from Newberry,
8 right?

9 A Yes, ma'am.

10 Q Did he ever come meet with you?

11 A No, ma'am.

12 Q Did he ever send you any correspondence?

13 A No, ma'am.

14 MS. SAUNDERS: Your Honor, I would like to submit
15 this as Defendant's exhibit 1, this is the letter.

16 THE COURT: Any objection?

17 MR. HUNTER: No objection.

18 THE COURT: Without objection.

19 MS. SAUNDERS: It has already been premarked.

20 (Whereupon, Applicant's Exhibit 1 was admitted into
21 evidence.)

22 Q Did your family ever try to get in touch with Thomas
23 Mosley since the bond hearing but during that portion of
24 time where you weren't being contacted by anybody, did
25 anybody in your family try to call Mr. Mosley and find out

1 what they could do to get him back on your case?

2 A Randy Anderson, which is my uncle, tried to contact
3 him. They had been exchanging numbers back and forth,
4 calls and everything. But he told him the same thing,
5 that he done got the bond, it is not up to him anymore.

6 Q What was the nature of those negotiations with Mr.
7 Mosley between your family that you understand or
8 regarding payment and all of that for representation at
9 the bond hearing and then future representation?

10 A At first he was hired to give a bond and then he kept
11 talking to my family so my family ended up paying him to
12 negotiate a plea. And that is where, that is where I
13 understood it. He was never hired for me to go to trial,
14 he was only hired for me to go to accept the plea.

15 Q Okay. But you hired Mr. Mosley to get you a bond,
16 did you ever get that bond?

17 A No, ma'am.

18 Q Okay. You did have, skipping forward, you did have a
19 second bond hearing, I believe, on December 23rd, 2013?

20 A Yes, ma'am.

21 Q And you were granted a \$200,000.00 dollar surety bond
22 by Judge Griffith, is that right?

23 A Yes, ma'am.

24 Q But prior to that, in March of 2013 you had a bond
25 you thought that would have you gotten out of jail so that

1 you could do some constructive things while you awaited
2 trial, right?

3 A Yes, ma'am.

4 Q Okay.

5 MS. SAUNDERS: Your Honor, at this time I, we have
6 already premarked, I was able to obtain notes from Judge
7 Addy regarding the bond hearing as well as an unofficial
8 copy of the transcript which came in at 12:55 a.m. last
9 night from Ms. Vivian Cross. It is the transcript of the
10 actual bond hearing. I would like to submit those as
11 Defendant's exhibits.

12 THE COURT: Any objection?

13 MR. HUNTER: No objection, Your Honor.

14 MS. SAUNDERS: Your Honor, Judge Addy's notes are
15 Defendant's exhibit 2 and the bond hearing transcript is
16 Defendant's exhibit 10.

17 (Whereupon, Applicant's Exhibits 2 and 10 were
18 admitted into evidence.)

19 Q So let's skip forward. So you just sat in jail after
20 that bond hearing, right?

21 A Yes, ma'am.

22 Q You had no communications from your attorney, right?

23 A Nope.

24 Q So at some point you thought, well, I am not
25 represented?

1 A Yes, ma'am.

2 Q Okay. So you wrote a letter on October 15th, 2015,
3 do you recognize this letter?

4 A Yes, ma'am.

5 Q Did you write it to the Clerk of Court?

6 A Yes, ma'am.

7 Q All right. Read that for me and tell me the gist of
8 the letter, tell the Court.

9 A Okay. It say to, Jackie S. Bowers, 1226 College
10 Street, PO Box 410, Newberry, South Carolina, 29108. From
11 Henry Delos Anderson, 3239 Lewis Rich Road, Newberry,
12 South Carolina, 29108.

13 Reason, want to know why I can't plead guilty.

14 The letter states, Dear Ms. Bowers, Hi, my name is
15 Henry D. Anderson, I am locked up at Newberry County
16 Detention Center. I have been locked up for nine months
17 now and I have been trying to plead guilty to my charges
18 since July 29th, 2013. I wrote the Newberry County
19 District Attorney and told him I would like to plead
20 guilty to my charge and get this out of the way. Ms.
21 Bowers, I don't know why the people want to plead guilty
22 have to still wait. If we are already get, excuse me,
23 then why not get us into court to settle everything.
24 Every court term I request to be put on the plead guilty
25 list and it never fails, people who don't want to plead

1 get called to court. And that is not fair for the rest of
2 us or the inmates who get called to go to court and that
3 is not fair. I wrote the Supreme Court of South Carolina
4 letting them know that I am trying to plead guilty and the
5 court system of Newberry County will not let no inmates
6 who are almost a year or more plead guilty. I am writing
7 you because I would like to be called up in the court term
8 in November so that I can plead to my charges and go from
9 there. And that sums it up.

10 Q All right, that sums it up.

11 MS. SAUNDERS: Your Honor, I would like to move this
12 into evidence as Defendant's exhibit 3.

13 MR. HUNTER: No objection.

14 THE COURT: Without objection.

15 (Whereupon, Applicant's Exhibit 3 was admitted into
16 evidence.)

17 Q So you wrote the Clerk on 10/15/15 saying that you
18 wanted to plead guilty?

19 A Yes, ma'am.

20 Q Had you communicated that or had any communications
21 with Mr. Mosley at that point?

22 A No.

23 Q Did you think he was your attorney?

24 A No.

25 Q You never had any communications with him at all?

1 A No.

2 Q Okay. And you never got transported to court?

3 A No.

4 Q Did you write the Solicitor's office after that
5 asking to plead guilty again?

6 A Yes, ma'am.

7 Q All right. Do you recognize this letter?

8 A Yes, ma'am.

9 Q And what is the date of that letter?

10 A November the 1st of 2013.

11 Q Okay. And just tell me generally, you don't have to
12 read the whole thing verbatim, just tell me what that, the
13 gist of that letter is?

14 A The reason to drop my charges to something lessor so
15 that I could plead.

16 Q Okay. So you were asking for a plea negotiation?

17 A Yes, ma'am.

18 Q You were asking for a plea deal?

19 A Yes, ma'am.

20 Q Okay. So again, you notified to the relevant parties
21 that you really wanted to plead guilty?

22 A Yes, ma'am.

23 Q But all of this time Mr. Mosley had made an
24 appearance for you in the bond hearing back in March,
25 right?

1 A Yes, ma'am.

2 Q Had you ever been before a Judge or been served with
3 anything regarding a motion to be relieved as his, as your
4 attorney?

5 A Yes, ma'am. That came in November of 2013 before
6 William Keesley.

7 Q But during that time, between that bond hearing and
8 these letters that you are writing to the Clerk and the
9 Solicitor's office, nobody, Mr. Mosley had never gotten
10 off of your case, right?

11 A No.

12 Q Okay. So he had made an appearance for you back in
13 March but he had never gotten off of your case before
14 then?

15 A No, ma'am.

16 MS. SAUNDERS: Your Honor, I would like to move this
17 letter in as Defendant's exhibit 4.

18 MR. HUNTER: No objection.

19 THE COURT: No objection.

20 (Whereupon, Applicant's Exhibit 4 was admitted into
21 evidence.)

22 Q Okay. So at that point you had been asking for a
23 plea offer. Do you have any idea that the Solicitor's
24 office had actually extended a plea offer to your
25 attorney?

1 A No, ma'am.

2 Q Did your attorney ever send you anything in writing,
3 come see you, call you, anything, send word through your
4 family that there was an actual plea offer to a reduced
5 charge?

6 A No, ma'am.

7 Q But at the same time you were sending letters to
8 everybody that you thought you should. I don't know if
9 you sent anything to Mr. Mosley, but you were sending
10 letters out saying that you wanted to plead to something
11 lessor, right?

12 A Yes, ma'am.

13 Q Okay. Would you had considered, if you knew, well,
14 let me back up. You filed a complaint with the Office of
15 Disciplinary Counsel at some point because you couldn't
16 get copies of your discovery. Is that right?

17 A Yes, ma'am.

18 Q Tell me about that.

19 A I filed a motion with the South Carolina Disciplinary
20 Counsel on Mr. Mosley for not returning my client's case
21 file which is my Brady material because I had filed my PCR
22 and I didn't have nothing to go on.

23 Q Now, and before that, before you filed your PCR, like
24 before your trial, did you ever get copies of your
25 discovery to look at and review?

1 A No. Mr. Mosley kept telling me there is nothing in
2 my motion for discovery but statements and if I don't
3 trust him then let him know right then and there. I had
4 been asking him since I had been in the County but he
5 never gave me my motion to discovery.

6 Q Okay. So after you filed that complaint with the
7 ODC, the Office of Disciplinary Counsel, you received what
8 Mr. Mosley had provided to them that was your actual
9 client file. Is that right?

10 A Yes, ma'am.

11 Q And did you find this in your file, in that file?

12 A Yes, ma'am.

13 Q What is it a copy of?

14 A A plea agreement.

15 Q No, what is it a copy of?

16 A This is a plea agreement going towards Mr. Mosley
17 from the Assistant Solicitor, Taylor Daniels.

18 Q Is it an email?

19 A Yes, ma'am.

20 Q Okay. And it conveys an offer, is that correct?

21 A Yes, ma'am.

22 Q And what was the offer?

23 A The offer is a CSC second degree reduced down from
24 CSC for a straight-up lead indictment, recommended
25 pointing and presenting ran concurrent with sentence. And

1 dismiss kidnap charge and no direct indictment of
2 possession of a weapon during the commission of a violent
3 crime.

4 Q Okay. So at that point, when you received a copy of
5 your client file were you like, surprised that you never
6 got that conveyed to you, that Mr. Mosley never told you?

7 A Yes, ma'am. I was very surprised because Mr. Mosley
8 told me the State wasn't trying to work no pleas, they
9 wanted to go to trial.

10 Q What you are telling the Court is, is that your
11 attorney told you there was never an offer on the table?

12 A Yes, ma'am.

13 Q And actually there was at some point?

14 A Yes, ma'am.

15 Q And you never got informed of that offer?

16 A Never.

17 Q Would you have taken the offer had you known about
18 it?

19 A Yes, ma'am.

20 Q And why is that?

21 A Because that would have knocked ten years off of my
22 sentence. Yeah, I would have took that in a heartbeat.

23 MS. SAUNDERS: Your Honor, I would like to move this
24 email in as Defendant's exhibit number 5.

25 MR. HUNTER: No objection.

1 THE COURT: Without objection.

2 (Whereupon, Applicant's Exhibit 5 was admitted into
3 evidence.)

4 MS. SAUNDERS: And Mr. Hunter has indicated, Your
5 Honor, that he doesn't have an objection. I got an email
6 from Mr. Daniel forwarding me a copy of that offer that he
7 conveyed. And I also have a packet of emails and
8 discovery materials that the Solicitor's office forwarded
9 to Mr. Hunter. I would like to go ahead and submit those
10 as exhibits as well.

11 MR. HUNTER: No objection, Your Honor.

12 THE COURT: No objection.

13 MS. SAUNDERS: That is number 6 and number 7.

14 (Whereupon, Applicant's Exhibits 6 and 7 were
15 admitted into evidence.)

16 Q Did you ever get any notification during that
17 October, 2013 period of time that you were, your case was
18 getting called to trial?

19 A No, ma'am.

20 Q You never received anything from Mr. Mosley?

21 A I never seen Mr. Mosley until January when he told me
22 to come and sign a piece of paper that I was retaining
23 him.

24 Q Okay. So, you did see him at one point in November
25 of 2013, though, do you recall that?

1 A Yeah, November the 12th when he was relieving
2 himself.

3 Q All right. And so, why was he getting off of the
4 case?

5 A He claimed financial status, that my people wasn't
6 paying him.

7 Q So at that point did you realize that all of that
8 time he was actually your attorney?

9 A Yes, ma'am.

10 Q Okay. So you didn't meet with him, did you talk to
11 him at all?

12 A No, ma'am.

13 Q Never met with him?

14 A No, ma'am.

15 Q Never received any letters?

16 A No, ma'am.

17 Q Did you have any communications with him whatsoever?

18 A No, ma'am.

19 Q Did you receive any letters at all which would
20 indicate that there was an offer on the table for you to
21 consider?

22 A No, ma'am.

23 Q Did you ever receive copies of your discovery
24 material?

25 A I received a copy when I was at Broad River but

1 before that I never received nothing.

2 Q So Mr. Mosley never provided you copies of your
3 discovery materials before you went to trial?

4 A No, I never seen my motion to discovery until I was
5 in trial.

6 Q So you had the opportunity to review it while you
7 were sitting at the table with your attorney in trial,
8 right?

9 A Yes.

10 Q After the jury was sworn?

11 A Yes.

12 Q Okay. Now, you wrote a letter on December 4th, 2013.
13 Do you recognize this letter?

14 A Yes, ma'am.

15 Q What is that letter requesting?

16 A My Rule 5, my discovery.

17 Q Okay. So this is a letter from December 4th, 2013,
18 did you think you were going to trial at that point?

19 A Yeah because they kept telling, the Lieutenant in the
20 jail kept telling me that I was going to be called up.

21 Q So between the time that Mr. Mosley got relieved on
22 November the 12th and December 4th, you were most
23 certainly not represented. Is that true?

24 A Yes, ma'am.

25 Q Was your family trying to talk with Mr. Mosley at all

1 about coming back on your case?

2 A That I do not know because, I don't know what the
3 plans were and everything like that. All I know is he
4 came back in January.

5 Q But in December you had been in the jail since
6 January of 2013, right?

7 A Yes, ma'am.

8 Q And at this time you still hadn't received any of
9 your discovery materials?

10 A No, ma'am.

11 Q Do you know if they had been provided to Mr. Mosley?

12 A Yes, ma'am. Because Mr. Mosley told me he had it,
13 but he said if I don't trust him then just let him know.

14 MS. SAUNDERS: Your Honor, I would offer this as
15 Defendant's exhibit number 8.

16 MR. HUNTER: No objection.

17 THE COURT: Without objection.

18 (Whereupon, Applicant's Exhibit 8 was admitted into
19 evidence.)

20 Q All right. So at some point you had to sign a
21 document allowing Mr. Mosley back on your case. Do you
22 recall that?

23 A Yes, ma'am.

24 Q Tell the Court about that?

25 A Well, it came from, I think either Dale Scott, they

1 wanted to know who was going to represent me at trial,
2 either Charles Verner or Mr. Mosley. And Mr. Mosley had
3 me to sign stating that I had to retain him as my full
4 attorney.

5 Q Do you remember signing that document?

6 A Yes, ma'am.

7 Q So why did Mr. Mosley come back on your case again.
8 I mean how did that come to play out that he became your
9 attorney again?

10 A I am assuming my family paid him, I guess the rest of
11 the money that he wanted because that is the only thing
12 that he had ever been talking about was money.

13 Q So the reason you think is because your family came
14 up with some more money to pay it, right?

15 A Yes, ma'am.

16 Q So at that point you knew you were going to trial?

17 A Yes, ma'am.

18 Q As soon as you signed this letter?

19 A Yes, ma'am.

20 Q How did you know?

21 A Mr. Mosley told me.

22 Q So he came to meet with you then?

23 A Yes, ma'am.

24 MS. SAUNDERS: Your Honor, I would like to submit
25 this, this has not been premarked but it would be

1 Defendant's exhibit number 11. This is a notice of
2 appearance from January 24th, 2014.

3 MR. HUNTER: No objection.

4 THE COURT: No objection.

5 (Whereupon, Applicant's Exhibit 11 was admitted into
6 evidence.)

7 Q So you went to trial and you were convicted at trial?

8 A Yes, ma'am.

9 Q And we are going to skip over that whole big chunk of
10 time which is your trial and just skip right to the appeal
11 portion. You were convicted and received a hefty
12 sentence, right?

13 A Yes, ma'am.

14 Q So, did you want to appeal your conviction?

15 A I didn't know nothing about an appeal.

16 Q But did you receive any documents relative to your
17 appeal?

18 A Yes, ma'am.

19 Q When did you receive those documents?

20 A I think I received the first one like in July or
21 something, March.

22 Q So do you know about the right to appeal a conviction
23 after a trial?

24 A No, ma'am.

25 Q You don't. Do you feel that your attorney did not

1 inform you of your right to appeal?

2 A He didn't tell me nothing about an appeal.

3 Q But you know he started the process, right?

4 A Yeah, I got the first letter when I was down the road
5 about it.

6 Q And do you remember what that was?

7 A It was something dealing with an attachment sheet, he
8 needed to comply with the Rules of appeals or something.

9 Q So was it a letter from the Court of Appeals?

10 A Yes, ma'am.

11 Q Do you remember what it said?

12 A Not verbatim.

13 Q But it was asking for your attorney to do more things
14 in order to properly perfect the appeal, is that basically
15 what it was saying?

16 A Yes, ma'am.

17 Q Do you know if that was ever done?

18 A No, ma'am.

19 Q You don't know or it wasn't done?

20 A It wasn't done.

21 Q How do you know that?

22 A Because I got a letter of dismissal.

23 Q And so why was it dismissed?

24 A Because Mr. Tommy E. Mosley did not procure a
25 deficiency as required.

1 Q Okay. So what you received from the Court of Appeals
2 look like this, something like that?

3 A Yes, ma'am.

4 Q Why don't you read what the Court's order says.

5 A South Carolina Court of Appeals, the State,
6 Respondent versus Henry Delos Anderson, Appellate.
7 Appellate case number 2014000360. The Honorable Frank
8 Addy, Jr., Newberry County Trial Court case,
9 2013-GS-36-00240. Order, Counsel for the Appellate, Mr.
10 Tommy E. Mosley has failed to procure the deficiencies as
11 listed in a letter from the Court on February 28th of
12 2014. Specifying the notice of the appeal was not format
13 to comply with Rules 267(a) and Rules 203 of the South
14 Carolina Appeal Court Rules. The notice of appeal was not
15 accompanied by a reenactment copy of the order in/or
16 sentencing sheet as required by the Rule 203(d), section
17 (b), section (2) of the South Carolina Appeal Court
18 proceedings. Also a proof of service was not provided.
19 As required by Rule 203(d), section (b), section (1) of
20 the South Carolina Appeal Court Rules, no motion to be
21 relieved as Counsel was filed. According to this matter
22 this is dismissed.

23 Q Thank you for reading that. So did you know how to
24 do any of that stuff when you were sitting at Broad River
25 or Kirkland or where ever you were?

1 A No, ma'am.

2 Q So you needed the assistance of your attorney to make
3 sure that that appeal was properly filed and effective
4 with all of the relevant parties, is that correct?

5 A Yes, ma'am.

6 Q Did you ever have any communications with him after
7 that?

8 A No, ma'am.

9 Q So he filed a piece of paper but did he ever respond
10 to that Court's request that you know of to give the Court
11 more information?

12 A No, ma'am.

13 Q So you didn't have any real discussions with your
14 attorney after you were convicted about your ability to
15 appeal you said?

16 A No, ma'am.

17 Q I guess knowing what you know now and reading the
18 documents that the Court of Appeals sent him trying to get
19 it corrected, do you wish that it had been done correctly?

20 A Yes, ma'am.

21 Q Do you feel that you have some legitimate appellate
22 issues that needed to be presented to the higher court?

23 A Yes, ma'am.

24 Q Did you ever review your discovery materials with Mr.
25 Mosley, did he ever go through them with you before trial?

1 A No, ma'am.

2 Q So you never flipped through those page-by-page?

3 A No, ma'am. The only time I flipped through them was
4 while we were sitting in trial.

5 Q So let's go back to the trial phase. When the case
6 got presented to the jury and everybody had rested, the
7 Court has to go over the jury charge or whatever is going
8 to be charged to the jury. And it was your testimony at
9 trial, correct me if I'm wrong, was it your testimony at
10 trial that there was not a gun involved?

11 A Yes, ma'am.

12 Q Was it the victim's testimony at trial that there was
13 a gun involved?

14 A Yes, ma'am.

15 Q Okay. Do you recall that the Judge decided he was
16 going to charge you with criminal sexual conduct in the
17 first and the second degree?

18 A Yes, ma'am.

19 Q Do you remember anything about Mr. Mosley requesting
20 that the Judge charge assault and battery third degree?

21 A Yes, ma'am.

22 Q You remember that. Do you know why Mr. Mosley didn't
23 request the lesser included offense of criminal sexual
24 conduct third degree?

25 A No, ma'am.

1 Q So let's go back over. Did you ever receive a bond
2 order allowing you out on GPS monitoring after that
3 hearing on the 22nd?

4 A No, ma'am.

5 Q So you sat in jail the whole time?

6 A Yes, ma'am.

7 Q For over a year?

8 A Yes, ma'am.

9 Q Did you ever receive the offer that was conveyed to
10 Mr. Mosley by the State?

11 A No, ma'am.

12 Q So you were never given the opportunity to consider
13 that plea offer?

14 A No, ma'am.

15 Q And is it your testimony today that it would be very,
16 it was, you would be inclined to accept that offer?

17 A Yes, ma'am.

18 Q Okay. And you have written letters at the same time
19 to the Clerk and to the Solicitor telling them that you
20 wanted to plead guilty. Is that right?

21 A Yes, ma'am.

22 Q Okay. And you never got the opportunity to review
23 your discovery or get a copy of that before you went to
24 trial, right?

25 A No, ma'am.

1 Q Did Mr. Mosley ever give you a copy of it?

2 A No, ma'am.

3 Q So at this time I am going to sit down. I am going
4 to let Mr. Hunter ask you any questions he may have based
5 on your testimony.

6 MR. HUNTER: May it please the Court, Your Honor.

7 CROSS-EXAMINATION

8 By Mr. Hunter:

9 Q Good morning, Mr. Anderson.

10 A How are you doing.

11 Q Doing well. When your family hired Mr. Mosley were
12 you present, were y'all all in the same room together?

13 A No.

14 Q So you just heard about it from your family?

15 A Yes.

16 Q And they told you he had been hired, I think you said
17 it was just for the bond?

18 A Yes, sir.

19 Q And that was your understanding, I guess, throughout
20 the first few months of his representation that it was
21 solely for the bond issue?

22 A Yes, he was only hired to get me a bond.

23 Q Okay. Did you ever talk to Mr. Mosley before your
24 bond hearing?

25 A Mr. Mosley came down there and said that he was only

1 there to represent me for a bond, that was it.

2 Q And that happened that day, that is the first day you
3 saw him was on the bond, at the bond hearing?

4 A I think so, yeah.

5 Q Did y'all discuss anything else about your case other
6 than him getting a bond?

7 A No.

8 Q Did he ever, as far as you are aware did he ever talk
9 to your family members prior to that bond hearing?

10 A He talked to my Aunt Cindy and my Uncle Randy, the
11 ones that paid. Other than that he didn't talk to nobody
12 else.

13 Q So, as far as you are aware, he was not representing
14 for a plea or a trial?

15 A No, not in the beginning he wasn't.

16 Q Okay. And when was it that you talked to him about
17 representing you for a plea or trial?

18 A That came later.

19 Q Can you remember when?

20 A I don't know.

21 Q And after the bond hearing did you talk to the Public
22 Defender's office?

23 A No.

24 Q So, as far as you knew you didn't have an attorney on
25 these charges?

1 A As far as I know, right after the bond hearing, I
2 didn't know who was on my case because Charles Verner
3 never came to see me.

4 Q Did Mr. Verner ever send you a letter?

5 A No.

6 Q How did you know he was your attorney?

7 A Who, Mr. Verner?

8 Q Yes.

9 A I didn't.

10 Q So, and I believe you said you never contacted the
11 Public Defender's office or the Solicitor's office about
12 who was representing you?

13 A I didn't.

14 Q So, when was it that, when was the next conversation
15 you had with Mr. Mosley after your bond hearing?

16 A That came on the 29th when I called Mr. Mosley.

17 Q Of November?

18 A No. That was in March.

19 Q Okay. So, March 29th, that is when he told you he
20 wasn't your attorney?

21 A Yes, Mr. Mosley told me that he wasn't my attorney
22 and he did what he was suppose to do, he got me a bond and
23 to stop calling his MF phone because my family did not pay
24 his bills and they did not pay him any more money that
25 what he needed.

1 Q Okay. Since he wasn't your attorney, were you doing
2 anything about that, were you trying to get an attorney?

3 A No, I was trying to get my bond. I was trying to
4 figure out where, why was I still sitting in the County
5 and why wasn't an order be enough.

6 Q Did the Judge or the Solicitor's office ever tell you
7 what was going on with your bond?

8 A No. I wrote the Newberry Clerk of Court, she told me
9 that I had to get with the previous attorney and because
10 he had to write up an order for the Judge to sign off on.
11 That is what Jackie Bowers wrote me.

12 Q Now, I believe it was October, probably, you
13 testified that later you found out in October of that year
14 Mr. Taylor Daniels sent an offer to Mr. Mosley. I believe
15 you received that, a copy of that email, is that correct?

16 A Yeah, it was in the client's case file.

17 Q From ODC?

18 A Yes.

19 Q So you claim you had never saw anything about that
20 offer?

21 A I never seen an offer. Mr. Mosley told me the State
22 wasn't trying to work no offers.

23 Q Did you ask him about the offers?

24 A I had been trying to plead, he told me the State
25 wasn't trying to work no offer.

1 Q Okay. As far as what you were trying to plead to, I
2 guess you sent a letter to Ms. Bowers, you admit that you
3 are guilty. Is that correct?

4 A Yes.

5 Q Then you sent a letter to Mr. Daniel and you said you
6 were willing to plead to simple assault or assault and
7 battery first to time served, is that correct?

8 A Yes.

9 Q Now, so you weren't willing to plead to any other
10 criminal sexual conduct charge, were you?

11 A Initially I just wanted to plead.

12 Q You just wanted to plead and get it over with it?

13 A Yes.

14 Q Even to this criminal sexual conduct first degree,
15 what you had been charged with?

16 A I have been charge with but I wanted a lessor
17 included offense, that was the whole thing.

18 Q You wanted a lessor offense but the State never
19 communicated anything back to you from this letter, did
20 they?

21 A Never.

22 Q So you are telling if the State had presented you
23 with some sort of, even lessor included criminal sexual
24 conduct charge, you would have plead guilty to it?

25 A Yes, I would.

1 Q Even if it is not any simple assault or assault and
2 battery?

3 A Yeah.

4 Q Even if it requires registering?

5 A Yeah.

6 Q And, again, you are saying you never received any
7 notice about the plea offer?

8 A I never received any.

9 Q You never signed off rejecting any sort of plea
10 offer?

11 A No.

12 Q And leading up to the trial, after your bond hearing,
13 I believe it was another one with Judge Griffith in
14 December, the notice of appearance from your attorney was,
15 I guess about January the 27th. From that day to your
16 trial did you see Mr. Mosley at all?

17 A I seen Mr. Mosley when he brought them papers to me
18 to sign.

19 Q When he brought that notice of appearance to sign?

20 A Yeah.

21 Q What else did y'all talk about?

22 A He just told me that he got, he got the case, don't
23 worry about it. He said they don't have no evidence
24 against you or anything.

25 Q Did you tell him your side of the story?

1 A Yes.

2 Q Okay. So when you sat there and talked to him, about
3 how long did that conversation last?

4 A Probably no more than 45 minutes.

5 Q What else did y'all go over?

6 A Just tactics on who we should bring as a witness and
7 stuff like that.

8 Q Okay. So you feel like you were able to cooperate
9 with him on developing some sort of plan?

10 A Not really because I still wanted to see my motion
11 for discovery.

12 Q And you never saw that during that meeting?

13 A No, I never seen a motion for discovery until I was
14 sitting in trial.

15 Q Did you ever tell your attorney this, that you didn't
16 want to go forward with the trial without seeing anything?

17 A I wrote him a letter stating that I wanted, I need my
18 motion for discovery.

19 Q What about leading up, you know, the morning of trial
20 did you ever tell him you weren't ready to go to trial?

21 A Mr. Mosley asked me straight up, he said, before we
22 go through these double doors, he said do you want me to
23 walk over there to the Solicitor and see if they want to
24 work a deal. I never seen Mr. Mosley until I came into
25 the courtroom.

1 Q Did you guys go over and try to work a deal with the
2 Solicitor?

3 A He went over there and when I came into the courtroom
4 he said the State ain't working nothing.

5 Q So you knew that morning that there were no more
6 pleas on the table, is that what you are saying?

7 A Pretty much. I know from right then and there that
8 it was all in.

9 Q And, again, you never told your attorney you weren't
10 ready to go to trial?

11 A I told him numerous of times, he just said there was
12 nothing that he could do.

13 Q Nothing he could do about what?

14 A There was nothing that he could, that they were
15 calling my case up.

16 Q After you were convicted, I believe you said you knew
17 nothing about any sort of appellate process?

18 A I never did.

19 Q Were you aware that he filed this notice of appeal on
20 your behalf, did he ever tell you that?

21 A No.

22 Q And so, essentially what you are saying is that you
23 didn't know anything about, anything about an appeal on
24 your behalf until you received the order from the Court?

25 A No, I didn't know nothing until I received the first

1 letter when I was down the road. I didn't know he filed
2 an appeal.

3 Q I believe you are referring to the deficiency letter
4 from the Court that says what all was missing?

5 A The first one says March 12th, 2014.

6 Q I see that one, that was the first time you had ever
7 seen this appeal?

8 A Yes, that was the first letter that I received.

9 Q Did you ever ask Mr. Mosley what was going on with
10 the appeal after this letter?

11 A I wrote Mr. Mosley and he never responded to none of
12 my letters. I didn't know nothing about this. I didn't
13 know what an appeal was.

14 Q He never responded to your letter about the appeal?

15 A No.

16 Q So essentially after you were convicted there was no
17 more contact with Mr. Mosley?

18 A None.

19 Q Okay. During the trial I think you said that you
20 wanted Mr. Mosley to ask for a CSC third, lessor included
21 charge to the jury?

22 A I wanted a lessor included offense, he never asked
23 for it, he asked for assault and battery.

24 Q So the Judge, the Judge denied that, the Judge
25 charged CSC second, correct?

1 A Yes.

2 Q Okay. And the Judge said, the Judge said he wasn't
3 going to charge CSC third, right?

4 A I didn't hear that.

5 Q Okay. And, again, after your bond hearing you never
6 had any contact with Mr. Mosley until that notice of
7 appearance, is that what you are saying?

8 A I didn't have no contact until I made a phone call on
9 March 29th.

10 Q And how did that phone call go?

11 A I asked Mr. Mosley what was up with my bond and why
12 was I still in the County, the Judge ordered me to be, you
13 know, released. And he said he had done all that he could
14 do and that I need to stop calling his phone. And my
15 people ain't put no money on this, they ain't paying his
16 bill so please do not call him again.

17 Q And you, did you talk with the State about that bond?

18 A No, I did not. I wrote the Clerk of Court and that
19 is when she told me I needed to deal with it.

20 Q She told you you needed to get with your attorney
21 about that?

22 A Yes.

23 Q Okay. No further questions, thank you.

24 THE COURT: Redirect.

25 MS. SAUNDERS: Thank you, Your Honor.

REDIRECT EXAMINATION

1
2 By Ms. Saunders:

3 Q Mr. Anderson, just a few things to cover. How do you
4 feel you suffered prejudice by not being able to make the
5 bond that you were originally given?

6 A I feel that I suffered prejudice because if I was
7 allowed out on bond I could have went back to work, could
8 have went to school and I also could have helped myself
9 by, you know, hiring another lawyer and I could have
10 helped myself by, you know, by helping my lawyer attack
11 the credibility to other witnesses or the victim. You
12 know, I suffered prejudice because I could have gone back
13 to church and everything like that.

14 Q Okay. And do you feel that you were prejudiced by
15 not being able to review your discovery materials ahead of
16 trial?

17 A Yes, ma'am.

18 Q How would, what would you have done if you could have
19 done it, if you had possession of those discovery
20 materials?

21 A If I had my discovery, my motion to discovery then I
22 could have seen that a plea offer was convenient. That
23 would have stopped the whole process of me going to trial
24 because I would have just went ahead and took the plea
25 instead of going to trial.

1 Q And the letter is in evidence that you were, you were
2 ready to plead if you could have?

3 A Yes, ma'am.

4 Q And you would have considered the CSC second offer if
5 it was on the table and presented to you by your attorney,
6 right?

7 A Yes, ma'am.

8 Q Okay. And is it possible and quite probable that if
9 you had plead versus going to trial that you would receive
10 a lessor sentence.

11 MR. HUNTER: Objection, Your Honor, he doesn't know
12 the answer to that question.

13 THE COURT: Sustained.

14 MS. SAUNDERS: I will withdraw it, Your Honor. No
15 more questions, Your Honor. Thank you, Mr. Anderson.

16 MR. HUNTER: Nothing else.

17 THE COURT: All right. You may come down, thank you
18 very much.

19 MS. SAUNDERS: Your Honor, I would like to make sure
20 I put the appellate documents into the evidence. If I may
21 move to submit the appellate documents that I had in the
22 client file as Defendant's exhibit number 9.

23 MR. HUNTER: No objection.

24 THE COURT: Without objection.

25

1 (Whereupon, Applicant's Exhibit 9 was admitted into
2 evidence.)

3 MS. SAUNDERS: Your Honor, I call Mr. Thomas Mosley
4 to the stand.

5 THOMAS MOSLEY, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Ms. Saunders:

9 Q My name is Laura Saunders, I am the appointed
10 attorney for Mr. Anderson. I do have a few questions as
11 it relates to his case back in 2013. I appreciate you
12 coming all the way from Columbia this morning. Mr.
13 Mosley, can you just explain to the Court how it came to
14 be that you were going to represent Mr. Anderson, if you
15 recall?

16 A My recollection is that one of his family members
17 hired me to represent him. And I would act with, with
18 regard to, initially there was a fabrication in between
19 representing him on the bond versus the actual case
20 itself.

21 Q Is that a common practice for you, to accept a
22 client's case just solely for purposes of obtaining a
23 bond?

24 A Not a common practice. But there can be a special
25 appearance for purposes of bond based upon whether or not

1 he can afford it or if the family members are going to pay
2 for the lawyer. I was making a blank statement that, you
3 know, through the representation of Mr. Anderson, you
4 know, I was going to get paid was depending upon his Uncle
5 Randy, that is the guy I was back and forth and things
6 never really got straight with him, unfortunately.

7 Q But you did make an appearance on behalf of Mr.
8 Anderson on March the 22nd of 2013. Do you recall that
9 hearing?

10 A Whatever the date was, I don't recall the date
11 exactly.

12 Q Can you tell the Court, in your own words, what you
13 recall from that March 22nd hearing?

14 A Are you referring to the hearing when the Judge gave
15 him a bond?

16 Q Yes, sir.

17 A I don't recall nothing, particular facts of the case
18 with regard to that particular bond. We have the
19 transcript, it says, I think you have a copy of the
20 transcript. Do you have it?

21 Q I do. So let's just go, the transcript in sum says
22 that the Judge took it under advisement but he was
23 inclined to give him home detention. Is that what you
24 recall?

25 A Well, it says that. He took it under advisement.

1 What is taking it under advisement mean, if it doesn't
2 mean that he granted him a bond?

3 Q Well, Mr. Mosley, I am asking you questions.

4 A But, yeah, I am saying that. If you have read the
5 exact transcript and have it, then I wouldn't mind seeing
6 it, I haven't seen it.

7 Q All right.

8 MS. SAUNDERS: Your Honor, can we take a moment to
9 allow him to review the transcript?

10 A I mean to save time, is there a particular page.

11 Q I think you can just go to the end of the document
12 and see what the Judge decided. If that is what you want
13 to do. But take your time.

14 (Whereupon, Mr. Mosley reads transcript.)

15 A Okay.

16 Q Thank you. Are you sure you have had enough time to
17 review it?

18 A Sure.

19 Q All right. So what is your understanding of what the
20 Judge was considering at the point that the hearing
21 concluded?

22 A He didn't place no obligation on me to do nothing and
23 it was understood that I wasn't his lawyer for nothing but
24 that bond hearing.

25 Q Okay.

1 A It is clear.

2 Q So you represented Mr. Anderson at the bond hearing?

3 A Yes. And it is clear that the Judge took it under
4 advisement and he didn't give him a bond.

5 Q Okay. But it is clear from the transcript that he
6 was considering giving Mr. Anderson home detention and all
7 the bells and whistles that go along with home detention,
8 right?

9 A No. You are reading in between the lines.

10 Q Okay. So that is your impression that the Judge was
11 going to set a regular bond, not give home detention, even
12 though he questioned the family and ask where Mr. Anderson
13 would live and if the family could afford to pay for the
14 home detention if he were to order. Is that correct?

15 A And they were waiting for the rape kit. You know, it
16 was a serious situation whereby to me the Judge was
17 considering a possibility that they would get back
18 together or run into each other. It wasn't that clear
19 that he got home detention. I mean, you know, monitoring.
20 Plus the distance to Greenville, and it was clear that the
21 family couldn't afford it, didn't want to pay it. And
22 then what.

23 Q All right, Mr. Anderson, Randy Anderson gave some
24 testimony at that bond hearing that he could afford to
25 assist your client at the time in affording the home

1 detention. Did you read that part of the transcript?

2 A I saw it.

3 Q Okay.

4 A Randy, his family, they weren't the people that you
5 could depend upon to bill him out financially. Where are
6 they at today?

7 Q I am asking you questions, Mr. Mosley, I am not going
8 to answer any questions you are asking me any more. Okay?

9 A I am not asking you to answer any questions that I
10 ask you. I know that, young lady. But my point is
11 though, is that, they were somewhat very, very
12 instrumental in terms of anything that I did on behalf of
13 Mr. Anderson, his family.

14 Q Okay. This is a bit of a hypothetical question. But
15 if you are representing a client and you are looking at
16 the possibility of getting them home detention versus a
17 \$500,000.00 or \$200,000.00 dollar surety bond, which one
18 would you pick for your client?

19 A Which one would I pick?

20 Q Yes, sir.

21 A Home detention versus \$5,000.00 dollar surety bond?

22 Q \$500,000.00 dollars.

23 A \$500,000.00 dollar surety bond. That is hard to say,
24 you know, that is just, it is not a either/or choice there
25 in terms of how a person would handle that. That is not a

1 either/or choice there, that is, more complicated than
2 that when you are preparing of those two things together.

3 Q Fair enough. If you look at page 17 of the
4 transcript, I think the Court indicated that, the Court
5 was feeling pretty uncomfortable about the fact that you
6 were only there to represent Mr. Anderson for a bond and
7 not the case-in-chief. Do you recall that statement?

8 A Sure.

9 Q If you will, just read what the Court--

10 A I know you are here for the purposes of bond. But
11 let me think about it and I will issue an order, if not
12 today, in the coming days.

13 Q If you will go up to the next paragraph before that.

14 A I understand I am going to think about it. Clearly I
15 would feel a lot more, a lot more comfortable if you were
16 on the case permanently. And I am sure that is something
17 that you discussed with the family.

18 The family and I did discuss that.

19 Q Okay. Judge Addy took this case under advisement,
20 don't you have a duty to follow-up with him to make sure
21 that he hands down his order one way or another?

22 A I may have called around to Judge Addy to find out
23 what his decision was. But if he takes it under
24 advisement, you know, I think he is thinking about it and
25 let me know.

1 Q Okay. Well, what do you do when you know that you
2 need something from the Judge and he hasn't given it to
3 you yet, what is your normal course of action?

4 A Call and find out or call the Solicitor's office and
5 find out.

6 Q Did you do that in this case?

7 A I did, I did.

8 Q Did you ever send a letter or fax or anything that
9 would record that you did that?

10 A Probably not.

11 Q And if I told you there is no order in the Clerk's
12 file given a decision on that bond hearing, does that
13 surprise you?

14 A No, that wouldn't surprise me.

15 Q Okay. And do you recall when you received discovery
16 materials in Mr. Anderson's case?

17 A Not exactly. But let me say this though, I walked
18 out of the courtroom earlier because I am going to tell
19 the truth. And I went over this case very thoroughly with
20 Mr. Anderson before he went to trial at the Newberry
21 County jail. He went over his own materials, he knew what
22 the evidence was. He knew who was going to testify, he
23 knew about the gun. He participated in the preparing this
24 case for trial. He felt sure that he was innocent of what
25 they were charging him. And I felt absolutely sure that

1 he was innocent of what they were charging him. The best
2 thing would have been, would have been for him not to
3 testify in his own defense. That is the only mistake I
4 made. You know, the evidence that he had sex on the hood
5 of a car one night after being taken out of the house by
6 gunpoint. They left and they found a gun in the residence
7 and this young lady got on the witness stand and she said
8 he came in the house, took her out of a back window and
9 they had sex on the hood of a car in the middle of the
10 night. I rode to the scene, back and forth, I did
11 everything I could and the jury stayed out until midnight
12 that night when they had the earthquake, one of the jurors
13 cried. He was innocent. The only thing that went wrong
14 in this young man's case was the rape shield law that
15 prevented the jury from knowing how promiscuous this young
16 lady was, they in and out of the woods all the time, day
17 and night having sex any kind of way. So that is it in a
18 nutshell and I am telling the truth, the whole truth and
19 nothing but the truth so help me God. And I still think
20 he is innocent and got a raw deal but that was a call for
21 the jury.

22 Q Thank you for that, Mr. Anderson, I mean, Mr. Mosley.
23 I apologize. But did you ever give Mr. Anderson copies of
24 his discovery materials after you received them from the
25 State?

1 A Give it to him, I don't know, what is your definition
2 of giving it to him. I went to the jail house with the
3 file and showed him every piece of paper they had. So the
4 answer to the question is yes. Exactly when, I don't
5 recall. As far as the guilty plea, he knew about the
6 guilty plea but he said he wasn't pleading to nothing
7 straight-up.

8 Q Did you hear his testimony and see me submit those
9 exhibits to the Court that he was writing the Clerk and
10 writing the Solicitor?

11 A I didn't know nothing about all of that back then,
12 that he was doing all of that, I didn't know nothing about
13 that.

14 Q But you hadn't been relieved as his attorney, you
15 were still his attorney of record? Is that true or not
16 true?

17 A Say that again now.

18 Q During that time, after that March 22nd bond hearing
19 you were still his attorney of record, is that true?

20 A Sure, that is obvious.

21 Q Okay. But you didn't meet with him during that time?

22 A Oh, yeah. I don't recall the date but I know I went
23 back and forth to Newberry to talk to him.

24 Q But did you follow-up with him about that bond
25 hearing in March?

1 A Did I follow-up. I recall calling the Solicitor or
2 calling Judge Addy and they said nothing about it and the
3 time just went by.

4 Q All right.

5 A It wasn't no foul play on my part.

6 Q Well, let's talk about when you went to trial and at
7 the end when the Judge discussed the proposed charges to
8 the jury with you. Do you recall any of that where you
9 wanted to have an assault and battery third degree instead
10 of the entire or CSC first and second and third degree
11 charged. Do you recall your reasoning for that?

12 A Reasoning for what now?

13 Q For charging A&B third versus CSC third?

14 A No, I don't recall any of that, Ma'am, to be quite
15 honest.

16 Q Okay. But did you request that the Judge charge the
17 jury with A&B third?

18 A I don't recall.

19 Q Well, this is a copy of the trial transcript. This
20 is page 586 where I think the Judge was asking you what
21 you wanted to charge. Would you mind reading lines 1
22 through 5 for me?

23 A Sure.

24 The Court: Which level of assault are you suggesting
25 that the Court charge.

1 Now, I am assuming he is talking to me.

2 The Court: Simple assault and battery?

3 Mr. Mosley: Simple assault.

4 Q Thank you. That's good. Do you recall that the
5 Court disagreed with you on that?

6 A I don't recall because you took the paper back. If I
7 would have been allowed to keep reading it I would know
8 what the Judge said.

9 Q All right. I am going to give you the whole portion
10 of the transcript so you can refresh your memory. This is
11 the beginning over here.

12 A Okay.

13 Q I will let you have a chance to read that if Your
14 Honor would allow him the opportunity.

15 (Whereupon, Mr. Mosley reads transcript.)

16 A Okay.

17 Q Okay. So after reading that does that refresh your
18 memory about what happened at the trial?

19 A Yes.

20 Q And so would you elaborate for me.

21 A Okay. It is a peculiar situation as a lawyer, you
22 know, to have a young man with no criminal record facing
23 the life circumstances of being registered as a sex
24 offender. And being able to analyze things with regard to
25 being purely violent offenses, assault and battery, second

1 degree assault, simple assault, assault and battery in the
2 third degree, and use of the term, sex. So, and that was,
3 I am glad you let me read that because, you know, the
4 Judge, he got me straight by saying, Mosley, that's,
5 whether or not he is on the sexual offender list is
6 irrelevant, it is irrelevant. So then we are in the midst
7 of a trial whereby the man could have plead guilty to some
8 sex offense but he would have had the life circumstances
9 of being a sexual offender for the rest of his life. So,
10 Mr. Anderson is a very smart guy, I was always impressed
11 by his ability to read and write and comprehend. So you
12 in the midst of making these life long, you know,
13 decisions in a short amount of time, you know, in terms of
14 discussing about the jury charges. Unfortunately, I
15 looked at the case in terms of the young man's wellbeing
16 on a sexual predator list, you know. Those are some of
17 the things that I can recall him and I am talking about
18 very intimately. And I am okay with being chastised by
19 him and you today. But when you are in the midst of that
20 fight, it is a totally different ballgame.

21 Q I understand that, Mr. Mosley. But it was your
22 position at the time that you wanted, I think the Court
23 referenced it was all or nothing, on page 584 of the
24 transcript.

25 A Yes ma'am, that is what the Court did, all or

1 nothing, that's right.

2 Q But in actuality the Court said, I am not going to
3 charge A&B third, right? He disagreed with you on that.
4 Isn't that correct. And the Judge actually chose to
5 charge CSC first and second. Did you read that part?

6 A Yes, I did.

7 Q Okay. But if it were up to you, you would have had
8 only charged to a CSC first, no other lessor included
9 other than A&B third if the Judge were to agree. Correct?

10 A I would have throwed all the sex, only charged him
11 with simple assault. I mean, you know, I mean I find it
12 challenging to use hindsight now and go back to that
13 particular time with Mr. Anderson. It is not good. You
14 know, I think that the young lady was very promiscuous,
15 that they had voluntary sex. Some reason she called the
16 police and they got involved. But I don't think Mr.
17 Anderson deserves to be in jail for no 23 years.

18 Q Well, let's, Mr. Mosley, if you don't mind I
19 understand and I agree with you on that. But let me just
20 talk with you about the offers that you received from the
21 State. Do you recall receiving email correspondence from
22 the Solicitor's office?

23 A Let me see it.

24 Q Okay. This is the one that was submitted in the
25 Court, in your client file.

1 A Okay.

2 Q Do you recall that email?

3 A I don't recall the exact email itself. But that is
4 my email, email address and so therefore the only thing
5 that I can say is that it was presented to Mr. Anderson
6 somewhere along the line. And but it says, straight-up.
7 So when you get a plea that says straight-up, when you
8 plead straight-up you go to the discretion of the Judge,
9 there is no recommendation and he still goes to jail and
10 he is on the sexual register.

11 Q Okay. This is another exhibit that we have already
12 submitted and it is a printout from Mr. Daniel's, the
13 Solicitor's gmail account. It contains the trial notice
14 on October 31st, do you see that? Let me show you.

15 A I do.

16 Q Right. Okay. So he is obviously communicating to
17 you that he is going to notice your case for trial. At
18 that point, between the 24th and the 31st did you take
19 this offer you received in your email to Mr. Anderson?

20 A I don't recall whether or not I did or not to be
21 quite honest.

22 Q Okay. Mr. Daniel emailed you the trial notice and I
23 want you to read this to me, you wrote this email back to
24 Mr. Daniel on the 31st. What did you say?

25 A Unless there is a more reasonable plea offer I will

1 not be representing Mr. Anderson. Mosley.

2 That was on the same date.

3 Q Okay. So, the same day you received the reiterated
4 offer of CSC second, you told the Solicitor's office you
5 were getting off the case. Is that right?

6 A Right. And on this same day he says something with
7 regard to Mr. Verner taking a plea offer to him.

8 Q Well, I guess I am going to ask you to read that
9 paragraph then for clarification purposes on that.

10 A At that time you can make a motion to withdraw as Mr.
11 Anderson's attorney and perhaps Charles Verner may be able
12 to assume representation. Mr. Anderson has been in the
13 detention center for nine months. I would reiterate the
14 terms of the plea offer so you may convey them to your
15 client. Listed below. Thank you for your attention in
16 this matter. Taylor.

17 Q Okay. Thank you. So did you ever take the plea
18 offer to Mr. Anderson?

19 A According to that I probably didn't but I don't
20 recall. It might have been, you know, the question was, I
21 just don't recall.

22 Q Did you ever try to revive the terms of that bond
23 hearing from March the 22nd where you could have?

24 A No--

25 Q --been able to get your client--

1 A --no, no, no, no.

2 Q Thank you. No further questions. I appreciate your
3 time, Mr. Mosley.

4 CROSS-EXAMINATION

5 By Mr. Hunter:

6 Q Good morning, Mr. Mosley. Can we go for a little
7 bit, I guess when you were first retained by his family,
8 did you recall the first time you met with Mr. Anderson?

9 A When I met Mr. Anderson?

10 Q Right, Mr. Anderson.

11 A I don't recall the exact date and time, no sir.

12 Q So in total, before trial, do you know how many times
13 y'all met?

14 A I know at least four times.

15 Q In the detention center?

16 A Yeah.

17 Q And what did y'all discuss in those meetings?

18 A Primarily, you know, the case itself and a lot of
19 information about, you know, cohabitation between him and
20 the young lady and, you know, going to church together and
21 how he met her. She had had sex with three or four other
22 different men and just a lot of stuff, a lot of stuff,
23 about his family. And mind you, I didn't have it
24 researched, hire no private investigator, but I went to
25 the scene up underneath the pole, you know, where the car

1 was parked and went, you know, where she lived. I just
2 found it to be an unbelievable story of the young lady and
3 the young man dating each other and for some reason
4 something went wrong and she didn't want to see him any
5 more. And all he wanted was his personal items back and
6 then the next thing you know he is locked up.

7 Q And so during those meetings did he participate and
8 cooperate with you?

9 A Sure.

10 Q And I guess he gave his side of the story and all of
11 that?

12 A Sure.

13 Q Okay. Now, just to clarify some things up. At the
14 bond hearing with Judge Addy, he never told you to do a
15 proposed order, correct?

16 A No, he just said take it under advisement, that it
17 was a serious decision he would have to make.

18 Q Can you testify, to the best of your knowledge, you
19 followed up with the Solicitor's office and the Judge to
20 see if a decision had been made?

21 A Yeah, I called several times. I mean, I didn't get
22 any of my phone records or anything like that. But I am
23 almost certain that I followed up and called Judge Addy,
24 called Taylor and the other Assistant Solicitor at that
25 time and the time went by.

1 Q And so during that whole time they never told you
2 that any decision had been made, correct?

3 A Right.

4 Q Okay. Now, you were, I guess fully retained, that
5 was around, I think that was the letter of representation
6 was done, is that correct, for trial?

7 A Yes, sir.

8 THE COURT: I didn't understand your question.

9 MR. HUNTER: I am sorry.

10 Q You were fully retained, not just for the bond, but
11 for the trial when that letter of representation was
12 signed?

13 A Yes, sir.

14 THE COURT: Is that in the file?

15 MR. HUNTER: The representation letter?

16 MS. SAUNDERS: It is, January the 24th, notice of
17 appearance.

18 MR. HUNTER: Yes, it is an appearance.

19 MS. SAUNDERS: That is exhibit number 11, I believe.

20 THE COURT: Okay.

21 Q And so after that notice of appearance and before
22 trial did you meet with Mr. Anderson?

23 A Numerous times.

24 Q And, again, I believe you testified earlier you met
25 at the detention center?

1 A Yes, sir.

2 Q And y'all discussed the defense in the case?

3 A We did.

4 Q And y'all discussed the witnesses?

5 A And he was given, he was shown his discovery
6 materials.

7 Q Okay. So he did see the discovery materials to the
8 best of your knowledge?

9 A Sure.

10 Q Do he have any questions about anything?

11 A Did he have any questions?

12 Q Right, about anything missing from discovery?

13 A No.

14 Q So when you are showing up for trial on that day did
15 he ever tell you he wasn't ready?

16 A No, sir.

17 Q Did he have any questions about, well, back up. Did
18 you believe that he understood his rights to testify?

19 A Sure.

20 Q And he did choose to testify, correct?

21 A Yes.

22 Q And that was his decision?

23 A Yes, sir.

24 Q And as far as the plea offer goes, if I can back up.
25 If you receive a plea offer is it your normal practice to

1 convey that plea offer?

2 A Sure.

3 Q And I believe you just testified you can't recall the
4 exact date that you would have done that in this case?

5 A Yes. As I recall, a young man without a criminal
6 record, you got short term goals and long term goals. And
7 with Mr. Anderson being on the registry and of any sexual
8 criminal offense, it would be devastating to him, you
9 know.

10 Q Okay. And do you recall, I guess, do you remember
11 him rejecting that plea offer?

12 A Not specifically rejecting it. I don't recall the
13 exact date and time saying, no, I am not going to take
14 that, you know. The offer was to plead straight-up, you
15 know, meaning that, that is a plea offer lessor than what
16 he is being charged with but without any boundaries what
17 his time in prison he is going to get, it is no guarantee
18 that you are going to get a good deal at a plea
19 straight-up. Hindsight is always twenty/twenty now.

20 Q Well essentially, I believe, am I correct in saying
21 that he didn't want to plead to a sexual offense?

22 A That's correct.

23 Q Okay. Now, as far as the jury charges are concerned,
24 do you remember the Judge saying that he was not going to
25 charge CSC third, he was just going to charge CSC first

1 and second.

2 A Yes, sir.

3 Q Even if you had asked, I guess he already made it
4 known that he wasn't going to charge that. Is that
5 correct?

6 A Say that again, sir.

7 Q Even if you had asked, the Judge already made it
8 known he wasn't going to charge CSC third?

9 A Right.

10 Q Okay.

11 THE COURT: Where is that in the transcript?

12 MR. HUNTER: That is page 593, lines 3 through 5.

13 THE COURT: Okay.

14 Q And concerning the appeal, did Mr. Anderson have
15 anything to do in filing the appeal?

16 A Well, when Mr. Anderson says that he didn't know
17 anything about any of his rights to an appeal, things
18 hadn't been explained to him, he is standing right there
19 in the courtroom and he may not recall those types of
20 things but he is explained everything right there in the
21 courtroom simultaneously with everybody else. I will
22 admit that I did drop the ball in terms of responding
23 immediately about the appeal. And I hope he does get a
24 chance for an appeal. But I will be honest, I just
25 couldn't afford to run up and down the road and do all of

1 that work when promises were made that they were going to
2 pay me some money and they never came, never came. And I
3 apologize for that.

4 Q That's all I have. Thank you, sir.

5 THE COURT: Redirect?

6 MS. SAUNDERS: Just a few questions, Your Honor.

7 REDIRECT EXAMINATION

8 By Ms. Saunders:

9 Q Mr. Mosley, with regard to the lessor included
10 offenses, I think in your testimony y'all were discussing
11 page 593 of the transcript. Did you get an opportunity to
12 read that portion of the transcript?

13 (Whereupon, Mr. Mosley reads transcript.)

14 A Okay, so what is the question.

15 Q If you read on line, read lines 3 to 7.

16 A This is the Judge talking.

17 Q This is the Judge talking.

18 A The Court: Clearly I am charging CSC first. I am
19 going to charge CSC second. I am not going to charge CSC
20 third because I tend to agree that that would not comply
21 in this particular scenario. And it doesn't sound like
22 Mr. Mosley really even wants CSC third. He would rather
23 have assault.

24 Q Okay.

25 A Hold on a second, hold on a second. I am struggling

1 again with--

2 Q Okay. I am going to stop you right there, Mr.

3 Mosley. I apologize.

4 A It doesn't--

5 Q --that is all I wanted you to read.

6 A That is page 593.

7 Q 593.

8 A I hope the Court will read it.

9 Q My question to you would be is, why didn't you make
10 an argument, at least, for CSC third?

11 A I don't know why I didn't make that argument two
12 years ago, I can't, you know, in other words, you are
13 asking me that while I am in a fight for a young man's
14 life, why I ain't smart enough to say today what I should
15 have did two years ago. I still think he wasn't guilty of
16 sexually assaulting that young lady with that gun because
17 they had sex on the hood of a car in cold weather and that
18 wouldn't have made sense. The gun was present and
19 somebody saw a chance to convict this young man and to
20 send him to jail and that ain't right. So I was his no
21 good lawyer and he got found guilty and went to jail. So
22 what else is in it.

23 Q No further questions, Mr. Mosley.

24 THE COURT: Anything further?

25 MR. HUNTER: Nothing else, Your Honor.

1 THE COURT: Thank you, Mr. Mosley, you may come down.
2 I will read the transcript.

3 MR. MOSLEY: Read the transcript. May I be excused.

4 THE COURT: Let me see. Any objection to excusing
5 Mr. Mosley?

6 MR. HUNTER: No objection.

7 MS. SAUNDERS: None, Your Honor.

8 THE COURT: You are excused. Anything further from
9 the defense, from the Applicant?

10 MS. SAUNDERS: Your Honor, I would like to make a
11 brief legal argument if you would entertain?

12 THE COURT: Sure I will. Let me find out, does the
13 State have anything further?

14 MR. HUNTER: No, Your Honor, we have nothing.

15 THE COURT: You may proceed, Ms. Saunders.

16 MS. SAUNDERS: Thank you, Your Honor. We have no
17 further witnesses, we rest our case.

18 THE COURT: Let me just ask you. The only thing, is
19 the only thing you are asking for a belated appeal?

20 MS. SAUNDERS: No, Your Honor. We are requesting of
21 an order granting him PCR on the basis of ineffective
22 assistance of counsel. And I have a few points that I can
23 make. But we would like a belated appeal pursuant to
24 White v. State as well since it was improperly perfected
25 and the evidence admitted shows, from the Court of Appeals

1 file.

2 THE COURT: I understand that. But if a belated
3 appeal were granted the other issues raised in your return
4 could be addressed in the appeal, couldn't it not?

5 MS. SAUNDERS: Your Honor, I am not sure if they can
6 be based on the fact that these were, well, there may be
7 preservation issues.

8 THE COURT: Right, could be.

9 MS. SAUNDERS: I think there are going to be.

10 THE COURT: I haven't read the transcript. But you
11 are right, you are correct, they could be.

12 MS. SAUNDERS: But my understanding is, if the
13 belated appeal goes forward then the ineffective
14 assistance analysis can still be made on PCR. I am not
15 sure if that stays the PCR pending the belated appeal,
16 procedurally I am not sure exactly how that works.

17 THE COURT: Okay, well go ahead and make your
18 argument.

19 MS. SAUNDERS: Your Honor, I just think we are
20 looking at an ineffective assistance of counsel issue and
21 it really pains me to have to attack another fellow
22 attorney.

23 THE COURT: It happens all the time.

24 MS. SAUNDERS: But that is what I signed up to do,
25 Your Honor, so I wanted to represent Mr. Anderson as best

1 I could. But I didn't figure out the issue of the bond
2 hearing until my last meeting at Perry with Mr. Anderson.
3 He mentioned this and I just latched onto it and did some
4 investigating with court reporters and then contacting
5 Judge Addy and was able to obtain his notes and finally at
6 1:00 a.m. last night we got the transcript. But I feel
7 that Mr. Mosley just deviated from the accepted standard
8 of reasonableness that applies to us attorneys. He should
9 have followed up on that bond order. It is clear in the
10 transcript that Judge Addy was leaning towards allowing
11 Mr. Anderson--

12 THE COURT: Couldn't he have assumed that Judge Addy
13 would draw his own order?

14 MS. SAUNDERS: I think--

15 THE COURT: The notes don't say that, I admit.

16 MS. SAUNDERS: The notes don't say it and I don't
17 believe Judge Addy, you know, he is not here to testify.

18 THE COURT: Don't want him to.

19 MS. SAUNDERS: Don't want him to do that, he can't do
20 that. But I think that the record indicates that the
21 Judge was leaning towards that and just had to think on it
22 a little bit more. And I feel, from the objective
23 standard of reasonableness that applies to us, I think
24 Your Honor should consider ineffective assistance based on
25 the fact that he didn't follow-up. If I was his attorney

1 I certainly would have made sure that I got a yes or no on
2 whether or not my client could be released on home
3 detention because he would have been able to, as he
4 testified, to go to work, go to church, there could have
5 been more investigating that he could have done in
6 preparation of his own defense. He could have at least
7 been doing some productive things and been able--

8 THE COURT: Assuming Judge Addy would not have given
9 him a surety bond in addition to the conditions that he
10 talks about.

11 MS. SAUNDERS: Correct, Your Honor. I don't think
12 that the family was in a position to afford all of those
13 provisions. But could, as they testified, could have
14 afforded to help him get back on his feet and get out on
15 home detention. But I think Judge Addy's notes reflect,
16 at some point he made an order, I mean he wrote in his
17 notes that there was an order for house arrest verified
18 with GPS monitoring. He gave the address for Mr. Anderson
19 to live with Mr. Anderson. I guess he did order a surety
20 with a ten percent option, that is what his notes
21 indicate. No contact with the victim and--

22 THE COURT: What is the emails, what does the last
23 page of the email say. It says normally will cross out
24 the UA on his notes when he issues an order.

25 MS. SAUNDERS: I don't think an order ever appeared

1 in the record and I have gotten the file from the Clerk,
2 Jackie Bowers or former Clerk, Jackie Bowers file and
3 there is not an order in there. So, my position, our
4 position is, if there had been a bond hearing where, it
5 sounded like the Defendant was going to be given GPS
6 monitoring, home detention, it would have been a deviation
7 from the standard of reasonableness in representing Mr.
8 Anderson, not to follow-up with that. Now, I don't think
9 he did because there was never--

10 THE COURT: Can I grant him a new trial on that
11 argument alone?

12 MS. SAUNDERS: No, you may if you wish, Your Honor.

13 THE COURT: I know that part.

14 MS. SAUNDERS: You know, I think that coupled with
15 the failure to convey the offer, it is clear that the
16 offer was never conveyed to my client. He testified that
17 he didn't receive it, the emails and the timeline
18 accurately line up in that the offer that was conveyed to
19 Mr. Mosley was in the client file. Mr. Anderson never
20 received it until after he filed the ODC complaint and
21 received his client file. That was the first time he had
22 ever seen the offer. It certainly would have lessened his
23 exposure if he plead guilty to a lesser included offense,
24 taking off the kidnapping and the possession of a weapon.
25 Your Honor, I think the failure to request the lesser

1 included of the CSC third and CSC second, Mr. Mosley
2 clearly didn't do that on the record, it says in the
3 transcript. And I think that Judge Addy was struggling
4 with, you know, he didn't agree with them requesting the
5 A&B third. But Mr. Mosley testified that it was an all or
6 nothing type deal. He didn't want to have the lessor
7 included presented to the jury. Your Honor, it is our
8 position that that was a mistake in his judgment--

9 THE COURT: Strategy?

10 MS. SAUNDERS: I think that is what he testified to
11 but I think that the Judge, it is clear to me in reading
12 the transcript that the Judge was trying to encourage him
13 to at least make the argument to charge lessor included
14 and he didn't. And the Judge then overrode his request
15 for an A&B third instruction and said I will charge CSC
16 first and second. I think that, any reasonable attorney
17 would have asked him to charge the lessor included
18 offenses, at least make the argument. Your Honor, he
19 never got the appeal perfected pursuant to White v. State,
20 I believe that he should be afforded that opportunity. I
21 do think there are appellate issues that could be
22 considered. And I think if you back it up a step, he
23 never responded to those letters from the Court of Appeals
24 asking him to clarify the issues or clarify the problems
25 with the way the appeal was filed. The Court was giving

1 him an opportunity to fix that for Mr. Anderson. Mr.
2 Anderson doesn't know how to follow-up with the Judge,
3 prepare a bond order or perfect an appeal. He certainly
4 doesn't know how to, he knew how to write the Clerk and he
5 knew how to write the Solicitor and he knew he wanted to
6 go to court and plead but he never got that opportunity.
7 And the circumstances most certainly would be different
8 had he gotten out on bond, on GPS monitoring I believe.
9 And the circumstances would most definitely would be
10 different if he had plead guilty at an earlier time to a
11 lesser offense. And so, Your Honor, I have got case law
12 if you want it but I think that--

13 THE COURT: You can include it in your proposed
14 order.

15 MS. SAUNDERS: Thank you, Your Honor.

16 MR. HUNTER: Yes, Your Honor, if I may have a few
17 minutes. I guess starting off with the appeal issue,
18 White versus State. I think it is clear, as an officer of
19 the court, I cannot say that he followed the procedure
20 correctly. I cannot go against what the Court of Appeals
21 said in that order. Your Honor, as far as the bond order
22 is concerned. I think it is clear that the error here may
23 have been on Judge Addy, with all due respect. I think it
24 is reasonable for an attorney, when a Judge tells them
25 that something is under advisement, to then wait for that

1 Judge's ruling, especially in this case, that was kind of
2 the last thing that he said to them. And I just, it is my
3 contention that there was no fault on Mr. Mosley as far as
4 that is concerned. It was essentially out of his hands at
5 that point. And, Your Honor, again, as far as any
6 prejudice that would result from failure to get a bond
7 order, it is my contention that that, him being out on
8 bond wouldn't affect his guilt or innocence at trial, the
9 result, the outcome wouldn't be any different had he
10 simply just been out on bond rather than the detention
11 center. Your Honor, as far as the plea offer is
12 concerned, I believe Mr. Mosley testified that he uses
13 normal practice to relay plea offers, that he would have
14 done in this case. And that, I believe his testimony he
15 couldn't recall when he did it but he believes that he did
16 do it. So I think there is testimony there showing that
17 he would have made a plea offer before trial. Your Honor,
18 as far as the CSC third goes. First, he did get CSC
19 second charged. And regards to CSC third, regardless of
20 whether or not Mr. Mosley wanted it, I think there is no
21 prejudice because it is clear when the Judge says, I am
22 not going to charge CSC third, I tend to agree that it
23 would not apply in this particular scenario. So it is my
24 contention that even if he had asked for CSC third the
25 Judge would have denied it given what he said right there,

1 he didn't think it fit the scenario. I believe that
2 addresses all the allegations. I will certainly send a
3 proposed order.

4 THE COURT: How much time do you need for proposed
5 order?

6 MS. SAUNDERS: For me to write it, I can do it in 20
7 days.

8 MR. HUNTER: 20 days.

9 THE COURT: The Attorney General is always the one
10 that is backed up.

11 MR. HUNTER: Yes.

12 THE COURT: 20 days, sure.

13 MR. HUNTER: 20 days. Let's do that.

14 THE COURT: Thank you very much.

15 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Laurens, South Carolina on the 5th day of June, 2017.

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

January 19, 2018

Joy Holston

Joy E. Holston, Court Reporter
My Commission expires: May 2, 2026

APR 09 2013

Scanned

FILED
NEWBERN COUNTY
13 APR 31 AM 11:29
JACKIE S. BOWERS
CLERK OF COURT

2013

Dear Mrs. Jackie S. Bowers,

Hi my name is Henry Delos Anderson. I'm writting you because I'm concerned about my bond hearing that I went to on ~~March 25th 2013 at 11:00 a.m.~~ Well I went before the judge with my lawyer whom I do not have anymore. I'r rying to see if judge Addy has made any decision on me gettin ouse arrest like he said in court it's been a week an I haven't heard anything from him or the court about it. I don't have a lawyer anymore so I'm writting you because I'n rying to see what judge Addy has said about me an about my motion of discovery. I been looking into getting my motion of discovery for some time now I don't have a paid awyer to get my motion of discovery for me and Charles Vernin, won't seen me since I had a paid lawyer, but now I don't ave one I have to take things into my own hands and ry to get it myself. I know I have the right to my motion f discovery regardless if I have a paid lawyer or a public efender. Well I'm writting you on these two basic because he ne has informed me on anything and I'm trying to get me tuff so I can know what the state has against me in the ourt of law. I've never been in trouble with the law and I'm ot trying to get these two things so my family and I can now where I stand. Mrs. Bowers, please help me with all o respect I'm trying to handle this on my own and I now it will be hard but I'm writting you for a start hanks for the help and understanding me on my

DEFENDANT'S
EXHIBIT
#1
9EA 10

situations that you can help me with and sorry for
me begging you about this and taking time out of your
busy day to help me out in my situation.

Thanks Again,
Henry Delos Anderson

3/29/2013

County of newberry

Motion for Discovery and Inspection

Case # 2013A3610100064

State of South Carolina

2013A3610100065

VS.

2013A3610100066

Henry Delos Anderson

Now comes the defendant Henry Delos Anderson pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure, and moves the prosecutor of the said state to permit the defendant to inspect, and copy or photograph, including, but not limited to the following, with the express provision that the duty of disclosure to be continuing one in the events that any such materials comes into existence or become available after the initial disclosures.

(A) Any Books, papers, documents, photographs, tangible objects or copies or portions thereof, which are in the possession, custody, or control of the prosecution and which the prosecutors intend to introduce as evidence in chief at trial.

(B) Any Results or Reports of physical or mental examination and scientific tests or experiments made in connection with particular case, or copies thereof, within the possession or control of the prosecution, which the prosecutor intend to introduce as evidence in chief at the trial or which were prepared by a witness whom the prosecution intend to call at trial when the Reports relate to his testimony

Respectfully Submitted

Henry Delos Anderson

Pro-Bond 3239 Lewis Rich Rd
Newberry SC, 29108

Henry Delos Anderson
3239 Lewis Rich Rd
Newberry SC, 29108

COLUMBIA SC 290

01 APR 2013 PM 3 L

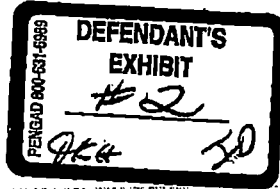


Jackie S. Bowers
Clerk of Court
1226 College Street / P.O. Drawer 10
Newberry SC, 29108

FILED
NEWBERRY COUNTY
2013 APR 3 AM 11 29
JACKIE S. BOWERS
CLERK OF COURT

10742MB0192





3/22/13 (Cont'd)
Thomas Mosely
Dale Scott

12:13 Anderson, Henry
Bond CEC 1st Kidnap, JHP
from Jan 30, 2013

UA

Text rec'd from D. They'd been in a relationship that ended 1
mo prior. Text rec'd w/ gun pointed at head. Cx to
get back together. Intended to go to her house.
Waves to go to work. He confronts. Forcefully took her
into car & raped her 1 mile from house. Made
stnt that if she told anyone, she'd kill everyone (she took
to mean her kids). Famil: NC. Ties to Detroit.

Pair by
Uncle & ^{uncle's} sister - Anderson 20 yoa. 69 JW Dr. -
Mountville. Some discussion about her having a miscarriage
plans to have a baby. Was a machine operator. Forklift
driver & Fujii in bond. Okids. Has OED. Can live
w/ uncle - but or Aunt - Mountville. No chance
of them casually running into them. No detail as to
flight. Rape protocol ?? - duty for a 10% cash bond.
Doesn't need a surety bond. Andy Anderson, Uncle

Order: Rose Street - verified JPS \rightarrow Le Green Oak Dr.
home of Mr. Anderson Simpsonville, SC
Squirt w/ 10% option
NO contact w/ V. My leave when accompanied by Anderson for
church or mtg of Atty.

(Cont on new
tablet)



Laura Saunders <lmsaunderslaw@gmail.com>

PCR - Henry Delos Anderson

5 messages

Laura Saunders <lmsaunderslaw@gmail.com>

To: "Addy, Frank R." <faddyj@sccourts.org>

Mon, May 1, 2017 at 11:03 AM

Cc: "Addy, Frank Law Clerk (Joshua S. Nasrollahi)" <faddyjc@sccourts.org>

Dear Judge Addy:

I hope you are well today. I am doing some research on the above case which is coming up for PCR in June. I represent Mr. Anderson. I am trying to find any record of a bond hearing some time in March 2013 in Newberry for Mr Anderson, so that I can request a copy of the bond hearing transcript.

My client is telling me that his hearing was on March 25, 2013. He says that you granted his bond and placed him on GPS monitoring. He was to live with his uncle, Randy Anderson who was present at the hearing. There is no bond order in the Court file.

I checked with Joy and she says that she doesn't find anything in her files for March 25, 2013 and thinks that was a chambers week.

Would you by chance have any notes from back then which would indicate the terms of your order?

I hope my client is not sending me down a proverbial rabbit hole, but his family has verified his claim that a bond hearing actually occurred.

Thank you for any help!

Laura

—
Laura Saunders Cox
Attorney at Law

102 Church St.
P.O. Box 731
Laurens, SC 29360

Tel: (864) 681-4444 / Fax & E-Fax: (866) 654-0282 / www.laurasaunderslaw.com

NOTICE: The information contained in this electronic message is privileged and confidential and is intended for the use of the individual(s) named above and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this message is strictly prohibited. If you have received this message in error, please destroy it immediately, and notify the sender. Thank you.

📧 Please refrain from printing this e-mail unless necessary.

Addy, Frank R. <faddyj@sccourts.org>

To: Laura Saunders <lmsaunderslaw@gmail.com>

Cc: "Addy, Frank R. Law Clerk (Lukeus Wingo)" <faddyjc@sccourts.org>

Mon, May 1, 2017 at 11:04 AM

Sure. I can check.

When Luke gets back to the office tomorrow, he can also check my clerk's notes from that period of time and see if there is anything.

5/1/2017
764

Gmail - PCR - Henry Delos Anderson

Frank R. Addy, Jr.

Resident Judge, 8th Judicial Circuit

Greenwood County Courthouse

528 Monument Street, Ste. 210

Greenwood, South Carolina 29646

Office: (864) 943-8020

Fax: (864) 942-8581

Email: faddyj@sccourts.org

Secretary: Freda Sartin (faddysc@sccourts.org)

Law Clerk: Luke Wingo (faddyjc@sccourts.org)

From: Laura Saunders [mailto:lmsaunderslaw@gmail.com]
Sent: Monday, May 1, 2017 11:03 AM
To: Addy, Frank R. <faddyj@sccourts.org>
Cc: Addy, Frank R. Law Clerk (Lukeus Wingo) <faddyjc@sccourts.org>
Subject: PCR - Henry Delos Anderson

[Quoted text hidden]

~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

---

**Laura Saunders** <lmsaunderslaw@gmail.com>  
To: "Addy, Frank R." <faddyj@sccourts.org>

Mon, May 1, 2017 at 11:05 AM

Thank you!

[Quoted text hidden]

---

**Laura Saunders** <lmsaunderslaw@gmail.com>  
To: "Addy, Frank R." <faddyj@sccourts.org>

Mon, May 1, 2017 at 11:12 AM

Also - It looks like you were holding GS in Newberry the week of March 18, 2013.

[Quoted text hidden]

---

**Addy, Frank R.** <faddyj@sccourts.org>  
To: Laura Saunders <lmsaunderslaw@gmail.com>  
Cc: "Addy, Frank R. Secretary (Freda Sartin)" <faddysc@sccourts.org>, "Addy, Frank R. Law Clerk (Lukeus Wingo)" <faddyjc@sccourts.org>

Mon, May 1, 2017 at 11:15 AM

Laura,

Attached are my notes. The reason Joy doesn't have anything is that they switched court reporters on me for that Friday. On March 22, 2013, my court reporter was Vivian Cross, not Joy (per a notation I made on the outside of the folder for that week).

5/1/2017

Gmail - PCR - Henry Delos Anderson

765

The "UA" next to Mr. Anderson's name means the matter was initially taken under advisement by me. I may have directed his lawyer to prepare an order, but I'm not sure. Normally, when the order is issued, I cross out the "UA" and write in the date the order's issued. I'll ask Freda to check with her order log and see if there is any record of an order going out from this office. At the bottom of my notes, it has what the order should contain, so I'm pretty certain one was issued.

Anyway, if you need a transcript, you'll need to contact Vivian Cross about it.

---

Frank R. Addy, Jr.

Resident Judge, 8<sup>th</sup> Judicial Circuit

Greenwood County Courthouse

528 Monument Street, Ste. 210

Greenwood, South Carolina 29646

Office: (864) 943-8020

Fax: (864) 942-8581

Email: faddyj@sccourts.org

Secretary: Freda Sartin (faddysc@sccourts.org)

Law Clerk: Luke Wingo (faddyjc@sccourts.org)

**From:** Laura Saunders [mailto:lmsaunderslaw@gmail.com]


**Sent:** Monday, May 1, 2017 11:06 AM

**To:** Addy, Frank R. <faddyj@sccourts.org>

**Subject:** Re: PCR - Henry Delos Anderson

[Quoted text hidden]

---

 **Henry Anderson - Bond Notes from 3-22-13.PDF**  
477K

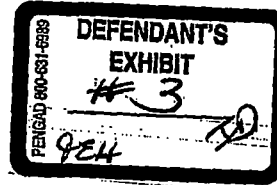
March ▼ 2013 ▼ Go To Date

**Assignment of Judges to Terms of Circuit Court  
March 2013**

| <b>Judge Name</b>         | <b>3/4/2013</b>             | <b>3/11/2013</b>                                     | <b>3/18/2013</b>             | <b>3/25/2013</b> |
|---------------------------|-----------------------------|------------------------------------------------------|------------------------------|------------------|
| <b>Addy, Frank (2159)</b> | General Sessions<br>Laurens | Common<br>Pleas/Common Pleas<br>Nonjury<br>Lexington | General Sessions<br>Newberry | In Chambers      |

Date: 10/15/2013

To: Jackie S. Bowers  
1226 College St./ P.O. Drawer 10  
Newberry SC 29108



From: Henry Delos Anderson  
3239 Lewis Rich Rd  
Newberry SC 29108

FILED  
NEWBERRY COUNTY  
2013 OCT 17 AM 11 57  
JACKIE S. BOWERS  
CLERK OF COURT

RE: Want to know why I can't Plea guilty

Dear Mrs. Bowers,

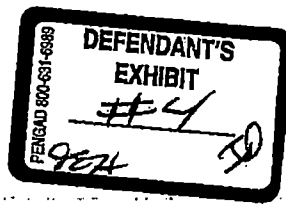
Hey my name is Henry D. Anderson I'm locked up at Newberry County Detention Center. I been locked up for 9 months now and I been trying to plea guilty to my three charges since July 29, 2013. I've wrote the Newberry County District Attorney and told them I would like to plea out to my charges get this out the way, because I'm guilty of my charges. Mrs. Bowers I don't know why the people who want to plea guilty have to still wait if we are guilty then why not get us into court to settle this. Every court term I request to be put on the guilty plea list and it never fails people who don't want to plea get called to go to court and that's not fair to the rest of the inmates who are trying to plea guilty to our charges. I wrote the Supreme Court of South Carolina to let them know that I'm trying to plea guilty and the court system in Newberry County will not let no inmates who been here almost a year or more plea guilty. I'm writing you because I would like to be called up at next court term in November so I can plea to my charges and go home. I would like to hear back from you due to my request of going to court and pleading out to my charges. Thank you very much for your help

2013A3610160664

Copy submitted  
10/18/13

Henry D. Anderson  
*[Signature]*

31 of 2



Date: Nov. 1, 2013

To: Taylor Daniel  
 assistant solicitor  
 Eighth judicial circuit solicitor office  
 P.O. box 516  
 Greenwood, SC 29649

Scanned

From: Henry Delos Anderson  
 3239 Louis Rich Rd  
 Newberry SC, 29108

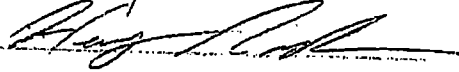
RE: Dropping my charges to something lesser

Dear Taylor Daniel,

I have wrote the Newberry County District Attorney office asking  
 them to drop my charges to something lesser so I can plea out. I have  
 a victim in my case, but I did not get a respond from Dale Scott  
 about nothing over my case. I wrote Dale Scott three times asking  
 'can he dropp my charges down to something lesser, so I can plea out  
 n get this out the way. I been locked up since Jan 30, 2013  
 which makes it 9 months that I been locked up on these ~~charges~~  
 charges. My charges are sex-criminal sexual conduct 2<sup>nd</sup> degree, weapon-pointing and  
 presenting a firearm at a person, kidnapping. All three of my charges happen in  
 Newberry county but the state nor the county has come with any  
 type of offers. I'm willing to plea out to the following charges  
 if you or Dale Scott will drop my charges to something lesser.  
 I will plea to simple assault an see if I can get time seller

that I will plea to Assault and Battery 1st degree. I'm willing to take a ~~suspended~~ suspended sentence, probation or time serve. I want to plea out to a lesser charge. I have no criminal history nor have I ever been in trouble with the law. If I can't get my charges dropped to plea then I will take it to trial. The state n. Dale Scott will have to prove to the judge and to the jury that I'm guilty of all three charges. So let's work out something with these charges.

Henry D. Anderson



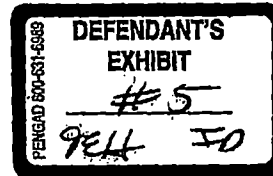
3239 Lewis Rich Rd

Newberry SC 29108

CC: Thomas E. Masley

770

**Subject:** Henry Delos Anderson  
**From:** Taylor Daniel <tdaniel@greenwoodsc.gov>  
**Date:** 10/24/2013 11:57 AM  
**To:** temosley@sc.rr.com



Mr. Mosley,

In reference to your client's pending charges in Newberry County, please convey the State's current plea offer to Mr. Anderson:

- CSC 2nd (reduced down from CSC 1st, straight up, lead indictment),
- recommend pointing and presenting run concurrent w/ sentence on CSC 2nd
- dismiss the kidnapping charge
- not direct indict for poss of weapon during commission of violent crime.

This offer will remain open until Friday, 11/8/13 (offer will expire by 5pm on that date. In addition, the State's current plea offer is contingent upon Mr. Anderson tendering his guilty plea to the Court during the wk of 11/11/13, in accordance w/ the above referenced terms).

Please be advised that this case may be placed on the November trial docket (wk of 11/11/13), which you will receive a Trial Notice Letter informing you of such scheduling.

Thank you.

-Taylor

Taylor Daniel  
Assistant Solicitor  
Eighth Judicial Circuit Solicitor's Office  
PO Box 516  
Greenwood, SC 29649

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199  
cell phone: (864) 590-8586



Laura Saunders &lt;lmsaunderslaw@gmail.com&gt;

---

**Henry Delos Anderson**

---

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: "Laura M. Saunders" <lmsaunderslaw@gmail.com>

Mon, May 1, 2017 at 1:00 PM

I forgot to include this one in the packet



Taylor Daniel  
Assistant Solicitor (Newberry County, SC)

Mailing Address

Newberry County Judicial Center  
Attn: 8th Circuit Solicitor's Office  
Post Office Drawer 10  
Newberry, SC 29108

Physical Address

Newberry County Judicial Center  
1226 College St.  
Newberry, SC 29108

Contact Info

Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199  
Email: tdaniel@greenwoodsc.gov

----- Forwarded message -----

From: Taylor Daniel <tdaniel@greenwoodsc.gov>  
Date: Thu, Oct 24, 2013 at 11:57 AM  
Subject: Henry Delos Anderson  
To: temosley@sc.rr.com

Mr. Mosley,

In reference to your client's pending charges in Newberry County, please convey the State's current plea offer to Mr. Anderson:

- CSC 2nd (reduced down from CSC 1st, straight up, lead indictment),
- recommend pointing and presenting run concurrent w/ sentence on CSC 2nd
- dismiss the kidnapping charge
- not direct indict for poss of weapon during commission of violent crime.

This offer will remain open until Friday, 11/8/13 (offer will expire by 5pm on that date. In addition, the State's current plea offer is contingent upon Mr. Anderson tendering his guilty plea to the Court during the wk of .11/11/13, in accordance w/ the above referenced terms).

6/4/2017

Gmail - Henry Delos Anderson

772  
Please be advised that this case may be placed on the November trial docket (wk of 11/11/13), which you will receive a Trial Notice Letter informing you of such scheduling. Thank you.

-Taylor

Taylor Daniel  
Assistant Solicitor  
Eighth Judicial Circuit Solicitor's Office  
PO Box 516  
Greenwood, SC 29649

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199  
cell phone: (864) 590-8586

Find Greenwood County on social media:



NOTE: This e-mail is a public record which may be subject to disclosure pursuant to the Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 *et seq.*, to a person or party requesting the same.



Taylor Daniel <tdaniel@greenwoodsc.gov>

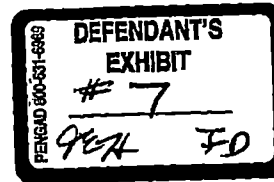
**Henry Delos Anderson-trial notice letter**

9 messages

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Dale Scott <dscott@greenwoodsc.gov>

Thu, Oct 31, 2013 at 9:56 AM

Taylor Daniel  
Assistant Solicitor  
Eighth Judicial Circuit Solicitor's Office  
PO Box 516  
Greenwood, SC 29649



Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199  
cell phone: (864) 590-8586

Henry Delos Anderson-trial notice letter.pdf  
41K

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: busta mosley <temosley@sc.rr.com>  
Cc: Dale Scott <dscott@greenwoodsc.gov>

Thu, Oct 31, 2013 at 9:59 AM

Mr. Mosley,

Please find Mr. Anderson's trial notice letter attached in reference to his pending Newberry County charges. Our office will also send you a copy of this notice via U.S. mail as well. Thank you.  
-Taylor

Taylor Daniel  
Assistant Solicitor  
Eighth Judicial Circuit Solicitor's Office  
PO Box 516  
Greenwood, SC 29649

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

Henry Delos Anderson-trial notice letter.pdf  
41K

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: busta mosley <temosley@sc.rr.com>

Thu, Oct 31, 2013 at 12:47 PM

Taylor Daniel

774  
5/1/2017

Greenwood County South Carolina Mail - Henry Delos Anderson-trial notice letter

Assistant Solicitor  
Eighth Judicial Circuit Solicitor's Office  
PO Box 516  
Greenwood, SC 29649

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199  
cell phone: (864) 590-8586

[Quoted text hidden]

---

2 attachments

 Henry Delos Anderson-trial notice letter.pdf  
41K

 Henry Delos Anderson-trial notice letter.pdf  
41K

---

Thomas E Mosley <temosley@sc.rr.com>  
To: Taylor Daniel <tdaniel@greenwoodsc.gov>

Thu, Oct 31, 2013 at 1:53 PM

[Quoted text hidden]

unless there is a more reasonable plea offer I will not be representing Mr. Anderson. Mosley

---

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Dale Scott <dscott@greenwoodsc.gov>

Thu, Oct 31, 2013 at 3:14 PM

Taylor Daniel  
Assistant Solicitor  
Eighth Judicial Circuit Solicitor's Office  
PO Box 516  
Greenwood, SC 29649

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199  
cell phone: (864) 590-8586

[Quoted text hidden]

---

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Thomas E Mosley <temosley@sc.rr.com>

Thu, Oct 31, 2013 at 3:37 PM

Mr. Mosley,

I plan on having Henry Anderson transported over from the jail to the Newberry Courthouse Tuesday, 11/12/13, for an afternoon hearing to determine scheduling. At that time, you may make a motion to withdraw/be relieved as Mr. Anderson's attorney, and perhaps Charles Verner (Newberry Co. public defender) may be able to assume representation. Mr. Anderson has been in the detention center for 9 months thus far.

I will reiterate the terms of the plea offer so you may convey that to your client (listed below). Thank you for your attention in this matter.

-Taylor

CSC 2nd (reduced down from CSC 1st, straight up, lead indictment),

5/1/2017

Greenwood County South Carolina Mail - Henry Delos Anderson-trial notice letter

775

- recommend pointing and presenting run concurrent w/ sentence on CSC 2nd
- dismiss the kidnapping charge
- not direct indict for poss of weapon during commission of violent crime.

This offer will remain open until Friday, 11/8/13 (offer will expire by 5pm on that date. In addition, the State's current plea offer is contingent upon Mr. Anderson tendering his guilty plea to the Court during the wk of 11/11/13, in accordance w/ the above referenced terms).

Taylor Daniel

Assistant Solicitor  
Eighth Judicial Circuit Solicitor's Office  
PO Box 516  
Greenwood, SC 29649

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199  
cell phone: (864) 590-8586

[Quoted text hidden]

---

Thomas E Mosley <temosley@sc.rr.com>  
To: Taylor Daniel <tdaniel@greenwoodsc.gov>

Thu, Oct 31, 2013 at 3:59 PM

[Quoted text hidden]

Now the agony of a systemic problem increases with a threat through prosecutorial discretion. Why threaten Mr. Anderson? The consequences of a plea is to ominous under the facts of this case. The victim is not a stranger. Therefore the national public safety fear results in this scenario and Mr. Anderson as another guinea pig. The family cannot afford my services with such archaic systemic problems. Mosley we'll be there on the 12th November 2:30 pm to be relieved.

---

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Dale Scott <dscott@greenwoodsc.gov>

Thu, Oct 31, 2013 at 4:01 PM

Taylor Daniel  
Assistant Solicitor  
Eighth Judicial Circuit Solicitor's Office  
PO Box 516  
Greenwood, SC 29649

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199  
cell phone: (864) 590-8586

[Quoted text hidden]

---

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Thomas E Mosley <temosley@sc.rr.com>

Thu, Oct 31, 2013 at 4:31 PM

Yes sir. I will put it on the schedule. Thanks.  
-Taylor

Taylor Daniel  
Assistant Solicitor



Taylor Daniel <tdaniel@greenwoodsc.gov>

**Henry Anderson**

3 messages

Thu, Dec 12, 2013 at 1:16 PM

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: busta mosley <temosley@sc.rr.com>  
Cc: Dale Scott <dscott@greenwoodsc.gov>, Charles Verner <lawyer@sc.rr.com>

Mr. Mosley,  
Judge Keesley granted your motion to be relieved as Mr. Anderson's counsel this past November term of court in Newberry County, and Mr. Charles Verner of the Public Defender's Office was appointed as Mr. Anderson's attorney of record.

Our office received your letter (dated 12/9/13) indicating you now wish to resume representation of Mr. Anderson as a result of the family now formally hiring your office. However, to my knowledge, Mr. Anderson has provided no notice to our Office, the Clerk's office, or to Mr. Verner that he wishes to fire Mr. Verner, or terminate Mr. Verner's representation as it relates to his pending charges in Newberry Co. (of which Mr. Anderson has been in pretrial confinement for over 10 months now) and rehire you as his attorney of record.

Charles Verner has been noticed for trial in the matter of Henry Anderson, and those possible trial dates are the wk of January 6, 2014, w/ a back-up date of February 10, 2014. Please contact Charles Verner and determine what is the situation in regards to who will represent Henry Anderson (after consultation w/ Henry Anderson himself and not his family) if this matter were to proceed to trial/plea.

Any Rule 5/Brady requests will have to be filed by your Office. The Solicitor's Office will not file motions w/ the Clerk's office on your behalf.

Furthermore, in reference to your inquiry of the victim's past sexual history, the State will not furnish the Defense w/ any evidence which would not comply w/ South Carolina Code Section 16-3-659.1, "Rape Shield Statute," which mandates limited admissibility of opinion evidence, reputation evidence, or specific instances of sexual activity by the victim with persons other than the Defendant. As you stated in your letter, this type of evidence would be inadmissible (per SCRE 412), and the State would not/could not seek to introduce such evidence in its case-in-chief, and this would not be Brady material. Therefore, this material would not be discoverable.

Finally, out of an abundance of caution and pending any kind of court order which would reinstate you as Mr. Anderson's attorney of record, our Office will go ahead and send you a trial notice for Mr. Anderson should circumstances change and you are back on the case. Please do not consider this trial notice as any type of tacit acknowledgement by the Solicitor's Office that you are officially the attorney of record again at this time. This trial notice only serves to apprise you in the event you do in fact become Mr. Anderson's attorney of record once again, and at that point, this trial notice would have full force and effect.

Please contact Charles Verner and Henry Anderson to sort out this matter of representation. Please provide supporting documentation once some sort of solution or arrangement is devised. Thanks.

P.S. I have copied Charles Verner and Dale Scott on this email.

Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

Henry Delos Anderson-trial notice letter, Mosley, 2014.doc  
163K

Thu, Dec 12, 2013 at 1:51 PM

Thomas E Mosley <temosley@sc.rr.com>  
To: Taylor Daniel <tdaniel@greenwoodsc.gov>

5/1/2017

Greenwood County South Carolina Mail - Henry Anderson

777

On 12/12/2013 1:16 PM, Taylor Daniel wrote:

It is the situation in regards to who will represent Henry Anderson (after consultation w/ Henry Anderson himself and not his family) if this matter were to proceed to trial/plea.  
Any Rule 5/B  
thanks Mosley

---

Thomas E Mosley <temosley@sc.n.com>

To: Taylor Daniel <tdaniel@greenwoodsc.gov>

Fri, Dec 13, 2013 at 1:48 PM

On 12/12/2013 1:16 PM, Taylor Daniel wrote:

[Quoted text hidden]

Further, I did see both Dale Scott and Charles Verner around thanksgiving and both were aware of me being hired. With regard to Rape Shield Statue.... there is some latitude with reference to prior sex..welcome and in camera discussion with the judge regarding what we are learning about the victim wherein her credibility may be impeached and the probative value outweighs the prejudicial impact of her prior activities.



Taylor Daniel <tdaniel@greenwoodsc.gov>

---

**Trial Docket week of January 6, 2014**

2 messages

Thu, Jan 2, 2014 at 12:47 PM

Dale Scott <dscott@greenwoodsc.gov>  
To: egriffithj@sccourts.org, EUGENE GRIFFITH <egriffithc@sccourts.org>, egriffithsc@sccourts.org, Charles Vemer <lawyer@sc.rr.com>, oneil\_law@yahoo.com, temosley@sc.rr.com  
Cc: dsimmons@ppp.state.sc.us, bfolk@newberrycounty.net, Shane Kitchen <SKitchen@ncso.sc.gov>, Becky Adams <BAdams@ncso.sc.gov>, Taylor Daniel <tdaniel@greenwoodsc.gov>, Alice Douglas <adouglas@greenwoodsc.gov>, Robert Dennis <RDennis@ncso.sc.gov>, KAtkins@cityofnewberry.com, GLominack@ncso.sc.gov, Wesley Boland <WBoiland@ncso.sc.gov>, RMcClurkin@cityofnewberry.com

The trial docket for next week is listed below in anticipated order and is as follows:

**State v. Timothy Cromer**

*Armed Robbery. Indictment No.s- 13-0177*

*Kidnapping 13-0178*

Represented by Deon Oneil

Note: This is an LWOP case

**State v. Christopher Penny**

*Attempted Murder. Indictment No.s 12-0346*

*Poss. Weapon During Violent Crime 12-0347*

*Arm Robbery 12-0348*

Represented by Charles Vemer

**State v. Christopher Robertson**

*CSC 3<sup>rd</sup> Indictment No.s 13-0176*

*(direct indictment for CSC 1<sup>st</sup> to be presented tomorrow)*

Represented by Charles Vemer

**State v. Henry Anderson****CSC 1<sup>st</sup> 13-0238****Kidnapping 13-0239****Pointing and Presenting 13-0240****Poss. Weapon During Violent Crime 13-0584**

Represented by Thomas Mosley (Charles Verner)

I would like to have jury qualified and picked on the first case Monday morning and try to have pre-trial motions completed (Denno and Biggers). Mr Oneal does have a court appearance in Manning at 2:30 and has asked that we do not begin openings until Tuesday morning.

---

**Shane Kitchen** <SKitchen@ncso.sc.gov>

Thu, Jan 2, 2014 at 1:19 PM

To: Dale Scott <dscott@greenwoodsc.gov>, "egriffithj@sccourts.org" <egriffithj@sccourts.org>, EUGENE GRIFFITH <egriffithc@sccourts.org>, "egriffithsc@sccourts.org" <egriffithsc@sccourts.org>, Charles Verner <lawyer@sc.rr.com>, "oneil\_law@yahoo.com" <oneil\_law@yahoo.com>, "temosley@sc.rr.com" <temosley@sc.rr.com>  
 Cc: "dsimmons@ppp.state.sc.us" <dsimmons@ppp.state.sc.us>, "bfolk@newberrycounty.net" <bfolk@newberrycounty.net>, Becky Adams <BAdams@ncso.sc.gov>, Taylor Daniel <tdaniel@greenwoodsc.gov>, Alice Douglas <adouglas@greenwoodsc.gov>, Robert Dennis <RDennis@ncso.sc.gov>, Kevin Atkins <katkins@cityofnewberry.com>, Garrett Lominack <GLominack@ncso.sc.gov>, Wesley Boland <WBoland@ncso.sc.gov>, "RMcClurkin@cityofnewberry.com" <RMcClurkin@cityofnewberry.com>

Would you be able to advise a day in advance if Robertson is needed in court. He is being held in Richland County.

---

**From:** Dale Scott [mailto:dscott@greenwoodsc.gov]

**Sent:** Thursday, January 02, 2014 12:48 PM

**To:** egriffithj@sccourts.org; EUGENE GRIFFITH; egriffithsc@sccourts.org; Charles Verner; oneil\_law@yahoo.com;

780

5/1/2017

Greenwood County South Carolina Mail - Trial Docket week of January 6, 2014

temosley@sc.rr.com

**Cc:** dsimmons@ppp.state.sc.us; bfolk@newberrycounty.net; Shane Kitchen; Becky Adams; Taylor Daniel; Alice Douglas; Robert Dennis; Kevin Atkins; Garrett Lominack; Wesley Boland; RMcClurkin@cityofnewberry.com

**Subject:** Trial Docket week of January 6, 2014

[Quoted text hidden]

---

---



Taylor Daniel &lt;tdaniel@greenwoodsc.gov&gt;

**state vs. henry anderson**

2 messages

**Thomas E Mosley** <temosley@sc.rr.com>  
 To: Taylor Daniel <tdaniel@greenwoodsc.gov>

Wed, Dec 18, 2013 at 11:17 AM

Mr. Daniel: Should we address discovery and other motions to you rather than Dale Scott? Both Mr. Scott and Charles Verner have promised rule five discovery and we will follow procedure accordingly. Further motions will be forth comming regarding the victims mental condition. By no means are we intimating the rape shield law. Thanks, Mosley

**Taylor Daniel** <tdaniel@greenwoodsc.gov>  
 To: Thomas E Mosley <temosley@sc.rr.com>  
 Cc: Dale Scott <dscott@greenwoodsc.gov>

Tue, Jan 21, 2014 at 11:23 AM

Mr. Mosley,

Per our conversation, please provide a notice of appearance/letter of representation and file it with the Newberry Co. Clerk's Office indicating that Mr. Anderson has rehired you, and wishes to terminate Mr. Verner's representation. Please have Mr. Anderson sign this too, and provide our Office with a file stamped copy. Contact Mr. Verner and explain the situation to him once this is done. Feel free to cc myself and Dale Scott if you and Mr. Verner have any exchanges as it relates to which one of you will actually represent Mr. Anderson at trial this February. Mr. Anderson is the first case we intend to call to trial the wk of 2/10/14. Our office will mail you a readable copy of the correspondence b/w Mr. Anderson and the victm, which I suspect you should receive by Wed (1/23/14).

Hopefully these steps will avoid any type of motion for a continuance. Thanks.

Taylor Daniel  
 Assistant Solicitor  
 Newberry County Judicial Center  
 Post Office Drawer 10  
 Newberry, SC 29108

Laurens office phone: (864) 984-2202  
 Laurens office fax: (864) 984-6200  
 Newberry office phone: (803) 321-2123  
 Newberry office fax: (803) 321-2199

On Wed, Dec 18, 2013 at 11:17 AM, Thomas E Mosley <temosley@sc.rr.com> wrote:

Mr. Daniel: Should we address discovery and other motions to you rather than Dale Scott? Both Mr. Scott and Charles Verner have promised rule five discovery and we will follow procedure accordingly. Further motions will be forth comming regarding the victims mental condition. By no means are we intimating the rape shield law. Thanks, Mosley



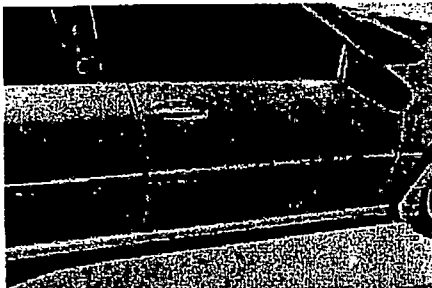
Taylor Daniel <tdaniel@greenwoodsc.gov>

**(no subject)**  
7 messages

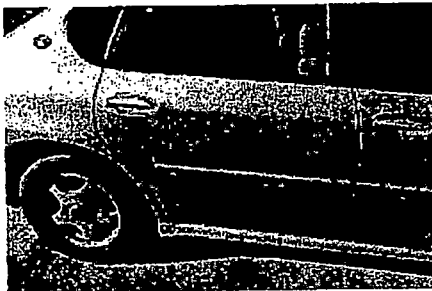
Alice Douglas <adouglas@greenwoodsc.gov>  
To: tdaniel@greenwoodsc.gov

Tue, Jan 21, 2014 at 1:53 PM

144 attachments



i13-1029(124).jpg  
22K



i13-1029(125).jpg  
24K

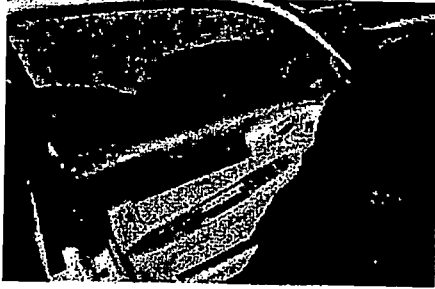


i13-1029(126).jpg  
27K

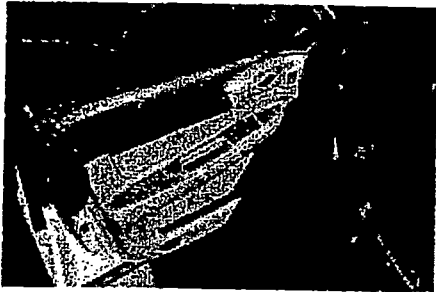


i13-1029(127).jpg  
25K

i13-1029(128).jpg  
27K



**i13-1029(129).jpg**  
26K



**i13-1029(130).jpg**  
27K



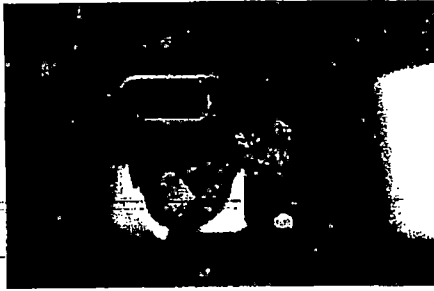
**i13-1029(131).jpg**  
29K



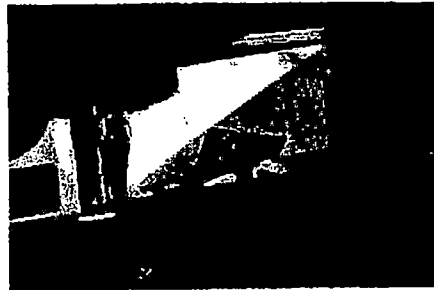
**i13-1029(132).jpg**  
32K



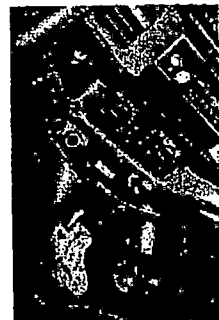
**i13-1029(133).jpg**  
21K



i13-1029(134).jpg  
25K



i13-1029(135).jpg  
23K



i13-1029(136).jpg  
32K



i13-1029(137).jpg  
26K

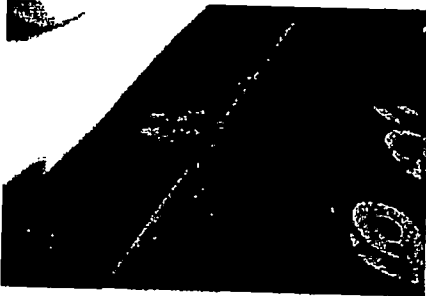


i13-1029(138).jpg  
26K



i13-1029(139).jpg  
26K

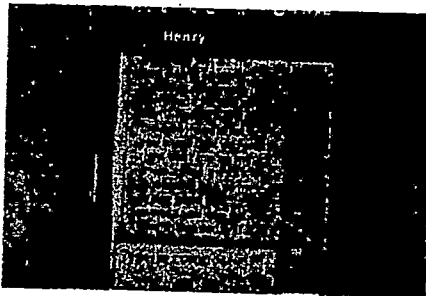
i13-1029(140).jpg  
20K



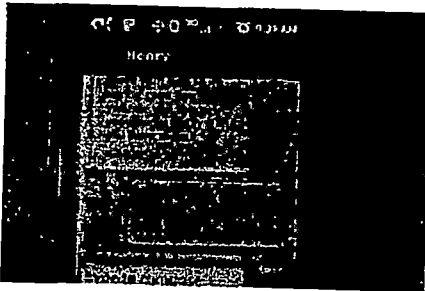
i13-1029(141).jpg  
21K




i13-1029(143).jpg  
26K



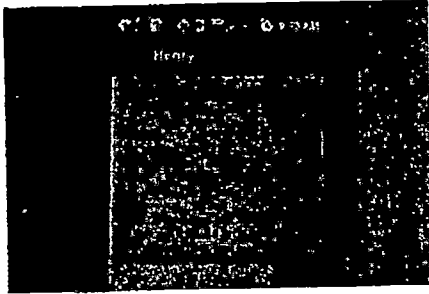
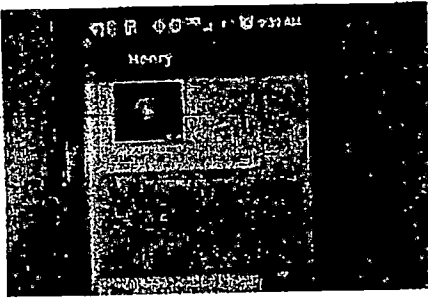
i13-1029(1).jpg  
25K



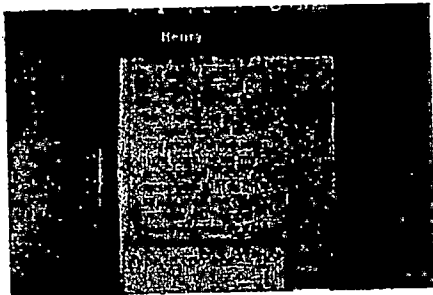
i13-1029(2).jpg  
25K

 i13-1029(3).jpg  
24K

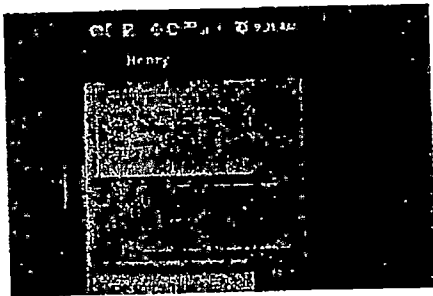
i13-1029(4).jpg  
25K




**i13-1029(5).jpg**  
22K





**i13-1029(6).jpg**  
25K




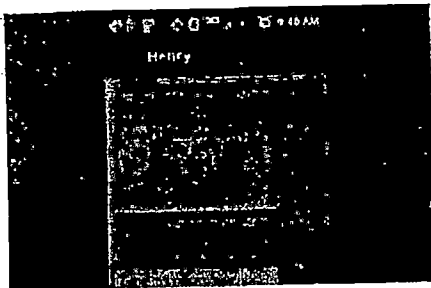
**i13-1029(7).jpg**  
25K

 **i13-1029(8).jpg**  
24K

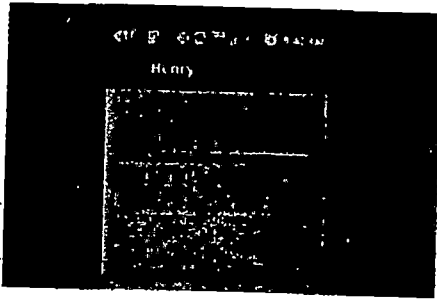
 **i13-1029(9).jpg**  
25K

 **i13-1029(10).jpg**  
25K

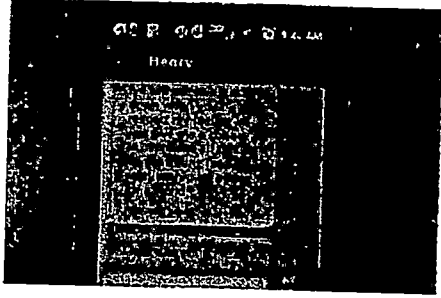
 **i13-1029(11).jpg**  
24K




**i13-1029(12).jpg**  
25K

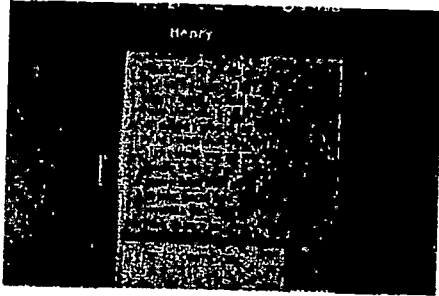


**i13-1029(13).jpg**  
25K

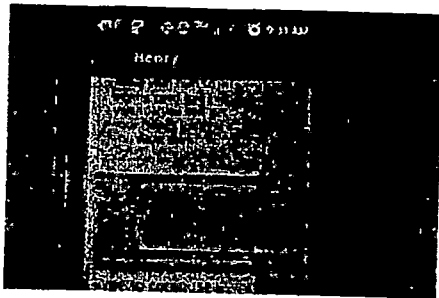


**i13-1029(14).jpg**  
25K

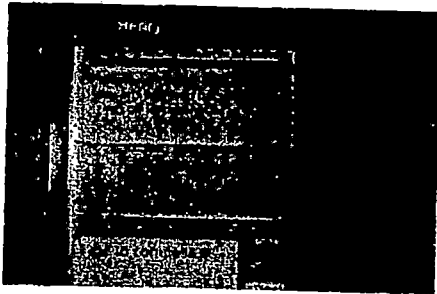
 **i13-1029(15).jpg**  
22K



**i13-1029(16).jpg**  
25K

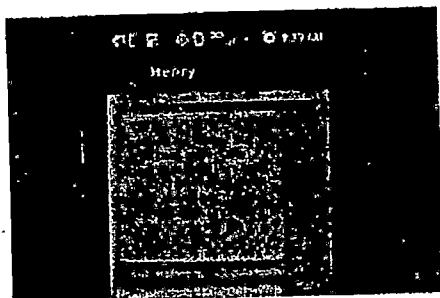
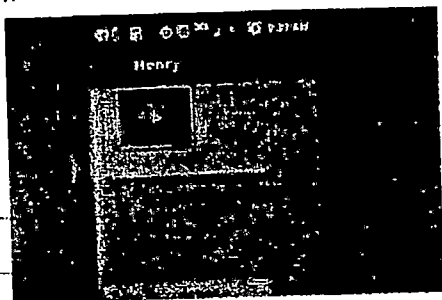


**i13-1029(17).jpg**  
25K




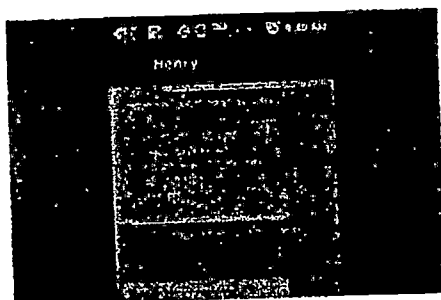
**i13-1029(18).jpg**  
24K

**i13-1029(19).jpg**  
25K

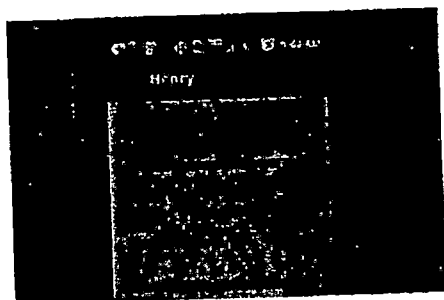


**i13-1029(20).jpg**  
25K


 **i13-1029(21).jpg**  
24K




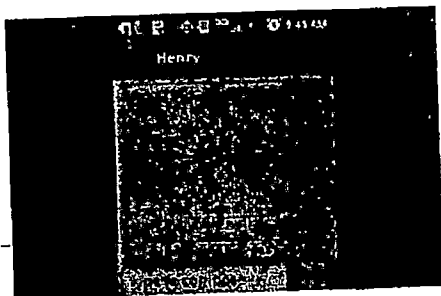
**i13-1029(22).jpg**  
25K



**i13-1029(23).jpg**  
25K

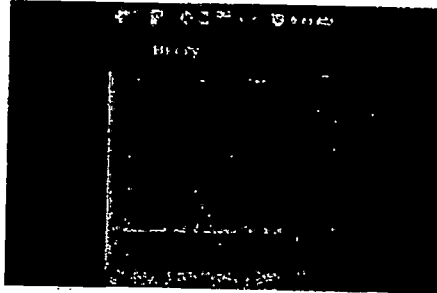
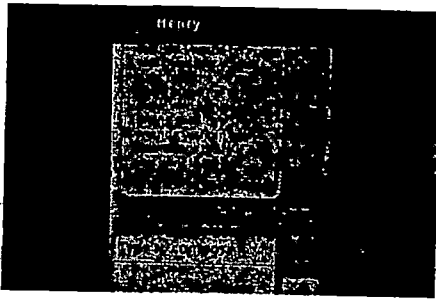
 **i13-1029(24).jpg**  
25K

 **i13-1029(25).jpg**  
24K




**i13-1029(26).jpg**  
26K


**i13-1029(27).jpg**  
23K

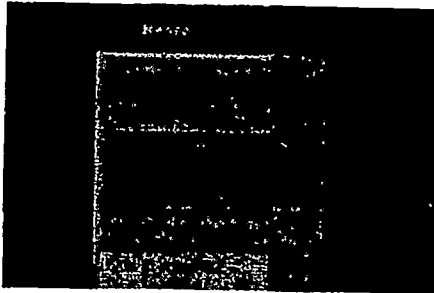


**i13-1029(28).jpg**  
24K

 **i13-1029(29).jpg**  
23K


 **i13-1029(30).jpg**  
22K

 **i13-1029(31).jpg**  
23K

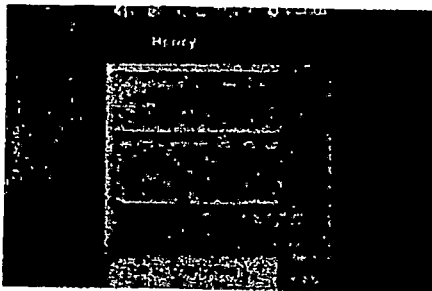


**i13-1029(32).jpg**  
21K


 **i13-1029(33).jpg**  
24K

 **i13-1029(34).jpg**  
25K

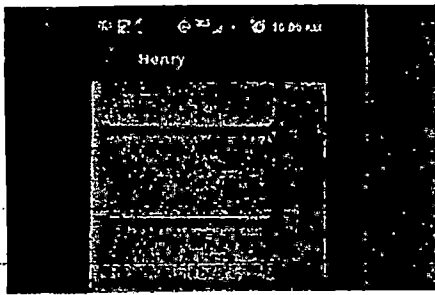
 **i13-1029(35).jpg**  
23K



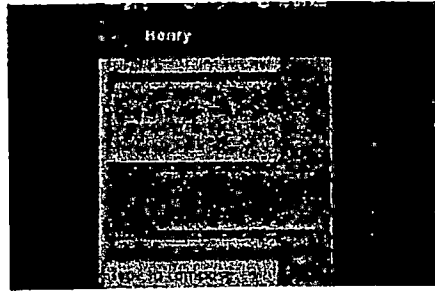
**i13-1029(36).jpg**  
23K

 **i13-1029(37).jpg**  
21K

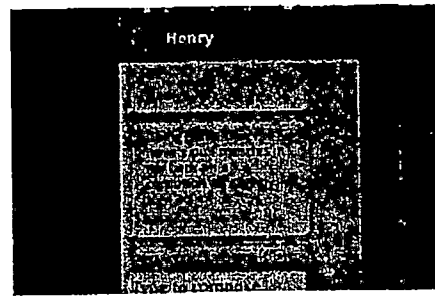
 **i13-1029(38).jpg**  
20K



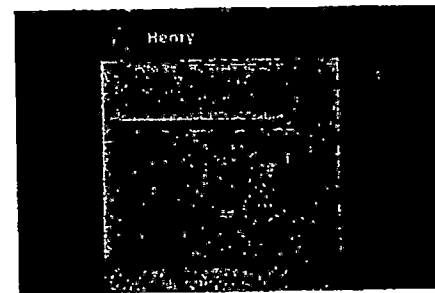
**i13-1029(39).jpg**  
20K



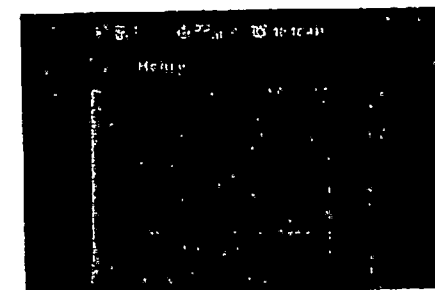
**i13-1029(40).jpg**  
18K



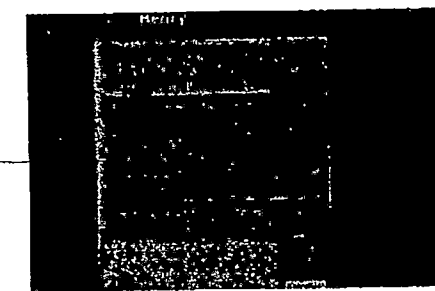
**i13-1029(41).jpg**  
21K



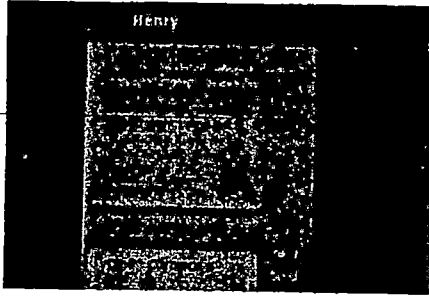
**i13-1029(42).jpg**  
24K



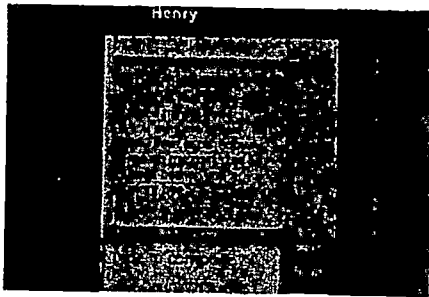
**i13-1029(43).jpg**  
24K



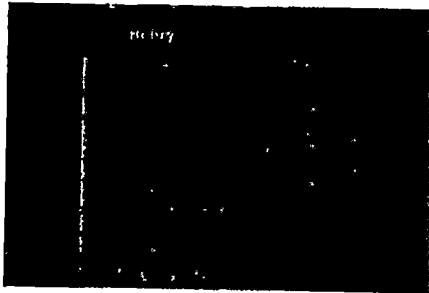
**i13-1029(44).jpg**  
18K



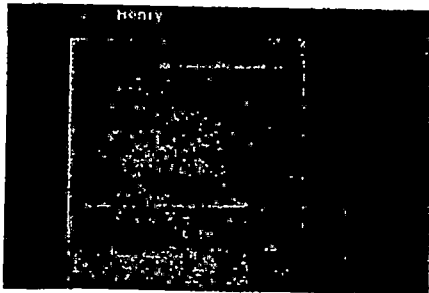
**i13-1029(45).jpg**  
18K



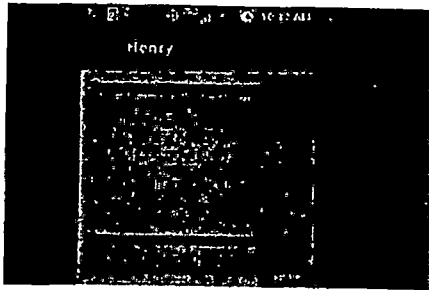
**i13-1029(46).jpg**  
23K



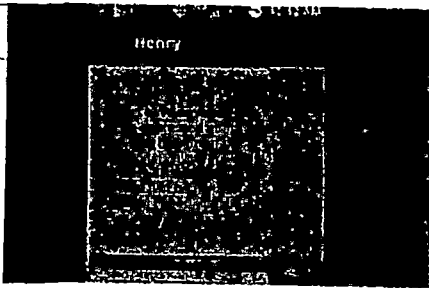
**i13-1029(47).jpg**  
22K



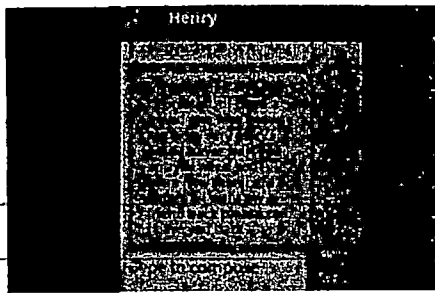
**i13-1029(48).jpg**  
23K



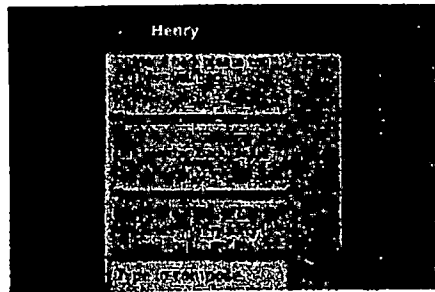
**i13-1029(49).jpg**  
24K



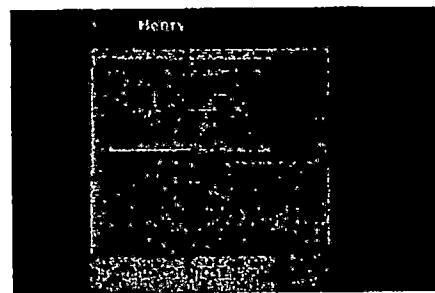
**i13-1029(50).jpg**  
25K



**i13-1029(51).jpg**  
22K



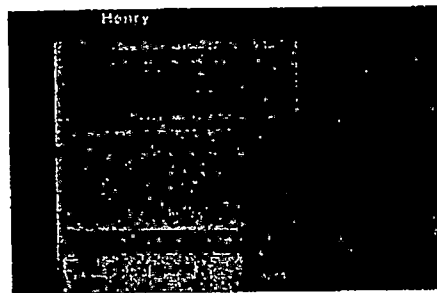
**i13-1029(52).jpg**  
22K



**i13-1029(53).jpg**  
23K



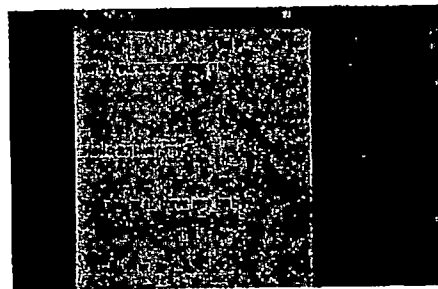
**i13-1029(54).jpg**  
19K



**i13-1029(55).jpg**  
22K

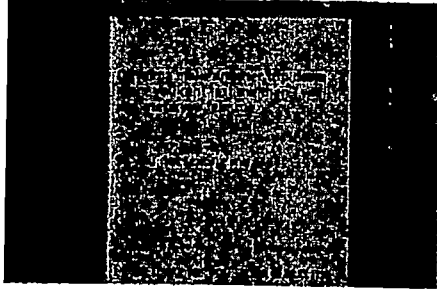
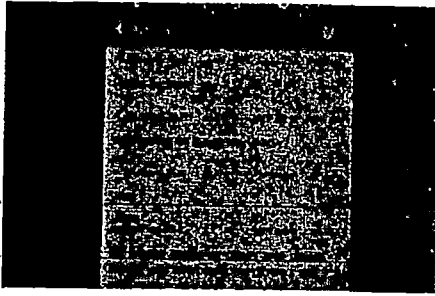


**i13-1029(56).jpg**  
18K

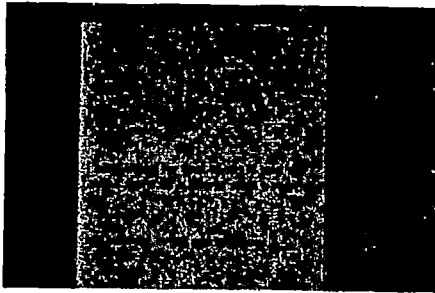


**i13-1029(57).jpg**  
19K

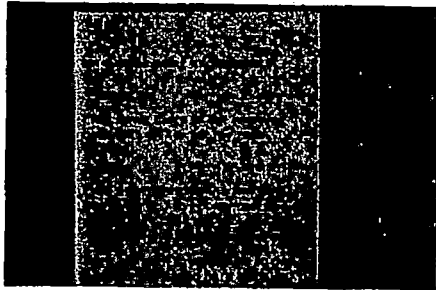
**i13-1029(58).jpg**  
19K



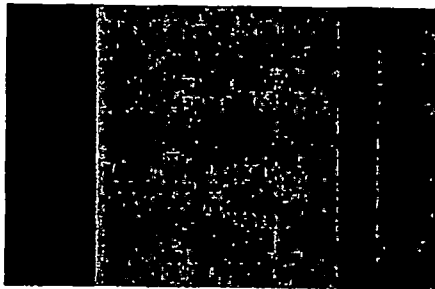
**i13-1029(59).jpg**  
21K



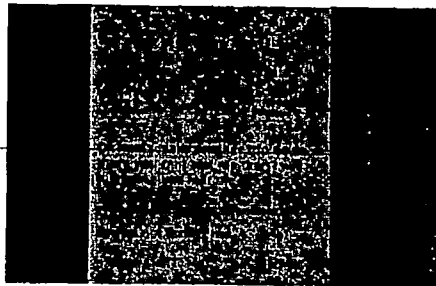
**i13-1029(60).jpg**  
19K



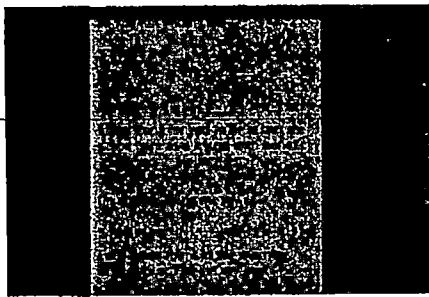
**i13-1029(61).jpg**  
21K



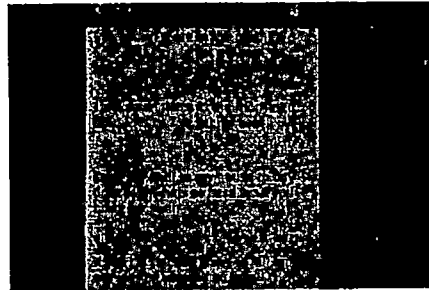
**i13-1029(62).jpg**  
23K



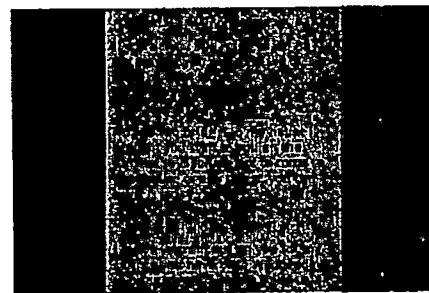
**i13-1029(63).jpg**  
20K



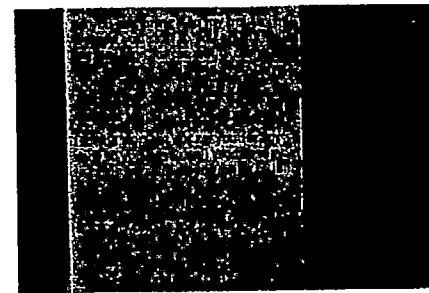
**i13-1029(64).jpg**  
17K



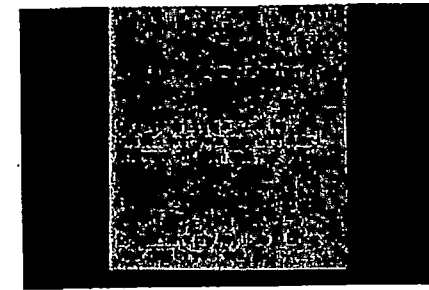
**i13-1029(65).jpg**  
23K



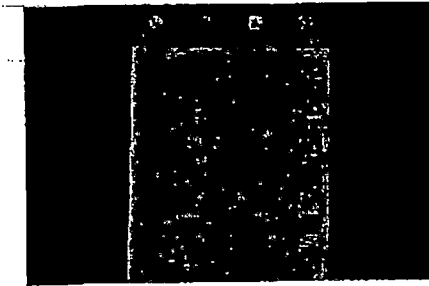
**i13-1029(66).jpg**  
27K



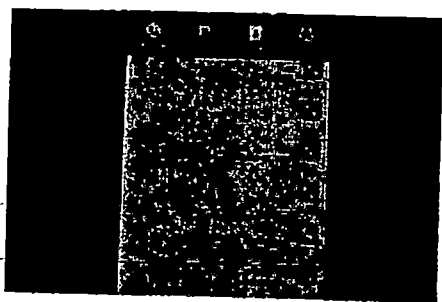
**i13-1029(67).jpg**  
26K



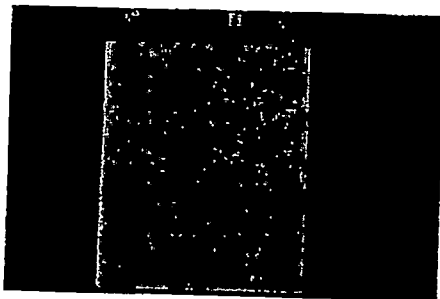
**i13-1029(68).jpg**  
22K



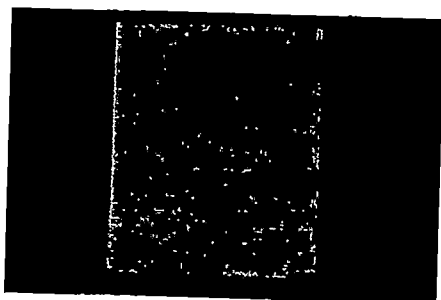
**i13-1029(69).jpg**  
24K



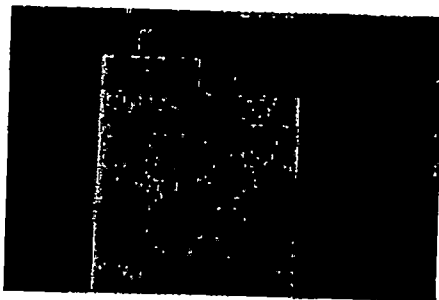
**i13-1029(70).jpg**  
23K



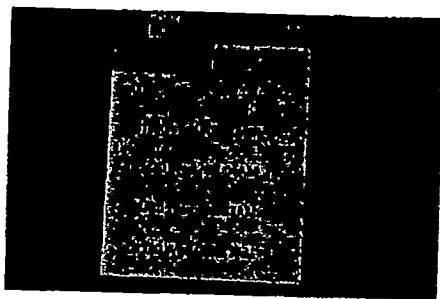
**i13-1029(71).jpg**  
23K



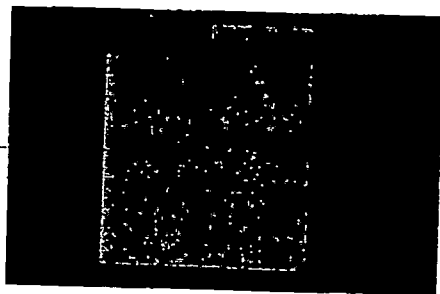
**i13-1029(72).jpg**  
21K




**i13-1029(73).jpg**  
23K





**i13-1029(74).jpg**  
22K





**i13-1029(75).jpg**  
22K

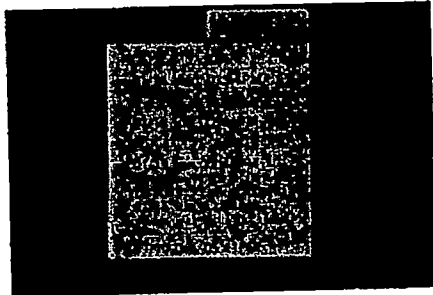
 **i13-1029(76).jpg**  
22K

 **i13-1029(77).jpg**  
23K


 **i13-1029(78).jpg**  
17K


 **i13-1029(79).jpg**  
23K


 **i13-1029(80).jpg**  
21K





**i13-1029(81).jpg**  
21K


 **i13-1029(1).pdf**  
842K


 **i13-1029(2).pdf**  
764K

 **i13-1029(82).jpg**  
23K


 **i13-1029(83).jpg**  
16K


 **i13-1029(84).jpg**  
24K


 **i13-1029(85).jpg**  
22K


 **i13-1029(86).jpg**  
24K

 **i13-1029(87).jpg**  
24K


 **i13-1029(88).jpg**  
22K


 **i13-1029(89).jpg**  
25K

 **i13-1029(90).jpg**  
33K

 **i13-1029(91).jpg**  
31K


 **i13-1029(92).jpg**  
26K


 **i13-1029(93).jpg**  
34K


 **i13-1029(94).jpg**  
19K


**i13-1029(95).jpg**


 19K


 I13-1029(96).Jpg  
19K


 I13-1029(97).Jpg  
27K


 I13-1029(98).Jpg  
34K


 I13-1029(99).Jpg  
35K

 I13-1029(100).Jpg  
22K


 I13-1029(101).Jpg  
17K

 I13-1029(102).Jpg  
28K


 I13-1029(103).Jpg  
17K

 I13-1029(104).Jpg  
16K


 I13-1029(105).Jpg  
19K


 I13-1029(106).Jpg  
24K


 I13-1029(107).Jpg  
20K


 I13-1029(108).Jpg  
20K


 I13-1029(109).Jpg  
34K

 I13-1029(110).Jpg  
29K


 I13-1029(111).Jpg  
20K


 I13-1029(112).Jpg  
15K

 I13-1029(113).Jpg  
23K

 I13-1029(114).Jpg  
23K


 I13-1029(115).Jpg  
14K


 I13-1029(116).Jpg  
12K


 I13-1029(117).Jpg  
25K

 I13-1029(118).Jpg  
24K

 I13-1029(119).Jpg  
13K

 I13-1029(120).Jpg  
15K

 I13-1029(121).Jpg  
22K

 I13-1029(122).Jpg  
24K

 I13-1029(123).Jpg  
29K

Tue, Jan 21, 2014 at 2:09 PM

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: busta mosley <temosley@sc.rr.com>, Charles Verner <lawyer@sc.rr.com>  
Cc: Alice Douglas <adouglas@greenwoodsc.gov>

Mr. Mosley and Mr. Verner:

These are the photos of the text messages b/w Mr. Anderson and the victim. Mrs. Douglas has also mailed you both a disc of these photos. In addition, there is a video that Mr. Anderson sent the victim and it is not included within this attachment. However, a copy of that video has been mailed to you both as well. You should each be receiving 2 discs (one containing pictures of txt messages b/w victim and Mr. Anderson and the other is a copy of a video Mr. Anderson sent the victim) hopefully by Wednesday. Mrs. Douglas may be able to email you a copy of that video; however, the file containing that video may be too large to email and it would not send to my email address. Thanks.  
-Taylor


Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199


----- Forwarded message -----  
From: Alice Douglas <adouglas@greenwoodsc.gov>  
Date: Tue, Jan 21, 2014 at 1:53 PM  
Subject:  
To: tdaniel@greenwoodsc.gov

---

144 attachments

 I13-1029(124).Jpg  
22K

 I13-1029(125).Jpg  
24K














 I13-1029(126).Jpg  
27K

 I13-1029(127).Jpg  
25K

5/1/2017

Greenwood County South Carolina Mail - (no subject)

799

-  23K
-  i13-1029(114).jpg  
23K
-  i13-1029(115).Jpg  
14K
-  i13-1029(116).jpg  
12K
-  i13-1029(117).Jpg  
25K
-  i13-1029(118).Jpg  
24K
-  i13-1029(119).jpg  
13K
-  i13-1029(120).Jpg  
15K
-  i13-1029(121).jpg  
22K
-  i13-1029(122).Jpg  
24K
-  i13-1029(123).Jpg  
29K
-  i13-1029(1).pdf  
842K
-  i13-1029(2).pdf  
764K

---

Thomas E Mosley <temosley@sc.rr.com>  
To: Taylor Daniel <tdaniel@greenwoodsc.gov>

Tue, Jan 21, 2014 at 4:39 PM

[Quoted text hidden]

We did receive 144 attachments of pictures of text messages from a phone along with pictures of a vehicle. These are not the documented internal text messages but photographs of the text messages as found on the phone itself. Are teh photographs of the alleged car the parties were in that night? There is also some photographs of the phone history is this correct? Mosley

---

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Thomas E Mosley <temosley@sc.rr.com>

Wed, Jan 22, 2014 at 6:30 AM

I would have to review the discovery to answer the question of whether the photos of the vehicle is the same vehicle the parties are alleged to have been in the morning of the assault; so I'm not sure. Also, these are photos of the text messaging b/w the victim and Mr. Anderson.

Until we get a file stamped copy from the Clerk's office of your updated notice of appearance/letter of rep, which contains you and Mr. Anderson's signature denoting that you and he have agreed to resume the representation and that Mr. Verner has been terminated, we are proceeding as if Mr. Verner is still the attorney of record. Additionally, it would be best if Mr. Verner signed off on this as well to reduce any further ambiguity on the status of Mr. Anderson's representation.

However, our Office will continue to keep you in the loop with all discovery issues and scheduling while awaiting that above referenced notice of appearance/letter of rep. You recall in November that Mr. Verner told Judge Keesley that he actually thought the Public Defender's Office was representing Mr. Anderson the entire time you represented him prior to being relieved. Once you were granted leave to withdraw and Mr. Verner was officially put on the record as Mr. Anderson's attorney, subsequently around Thanksgiving you informed our Office that you were back on the case due to Mr. Anderson's family paying your additional fee.

800  
5/1/2017

Greenwood County South Carolina Mail - (no subject)

Our Office is obviously in a difficult position because we are trying to give Mr. Anderson his day in court in a timely and fair manner, but the back and forth on who will actually be his defense attorney at trial needs to be definitively sorted out by the end of this week. Mr. Anderson is the first trial scheduled for the court wk of 2/10/14. We had a somewhat similar situation with you and Christopher Penny back in October when you appeared before Judge Hocker to be relieved. Mr. Anderson has been in pretrial confinement now for one year and this would be a short trial, and would not involve too many witnesses. Hopefully by today or tomorrow you should receive in the mail the discs of the photos/video and they should open if you have the updated media players capable of reading such discs. Perhaps you should go to Best Buy (Geek Squad) if you are still having trouble opening the discs, at least for the purposes of viewing the video Mr. Anderson sent the victim. The 144 pictures have already been emailed to you of course.

Thank you Mr. Mosley.

Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

[Quoted text hidden]

---

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Dale Scott <dscott@greenwoodsc.gov>

Wed, Jan 22, 2014 at 6:31 AM

What I sent to Mosley.

Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

[Quoted text hidden]

---

Dale Scott <dscott@greenwoodsc.gov>  
To: Taylor Daniel <tdaniel@greenwoodsc.gov>

Wed, Jan 22, 2014 at 9:04 AM

I love it!

---

From: Taylor Daniel [mailto:tdaniel@greenwoodsc.gov]  
Sent: Wednesday, January 22, 2014 6:31 AM  
To: Dale Scott  
Subject: Fwd: Fwd:

5/1/2017

Greenwood County South Carolina Mail - (no subject)

801

[Quoted text hidden]

---

**Taylor Daniel** <tdaniel@greenwoodsc.gov>  
**To: Thomas E Mosley** <temosley@sc.rr.com>

Thu, Jan 23, 2014 at 6:34 AM

updated trial notice (Mr. Anderson is the first case the State intends to call to trial the court wk of 2/10/14).

Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

[Quoted text hidden]

---

 **Henry Delos Anderson-trial notice letter, Mosley, 2014.doc**  
160K



Taylor Daniel <tdaniel@greenwoodsc.gov>

---

**Newberry Trial docket. Week of February 10, 2014**

2 messages

Mon, Jan 27, 2014 at 12:37 PM

**Dale Scott** <dscott@greenwoodsc.gov>

To: faddyse@sccourts.org, faddyj@sccourts.org, faddyic@sccourts.org  
Cc: temosley@sc.rr.com, Charles Verner <lawyer@sc.rr.com>, "W. Chad Jenkins" <cjenkins@popeandhudgens.com>, pdjohnson@johnsonbarnette.com, mmoses@moseslawsc.com, Taylor Daniel <tdaniel@greenwoodsc.gov>, Robert Dennis <RDennis@ncso.sc.gov>, Kevin Atkins <KAtkins@cityofnewberry.com>, Alice Douglas <adouglas@greenwoodsc.gov>, bfolk@newberrycounty.net, dsimmons@ppp.state.sc.us, David Stumbo <dstumbo@greenwoodsc.gov>, Shane Kitchen <SKitchen@ncso.sc.gov>

Dear Judge Addy,

For the week of February 10, 2014 in Newberry County we have the following trials scheduled (listed in tentative order)

**Henry Anderson—CSC 1<sup>st</sup>, Kidnapping, Pointing and Presenting, Poss. Of Weapon During Violent Crime**

Represented by Thomas Mosley and Charles Verner

**Christopher Robertson-CSC 1<sup>st</sup>**

Represented by Charles Verner

**Thurmond Salters-Attempted Murder x 4, Conspiracy, poss. Weapon during violent crime, discharging a weapon into an occupied dwelling**

Represented by Charles Verner

**Benjamin Hellard-A&B 1<sup>st</sup>, DUI, Discharging Firearm while Intoxicated**

Represented by Chad Jenkins

**David Kingsmore-Attempted Murder**

Represented by Pope Johnson and Marion Moses

---

Mon, Jan 27, 2014 at 12:51 PM

**Charles Verner** <lawyer@sc.rr.com>

To: Dale Scott <dscott@greenwoodsc.gov>

Cc: faddyse@sccourts.org, faddyj@sccourts.org, faddyic@sccourts.org, temosley@sc.rr.com, "W. Chad Jenkins" <cjenkins@popeandhudgens.com>, pdjohnson@johnsonbarnette.com, mmoses@moseslawsc.com, Taylor Daniel <tdaniel@greenwoodsc.gov>, Robert Dennis <RDennis@ncso.sc.gov>, Kevin Atkins <KAtkins@cityofnewberry.com>, Alice Douglas <adouglas@greenwoodsc.gov>, bfolk@newberrycounty.net, dsimmons@ppp.state.sc.us, David Stumbo <dstumbo@greenwoodsc.gov>, Shane Kitchen <SKitchen@ncso.sc.gov>

Gentlemen, a correction—

**Henry Anderson** is represented by Thomas Mosley, not Charles Verner

[Quoted text hidden]

---

 lawyer.vcf  
1K



Taylor Daniel <tdaniel@greenwoodsc.gov>

**(no subject)**  
6 messages

Wed, Feb 5, 2014 at 10:49 AM

Alice Douglas <adouglas@greenwoodsc.gov>  
To: Taylor Daniel <tdaniel@greenwoodsc.gov>

Alice S. Douglas  
Paralegal  
Newberry County Solicitor's Office  
Newberry, SC 29108  
(803) 321-2123  
(803) 321-2199 (FAX)  
adouglas@greenwoodsc.gov

---

Henry Anderson's journal.pdf  
1464K

Wed, Feb 5, 2014 at 11:33 AM

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: busta mosley <temosley@sc.rr.com>, Dale Scott <dscott@greenwoodsc.gov>

Mr. Mosley,

Please find the journal entries of Mr. Anderson attached in this email (5 pgs). This journal was seized by the NCSO once they executed a search warrant on Mr. Anderson's vehicle. This journal was listed on the search warrant return, which was part of the discovery that was transmitted to you. This journal and other physical evidence seized has been available for inspection and/or copying since the inception of this case. See you on Monday next week. Thanks.  
-Taylor

Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

[Quoted text hidden]

---

Henry Anderson's journal.pdf

1464K

---

Thomas E Mosley <temosley@sc.rr.com>  
To: Taylor Daniel <tdaniel@greenwoodsc.gov>

Wed, Feb 5, 2014 at 7:15 PM

[Quoted text hidden]

this along with other discovery discrepancies will be brought to the court especially difficulties with the other assistant solicitor. I have never been informed of this information. Mosley

---

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Dale Scott <dscott@greenwoodsc.gov>

Thu, Feb 6, 2014 at 6:24 AM

Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

[Quoted text hidden]

---

Dale Scott <dscott@greenwoodsc.gov>  
To: Taylor Daniel <tdaniel@greenwoodsc.gov>

Thu, Feb 6, 2014 at 6:31 AM

The journal, obviously, we just got. We'll need to look thru the file, pcms and my emails to document where he's gotten discovery

Sent from my iPhone

[Quoted text hidden]

---

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Dale Scott <dscott@greenwoodsc.gov>

Thu, Feb 6, 2014 at 6:45 AM

Definitely. We can't spoon feed this guy. The onus is on him to actually read through the discovery and determine what physical evidence has been seized so that he can inspect it. Clearly, on the s.w. return it lists the notebook/journal as being seized from the car.

Also, Garrett wanted to know about Khali Houseal and I told him we pulled the indictment on Houseal since there is a prelim scheduled. I'll be by Laurens today to meet with Nick Moye about a home invasion case I'm second chairing w/ Margaret.

Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

806  
5/1/2017

Greenwood County South Carolina Mail - (no subject)

[Quoted text hidden]



Taylor Daniel &lt;tdaniel@greenwoodsc.gov&gt;

**FW:**

3 messages

**Dale Scott** <dscott@greenwoodsc.gov>

Tue, Feb 4, 2014 at 4:41 PM

To: faddyjc@sccourts.org, faddyj@sccourts.org, temosley@sc.rr.com, Taylor Daniel &lt;tdaniel@greenwoodsc.gov&gt;

Regarding the Henry Anderson case (first on trial docket next week), Counsel for the defendant filed the attached motion with the Newberry Clerk of Court yesterday. Our office received it today and I just wanted your Honor to review the motion which seems to have some novel legal theories proposed. This will probably be addressed in pre-trial motions but I wanted to pass it on in case legal research is required. The defense attorney, Thomas Mosley, Esq. is copied on this email. Thanks

**From:** Alice Douglas [mailto:adouglas@greenwoodsc.gov]**Sent:** Tuesday, February 04, 2014 4:39 PM**To:** Dale Scott**Subject:**

Alice S. Douglas

Paralegal

Newberry County Solicitor's Office

Newberry, SC 29108

(803) 321-2123

(803) 321-2199 (FAX)

adouglas@greenwoodsc.gov

**Motion Allowing Evidence of Prior Sexual Conduct.pdf**  
165K
**Taylor Daniel** <tdaniel@greenwoodsc.gov>

Wed, Feb 5, 2014 at 2:44 PM

To: Dale Scott &lt;dscott@greenwoodsc.gov&gt;

Cc: faddyjc@sccourts.org, faddyj@sccourts.org, busta mosley &lt;temosley@sc.rr.com&gt;

Your Honor,

Attached is the "State's Motion in Limina," in regards to the Henry Anderson case (first on the trial docket the wk of 2/10/14). Defense counsel, Thomas Mosley, has been copied on this email. Thanks.


-Taylor

Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

[Quoted text hidden]

---

 **State's Motion in Limine.pdf**  
121K

Thu, Feb 6, 2014 at 8:46 AM


Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Ruston Neely <rneely@greenwoodsc.gov>

Taylor Daniel  
Assistant Solicitor  
Newberry County Judicial Center  
Post Office Drawer 10  
Newberry, SC 29108

Laurens office phone: (864) 984-2202  
Laurens office fax: (864) 984-6200  
Newberry office phone: (803) 321-2123  
Newberry office fax: (803) 321-2199

[Quoted text hidden]

---

 **Motion Allowing Evidence of Prior Sexual Conduct.pdf**  
165K

|                                                                                                                                                    |                                                                                                                                                                                                                                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>State of South Carolina<br/> County of Newberry<br/> State of South Carolina,<br/> Plaintiff,<br/> vs.<br/> Henry Anderson,<br/> Defendant.</p> | <p>In the Court of General Sessions of the Eighth Judicial Circuit<br/> Indictment No: 2013-0238;0239;0240,0584<br/> <b>MOTION ALLOWING EVIDENCE OF PRIOR SEXUAL CONDUCT AND VICTIM'S MENTAL STATE PRIOR TO ALLEGED CRIMINAL ACTS HEREIN AS ALLEGED</b></p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

FILED  
NEWBERRY COUNTY  
2014 FEB 3 AM 11 22  
JACKIE S. BOWERS  
CLERK OF COURT














TO: SOLICITOR, DAVID M. SUMBO EIGHTH JUDICIAL CIRCUIT  
PLEASE TAKE NOTICE that the Defendant, by and through Thomas E. Mosley undersigned counsel, will move on the tenth (10) day after service hereof at 10:00 a.m., or as soon thereafter as counsel may be heard, in the Newberry County Courthouse, Newberry, South Carolina, pursuant to the Rape Shield Statute and authoritative case law and other matters as herein brought to the attention of the Court for an Order of a in camera hearing of the victims prior sexual conduct, mental state and motion in limine and motion to suppress as follows.

**RAPE SHEILD ACT**

16-3-659 of the S.C. Code

Counsel for the Defendant herein motions this court to consider the Affidavit of the Defendant Henry Anderson ( see

FEB 04 2014

-  23K
-  I13-1029(114).jpg  
23K
-  I13-1029(115).jpg  
14K
-  I13-1029(116).jpg  
12K
-  I13-1029(117).jpg  
25K
-  I13-1029(118).jpg  
24K
-  I13-1029(119).jpg  
13K
-  I13-1029(120).jpg  
15K
-  I13-1029(121).jpg  
22K
-  I13-1029(122).jpg  
24K
-  I13-1029(123).jpg  
29K
-  I13-1029(1).pdf  
842K
-  I13-1029(2).pdf  
764K

Tue, Jan 21, 2014 at 4:39 PM

Thomas E Mosley <temosley@sc.rr.com>  
To: Taylor Daniel <tdaniel@greenwoodsc.gov>

[Quoted text hidden]

We did receive 144 attachments of pictures of text messages from a phone along with pictures of a vehicle. These are not the documented internal text messages but photographs of the text messages as found on the phone itself. Are teh photographs of the alleged car the parties were in that night? There is also some photographs of the phone history is this correct? Mosley

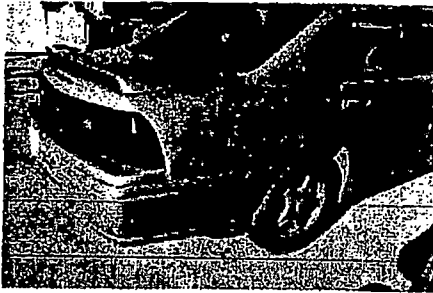
Wed, Jan 22, 2014 at 6:30 AM

Taylor Daniel <tdaniel@greenwoodsc.gov>  
To: Thomas E Mosley <temosley@sc.rr.com>

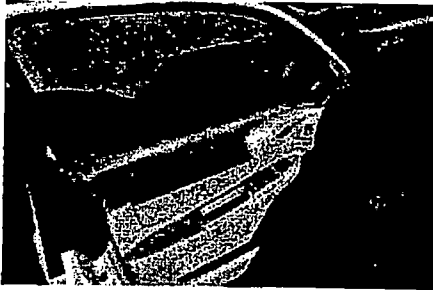
I would have to review the discovery to answer the question of whether the photos of the vehicle is the same vehicle the parties are alleged to have been in the morning of the assault; so I'm not sure. Also, these are photos of the text messaging b/w the victim and Mr. Anderson.

Until we get a file stamped copy from the Clerk's office of your updated notice of appearance/letter of rep, which contains you and Mr. Anderson's signature denoting that you and he have agreed to resume the representation and that Mr. Vemer has been terminated, we are proceeding as if Mr. Vemer is still the attorney of record. Additionally, it would be best if Mr. Vemer signed off on this as well to reduce any further ambiguity on the status of Mr. Anderson's representation.

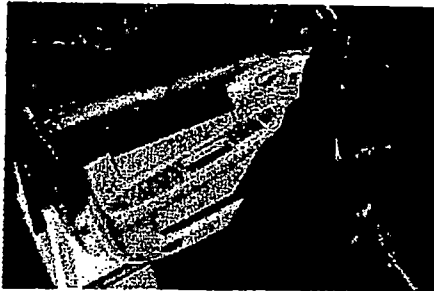
However, our Office will continue to keep you in the loop with all discovery issues and scheduling while awaiting that above referenced notice of appearance/letter of rep. You recall in November that Mr. Vemer told Judge Keesley that he actually thought the Public Defender's Office was representing Mr. Anderson the entire time you represented him prior to being relieved. Once you were granted leave to withdraw and Mr. Vemer was officially put on the record as Mr. Anderson's attorney, subsequently around Thanksgiving you informed our Office that you were back on the case due to Mr. Anderson's family paying your additional fee.



**i13-1029(128).jpg**  
27K




**i13-1029(129).jpg**  
26K





**i13-1029(130).jpg**  
27K

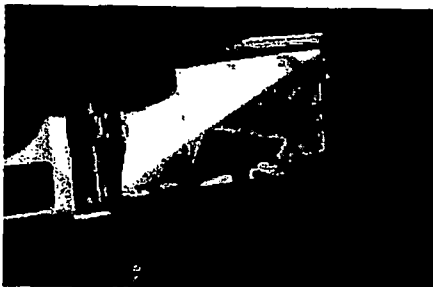


**i13-1029(131).jpg**  
29K

 **i13-1029(132).jpg**  
32K

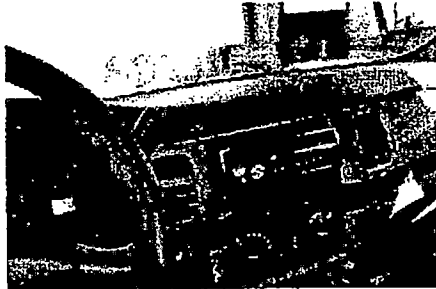
 **i13-1029(133).jpg**  
21K

 **i13-1029(134).jpg**  
25K



**i13-1029(135).jpg**  
23K

**i13-1029(136).jpg**  
32K



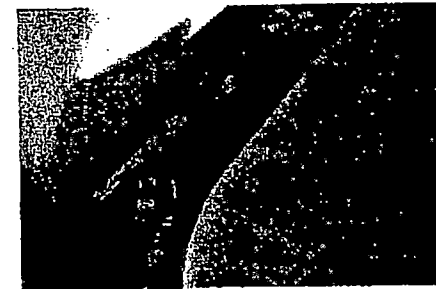
i13-1029(137).jpg  
26K



i13-1029(138).jpg  
26K



i13-1029(139).jpg  
26K

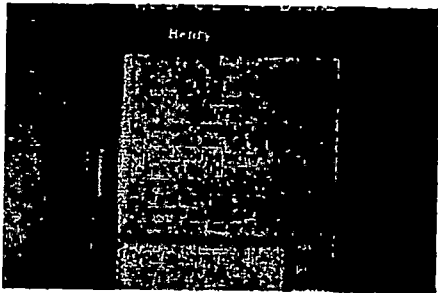


i13-1029(140).jpg  
20K

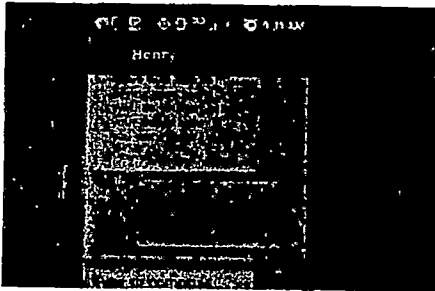
i13-1029(141).jpg  
21K



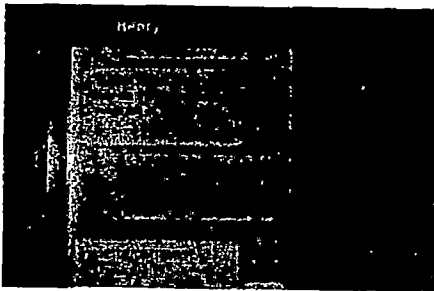
**i13-1029(143).jpg**  
26K



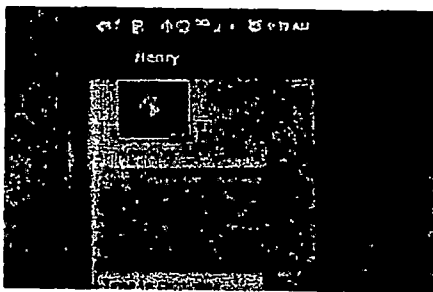
**i13-1029(1).jpg**  
25K




**i13-1029(2).jpg**  
25K




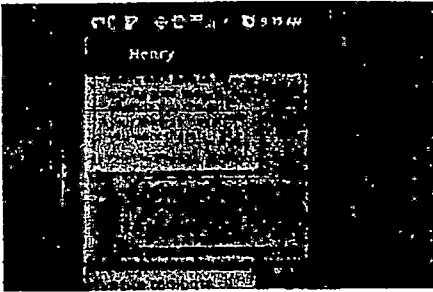
**i13-1029(3).jpg**  
24K



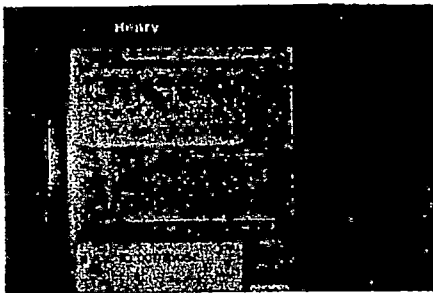
**i13-1029(4).jpg**  
25K

 **i13-1029(5).jpg**  
22K

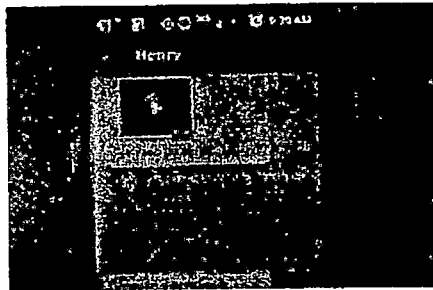
 **i13-1029(6).jpg**  
25K



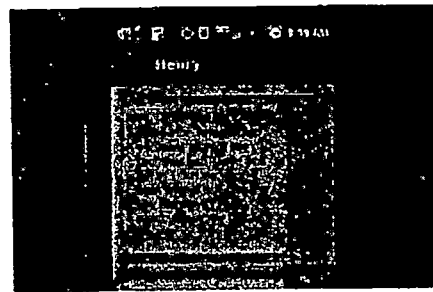
**i13-1029(7).jpg**  
25K



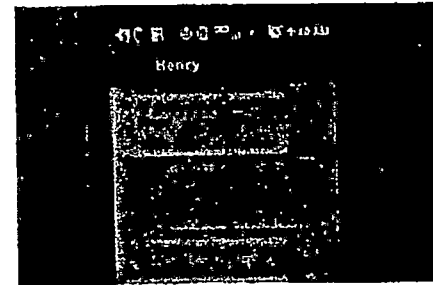
**i13-1029(8).jpg**  
24K



**i13-1029(9).jpg**  
25K

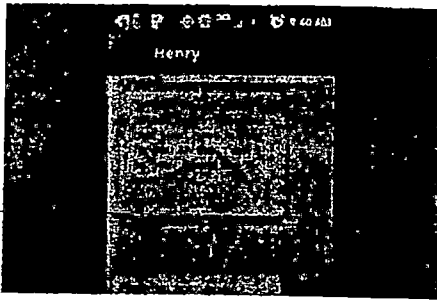


**i13-1029(10).jpg**  
25K

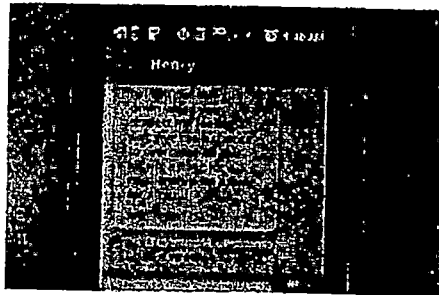
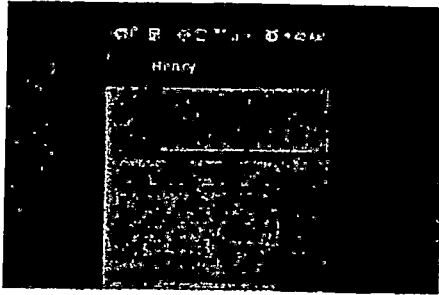


**i13-1029(11).jpg**  
24K

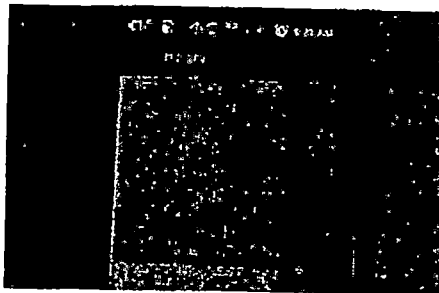
**i13-1029(12).jpg**  
25K



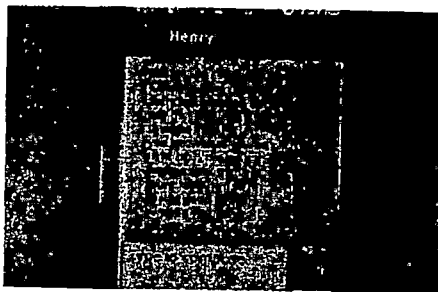
**i13-1029(13).jpg**  
25K



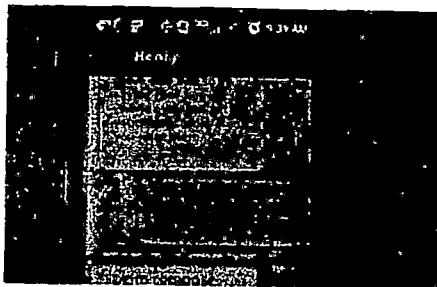
**i13-1029(14).jpg**  
25K




**i13-1029(15).jpg**  
22K

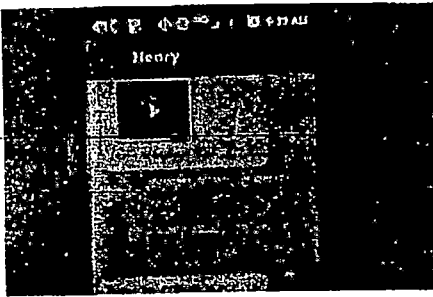


**i13-1029(16).jpg**  
25K

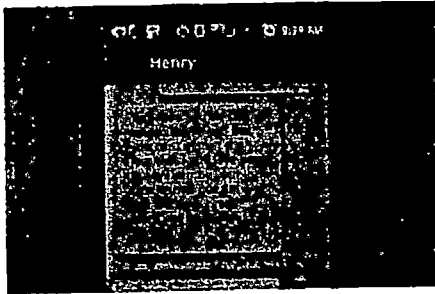


**i13-1029(17).jpg**  
25K

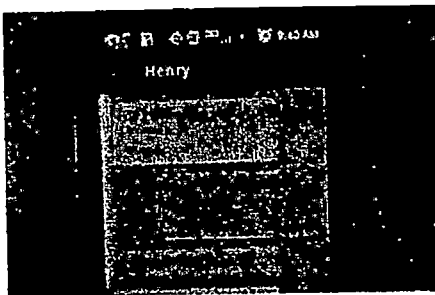
 **i13-1029(18).jpg**  
24K



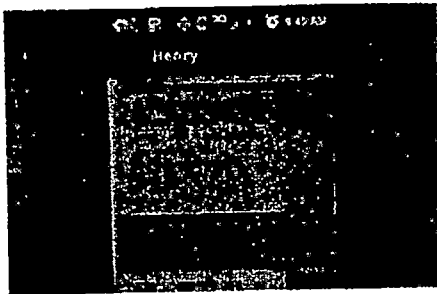
**i13-1029(19).jpg**  
25K



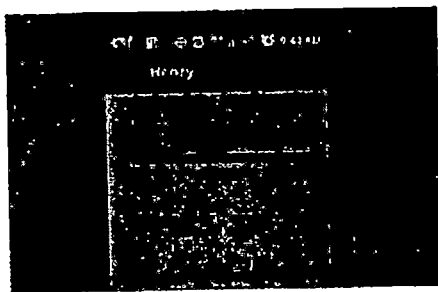
**i13-1029(20).jpg**  
25K




**i13-1029(21).jpg**  
24K




**i13-1029(22).jpg**  
25K

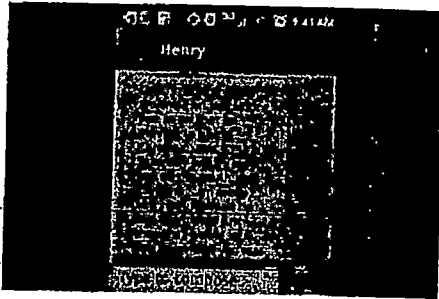



**i13-1029(23).jpg**  
25K


 **i13-1029(24).jpg**  
25K


 **i13-1029(25).jpg**  
24K


**i13-1029(26).Jpg**  
26K

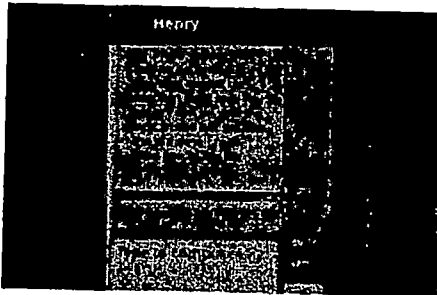


 **i13-1029(27).jpg**  
23K

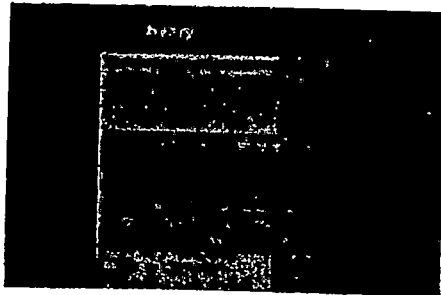
 **i13-1029(28).jpg**  
24K

 **i13-1029(29).jpg**  
23K

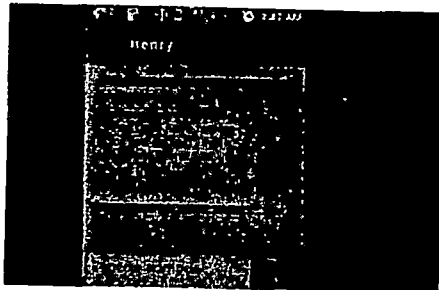
 **i13-1029(30).jpg**  
22K



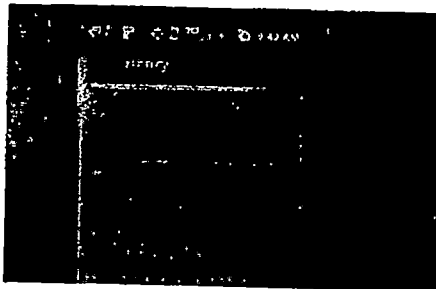
**i13-1029(31).jpg**  
23K



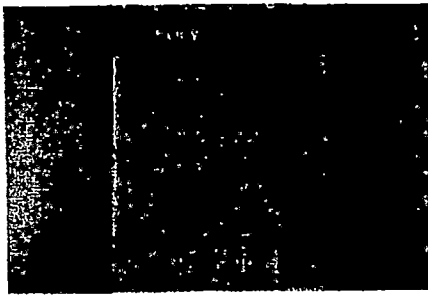
**i13-1029(32).jpg**  
21K



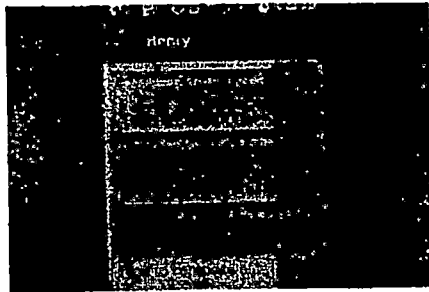
**i13-1029(33).jpg**  
24K



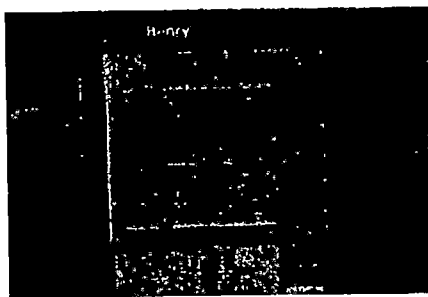
**i13-1029(34).jpg**  
25K



i13-1029(35).jpg  
23K



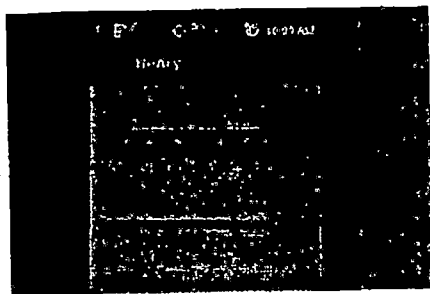
i13-1029(36).jpg  
23K



i13-1029(37).jpg  
21K



i13-1029(38).jpg  
20K

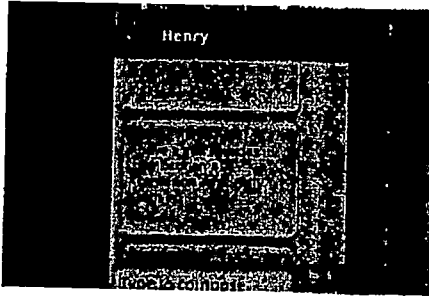



i13-1029(39).jpg  
20K




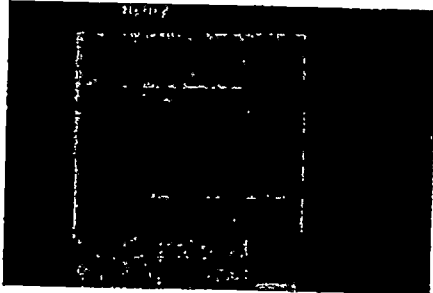
i13-1029(40).jpg  
18K

i13-1029(41).jpg  
21K



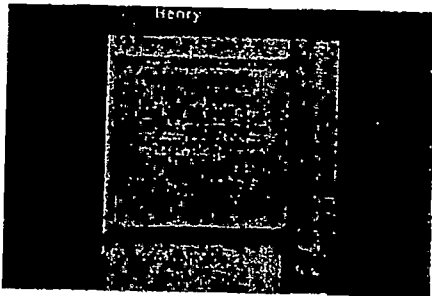
 **i13-1029(42).jpg**  
24K

 **i13-1029(43).jpg**  
24K

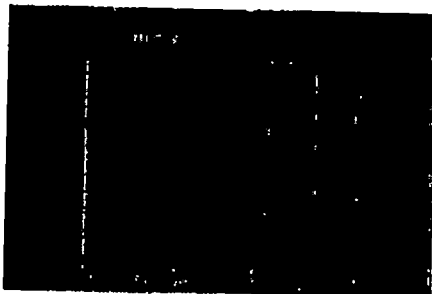


**i13-1029(44).jpg**  
18K

 **i13-1029(45).jpg**  
18K

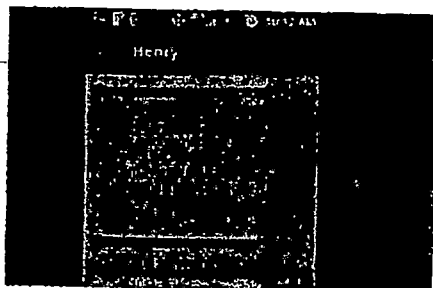


**i13-1029(46).jpg**  
23K





**i13-1029(47).jpg**  
22K

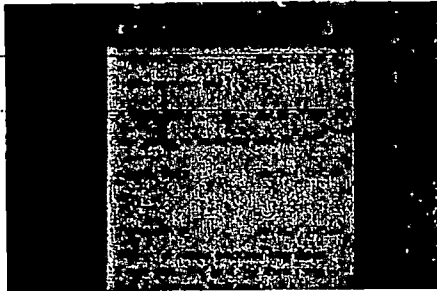
 **i13-1029(48).jpg**  
23K




**i13-1029(49).jpg**  
24K

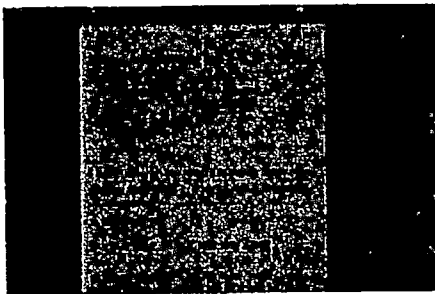
 **i13-1029(56).jpg**  
18K

 **i13-1029(57).jpg**  
19K

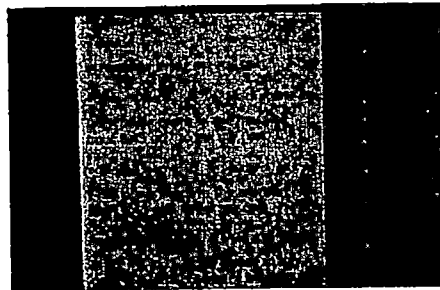


**i13-1029(58).jpg**  
19K

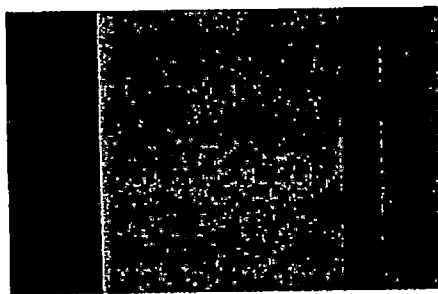
 **i13-1029(59).jpg**  
21K



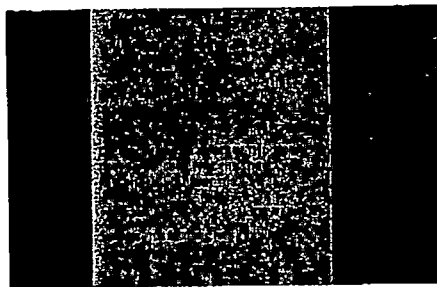
**i13-1029(60).jpg**  
19K




**i13-1029(61).jpg**  
21K

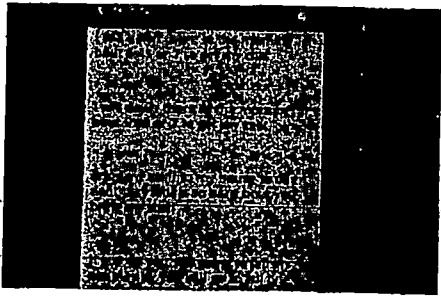


**i13-1029(62).Jpg**  
23K

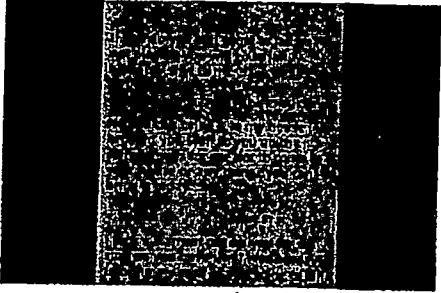


**i13-1029(63).jpg**  
20K

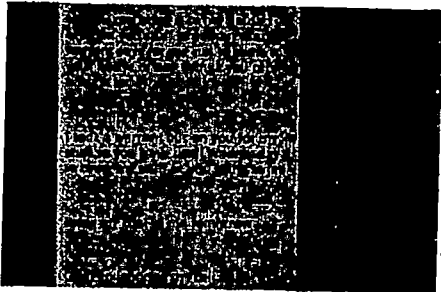
 **i13-1029(64).Jpg**  
17K



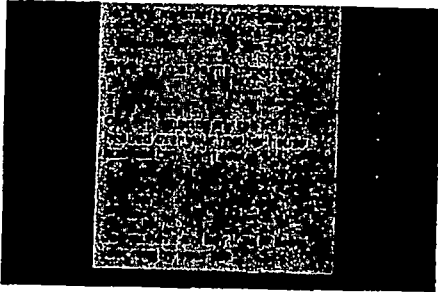
**i13-1029(65).jpg**  
23K



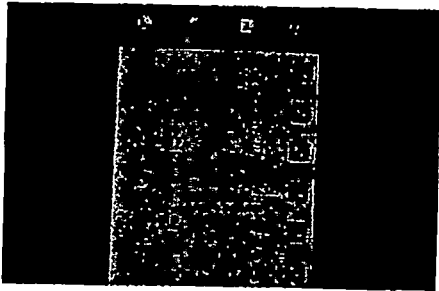
**i13-1029(66).jpg**  
27K



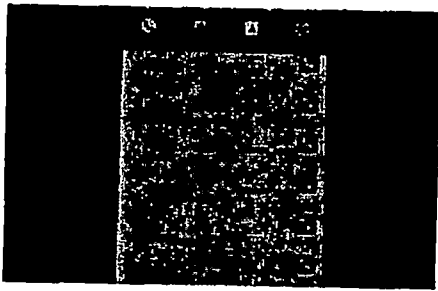
**i13-1029(67).jpg**  
26K



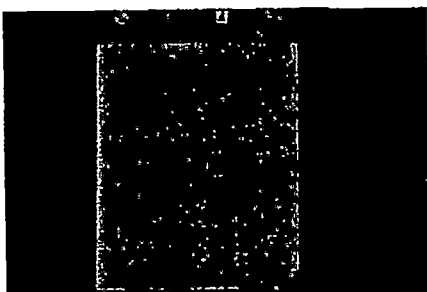
**i13-1029(68).jpg**  
22K



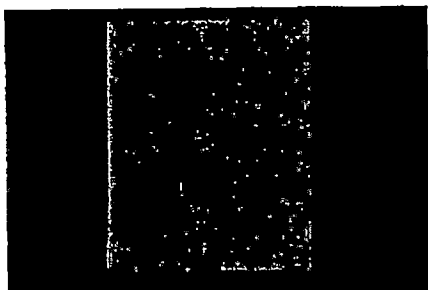
**i13-1029(69).jpg**  
24K



**i13-1029(70).jpg**  
23K



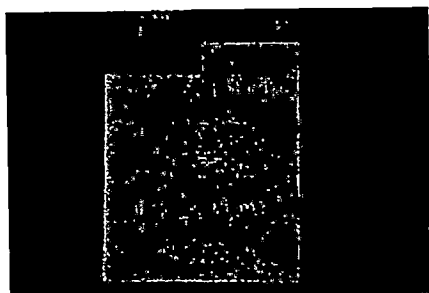
**i13-1029(71).jpg**  
23K



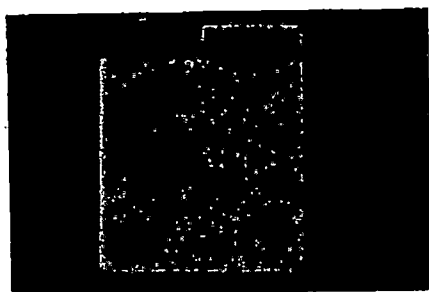
**i13-1029(72).jpg**  
21K



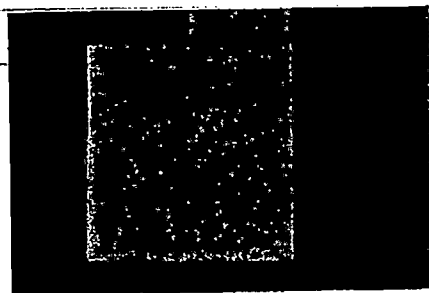
**i13-1029(73).jpg**  
23K



**i13-1029(74).jpg**  
22K




**i13-1029(75).jpg**  
22K





**i13-1029(76).jpg**  
22K


 **i13-1029(89).jpg**  
25K


 **i13-1029(90).jpg**  
33K

 **i13-1029(91).jpg**  
31K

 **i13-1029(92).jpg**  
26K

 **i13-1029(93).jpg**  
34K


 **i13-1029(94).jpg**  
19K

 **i13-1029(95).jpg**  
19K

 **i13-1029(96).jpg**  
19K

 **i13-1029(97).jpg**  
27K


 **i13-1029(98).jpg**  
34K


 **i13-1029(99).jpg**  
35K

 **i13-1029(100).jpg**  
22K


 **i13-1029(101).jpg**  
17K


 **i13-1029(102).jpg**  
28K

 **i13-1029(103).jpg**  
17K

 **i13-1029(104).jpg**  
16K

 **i13-1029(105).jpg**  
19K

 **i13-1029(106).jpg**  
24K

 **i13-1029(107).jpg**  
20K

 **i13-1029(108).jpg**  
20K

 **i13-1029(109).jpg**  
34K

 **i13-1029(110).jpg**  
29K

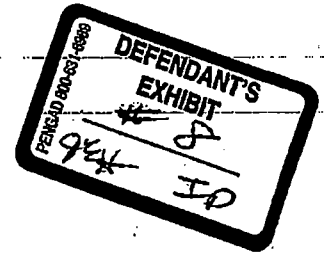
 **i13-1029(111).jpg**  
20K

 **i13-1029(112).jpg**  
15K

**i13-1029(113).jpg**

Date: 12-04-2013

To: Law Firm of Thomas E Mosley  
 P.O. Box 8362  
 Columbia, SC 29202



From: Henry Delos Anderson  
 3239 Louis Rich Rd  
 Newberry SC 29108

RE: I need my Rule 5/discovery ASAP!!!

Dear Mr Mosley,

I'm writing you because I would like my Rule 5. I understand  
 e talked about how it made you feel about me trying to get my  
 motion of discovery, but this aint your life that is on the line  
 when we go to trial on Jan 6, 2014. I told you the truth about  
 what happen that day. I want my Rule 5 so I can strategize  
 what to ask when we go take this case to trial. Mr. Mosley  
 please bring me my motion of discovery/Rule 5 or mail it to me.  
 bring it to me when you come back up here to talk to me  
 about the trial. Please get back to me with in 7 business  
 days with my Rule 5. Thank you very much for understanding  
 my concern about my Rule 5.

Henry D Anderson  
*Henry D Anderson*

**NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE COURT  
OF GENERAL SESSIONS**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY  
Court of General Sessions

FRANK B. ADDY JR., Circuit Court Judge

Case No. 2013 GS 0238,0239 0240

The State,

Respondent,

v.

HENRY ANDERSON

Appellant.

**NOTICE OF APPEAL**

HENRY ANDERSON appeals his conviction and sentence in this case. The sentence was imposed by the Honorable FRANK B. ADDY JR. on FEBRUARY 14, 2014. [This appeal is taken from the SENTENCE of the Honorable FRANK B ADDY, R.,

Henry Anderson

Defendant Newberry County Detention Center

Other Counsel of Record:

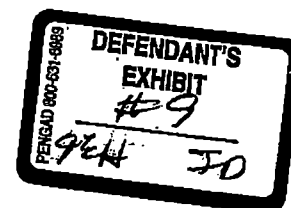
David M. Stumbo

Solicitor

Post Office Box 516

Greenwood South Carolina 29648

Attorney for Respondent



# The South Carolina Court of Appeals

-----The State, Respondent,

v.

Henry Delos Anderson, Appellant.

Appellate Case No. 2014-000360

The Honorable Frank R. Addy, Jr.  
Newberry County  
Trial Court Case No. 2013GS3600240

---

## ORDER

---

Counsel for the appellant, Mr. Thomas E. Mosley, has failed to cure the deficiencies as listed in the letter from the Court on February 28, 2014. Specifically that the notice of appeal was not formatted to comply with Rule 267(a) and Rule 203 of the SCACR. The notice of appeal was not accompanied by a redacted copy of the order(s) and/or sentencing sheet(s), as required by Rule 203(d)(B)(ii) of the SCACR. Also, a proof of service was not provided, as required by Rule 203(d)(B)(i) of the SCACR. No motion to be relieved as counsel was filed. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy

CLERK

Columbia, South Carolina

**FILED**

July 9, 2014



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

March 12, 2014

Mr. Thomas E. Mosley, Esquire  
PO Box 8362  
1018 Price Ave.  
Columbia SC 29202

Re: The State v. Henry D. Anderson  
Appellate Case No. 2014-000360

Dear Mr. Mosley:

This office is in receipt of your letter dated March 6, 2014. In order to be relieved as counsel you must file a motion under Rule 264, SCACR. I recommend you contact Appellate Defense to see if it has taken over representation in the case. Be sure to serve your client and opposing counsel with any motion to be relieved.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Henry Delos Anderson, 00358826  
Christopher Dale Scott, Esquire  
Salley W. Elliott, Esquire  
Robert Michael Dudek, Esquire



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

July 25, 2014

The Honorable Jackie S. Bowers  
PO Drawer 10  
Newberry SC 29108-0010

### REMITTITUR

Re: The State v. Henry D. Anderson  
Lower Court Case No. 2013GS3600240  
Appellate Case No. 2014-000360

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Henry Delos Anderson, 00358826  
Christopher Dale Scott, Esquire  
Alan McCrory Wilson, Esquire  
Salley W. Elliott, Esquire  
Robert Michael Dudek, Esquire  
Thomas E. Mosley, Esquire

|                         |   |                           |
|-------------------------|---|---------------------------|
| STATE OF SOUTH CAROLINA | ) |                           |
|                         | ) | COURT OF GENERAL SESSIONS |
| COUNTY OF NEWBERRY      | ) |                           |
| State of South Carolina | ) |                           |
|                         | ) |                           |
| Plaintiff,              | ) |                           |
| v.                      | ) | Case No.                  |
|                         | ) | 2013A3610100064, 65, 66   |
| Henry D. Anderson,      | ) |                           |
|                         | ) |                           |
| <u>Defendant.</u>       | ) |                           |

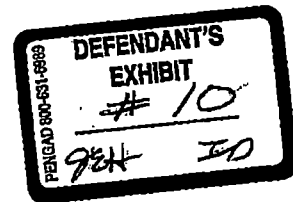
ORIGINAL  
TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on March 22, 2013, before The Honorable Frank R. Addy, Jr, Newberry County Courthouse; attended by counsel as follows:

APPEARANCES:

Christopher Dale Scott, Esq.  
Appearing for The State.

Thomas E. Mosley, Esq.,  
Appearing for The Defendant.



Vivian H. Cross  
Circuit Court Reporter – 10<sup>th</sup> Judicial Circuit  
P O Box 704  
Belton, South Carolina 29627  
[vcross@sccourts.org](mailto:vcross@sccourts.org)

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

831

I-N-D-E-X

STATE OF SOUTH CAROLINA v. HENRY D. ANDERSON  
WARRANT NOS: 2013A3610100064, 65, 66  
MARCH 22, 2013

|                              | <u>PAGE NO.</u> |
|------------------------------|-----------------|
| COLLOQUY                     | 3               |
| COURT REPORTER'S CERTIFICATE | 15              |

E-X-H-I-B-I-T-S

IDENTIFICATION ENTERED

\*\*\*\*\*NO EXHIBITS OFFERED\*\*\*\*\*

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

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

12:15 P.M.

**THE COURT:** Solicitor, ready whenever you are.

**MR. SCOTT:** Okay. Thank you, Your Honor, before you is Henry Anderson. He is represented by Thomas Mosley. Uh, this is a, I believe, his initial Bond setting. It's my understanding that Mr. Mosley, uh, intends to represent him for the Bond purposes only at this time.

He is charged with a CSC first, kidnapping, pointing and presenting. This all stems from a date of January 30<sup>th</sup> 2013.

**THE COURT:** All right, Solicitor, if you would, give me a little bit of background on what The State is alleging on this particular incident. If you have his criminal history, share that with me as well, please.

**MR. SCOTT:** Your Honor, the morning of January 30<sup>th</sup> 2013, the victim in this case, Towanda

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

(phonetic) Brown, who is in the courtroom, um, was preparing for work in the early morning hours.

She had received a text, uh, from the Defendant stating that he was on his way to her home.

Um, backtracking a little bit, they had been in a relationship that had, um, ended a month prior. He had, a week before this date -- January 30<sup>th</sup> -- sent her a video via, uh, cell phone -- I guess like a text video -- in which he had a gun pointed at his head. Uh, sort of a cry for them to get back together is what I understand it to be.

So, on the morning of January 30<sup>th</sup>, he sent her another text that we would, uh, be going to her house, uh, [REDACTED] here in Newberry. Um, it's my understanding she didn't think a whole lot about it because she stepping out of her house to go to work and he confronted her at that time. He had the -- uh, a pistol and he forcibly, uh, took her into his automobile, drove her a --

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

approximately a mile down the road to a secluded area and there he raped her.

Uh, after this he made statements to the effect that if she told anyone, um, he would kill everyone. She took that to mean her two children, her mother, step-dad, and sister who -- who she lived with at the location where he confronted her.

Um, Your Honor, he -- as far as factors to consider today besides the facts of the underlying case and the allegations -- I understand he has, uh, family -- perhaps family -- in North Carolina as well as ties to Detroit. I understand his mother had lived in Detroit at some point; may be deceased at this point, but he does have those connections.

Um, the nature of the crimes, in my opinion, make him a danger to the community and especially to the -- the victim in this case, uh, who, I'm told, does not wish to speak on the record today.

As far as a prior criminal history, he has none. Uh, I think those are the substantive facts of the case, Your Honor.

**THE COURT:** Thank you. Mr. Mosley, let me hear you on the issue of Bond, please, sir.

**MR. MOSLEY:** Yes, thank you, Your Honor. Uh, as The Court knows, I'm Thomas Mosley.

Seated in the courtroom, Your Honor, is his biological uncle and his -- his, uh, uncle is the brother of his father. Uh, his lovely wife, and his uncle's, uh, sister. They are all Andersons.

Uh, Your Honor, you know, the young man is twenty-four years old. Uh, he was living at [REDACTED] in Mountville, South Carolina. It's my understanding that he actually lives some twenty miles away from where the victim actually lives.

Uh, not to get into the facts too much, Your Honor, but it's my understanding that there had been some discussions between the madame and this

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

young man with regard to her having had a miscarriage, uh, and there was some discussion between them about -- about, uh, you know, their plans to have a baby together, you know, so forth and so on.

Uh, Your Honor, his work experience, uh, he has worked for a company by the name...

His last job that he recently lost was as a machine operator and he apparently is experienced as -- as a forklift driver and he's worked for the company called Forushia (phonetic) and he's worked for the FUJI Film Plant in Green- -- in Greenville. Greenwood, excuse me, Your Honor. Um, he has no children and he has his GED. And he learned the skill of -- of machine operation, uh, on-the-job training.

Um, you know, he tells me that, um, if you -- you know, his brother -- and his Uncle's here, said that he could live with him in Greenwood. Or he could go---

**MR. HENRY ANDERSON:** In Greenville.

**MR. MOSLEY:** ---Greenville, or he could go back to live with his, uh -- um, Aunt in Mountville, South Carolina. ]

But -- but The Court, uh, should be relieved of any danger to the victim, per se, because there's no possibility of them, you know, just casualty running into each other.

Uh, I think that the length of time between January 30<sup>th</sup> and today, um, ideally gives enough, um, peaceful atmosphere for people's temperament, you know, to cool down, uh, so that they won't have any chance of engage (sic) each other.

Uh, I -- I don't hear of any type of detail from the Solicitor with regard to this notion of flight to those two states he's given. And as far as we're concerned, that's hearsay because he gives no information as to where the Mother -- you might want to ask him does he have those type of family members.

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

But I think the law, um, unequivocally dictates that he's presumed innocent 'til proven guilty, um, and -- and that there's some consideration for, um...

I mean, the crime itself, I've -- I've never seen any case law or any statutory law that makes the crime itself indicative of -- of violence. Uh, you know, that he's a -- a threat to somebody.

Um, you know, I believe there was mention of a gun, but it's my understand that they got the gun that -- that they allege he had, um, from his grandfather. They got it out the house.

Uh, also, Your Honor, it -- it seems sort of -- without getting into the facts too much -- sort of awkward for him to be able to actually extricate somebody from a dwelling place at gunpoint and do this when there's acknowledgement, at this particular point, that they were having sex.

We -- we heard nothing from them with regard

to rape protocol or any evidence, even though this is not the time for that. That there's some -- some notion that this is so serious -- which it is serious, and I took it seriously and I've informed the family, but he's still presumed innocent until proven guilty.

And, you know, I've been around long enough to see this as maybe one of those big pots of curly mustard greens that over time boil down to nothing.

We would ask The Court, respectfully, for a -- a ten percent cash Bond, uh, you know, whereby it could be affordable. I -- I don't think, necessarily, a surety Bond. And if The Court desires to question him or the family, you know, we would respect that.

Thank you, Your Honor.

**THE COURT:** Solicitor, was there any sort of rape kit done?

**MR. SCOTT:** There was, Your Honor.

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

**THE COURT:** Has that been delivered to SLED,  
I assume?

**MR. SCOTT:** It's still pending; yes, Your  
Honor. The results are still pending, but there  
was one conducted.

**THE COURT:** All right. But it is at SLED and  
it's on point. You'll get a Schmerber hearing, I  
presume?

**MR. SCOTT:** That's correct, Your Honor.

**THE COURT:** All right. Well, Mr. Mosley,  
I -- I hear what you're saying and you're correct.  
But the only question that I have to decide is  
what Bond is necessary to assure his appearance at  
trial. Obviously we're not trying this case  
today. Uh, my concern is not so much that they  
may inadvertently bump into each other on the  
street, my concern is that, uh---

**MR. MOSLEY:** Your Honor -- Your Honor, I  
would---

**THE COURT:** ---my concern is quite simply

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

that Mr. Anderson might have the tendency to, perhaps, uh, desire to rejoin or reacquaint himself with her. So along those lines I'd be inclined to consider Bond---

**MR. MOSLEY:** Can I add one more factor that I was told I omitted?

**THE COURT:** Sure.

**MR. MOSLEY:** I think they might have a common location where they had some association at the same church and I -- and I don't know whether or not to bring that up. The family informed me that she and him were going to the same church. That may be good or bad, depending upon -- you know what I mean, God is important. But I don't know what that brings into him being able to attend church or her being able to attend church. Um, but that's some consideration.

**THE COURT:** If that's the case we would strongly -- assuming he would make Bond -- he would need to probably need to find a different

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

church to go to.

**MR. MOSLEY:** Right.

**THE COURT:** Uh, what I would -- what I'm thinking is that, uh, if anything I would place him on house arrest if he were to live in Greenville, which I think is better. That's further away than Mountville. He'd be under house arrest and that would be monitored by a GPS system of some kind. I don't know if the family has the resources to investigate that or to afford that.

**MR. MOSLEY:** Just can I -- can I just present his uncle up, Judge?

The Judge has just said GPS monitoring. In other words, that cost money. I think that's about what, a dollar a day or something?

**THE COURT:** More than that; I want to say it's around three hundred or something a day if you're in Greenville.

**MR. RANDY ANDERSON:** Three hundred a day?

**THE COURT:** I mean three hundred a month, I'm

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

sorry.

**MR. MOSLEY:** A month; a month.

(WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR  
A CONFERENCE, OFF THE RECORD.)

(WHEREUPON, PROCEEDINGS CONTINUED.)

**THE COURT:** What's your name, sir?

**MR. RANDY ANDERSON:** Randy Anderson.

**THE COURT:** Randy Anderson. Where do you  
live, Mr. Anderson?

**MR. RANDY ANDERSON:** I stay in Simpsonville.

**MR. MOSLEY:** Give him the address -- the  
address.

**MR. RANDY ANDERSON:** [REDACTED],  
Simpsonville, South Carolina.

**THE COURT:** [REDACTED] Greenville Drive?

**MR. RANDY ANDERSON:** [REDACTED].

**THE COURT:** Okay. Mr. Anderson, if I were to  
remand him into your custody, you would alert the  
authorities if he were to violate any of the terms  
of the Bond I would set?

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

**MR. RANDY ANDERSON:** Sure.

**THE COURT:** Let me take the matter under advisement; this is a very serious situation.

At the same time, Mr. Anderson does not have any prior criminal history.

Certainly, any part of my Order would have to place him residing with Mr. Anderson and also, uh, certainly GPS monitoring to assure that house arrest is abided by.

Yes, sir?

**MR. MOSLEY:** Judge, not to place any -- you know, any decision by the court based upon the substantive facts of the allegation, but it seem like to me that the one vital tool or vehicle that The Court could use to measure its temperament with regard to what to do would be the, um, the rape protocol kit. In other words, if you take it under advisement and then they let me know, for the limited purpose of this, along with that, then maybe once you get that report back then you could

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

say well, okay, this is a bowl of curly mustards like Mosley was saying versus naw, this is not a curly mustard case. I mean that -- that would be...

I'm just trying to be creative, Judge, and -- and be up for my client.

**THE COURT:** I -- I understand. I'm going to think about it. Clearly, Mr. Mosley, I'd feel a lot more -- a lot more comfortable if you were on the case permanently and I'm sure that's something that you discussed with the family.

**MR. MOSLEY:** Yeah.

**THE COURT:** I know you here just for the purpose of Bond, but let me think about it and I will issue an Order. If not today, in the coming days.

**MR. MOSLEY:** Okay; thank you Your Honor.

**THE COURT:** Thank you.

**MR. SCOTT:** Thank you, Your Honor.

**THE COURT:** Yes, sir.

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

(WHEREUPON, HEARING ENDED AT 12:29 P.M.)

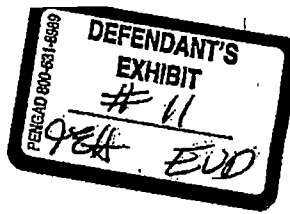
\*\*\*\*\*END OF REQUESTED TRANSCRIPT\*\*\*\*\*

State of South Carolina V. Henry D. Anderson  
Warrant Nos. 2013A3610100064, 65, 66  
Hearing of March 22, 2013  
Before The Honorable Frank R. Addy, Jr.

VIVIAN H. CROSS, COURT REPORTER

TENTH CIRCUIT AT LARGE

JUNE 4, 2017



|                                                                                                                                 |                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| State of South Carolina<br>County of Newberry<br>State of South Carolina,<br>Plaintiff,<br>vs.<br>Henry Anderson,<br>Defendant. | In the General Sessions Court<br>of the<br>Eighth Judicial Circuit<br>Indictment No. 2013-GS-<br>0238,0239,0240,0584<br>NOTICE OF APPEARANCE |
|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|

TO: Solicitor David M. Stumbo, Eighth Judicial Circuit

Notice is hereby Given that, Attorney Thomas E. Mosley previously relieved by Judge Kessley as counsel to Henry Anderson reference to pending Warrants has now been formerly retained by said Defendant.

Now with the consent of Newberry Public Defender Charles Verner, with the consent of the Defendant Henry Anderson whose signatures below evidence the same, Thomas E. Mosley notifies this Court of his appearance on behalf of said Defendant

LAW FIRM OF THOMAS E. MOSLEY

Thomas E. Mosley  
 Thomas E. Mosley  
 Attorney for Defendant  
 P/O Box 8362  
 Columbia, South Carolina 29290  
 803 929-0969

Charles Verner

Charles Verner date:

Henry Anderson

Henry Anderson date:

Columbia, SC  
 January 24, 2014

STATE OF SOUTH CAROLINA )  
COUNTY OF NEWBERRY )

IN THE COURT OF COMMON PLEAS  
OF THE EIGHTH JUDICIAL CIRCUIT

Henry Anderson,  
S.C.D.C. No. 358826,

2014-CP-36-401

Applicant,

**ORDER OF DISMISSAL**

v.

State of South Carolina,

Respondent.

FILED  
NEWBERRY COUNTY  
2017 SEP 18 AM 10:44  
ELIZABETH P. FOLK  
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed August 5, 2014. An evidentiary hearing into the matter was convened on June 5, 2017, at the Laurens County Courthouse in Laurens, South Carolina. Applicant was present at the hearing and represented by Laura Saunders, Esquire. Justin Hunter, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on his own behalf. Applicant's trial counsel, Thomas Mosley, Esquire, also testified. This Court had before it a copy of Applicant's records from the Newberry County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's PCR Application and amendment, Respondent's Return, and Applicant's exhibits.

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Newberry County Clerk of Court. Applicant was indicted at the April 2013 term of the Newberry County Grand Jury for first degree criminal sexual conduct (2013-GS-36-0238), kidnapping (2013-GS-36-0239), and pointing and presenting a firearm (2013-GS-36-0240). Applicant was represented by Thomas E. Mosely, Esquire. On February 10-14, 2014, Applicant underwent trial by jury and was convicted of all charges as indicted. The

Honorable Frank R. Addy, Jr. sentenced Applicant to imprisonment for twenty years for first degree criminal sexual conduct, thirty years for kidnapping, and five years for pointing and presenting a firearm. All sentences were to run concurrently.

A Notice of Appeal was filed. The South Carolina Court of Appeals, by written Order dated July 9, 2014, dismissed Applicant's appeal for counsel's failure to comply with Rule 267(a) and Rule 203 SCACR. The Remittitur was sent on July 15, 2014.

On June 10, 2015, Applicant filed an application for post-conviction relief alleging ineffective assistance of counsel. On May 3, 2017, Applicant filed a Motion to Amend, alleging the following grounds:

1. Petitioner requests to be granted a belated appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974) because Petitioner did not make a knowing and intelligent decision not to pursue an appeal, because Petitioner requested that trial counsel file and appeal, and trial counsel failed to timely cure the deficiencies as listed in the letter from the Court of Appeals to trial counsel on February 28, 2014, causing the Appeal to be dismissed. Petitioner has therefore suffered prejudice in the form of an unjust procedural error due to trial counsel's deficient performance.
2. Petitioner requests a new trial on the grounds of ineffective assistance of counsel pursuant to Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984). Specifically, Petitioner alleges that trial counsel was deficient in his performance such that Petitioner was prejudiced for the following reasons:
  - a. That trial counsel failed to prepare an Order for Bond after Petitioner was granted a bond by The Honorable Frank Addy on March 22, 2013 which included home detention, but counsel for Petitioner failed and/or refused to prepare an Order granting the Defendant bond. Therefore, Defendant remained incarcerated.
  - b. That trial counsel failed to convey the State's plea offer to Petitioner, which was conveyed to trial counsel by the State on October 24, 2013 via electronic mail.
  - c. That trial counsel failed to request that the Jury be charged with the lesser included offenses of Criminal Sexual Conduct – Second Degree and Criminal Sexual Conduct - Third Degree

## II. APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in their 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. Applicant must overcome this presumption in order 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. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. at 117-18, 386 S.E.2d at 625.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the trial transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the

attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds the testimony of Applicant's trial counsel Thomas Mosley ("Counsel") to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

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

Belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974).

Applicant notified this Court that he is waiving the ground that he is entitled to a belated appeal pursuant to *White v. State*. Therefore, this allegation is dismissed.

Trial Counsel failed to prepare an Order for Bond.

Applicant alleges that Counsel failed to prepare an Order for Bond after his bond hearing on March 22, 2013. Applicant testified that he was supposed to have house arrest. He testified that if he was on house arrest then he would be able to assist Counsel in his defense and assist in paying Counsel. He testified that he called Counsel about the bond hearing and Counsel told him that he was not representing Applicant anymore. Applicant testified that he wrote to the Clerk of Court on March 29, 2013, in an attempt to follow up on his bond hearing.

Counsel testified that he did not recall the facts surrounding the bond hearing. He testified that Judge Addy took the matter under advisement but seemed inclined to give Applicant home detention. He testified that Judge Addy did not place an obligation on him to do anything after the hearing. Counsel testified that it was clear Applicant's family could not afford to keep him as counsel, but also testified that Applicant's uncle said at the bond hearing that they could afford Counsel. Counsel testified that he believes he called the solicitor's office to follow up on the bond matter.



This Court finds that Counsel was not ineffective for failing to secure a bond order for Applicant. This Court finds that Judge Addy notified all parties at the end of the bond hearing that he would take it under advisement and issue an order in the following days. This Court finds that it was not unreasonable for Counsel to wait on the order from Judge Addy as he instructed. Thus, Counsel's performance was not deficient.

This Court also finds that Applicant has failed to show that he was prejudiced by Counsel's actions. Applicant has failed to show that the outcome of his trial would have been different had Counsel prepared a bond order to allow Applicant home detention prior to the trial. He has failed to show with specificity what assistance he could have provided to Counsel pretrial and the impact this would have had on his case. This Court also finds that Applicant has failed to show that the outcome of the trial would have been different because there is no evidence that the State would have presented any different evidence at trial had Applicant been on home detention prior to the trial. Accordingly, this allegation must be dismissed.

Trial counsel failed to convey the State's plea offer to Petitioner, which was conveyed to trial counsel by the State on October 24, 2013 via electronic mail.

Applicant alleged that Counsel was ineffective for failing to convey a plea offer that was conveyed to Counsel by an email on October 24, 2013. This offer was to reduce first degree criminal sexual conduct to second degree criminal sexual conduct, run the pointing and presenting charge concurrently, and drop the kidnapping charge. He testified that he never knew about this plea offer and inquired to the Clerk of Court's Office and the Solicitor's Office about the possibility of plea offers. Applicant testified that he never knew of the October 24, 2013 plea offer until after his trial when he received a copy of his client file from Counsel. Applicant further testified that the file also contained a plea offer conveyed via email to Counsel on October 31, 2013 and Counsel never conveyed this plea offer to him. Applicant testified that he

was surprised to see these offers and would have taken the plea offer had it been conveyed to him.

Counsel testified that he did not recall the exact email from the solicitor conveying the plea offer. He testified that he could not recall if he conveyed the offer but stated that it was his normal practice to convey plea offers to Applicant.

This Court finds that Counsel was not ineffective. This Court finds Counsel provided credible testimony that as a veteran defense attorney it would be his normal practice to convey all plea offers prior to trial. This Court also finds that even if Counsel was deficient, Applicant did not present sufficient evidence to show that he would have taken the plea offer. Although Applicant now testifies that he would have accepted the plea offer, his letter to the solicitor indicates that he wanted to plead to simple assault or first degree assault and battery to a probationary or time served sentence – which is a very different scenario than the offer of second degree criminal sexual assault, which carries twenty years. This Court finds Applicant has failed to meet his burden of proving that Counsel did not convey the plea offer and that he was prejudiced as a result.

Trial counsel failed to request that the Jury be charged with the lesser included offenses of Criminal Sexual Conduct – Second Degree and Criminal Sexual Conduct - Third Degree.

Applicant alleged that Counsel was ineffective for failing to charge the lesser included offenses of CSC second degree and CSC third degree. Counsel testified that he could not recall his reasoning behind asking the court for a third degree assault and battery charge. He testified that he did not want to ask for the criminal sexual conduct lesser included offenses because of the lifetime sex offender registry. Counsel also testified that he wanted to go all-or-nothing with the charges because he believed Applicant was not guilty.

This Court finds that this allegation must be dismissed. First, this Court finds that the trial judge did charge CSC second degree. See Transcript p. 627, ll. 10-20. Regarding CSC third degree, this Court finds that Counsel was not deficient as he did not want the jury to find Applicant guilty of CSC third degree and risk Applicant's lifetime sex offender registration. This Court finds that Counsel provided a valid strategy of not asking for CSC third degree charge. "[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Furthermore, this Court finds that Applicant has failed to show that the outcome would have been different because the judge indicated that he was not inclined to charge CSC third degree. The transcript reflects that the trial judge indicated to both parties that he was going to charge CSC first degree and second degree but stated, "I am not going to charge CSC third because I tend to agree that that would not apply in this particular scenario and it doesn't sound like Mr. Mosley really even wants CSC third, he would rather have assault." Transcript p. 593, ll. 3-7. Regardless of Counsel's desire to have assault, the trial judge made it clear that he did not think that CSC third degree applied to the facts of Applicant's case. Thus Applicant has failed to prove that he was prejudiced in this regard because the judge did charge CSC second degree and he made it clear that he was not going to charge CSC third degree because it did not fit Applicant's facts. Accordingly, this allegation must be dismissed.

#### Overwhelming Evidence

Additionally, this Court notes that there is clear overwhelming evidence of guilt. See Franklin v. Catoe, 346 S.C. 563, 570 n. 3, 552 S.E.2d 718, 722 n. 3 (2001), cert. denied, 535 U.S. 1114, 122 S.Ct. 2332, 153 L.Ed.2d 162 (2002) (finding overwhelming evidence of guilt negated

*Ch* 7

any claim that counsel's deficient performance could have reasonably affected the result of defendant's trial).

Evidence was presented at trial through very detailed testimony from the victim about the incident, the threatening and harassing text messages from Applicant, and the video of Applicant pointing a gun at his head. The victim also gave a statement to officers when she was at the hospital for the rape kit test. Applicant admitted that he made a false oral statement to investigators denying any involvement and stating he did not have a gun. Applicant also admitted to giving a written statement to officers at the Sheriff's Office that also denied any involvement but admitted that he had a gun at his house. After learning details about the allegations against him and that a rape kit had been performed on the victim, Applicant then gave another written statement to officers finally admitting that he did get in the car with the victim the morning of the incident and have sex with her across the street. The trial judge noted that he agreed with the jury's verdict and would not hesitate to grant a new trial if he had any hesitation with the verdict. Additionally, in Applicant's letter to the Clerk of Court asking about a plea offer, he stated that he wanted to get the charges out of the way because he was guilty of his charges. Accordingly, this Court finds that there is overwhelming evidence of Applicant's guilt, and as a result, Applicant cannot show that the result of his trial would have been different but for Counsel's alleged performance.

#### IV. CONCLUSION

Based on the foregoing facts, the Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Applicant failed to demonstrate that Counsel's performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at




625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt 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, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 24 day of August, 2017.

  
 G. THOMAS COOPER, JR.  
 Presiding Judge  
 Eighth Judicial Circuit

Cherson, South Carolina