

12 June 2018

RECEIVED David daren #181965  
JUN 18 2018 Perry C.J. Q3B-215  
430 DAKLAWN Rd  
S.C. SUPREME COURT Pelzer, S.C. 29669

The South Carolina Supreme Court  
Attn: The Honorable Donald Beatty  
Post Office Box 11330  
Columbia, S.C. 29211

Re: Formal Complaint / Filed Against Attorney Jacob Smith

The Honorable Donald Beatty

Please permit this correspondence to serve as a Formal Complaint against Attorney Jacob Smith who use to work for the Sumner County Public Defender Office. The Complainant shall show by the evidence presented in this Complaint that Attorney Jacob Smith, the dead Public Defender Attorney Jack Wade and the Asst. Solicitor Attorney Brandon L. McQueen of the Third Federal Circuit, committed the act of fraud, fraud upon the Court, Conspiracy, deceit, violation of Professional Conduct, and Lawyer oath.

(1) First and foremost Attorney Jacob Smith was never my attorney of record, in order for and attorney to be an attorney of record there has to be in place a approved Application for Counsel or an order from the Court appointing Counsel.

As you will see attorney Jacob Smith was inserted in July of 2014 just so the Asst. Solicitor Brownyn K. McEneaney could serve Complainant with 17-25-45 (LWOP) papers.

See Exhibit (A) warrant W936326 dated served 5-27-2012 at that time Complainant applied for a public defender and was turned down, Complainant again went back down to the public defender office and paid the \$40.00 filing fee and was again turned down.

The record is silent from that point until July 31, 2014 the Asst. Solicitor Brownyn K. McEneaney and the Public Defender office inserted Attorney Jacob Smith so that she could serve me with 17-25-45 and Notice of Direct Presentment of Charge to the Grand Jury.

See Exhibit (B) Judgment # 2012-95-43-1149  
Signed and True Bill 9-27-2012

See Exhibit (C) Notice of Direct Presentment dated and filed and recorded July 31, 2014. As you will notice that it was address to Attorney Timothy W. Murphy, and not Attorney Jacob Smith.

See Exhibit (D) 17-25-45 (LWOP) dated July 31, 2014 at that hearing before Judge Cochran I was represented / Attorney Jacob Smith was inserted. So why is Attorney Timothy W. Murphy is said to be my attorney of record

See Exhibit (E) (F) Exhibit (E) transcript of PCR hearing before the Honorable Jocelyn Pearson, Attorney Jacob Smith

Lied under oath Page 28, Line 24, 25, he was never  
an Attorney Timothy W. Murphy

Page 29, Line 1-5, there was never any preliminary hearing  
held for warrant # 11936326, beside the time had already  
passed for that.

See Exhibit (F) Transcript of Record May 18-20, 2015  
Before the Honorable George C. James Jr.  
See page 37, Line 25; Page 38, Line 1-26

So I wrote to the Sumner County Public defender office  
ask Mr Jack Howe for a copy of the approved Application  
from the Court appointing me a public defender.  
Here's what Attorney Jack Howe sent me.

See Exhibit (G) Affidavit of Indigency and Application for Counsel  
Signed by me dated 29 Aug 2014

As the Court can see the application is not approved,  
and beside that application is for a d. Perjury Charge  
See Exhibit (H) warrant # 201444320100492 issued 8-28-14

The Court will see that the application for Counsel  
dated on 29 Aug 2014 was not for warrant # 11936326.

Here they were trying to make sure that the attorney  
was my legal Attorney of Record. Trying to cover  
their fraud, deceit, obstruction of Justice, MisCarriage  
of Justice, Conspiracy and Fraud upon the Court.

See Exhibit (I) Here Attorney Jacob Smith is lying under  
oath. Page 29 Line 8-10, He only visit me 4 times  
in jail, I tried to get the jail visitation list for lawyer  
visit but the jail would not give them to me.

Bennie Wicker

C Stubbs

Eddie Golson

Reggie Griffin

M. Perry

B Turner

Arthur Sifers

Richard Coleman

T Burks

Lawrence McCreary

Line 13-16, Page 29 The motion to Relieve Counsel WAS filed by the Complainant not attorney Jacob Smith  
The motion for a bond hearing was filed by the Complainant not attorney Jacob Smith. I have tried to get both of those documents from the Clerk of Court but he will not send them to me.

Line 10, Page 34, Lied he was the attorney I removed from July 31, 2014 until Jan 21, 2015 see Relieve of Counsel order signed by Judge Cochran 21 Jan 2015.  
Exhibit (J)

See Exhibit (I) Line 13-18 As you will see Attorney Jacob Smith Lied again under oath

See Exhibit (K) The Buccal Swab was collected on 5-31-2012 By Detective John Milton, so therefore why would he have to motion for a Schneider hearing.

See Exhibit (L) DNA Report dated OCT 3, 2012

See Exhibit (M) Bond for M936326 dated 5-28-2012

See Exhibit (N) Relief of Counsel hearing dated Jan 21, 2015  
The Court will see the lies about the DNA test

See Exhibit (O) The DNA Test Result from the Buccal Swab TAKEN 5-31-2012, IT WAS BACK FROM SLED OCT 3, 2012. The Police officer and the Assi Solicitor had the result the whole time and was lying to the Chief Admin Judge Cochran.

Asst Solicitor Mathews Lied again to Judge Cochran on March 25, 2015 at the Requester Bond hearing for another charge. Judge Cochran told her at that hearing that I had every right to that result.

She never gave me the keys. But she presented them  
at trial. To this day I still have not gotten them  
from her or the Chain of Custody for the Bureau  
Swab.

See Exhibit (P) Investigative Report By Mr John Davis  
As you will see Otisway Smith lied under oath  
that there was no written report.

(2) Thank you very much for your precious time  
and consideration in his matter.

Respectfully Submitted  
David Jurek

M-936326

STATE OF SOUTH CAROLINA

County/  Municipality of

Sumter Municipal

THE STATE against Solicitor

11070427

David Abraham Duren, Jr

Address: Rr 2 Box 384

Pinewood, SC 29125-9521

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 150

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: John Melton - 2376

Offense: Burglary / Burglary (Non-Violent) - Second degree

Offense Code: 0080

Code/Ordinance Sec: 16-11-0312

warrant is CERTIFIED FOR SERVICE in the

County/  Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant

on 05-27-2012

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
141 N. Main St., Rm 308
Sumter, SC 29150

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/  Municipality of

Sumter Municipal

Personally appeared before me the affiant John Melton

being duly sworn deposes and says that defendant David Abraham Duren, Jr

did within this county and state on or about 6/8/2011

violate the criminal laws of the

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

Sumter Municipal

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

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

That on or between June 8, 2011 and June 09, 2011, at Thomas and Howard Company, 156 S Harvin St, in the city of Sumter, one David Abraham Duren Jr did enter the business by breaking through a rear wall without consent and with intent to commit a crime therein. Once inside the defendant did steal, take and carry away a large amount of cigarettes valued at less than \$2000. DNA taken from the crime scene has been positively identified through CODIS as belonging to the defendant. Law enforcement will attest to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/  Municipality of

Sumter Municipal

Affiant's Address 107 East Hampton Avenue

Sumter, SC 29150-

Affiant's Telephone (803)436-2790

ARREST WARRANT

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

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

on or about 6/8/2011

defendant David Abraham Duren, Jr

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

County/  Municipality of Sumter Municipal

) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

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

Sworn to and subscribed before me

on 5/15/2012

Judge's Address Post Office Box 1428

Sumter, SC 29150-1428

Judge's Telephone (803)436-2280

Signature of Issuing Judge

Lee Anna Tindal

Judge Code: 6632

Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Exhibit B

WITNESSES

John Melton Sumter Police Dept.

DOCKET NO. 2012-~~GS-43~~-1149

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2012

THE STATE

vs.

DAVID ABRAHAM DUREN JR.

ARREST WARRANT NUMBER

M936326

Indictment for

Burglary / Burglary (After June 20, 1985) - First degree

ACTION OF GRAND JURY

TRIAL BILL

*Charles H. ...*

Foreperson of Grand Jury

Date: 9-27-12

VERDICT

CERTIFIED TRUE COPY OF ORIGINAL FILED

*[Signature]*  
CLERK OF COURT  
SUMMER POLICE DEPT.  
SOUTH CAROLINA

*Ernest A. Finney III*

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury

Date:

Court  
2 Sept 2014  
Elaine Cooke

(15)

(CC)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SUMTER )

INDICTMENT FOR

Burglary / Burglary (After June 20, 1985) - First degree

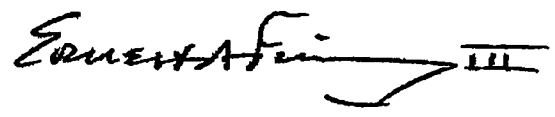
At a Court of General Sessions, convened on September 27, 2012 the Grand Jurors of SUMTER County present upon their oath:

**COUNT ONE**  
**BURGLARY, 1<sup>ST</sup> DEGREE**

That David Abraham Duren Jr. did in Sumter County on or about June 8, 2011 enter the building of Thomas & Howard Company located at 156 South Harvin Street, Sumter, South Carolina, without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight, the defendant has a prior record of two or more convictions for burglary or housebreaking, in violation of Section 16-11-0311(A), Code of Laws of South Carolina, 1976, as amended.

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

Solicitor



②

Title 16 Burglary

Falsely Imprisonment

Exhibit C

STATE OF SOUTH CAROLINA **RECORDED**  
2014 JUL 31 PM 4:58 IN THE COURT OF GENERAL SESSIONS  
COUNTY OF SUMTER JAMES C. CAMPBELL INDICTMENT NO. 2012-GS-43-1149  
CLERK OF COURT Warrant No. M93626  
SUMTER COUNTY, S.C.

The State of South Carolina, )  
)  
v. )  
)  
DAVID ABRAHAM DUREN, JR, )  
)  
Defendant. )

**NOTICE OF DIRECT PRESENTMENT  
OF CHARGE(S) TO GRAND JURY**

**TO: DAVID ABRAHAM DUREN, JR, DEFENDANT, AND TIMOTHY W. MURPHY,  
ATTORNEY OF RECORD FOR DEFENDANT**

**WHEREAS** the defendant was arrested on May 27, 2012 pursuant to Warrant #M93626 for burglary 2<sup>nd</sup> degree (violent), and whereas the proper charge based upon the defendant's prior criminal record is Burglary 1<sup>st</sup> degree, the latter offense was submitted to the grand jury of Sumter County for consideration during its September 2012 term.

**AND WHEREAS** the grand jury now having indicted the defendant for the offense of Burglary 1<sup>st</sup> degree, the defendant is hereby given notice thereof through service of a copy of said indictment, certified to be a true copy of the original filed with the Clerk of Court for Sumter County, such service being accomplished by the depositing of a certified copy of the original filed Notice of Direct Presentment of Charge(s) in the United States mail with sufficient postage affixed thereto, the same being addressed to:

Timothy W. Murphy  
c/o Sumter County Public Defenders' Office  
Sumter County Courthouse  
215 North Harvin Street  
Sumter, SC 29150

on July 31, 2014.

*Bi*  
\_\_\_\_\_  
Bronwyn K. McElveen  
Assistant Solicitor  
Third Judicial Circuit

Sumter, South Carolina  
July 31, 2014

Exhibit (D)

STATE OF SOUTH CAROLINA )  
COUNTY OF SUMTER )  
RECORDED  
2014 JUL 31 ) PM 4: 58  
IN THE COURT OF GENERAL SESSIONS  
WARRANT NO(s): M936326

State of South Carolina, )  
JAMES G. CAMPBELL )  
CLERK OF COURT )  
SUMTER COUNTY, S.C. )  
v. )  
DAVID ABRAHAM DUREN, JR, )  
Defendant. )

NOTICE OF INTENTION TO SEEK  
LIFE IMPRISONMENT SENTENCE

TO: DAVID ABRAHAM DUREN, JR, DEFENDANT, AND HIS ATTORNEY OF RECORD,  
TIMOTHY W. MURPHY

YOU WILL PLEASE TAKE NOTICE, that the Solicitor's Office intends to seek a life imprisonment sentence pursuant to Section 17-25-45(A), S.C. Code of Laws 1976, as amended, upon the basis that you have one or more prior convictions for:

- 1. A most serious offense [to wit: N/A];
- 2. A federal or out-of-state offense that would be classified as a most serious offense under this section [to wit: N/A]; or
- 3. Any combination of the offenses listed in items (1) and (2) above.
- 4. Two or more prior convictions for a serious offense [to wit: defendant's prior convictions for Arson 2<sup>nd</sup> degree (2002) and two (2) Burglary 2<sup>nd</sup> degree (violent) (2002) charges],

BK  
Bronwyn K. McElveen  
Asst. Solicitor, 3<sup>rd</sup> Judicial Circuit

Sumter, South Carolina  
July 31, 2014



I N D E X

<u>Witness/Description</u>	<u>Page No.</u>
Jacob M. Smith	
Direct Examination by Ms. Coleman. . . . .	28
Cross-examination by Mr. Duren . . . . .	32
Certificate Page. . . . .	70

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Page No.</u>
	No Exhibits Introduced.	

1  
2  
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25

1 These all tie together.

2 THE COURT: Sir, David, I understand that you have a  
3 certain position, that you are convinced that you are  
4 absolutely correct in that position, so much -- you are  
5 just as convinced as Ms. Coleman is that she is correct in  
6 everything that she says to me. And my job here is to make  
7 a decision as to who I think is right and what I believe  
8 the law says. And I've heard you, and I know that you are  
9 adamant about your position, but disagree with you, sir,  
10 and so I'm done with that issue. We're not going to hear  
11 your post-conviction relief application as to the 2002  
12 charges. I'm happy to hear from you about your 2015  
13 conviction if you want to discuss that, but we're done with  
14 the 2002 charges. I'm not going to hear that.

15 MR. DUREN: Okay. If we can't hear the 2002 charges,  
16 they are inserted in my 2015 conviction.

17 THE COURT: And you will have to figure out how to  
18 extract that. Do you have any other complaints about the  
19 2015 conviction?

20 MR. DUREN: Yes, ma'am.

21 THE COURT: Well, that's what I want to hear.

22 MR. DUREN: Okay.

23 THE COURT: Okay.

24 MR. DUREN: We'll start with the warrant.

25 THE COURT: Well, like I said, I'm going to hear from

J. SMITH -- DIRECT EXAMINATION BY MS. COLEMAN

28

1 Ms. Coleman first. I just wanted to hear that motion. And  
2 just so you understand my ruling, when it gets to be your  
3 turn, all we're going to be talking about is your 2015  
4 conviction, not the 2002 charges.

5 MR. DUREN: Okay.

6 THE COURT: Okay?

7 MR. DUREN: All right.

8 THE COURT: All right, Ms. Coleman.

9 MS. COLEMAN: Thank you, Your Honor. The state calls  
10 Jacob Smith to the stand.

11 JACOB M. SMITH, BEING DULY SWORN,

12 TESTIFIES AS FOLLOWS:

13 BAILIFF: State your full name. Spell your last name  
14 for the record.

15 WITNESS: Jacob Smith, S-m-i-t-h.

16 DIRECT EXAMINATION BY MS. COLEMAN:

17 Q. Hi, Mr. Smith. How are you?

18 A. Good. How about yourself?

19 Q. Fine, thank you. How long have you been practicing  
20 law?

21 A. Four years.

22 Q. And can you tell us some -- a little bit about your  
23 involvement in this case? Were you appointed or retained?

24 A. I was appointed to this case. Actually we were  
25 appointed from the bench, I believe. It was actually Tim

1 Murphy that was initially appointed. I worked in the  
2 public defender office. He came in one day, basically told  
3 me I was going to take over the case. So, I took over the  
4 case, picked up appointment on it, and proceeded forward  
5 with the preliminary hearing the next day.

6 Q. Okay, and how long did you represent Mr. Duren?

7 A. About four months.

8 Q. How many times did you met with him prior to his  
9 trial?

10 A. Ten to fifteen.

11 Q. Did the applicant cooperate with you during the course  
12 of your representation?

13 A. For the most part, yes, until the end. He decided he  
14 wanted to represent himself, so I filed the motion to be  
15 relieved and then also filed a motion to reduce bond, I  
16 believe it was, or reconsider bond.

17 Q. And he ultimately had a hearing about whether or not  
18 he could go pro se at trial. Is that correct?

19 A. Correct.

20 Q. Okay. Did you file any *Brady* or Rule 5 motions in  
21 this case?

22 A. I did.

23 Q. Okay. Did you review the discovery material with the  
24 applicant?

25 A. I did.

1 Q. Did you discuss the elements of the charges and what  
2 the state was required to prove?.

3 A. I did.

4 Q. Did you discuss the applicant's version of the facts?

5 A. Yes, I did.

6 Q. And can you tell us a little about those?

7 A. He basically had an alibi. He said that his two  
8 sisters -- he was down in Georgia. I hired a PI to  
9 investigate that. PI came back with nothing. I informed  
10 Mr. Duren that he has not -- had not been able to find  
11 anything out on that end and that, you know, we were going  
12 to proceed forward.

13 ~~There was an issue in the discovery. DNA was not~~  
14 ~~processed as far as they have not collected it from Mr.~~  
15 ~~Duren to test what they had on the scene. So, a Schmerber~~  
16 ~~motion was filed or a Schmerber hearing was done, but I was~~  
17 ~~not representing him at that time. We -- I never had the~~  
18 ~~DNA to evaluate with Mr. Duren.~~

19 Q. Can you briefly describe the state's evidence against  
20 the applicant?

21 A. ~~Sure. There was a burglary. I believe there may have~~  
22 ~~been a video at one of the burglary sites, but it was~~  
23 ~~mainly a CODIS hit on DNA collected at the scene. I~~  
24 ~~believe it was blood DNA.~~

25 Q. Would you describe their evidence as overwhelming?

State of South Carolina	)	Court of General Sessions
	)	Third Judicial Circuit
County of Sumter	)	Case No. 2012-GS-43-01149
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
David A. Duren Jr.,	)	
	)	
Defendant.	)	
	)	

May 18-20, 2015  
Sumter, South Carolina

B E F O R E:

The Honorable George C. James Jr., Judge

A P P E A R A N C E S:

Bronwyn K. McElveen, Esquire  
Attorney for the Plaintiff

David A. Duren Jr., Pro Se

Krystal J. Smith  
Court Reporter

I N D E X

WITNESS/DESCRIPTION	PAGE NUMBER
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(CONTINUED ON THE NEXT PAGE)	

1 THE DEFENDANT: They refused it. On this -- on this  
2 case, they refused two of my applications for a public  
3 defender. I was not represented by an attorney at that -- at  
4 either one of those hearings, Your Honor.

5 THE COURT: Okay.

6 THE DEFENDANT: It appears that Ms. McElveen has used the  
7 color of law to violate my Fifth Amendment, my Sixth Amendment  
8 -- the Fourteen -- Fourteenth Amendment and the Rules of  
9 Criminal Procedure. South Carolina Rules of Criminal  
10 Procedure, sir, Rule 5(e) and 2, disclosure by prosecution  
11 within ten days after defendant serves notice, but in no event  
12 less than ten days before trial, or as the Court may direct  
13 otherwise. I was not presented.

14 THE COURT: You weren't presented with what, sir?

15 THE DEFENDANT: I was not presented with any disclosure  
16 of this case, sir.

17 THE COURT: Okay. Are you talking about discovery or are  
18 you talking about --

19 THE DEFENDANT: Discovery.

20 THE COURT: Okay. Have you given him or his past  
21 attorneys the proper discovery responses, Ms. McElveen?

22 MS. MCELVEEN: Your Honor, if I may just go through a  
23 little bit of the timeline? Anticipating this, I can answer  
24 your questions.

25 First of all, Mr. Duren bonded out of jail and he did --

1 he was rejected from the Public Defender's Office and then  
2 reapplied July 25<sup>th</sup>, 2012. He's rejected again August 13<sup>th</sup>,  
3 2012. And then when he accrued more burglary charges and he  
4 got put back in jail, his bond was denied.

5 And at that point, I made sure to follow up with the  
6 Public Defender's Office. On January 7<sup>th</sup>, 2013, he went back  
7 down to the Public Defender's Office to reapply. I think his  
8 parents did. And Mr. Murphy said that he would definitely  
9 approve him. At one point, Mr. Murphy --

10 THE COURT: And just to make sure that the record  
11 reflects, Mr. Murphy is a lawyer in the Public Defender's  
12 Office.

13 MS. MCELVEEN: Yes, sir. At one point, Mr. Murphy did  
14 represent him, and then Jacob Smith, who was formerly with the  
15 Public Defender's Office, as well. On August 13<sup>th</sup>, 2014, we  
16 served discovery on Attorney Jacob Smith.

17 After that, Your Honor, Mr. Duren requested -- was not  
18 able to work with his lawyers and requested that he be able to  
19 represent himself. On March 25<sup>th</sup>, 2015, Judge Cothran  
20 certified him as pro se. On January 22<sup>nd</sup>, 2015, two months  
21 before that, I myself gave a copy of his whole file to Mr.

22 Duren in the courtroom to make sure that he had discovery.  
23 And then --

24 THE COURT: And what date was that?

25 MS. MCELVEEN: January 22<sup>nd</sup>, 2015. So that's the second

Exhibit G

STATE OF SOUTH CAROLINA )

COUNTY OF SUMTER

⑬ Duplicate

AFFIDAVIT OF INDIGENCY AND APPLICATION FOR COUNSEL

JS

STATE VS DAVID A. DUEN L  
 CRIMINAL CASE # M 936326  
 CHARGE(S) Burglary 2nd Non Volent  
 RACE/SEX B/m D.O.B. [REDACTED] SSN [REDACTED]  
 ADDRESS 6825 [REDACTED] (1250 Windles Rd Sumter, S.C. 29153  
 TELEPHONE # 803-452-5462  
 DATE OF ARREST 28 Aug 2014  
 CO-DEFENDANT(S) (BY NAME) \_\_\_\_\_

PLEASE COMPLETE IN FULL AND BE SURE YOU WRITE CLEARLY, **THIS APPLICATION WILL BE REJECTED IF NOT COMPLETED IN FULL.**

A LETTER WILL BE SENT TO THE ADDRESS YOU LIST, ADVISING YOU IF YOUR APPLICATION HAS BEEN APPROVED.

0014-404

1. Are you presently employed? Yes \_\_\_ No

a.) If "Yes", give name and address of employer and your wages.

\_\_\_\_\_

b.) If "No" where did you last work; when did you stop work there; what were your wages?

\_\_\_\_\_

c.) Single \_\_\_ Divorce or Separated  Married \_\_\_

Is your spouse employed? Yes \_\_\_ No \_\_\_

If "Yes", where? \_\_\_\_\_

Income? \_\_\_\_\_

d.) What is the combined income for all working members of your household?

\_\_\_\_\_

RECEIVED  
SEP 02 2014

BY: pe

2. How many people (children, etc.) are dependent on you for support?

How much do you spend weekly for their support? \_\_\_\_\_

3. List any money you have received in the past twelve months, which has not already been listed, and the source of the money, such as: self-employment, gifts, inheritances, insurance benefits. \_\_\_\_\_

4. Do you have any cash money, a checking or savings account? Yes \_\_\_ No

If "Yes", how much? \_\_\_\_\_

5. Do you own any real estate or valuable personal property? Yes \_\_\_ No

If "Yes" describe the property and the value of the property. \_\_\_\_\_

6. Do you own an automobile? Yes \_\_\_ No  Is it paid for? Yes \_\_\_ No \_\_\_

If "Yes" Make and Model \_\_\_\_\_ . If not, what are the payments? \_\_\_\_\_

7. List the amount of all debts you owe, and to whom they are owed.

\$68,000 Child support \$19,000 student loans

SCANNED pe 9/12/14

8. If you have been released on bail, who paid your bond?

How much was the bond? \_\_\_\_\_

I do solemnly swear that all the information I have given in this affidavit is true to the best of my knowledge. I have made no attempts at any time to misrepresent my true financial status so as to present the appearance that I am unable to employ private counsel. I am financially unable to employ counsel and request that counsel be appointed to represent me.

I understand that the State may file a claim against me for the cost of my representation, and that such a claim will constitute a lien against my property after I have been given thirty days notice and the Court has reduced the claim to a Judgment.

I understand that I am entitled to thirty days notice before a claim against me may be reduced to judgment, and I do hereby waive the right to such notice.

David A. Torres Jr  
DEFENDANT'S SIGNATURE

29 Aug 2014  
DATE

Subscribed and witnessed by me this 29<sup>th</sup> day of Aug

DRC Nixon 307C  
WITNESS

Approved for Appointment of Counsel \_\_\_\_\_  
Rejected as non-indigent \_\_\_\_\_  
Rejected, the Public Defender does not represent for offense charged \_\_\_\_\_  
Other disposition \_\_\_\_\_

Determination made by: \_\_\_\_\_  
Date: \_\_\_\_\_

Application Fee: Paid \_\_\_\_\_  
Temp Waived \_\_\_\_\_  
Other \_\_\_\_\_

2014A4320100472

STATE OF SOUTH CAROLINA

County/ Municipality of

Sumter Municipal

THE STATE

13148647

against

David Abraham Duren, Jr

Address: 6825 Panola Rd

Pinewood, SC 29125-9747

Phone: SSN:

Sex: M Race: B Height: 6 Weight: 176

DL State: SC DL #:

DOB: Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: John Melton - 2376

Offense: Burglary / Burglary (Non-Violent) - Second degree

Offense Code: 0080

Code/Ordinance Sec: 16-11-0312

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant David Duren

on 08-28-14

J. Melton 1674  
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions  
215 N. Harvin St.  
Sumter, SC 29150

ORIGINAL

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AFFIDAVIT

STATE OF SOUTH CAROLINA )  
County/ Municipality of )

Sumter Municipal )

Personally appeared before me the affiant John Melton

being duly sworn deposes and says that defendant David Abraham Duren, Jr

did within this county and state on or about 10/28/2013

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

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

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

That at 706 South Guignard Drive, in the City of Sumter, and State of South Carolina, the defendant did enter Fat Boys by breaking a roof kitchen ventilation fan without consent and with the intent to commit a crime therein. Once inside the defendant did steal take and carry away cigarettes valued at approximately \$750.00. The defendant has been identified through a blood hit confirmation by CODIS; said blood taken from an item left at the entry/exit area. Law enforcement will attest to the same.

Signature of Affiant

STATE OF SOUTH CAROLINA )  
County/ Municipality of )

Sumter Municipal )

Affiant's Address 107 East Hampton Avenue

Sumter, SC 29150-

Affiant's Telephone (803)436-2790

ARREST WARRANT

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

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

on or about 10/28/2013 defendant David Abraham Duren, Jr

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

County/ Municipality of Sumter Municipal ) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (Non-Violent) - Second degree

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

Sworn to and subscribed before me

on 8/28/2014

Signature of Issuing Judge (L.S.)

Bryan Keith Griffin

Judge Code: 5043

Judge's Address 190 E. Canal Street

Sumter, SC 29151-1428

Judge's Telephone (803)436-2280

Issuing Court: X Magistrate Municipal Circuit

ORIGINAL

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S.C. Attorney General  
April 21, 2003  
SCCA 518

Exhibit H

RECORDED

violate the criminal laws of the

Sumter Municipal  
2014 SEP -2 PM 12:26

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

Exhibit I

1 A. Well, at the time we didn't know. The DNA hadn't been  
2 tested, so it wasn't overwhelming at the time, but if the  
3 DNA was going to come back his, it, it would have been very  
4 strong.

5 Q. Okay. You mentioned a couple of alibi witnesses that  
6 you investigated. Were there any other potential witnesses  
7 or leads the applicant provided you with?

8 A. Not any he brought up to me.

9 Q. What other investigation did you do in this case?

10 A. Tried to make contact with alibi witnesses. We  
11 reviewed the discovery. The big thing for us was there was  
12 no DNA at the time that I represented him. Again, it was a  
13 short period of time; it was about four months. I think it  
14 might have been a little bit less that I actually  
15 represented him, but because we didn't have the, the DNA,  
16 the state did make an offer on the case. I relayed that  
17 offer to Mr. Duren and realistically it was wait and see  
18 for the DNA to come back.

19 Q. Did you spend any time preparing for trial in this  
20 case?

21 A. I didn't because we hadn't reached that point yet.

22 Q. Okay. How did -- well, you already explained this.  
23 How did your representation of the applicant end?

24 A. He told me one day that he wanted to proceed pro se.  
25 It was after I relayed the offer from the state. He asked

1 if he could get five years; he said that he would do five.  
2 I said I would ask. I asked. They wouldn't budge. The  
3 offer was plead straight up to two counts burg second,  
4 violent and one count burg second nonviolent, I believe.

5 Q. Is there anything else you'd like us to know about  
6 your representation of Mr. Duren?

7 A. That's it.

8 Q. Okay.

9 MS. COLEMAN: No further questions. Thank you.

10 WITNESS: Thank you.

11 THE COURT: David, do you have any questions for this  
12 gentleman?

13 MR. DUREN: Yes. Yes, ma'am, I do, ma'am.

14 THE COURT: Okay.

15 CROSS-EXAMINATION BY MR. DUREN:

16 Q. Mr. Smith.

17 A. Yes, sir.

18 Q. Did you represent Mr. Duren at his notice to seek life  
19 without parole hearing?

20 A. I believe I did. Again, I came on -- Tim Murphy was  
21 on the case, I guess, initially, but I came in. I think I  
22 actually handled that. I think it was the day after I  
23 actually took over the trial.

24 Q. Okay. Did you do any investigation into his priors  
25 since they was going to use his priors to enhance his

1 charge?

2 A. Yeah. I reviewed the SLED records to indicate that  
3 you did have priors.

4 Q. So in your investigation of this select record, you  
5 did not notice any discrepancy in the indictments?

6 A. Not that I can recall. There may be -- I think there  
7 may have been an issue. I, I can't recall. I didn't -- I  
8 don't remember anything off the top of my head.

9 MR. DUREN: Just a second. Bear with me. I've just  
10 got a bunch of stuff up here.

11 THE COURT: Yes, sir.

12 BY MR. DUREN:

13 Q. Okay, Mr. Smith, you represented Mr. Duren in his  
14 notice to seek life imprisonment hearing. It was dated,  
15 let's see, dated, dated July the 31, 2014. Mr. Smith, in  
16 your investigation, did you investigate Mr. Duren prior  
17 record?

18 A. Like I said, I reviewed the prior record that you had  
19 with SLED, and there was an indication of a prior record.  
20 I believe ---

21 Q. I was talking prior indictments.

22 A. Prior indictments?

23 Q. Yeah.

24 A. No. I didn't -- I don't believe I actually reviewed  
25 the prior indictments. I reviewed your prior convictions.

1 Q. Isn't it the lawyer duty to do to a proper  
2 investigation if they're going to use these indictments for  
3 enhancement?

4 A. Certainly, and that's something that would have been  
5 done.

6 Q. Certainly. It's ---

7 A. Again, I represented you for three months.

8 Q. Huh?

9 A. I represented you for three months.

10 Q. Three months?

11 A. I looked at the convictions. You had prior  
12 convictions, that's correct. I reviewed the indictment  
13 that was served on you.

14 Q. Is, is two indictments supposed to be on the same --  
15 two warrants, two warrants supposed to be on the same  
16 indictment, two charges?

17 A. Again, you pled guilty to those charges, I believe,  
18 back in 2002. I had ---

19 Q. I, I understand, but these, these indictments -- this  
20 indictment is being used to enhance me.

21 A. I understand that. The conviction was being used to  
22 enhance you, yes.

23 Q. But you did no investigation?

24 MS. COLEMAN: Your Honor, I object. The indictment  
25 has been dismissed from this application.

1 THE COURT: Right. Yes.

2 David, I understand you want to talk about his  
3 investigation, but we're not talking about the 2002 cases  
4 now. We're only talking about the 2015 case.

5 MR. DUREN: This has to do with my life without parole  
6 hearing. This, this, this has nothing to do with the  
7 cases. I'm just asking him whether he did a proper  
8 investigation.

9 THE COURT: Okay.

10 MR. DUREN: That's all I'm asking.

11 THE COURT: All right.

12 BY MR. DUREN:

13 Q. Mr. Smith.

14 A. Yes, sir.

15 Q. Did you ever give the investigative report to Mr.  
16 Duren that you were investigating for his alibi defense?

17 A. I believe you spoke about that, about the ---

18 Q. Did, did you ever gave him the investigative report  
19 that Mr. Davis...

20 A. That John Davis completed?

21 Q. Yes.

22 A. John Davis never actually completed a written report.  
23 I was relieved as counsel before that, and his file was  
24 shut down.

25 Q. His file was shut down?

1 A. Yeah. His, his use of -- as a PI was ended, but we  
2 did discuss, as far as his findings, that there was nobody  
3 that he could make contact with the names and numbers you  
4 provided.

5 Q. Mr. Smith, what, what, what was Mr. Duren originally  
6 indicted for in 2012?

7 A. Burg second nonviolent or violent.

8 Q. Huh? In 2012, what was the original indictment?

9 A. I can't recall off the top of my head. I know you had  
10 two pending burg second violent and one pending burg second  
11 nonviolent.

12 Q. Now we can talk about this charge, two thousand --  
13 that I got the life sentence for. What was he originally  
14 indicted for in 2012?

15 A. Again, like I was saying, you, you were indicted for  
16 burg second violent.

17 Q. Second violent.

18 MR. DUREN: If it please the court, Your Honor?

19 THE COURT: Yes, sir.

20 BY MR. DUREN:

21 Q. Indictment, burglary after June 25th first degree,  
22 first count:

23 That David A. Duren did in Sumter County on  
24 or about 8 -- enter the building of Thomas  
25 Howell ---

1 Q. Did you discuss the elements of the charges and what  
2 the state was required to prove?

3 A. I did.

4 Q. Did you discuss the applicant's version of the facts?

5 A. Yes, I did.

6 Q. And can you tell us a little about those?

7 A. He basically had an alibi. He said that his two  
8 sisters -- he was down in Georgia. I hired a PI to  
9 investigate that. PI came back with nothing. I informed  
10 Mr. Duren that he has not -- had not been able to find  
11 anything out on that end and that, you know, we were going  
12 to proceed forward.

13 There was an issue in the discovery. DNA was not  
14 processed as far as they have not collected it from Mr.  
15 Duren to test what they had on the scene. So, a Schmerber  
16 motion was filed or a Schmerber hearing was done, but I was  
17 not representing him at that time. We -- I never had the  
18 DNA to evaluate with Mr. Duren.

19 Q. Can you briefly describe the state's evidence against  
20 the applicant?

21 A. Sure. There was a burglary. I believe there may have  
22 been a video at one of the burglary sites, but it was  
23 mainly a CODIS hit on DNA collected at the scene. I  
24 believe it was blood DNA.

25 Q. Would you describe their evidence as overwhelming?

1 Murphy that was initially appointed. I worked in the  
2 public defender office. He came in one day, basically told  
3 me I was going to take over the case. So, I took over the  
4 case, picked up appointment on it, and proceeded forward  
5 with the preliminary hearing the next day.

6 Q. Okay, and how long did you represent Mr. Duren?

7 A. About four months.

8 Q. How many times did you met with him prior to his  
9 trial?

10 A. Ten to fifteen.

11 Q. Did the applicant cooperate with you during the course  
12 of your representation?

13 A. For the most part, yes, until the end. He decided he  
14 wanted to represent himself, so I filed the motion to be  
15 relieved and then also filed a motion to reduce bond, I  
16 believe it was, or reconsider bond.

17 Q. And he ultimately had a hearing about whether or not  
18 he could go pro se at trial. Is that correct?

19 A. Correct.

20 Q. Okay. Did you file any *Brady* or Rule 5 motions in  
21 this case?

22 A. I did.

23 Q. Okay. Did you review the discovery material with the  
24 applicant?

25 A. I did.

*Exhibit (1)*

THE STATE OF SOUTH CAROLINA )  
COUNTY OF SUMTER

IN THE COURT OF GENERAL SESSIONS  
THIRD JUDICIAL CIRCUIT

RECORDED

Warrant/Indictment Nos.: M936326, 2014A4320100382,  
2014A4320100472

STATE OF SOUTH CAROLINA )

2015 JAN 23 AM 11:59

v.

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

DAVID ABRAHAM DUREN JR. )

ORDER  
RELIEVING COUNSEL

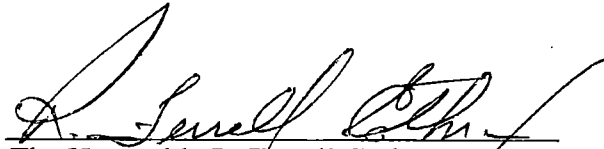
DEFENDANT. )  
\_\_\_\_\_ )

On January 21, 2015, Mr. David Abraham Duren Jr., by and through counsel, moved before this Court to have his attorney, Mr. Jacob Smith, Esq., relieved as counsel. The ground for this motion was the Defendant's right to proceed forward with all future Court proceedings pro-se. After hearing the argument by the Defendant, I find that the Defendant has voluntarily made the informed decision to proceed forward with self-representation.

THEREFORE, IT IS HEREBY ORDERED that Mr. Smith be relieved as counsel on any and all Indictment/Warrant Numbers currently pending in General Sessions Court.

**IT IS SO ORDERED.**

January 21, 2015  
Sumter, South Carolina

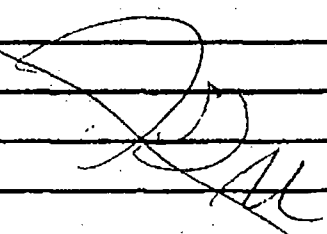
  
The Honorable R. Ferrell Cothran, Jr.  
Presiding Judge, General Sessions

*Client was not given Client Case  
File this date nor after this date*

Returned January 25th 2013 to sled  
 Returned to Sumter Police Department Feb 28th 2013

Exhibit K

### EVIDENCE INVENTORY AND CHAIN OF CUSTODY SUMTER POLICE DEPARTMENT

Case #: 11070427	Incident Type: Burglary	Date/Time: 05-31-12
Victim/ Complainant: Thomas + Howard Company - 156 South Main St. Sumter SC		
Suspect: David Duren	Race/Sex: B/M	DOB: [REDACTED]
Suspect:	Race/Sex:	DOB:
Suspect:	Race/Sex:	DOB:
Suspect:	Race/Sex:	DOB:
Location Seized: SC RDC - 1250 Winkles Road Sumter SC 29150		Seized by: J. Melton 1624
Reason: Court <input type="checkbox"/> Prints <input type="checkbox"/> Analysis <input checked="" type="checkbox"/> Destruction <input type="checkbox"/> Return <input type="checkbox"/>		Court Date: 6/5
Item	Quantity	Description of Articles
1	1	Buccal Swab collected from David Duren (DOB: [REDACTED])
		

05-31-2012  
Date

J. Melton 1624  
Printed / Typed Name

  
Signature

(59)

Exhibit L

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION

## FORENSIC SERVICES LABORATORY

NIKKI R. HALEY  
Governor



MARK A. KEEL  
Chief

James Allsbrook  
Sumter Police Department  
107 East Hampton Avenue  
Sumter, SC 29150

October 03, 2012  
SLED Lab Number: L11-07133  
Your Case Number: 11070427  
Incident Date: 6/8/2011

(S) David Duren  
(B) Cash & Carry

Dear James Allsbrook,

Evidence for this case submitted to the DNA Department was referred to Strand Analytical Laboratory for DNA analysis.

Attached is the report from their laboratory with results of the analysis. The analysis data and final report have been reviewed by a SLED DNA analyst and:

- The DNA profile from item 1 (swab from refrigerator) was compared to the DNA profile obtained from item 3 (David Duren).
- no DNA profiles were entered into the Combined DNA Index System.
- no DNA profiles qualified for entry into the Combined DNA Index System (CODIS).

If you have any questions regarding this report or the analysis performed, please contact the SLED DNA Department at (803) 896-7383.

Sincerely,

Kenneth L. Bogan  
Forensic Scientist



**LABORATORY EXAMINATION REPORT**  
**(Supplemental Report)**

August 6, 2012



**Laura H. Mills, Ph.D.**  
**SLED**  
4416 Broad River Road  
Columbia, SC 29210

**Strand Case No.:** 12F0090-2  
**SLED Case No.:** L11-07133  
**Submitting Agency:** Sumter Police Department  
**Submitting Agency Case No.:** 11070427

The following item was received at Strand Analytical Laboratories via FedEx from the South Carolina Law Enforcement Division on July 24, 2012:

Item	Sub item	Description
3		Buccal swabs from David Duren

**Methodology:**

Deoxyribonucleic Acid (DNA) was analyzed through the Polymerase Chain Reaction (PCR) at the following genetic loci: D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, vWA, TPOX, D18S51, D5S818, FGA and Amelogenin.

**Results and Conclusions:**

Item 3 was analyzed for DNA. The results of this analysis are shown in the STR Allele Table that follows this report.

The results obtained from item 3 (buccal swabs from David Duren) were compared to results obtained from item 1 (swabs from top of refrigerator near corner) previously analyzed and reported on March 20, 2012.

The single source male DNA profile obtained from item 1 (swabs from top of refrigerator near corner) matches the DNA profile of David Duren (item 3). The probability of an unrelated individual selected at random from the population being the source of this DNA profile is approximately 1 in 330 quintillion.

FS Laboratory Examination Report  
Case Number: 12F0090-2/L11-07133/11070427 (Supplemental)  
The results in this report relate only to the items tested.

Page 1 of 2

Analyst's initials: CC  
Date of distribution: 8/21/12

5770 Decatur Boulevard, Suite A • Indianapolis, IN 46241 • USA  
1-866-WE-ID-DNA • 1-317-455-2100 • www.strandlabs.com

**Results and Conclusions (continued):**

Frequencies published by the FBI were used for the statistical calculations.

For results of previous DNA analyses, please refer to my laboratory report dated March 20, 2012.

**Evidence Disposition:**

Portions of the pertinent evidence and lab product derived from these items are stored in a secure location. Any remaining evidence and/or packaging will be returned to the requesting agency.

Signature: Cynthia M. Calc  
Cynthia M. Calc

Title: Forensic Scientist

**STR Allele Table**

Sample	12F0090-1† (Swabs from top of refrigerator near corner)	12F0090-2-3 (Buccal swabs from David Duren)
D8S1179	15,16	15,16
D21S11	28	28
D7S820	10,11	10,11
CSF1PO	9,12	9,12
D3S1358	15,16	15,16
TH01	8,10	8,10
D13S317	11	11
D16S539	8,12	8,12
D2S1338	17,21	17,21
D19S433	12,14	12,14
vWA	16	16
TPOX	9,11	9,11
D18S51	18,19	18,19
Amel	X,Y	X,Y
D5S818	12	12
FGA	22,23	22,23

†Previously analyzed and reported on March 20, 2012

Exhibit MC

CRIMINAL CHARGING DOCUMENT NO.

BAIL PROCEEDING FORM I

RECORDED

STATE OF SOUTH CAROLINA

IN THE General Sessions

2012 MAY 29 AM 11:56

COUNTY OF Sumter

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

JAMES C. CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.

Duren, David Abraham Jr

NAME OF DEFENDANT

Offense Charged: Burglary / Burglary (Non-Violent) - Second degree-[M936326]

IT IS HEREBY ORDERED

I

That the above named defendant be released from custody on his own recognizance without surety on the condition that he will personally appear before the designated court at the place, date, and time required to answer the charge made against him and do what shall be ordered by the court, and not depart the State without permission of the court and be of good behavior.

II

That the above named defendant be released from custody upon recognizance without surety executed by him.

Appearance Recognizance Without Surety

On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared before the undersigned judge the defendant named above who acknowledged himself indebted to the State of South Carolina, in the sum of 2,500.00 dollars, to be levied on his real and personal property for the use of the State, if the defendant shall fail in performing the conditions of the Order.

III

That the defendant will notify the court promptly if he changes his address from the one contained in this Order and will comply with the following other conditions of release:

IV

That the defendant shall appear at (check one):

[X] the term of COURT OF GENERAL SESSIONS beginning on July 06, 2012 at 8:00 o'clock, A M, at General Sessions - 141 N. Main St., Rm 308/Sumter, SC 29150 / (803) 436-2264 and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

[ ] the session of [ ] MAGISTRATE COURT [ ] MUNICIPAL COURT beginning on \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ at \_\_\_\_\_

If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SIGNATURE OF DEFENDANT

6825 Panolla Road

ADDRESS

Pinewood, SC 29125-9521

CITY/STATE/ZIP

249-19-8993

SOCIAL SECURITY NUMBER

TELEPHONE

008002721 (SC)

DRIVER'S LICENSE OR ID NUMBER

SIGNATURE OF JUDGE

DATE

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED

Original Copy For The Trial Court - Copy For The Defendant

Exhibit A

State of South Carolina ) In the Court of General Sessions  
County of Sumter ) Third Judicial Circuit  
2012-GS-43-1149  
2014-GS-43-1078  
2014-GS-43-1079

State of South Carolina, )  
Plaintiff, )  
vs. ) Transcript of Record  
David A. Duren, Jr., )  
Defendant. )

January 20, 2015  
Sumter, South Carolina

B E F O R E:

The Honorable R. Ferrell Cothran, Judge

A P P E A R A N C E S:

W. Jason Corbett, Esquire, Assistant Solicitor  
Bronwyn K. McElveen, Assistant Solicitor  
Attorneys for the State

David A. Duren, Jr.,  
Self-represented Litigant

ALSO PRESENT:

Jacob M. Smith, Esquire

Elizabeth B. Harris, CVR-M-CM  
Circuit Court Reporter

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I N D E X

<u>Witness/Description</u>	<u>Page No.</u>
Certificate Page. . . . .	37

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Page No.</u>
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No Exhibits Introduced.

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(PRIOR TO HEARING, THE DEFENDANT IS DULY SWORN.)

MR. CORBETT: Your Honor, may it please the court?

THE COURT: Yes, sir.

MR. CORBETT: Jason Corbett on behalf of the state in the courtroom today with the state's motion regarding the defendant, David Duren. He's represented by attorney Jacob Smith.

MR. SMITH: Your Honor, if I may prior to getting into what the solicitor is going to get into? I filed a motion on this case about ten days ago regarding a motion to be relieved. Mr. Duren has informed me that he wishes to proceed pro se without counsel. We have discussed that issue. He still informs me he wishes to proceed pro se today.

THE COURT: Okay. Is that right, Mr. Duren?

MR. DUREN: Yes, sir.

THE COURT: You ever represented yourself before in court?

MR. DUREN: No, sir.

THE COURT: You had any training in legal matters?

MR. DUREN: No, sir.

THE COURT: Huh?

MR. DUREN: No, sir, I haven't.

THE COURT: Okay. I mean, you have a right to represent yourself. I just want to be sure you know what

1 you're doing.

2 MR. DUREN: Yes, sir.

3 THE COURT: As long as I'm satisfied you know what  
4 you're doing, I'll let you represent yourself, but I just  
5 got to be sure you understand.

6 MR. DUREN: Yes, sir.

7 THE COURT: You know, they say in law school that a  
8 person who represents himself has a fool for a client.

9 MR. DUREN: Yes, sir.

10 THE COURT: I just want to be sure you understand  
11 that.

12 MR. DUREN: Yes, sir.

13 THE COURT: And that once the trial starts, the judge  
14 and nobody else is going to be able to help you. You're  
15 going to be on your own as far as the rules of evidence and  
16 everything is concerned.

17 MR. DUREN: Yes, sir.

18 THE COURT: You understand?

19 MR. DUREN: Yes, sir.

20 THE COURT: Okay. How far did you go in school?

21 MR. DUREN: I completed school, sir.

22 THE COURT: Okay. Have you ever been -- you got a  
23 prior record? You ever been through a trial before?

24 MR. DUREN: I've been to trial before, sir.

25 THE COURT: Okay. So, you understand the process?

1 MR. DUREN: Yes, sir.

2 THE COURT: Okay, and you're not going to get a refund  
3 if I let your lawyer go. You understand that?

4 MR. DUREN: Yes, sir.

5 THE COURT: You're not going to get ---

6 MR. DUREN: Yes, sir.

7 THE COURT: --- the \$40 back, if you even paid that.  
8 You understand that?

9 MR. DUREN: Yes, sir.

10 THE COURT: Okay, and I don't know when the case, this  
11 case is planning on coming to trial, but, but you can't --  
12 you know, the fact that you've got appointed a lawyer, you  
13 can't ask the judge later to get -- appoint you another  
14 public defender.

15 MR. DUREN: I understand.

16 THE COURT: You can hire one, but you don't get to  
17 pick and choose when you don't get to hire them. You  
18 understand that?

19 MR. DUREN: I understand that, sir.

20 THE COURT: Okay, unless there's some strong  
21 indication of why Mr. Smith should be relieved. You just  
22 don't get to decide you don't like him, and so you're going  
23 to -- and then the next judge comes by asking to appoint  
24 you another public defender. You understand that?

25 MR. DUREN: I understand that, sir.

1 THE COURT: You got any questions you want to ask me  
2 concerning your rights as far as being -- representing  
3 yourself in trial?

4 MR. DUREN: No, sir.

5 THE COURT: Is there any outstanding discovery from  
6 the solicitor's office?

7 MR. DUREN: Yes, sir. I would like to know what --  
8 whether I've been indicted or told my charges, sir. I have  
9 received no ---

10 THE COURT: Well, we sure ought to be able to answer  
11 that.

12 MR. DUREN: Huh?

13 THE COURT: We'll be able to answer that for you.  
14 Now, has -- is there any discovery that you think your  
15 attorney has that he's not shared with you?

16 MR. DUREN: According -- when I talked to him, he's  
17 given me all that the state have given him, sir.

18 THE COURT: Right, and there's any -- I'm just trying  
19 to be sure there's no issue about that.

20 MR. DUREN: There is, there is a issue.

21 THE COURT: Well, I mean, I understand the issue is  
22 that the state may not have given it to your attorney, but  
23 you think everything your attorney has he's given you?

24 MR. DUREN: Yes, sir.

25 THE COURT: So, so, there's no problem there?

1 MR. DUREN: No, sir.

2 THE COURT: Okay.

3 MR. CORBETT: Your Honor, if I may, and I apologize  
4 for interrupting.

5 THE COURT: Okay.

6 MR. CORBETT: But just so that the record is clear and  
7 the defendant understands -- and, and this is Ms.  
8 McElveen's case and that's why I just wanted to make this  
9 clear. He's actually before the court currently on three  
10 separate indictments, and one of them is indictment  
11 2012-GS-43-1149. That's an indictment for burglary in the  
12 first degree and, Your Honor -- and Mr. Smith may can help  
13 us out with any potential clarification as well. It  
14 appears from the file that filed with the clerk of court's  
15 office was the notice of intention to seek life  
16 imprisonment based on defendant's prior record.

17 THE COURT: Okay.

18 MR. CORBETT: I just wanted to make the court aware of  
19 the seriousness of the charges, and then he's also -- his  
20 indictments from 2014 both appear to be burglary in the  
21 second degree.

22 THE COURT: Okay, and the 14, 2014 is burglary second?

23 MR. CORBETT: That's correct, Your Honor.

24 THE COURT: Now, is she -- a notice of LWOP has been  
25 filed?

4

1 MR. CORBETT: It has, Your Honor.

2 THE COURT: Okay. So, burglary first in itself  
3 carries potential life in prison but on a LWOP it's  
4 mandatory. So, it's -- he has ---

5 You have a prior enough record that this is life  
6 without parole if you're convicted. Is that right, Mr.  
7 Duren?

8 MR. DUREN: That's what I've been informed, sir. I  
9 have two prior burglaries.

10 THE COURT: Okay.

11 MR. DUREN: Yes, sir.

12 THE COURT: So, I just wanted to be sure you  
13 understand the serious nature of this, and you want to go  
14 forward without an attorney?

15 MR. DUREN: Yes, sir.

16 THE COURT: Okay, and the solicit tells me that he has  
17 one indictment for burglary first from 2012 and then two  
18 more indictments for burglary second from 2014, and so are  
19 there any other charges, Mr. Smith, that you represent him  
20 on?

21 MR. SMITH: I do not represent him on any charges,  
22 Your Honor. It is my understanding that -- and Detective  
23 Melton probably can clear most of this up -- that there  
24 might be two more charges out there that have not been  
25 served, warrants that hadn't been served. They're waiting

N

1 on some sort of evidence to come back, a CODIS hit. So,  
2 they have not served him with those warrants.

3 THE COURT: Okay.

4 MR. SMITH: That's the only thing I'm, I'm aware of.

5 THE COURT: Well, if he hasn't been served on those  
6 yet, then I'm -- then it -- at that time, it's a whole  
7 different, whole different case.

8 And you may get a public defender for those charges.  
9 You understand that? I'm just dealing with these three  
10 indictments.

11 MR. DUREN: Yes, sir.

12 THE COURT: Because that -- because what hasn't been  
13 charged yet, I can't deal with. So, at that time if you  
14 get charged additional warrants and you decide you want an  
15 attorney to help you, you can apply for the public defender  
16 on those indictments. You understand?

17 MR. DUREN: Yes, sir.

18 THE COURT: Okay. All right. So, Mr. Solicitor, you  
19 have true-billed indictments on the three you...

20 MR. CORBETT: That is correct, Your Honor.

21 THE COURT: Okay, and you want to be pro se on those?

22 MR. DUREN: Yes, sir.

23 THE COURT: Okay. I'll grant your motion.

24 MR. DUREN: Thank you, sir.

25 MR. SMITH: Thank you, Your Honor.

1 THE COURT: All right. Now what do you what to do?

2 MR. CORBETT: Now, Your Honor, if I may? The state's  
3 motion is under *U.S. vs. Schmerber* for defendant's DNA  
4 sample.

5 THE COURT: Okay.

6 MR. CORBETT: Judge, if I may just kind of establish  
7 the record? Mr. Duren is before the court on indictment  
8 2012-GS-43-1149 alleging burglary in the first degree, but  
9 I believe the *Schmerber* order does not apply to that one.  
10 He is also before the court in indictment ---

11 THE COURT: And you're not seeking *Schmerber* on that  
12 one?

13 MR. CORBETT: That is correct, Judge. It's the newer  
14 cases.

15 THE COURT: Okay.

16 MR. CORBETT: Okay, the newer cases are indictment  
17 2014-GS-43-0178 alleging burglary in the second degree and  
18 2014-GS-43-0179, also alleging burglary in the second  
19 degree. Your Honor, as stated, Jason Corbett on behalf of  
20 the state standing in today for Ms. McElveen. Present with  
21 me to provide testimony to the court is Detective John  
22 Melton, Sumter Police Department.

23 Judge, before we do that, if I may give you a little  
24 bit of context? With regard to the 2012 indictment, the  
25 state alleges that that incident took place on or about

1 July 8th of -- excuse me, June 8th of 2011. The state  
2 further alleges that they recovered biologic evidence at  
3 that crime scene, and at the time Mr. Duren voluntarily  
4 provided to law enforcement a buccal or buccal swab.

5 THE COURT: Okay.

6 MR. CORBETT: Judge as a result of that buccal swab,  
7 that was entered into the DNA database, commonly known to  
8 us as CODIS. Subsequent to that, Mr. Duren was arrested on  
9 or about -- on July 17, 2014, and then also served with an  
10 additional warrant on August 28th of 2014 for the two newer  
11 burglary charges.

12 At that point, law enforcement submitted evidence  
13 regarding -- biological evidence left at the crime scene  
14 and, and, Judge, with regard to the biological evidence  
15 from both crime scenes, it was run through CODIS and it  
16 came back as a match to Mr. Duren. However, under SLED  
17 protocol, SLED has requested an additional sample from Mr.  
18 Duren to run against those -- from the evidence from those  
19 two newer cases.

20 THE COURT: Okay. All right, do you, you want to tell  
21 me anything, Mr. Duren?

22 MR. DUREN: For the record, Your Honor, I, a man,  
23 David Abraham Duren, Jr., duly require a common law venue,  
24 sir.

25 THE COURT: Say that one more time.

1 filing, filing charges to the state bar association to ask  
2 them that question, sir.

3 THE COURT: Okay.

4 MR. DUREN: And in federal court.

5 THE COURT: All right. So, you have a sworn affidavit  
6 to submit to me on your buccal swab?

7 MR. CORBETT: Judge, if we may, we would present the  
8 testimony of Detective Melton.

9 THE COURT: Well, you can do that if you want to, but  
10 you're wasting your time.

11 MR. DUREN: Well, Your Honor.

12 THE COURT: It's got to be a sworn, written affidavit.

13 Under the law of South Carolina, a sworn testimony doesn't  
14 cut it because if that was happening, a magistrate would  
15 never have to have a search warrant. (State vs. Woods, it's  
16 got to be a written, sworn, written affidavit.

17 MR. CORBETT: Judge, bear with me one moment. The  
18 detective advises me that that -- that we do have that  
19 affidavit.

20 MR. DUREN: Your Honor, I also have papers I've also  
21 given a swab.

22 THE COURT: And that was back a long time ago, right?

23 MR. DUREN: This was before those two crimes and he  
24 has lost, he has lost those, he has lost those swabs, Your  
25 Honor.

1 THE COURT: Okay.

2 MR. DUREN: And, and since he has lost those swabs, I  
3 showed up on two more crimes scenes, Your Honor.

4 THE COURT: Well, that's what I'm trying to determine:  
5 whether, in fact, they can match any swabs on any crime  
6 scene on you. That's why we're having a trial one day.  
7 I'm just right now trying to see whether they're entitled  
8 to the evidence, and if they're entitled to the evidence,  
9 I'm going to give it to them. If they're not, I'm not.

10 MR. DUREN: Well, sir, when he asked me for the  
11 evidence the first time, I told him I wasn't going to give  
12 it to him, and he threatened to take my P.R. bond from me,  
13 sir. So, I gave him that evidence at that time. That was  
14 in 2012. That was long before those other two charges came  
15 up.

16 THE COURT: I understand that, but the problem is now  
17 the, the other two charges hadn't even occurred then. So,  
18 now he needs another set because of the new crime, to be  
19 sure they match.

20 MR. DUREN: Where is the, where is the DNA, where is  
21 the DNA analysis for the first crime? If he have had the  
22 DNA for the first crime, sir, he wouldn't have never need  
23 it from this crime.

24 THE COURT: I don't know the answer to that. I don't  
25 know any more about it than you do.

1 MR. DUREN: That's ---


2 THE COURT: I mean, the first time I ---

3 MR. DUREN: I'm trying to figure out what happened to  
4 my DNA from the first crime.

5 THE COURT: I'm sure they've got it, and they're going  
6 to let you know ---

7 MR. DUREN: I, I ---

8 THE COURT: --- if they go to trial.

9  MR. DUREN: I've put in a motion for discovery for it  
10 and Rule 5. They haven't showed it to me.

11 THE COURT: Well, if they've got it, I'll fix it so  
12 you -- see that you get it.

13 MR. DUREN: I would like to see that DNA analysis.

14 THE COURT: Okay.

15 MR. DUREN: From 2012.

16 THE COURT: They're looking for the affidavit right  
17 now.

18 DETECTIVE MELTON: Your Honor, I actually did one and  
19 it was notarized by a notary. I emailed it to Attorney  
20 McElveen -- we're going to try to access it -- and I sent a  
21 hard copy over to her.

22 MR. CORBETT: Judge, if we may step aside for just  
23 about five minutes, and I'll also see if I can resolve that  
24 prior DNA report issue as well.

25 THE COURT: Okay, because the prior, you know, if

1 you've got a -- on the burglary first, if you got DNA,  
2 that's part of discovery. You need to give it to him.

3 MR. CORBETT: Very well, Judge. If we may step aside  
4 for ---

5 THE COURT: Sure.

6 MR. CORBETT: --- about five minutes?

7 (OFF THE RECORD.)

8 THE COURT: Back on the record with David Duren.

9 MR. CORBETT: Judge, if I may, there is a three-page  
10 document that I want to hand to Mr. Duren. It is a CODIS  
11 Match Memorandum is the title of the document, and in this  
12 document SLED indicates that several items of evidence  
13 submitted to the Sumter -- by the Sumter Police Department,  
14 it references the laboratory case number, the sample or  
15 item number of the submitting agency, the agency case  
16 number, and the investigator's name. This document bears  
17 not only the three indictments that Mr. Duren is before the  
18 court on but some additional cases as well. The document  
19 further provides -- it provides Truman Goughan [phonetic]  
20 and James Allsbrook. Those are both evidence custodian  
21 crime scene technicians here in Sumter:

22 The following examples have been linked in CODIS,  
23 the combined DNA index system, via their DNA  
24 profiles.

25 And it lists five separate cases. It further says:

1           These samples have also been associated with  
2           David Abraham Duren.

3           And it provides some additional contact information  
4           for SLED. It also includes the laboratory examination  
5           report from Strand Analytical Laboratories.

6           Judge, if I may submit these documents to Mr. Duren,  
7           as well as another document from Mr. -- from SLED, and it's  
8           simply a document from -- advising law enforcement that  
9           Strand Analytical Laboratory has submitted a DNA, DNA  
10          profile into the CODIS system.

11          THE COURT: Okay.

12          (A PAUSE.)

13          THE COURT: Now while we're waiting on this document,  
14          it's my understanding that -- and I understand this is not  
15          your case -- that he has been noticed for LWOP on the  
16          burglary first

17          MR. CORBETT: That is correct.

18          THE COURT: And in that case, then you're not asking  
19          for a *Schmerber* order or DNA. It's already been done and  
20          completed?

21          MR. CORBETT: Judge, it is my understanding from the  
22          detective -- and Detective Melton just walked in -- but  
23          with regard to indictment 2012-1149, it's my understanding  
24          that the defendant, Mr. Duren, offered a buccal swab by  
25          consent in that case.

1 DETECTIVE MELTON: That's correct, Your Honor.

2 THE COURT: Okay, and so that, that sample has been  
3 analyzed against whatever was found in the crime scene, and  
4 you got a positive DNA hit on that.

5 MR. CORBETT: Judge, what I ---

6 THE COURT: And has that been given to the defendant?

7 MR. CORBETT: Judge, I want to be, I want to be  
8 careful on that. I do not know the exact status of that.

9 For example, in the SLED document that I referenced  
10 earlier, if -- I'm not, I'm not certain if this CODIS  
11 sample is from the 2012 case or from some prior incident  
12 involving Mr. Duren.

13 THE COURT: And I don't care about the CODIS sample.  
14 I mean, it's in CODIS and how it got there. It just gives  
15 us probable cause to get this other sample to where you  
16 won't have a chain issue. What I'm asking, since he's  
17 before me on three different indictments, the first  
18 indictment where he's been -- received life notice, has,  
19 because of discovery issues, has the sample that was taken  
20 from the crime scene matched? Not through CODIS but  
21 matched the buccal swab that you say he consented to and is  
22 -- where is that discovery?

23 MR. CORBETT: Judge, it is my understanding from the  
24 detective that that swab is at SLED to be tested, but that  
25 result has not been returned by SLED as of yet.

1           DETECTIVE MELTON: And that swab itself, Your Honor,  
 2           is the CODIS confirmation buccal where we got a hit before  
 3           on blood evidence and then we have to get another buccal.  
 4           Basically SLED has to reanalyze that buccal, make sure that  
 5           it does, in fact, match. We can -- we did, in fact, send  
 6           that to SLED. It's been in evidence ---

7           THE COURT: How long ago?

8           DETECTIVE MELTON: It's been a long time ago. I don't  
 9           know the exact time, but it was when it was collected, and  
 10          I did talk to our evidence custodian. It was sent then,  
 11          and it's still just sitting there, Your Honor.

12          MR. DUREN: If I may, Your Honor?

13          THE COURT: Hang on just a minute. Let me get through  
 14          this, and I'll to come back to you.

15          So, when you say a long time, has it been a year?

16          DETECTIVE MELTON: I actually think it's been, been  
 17          longer than a year, Your Honor.

18          THE COURT: So, she's got to get that back before we  
 19          can have a trial.

20          DETECTIVE MELTON: That's correct.

21          THE COURT: And so ---

22          DETECTIVE MELTON: Attorney McElveen was going to  
 23          contact them.

24          THE COURT: Okay, but sending this other over -- it's  
 25          just going to sit there, too? I mean, somebody needs to

1 subpoena SLED. It's going -- has he been in jail this  
2 whole time?

3 DETECTIVE MELTON: He was out after the first arrest,  
4 I believe, Your Honor, and then got rearrested.

5 THE COURT: How long you been in jail?

6 MR. DUREN: Sir, I've been in jail since May 17th of  
7 last year, sir.

8 THE COURT: Okay.

9 MR. DUREN: And, sir, sir.

10 THE COURT: You, you want to tell me something. I cut  
11 you off. Now, what you want to tell me?

12 MR. DUREN: Your Honor, sir, this CODIS hit off my  
13 first burglary that they said they have of me was ever  
14 since 2011, sir.

15 THE COURT: Okay.

16 MR. DUREN: And they picked -- I came to, I came to  
17 jail in 2012 on a misdemeanor, sir. That's when they, they  
18 served me with that warrant, but they had their warrant  
19 before then. They served me with that warrant, sir. And I  
20 was getting ready to make bail, sir, and -- because the  
21 judge gave me a P.R. bond on that burglary, and I got  
22 ready.

23 Mr. Melton came down to the jail and asked for a swab.  
24 I told him I wasn't going to give him one, right? So, he  
25 threatened me that he was going to go before the court and

1 chain or anything else in a actual trial.

2 Now what, what they do is because they have a CODIS  
3 hit -- the computer says that's you -- they take a new swab  
4 and compare it to the -- whatever evidence they found at  
5 the crime scene and have an analyst take a known buccal  
6 swab from you at that time and compare it to the sample at  
7 the crime scene. And if they get a match there, then we're  
8 in trial. If they don't get a match there, then that's the  
9 discovery that you get, that the DNA didn't match, and that  
10 ultimately may totally exonerate you and they not prosecute  
11 you for it. At least they have other evidence, and you get  
12 the benefit of telling the jury that they found DNA there  
13 that wasn't yours.

14 MR. DUREN: I understand that, but I, I have a problem  
15 with giving them another when I done give it the first  
16 time, and then my DNA showing up another time when I know I  
17 didn't commit these crimes, sir.

18 THE COURT: Well.

19 MR. DUREN: You know, you know, and ---

20 THE COURT: That's why we have ---

21 MR. DUREN: And ---

22 THE COURT: --- a trial and have to face that. At  
23 that point ---

24 MR. DUREN: And I know for, I know for a fact, I was  
25 told that he have lost my swab for my first, for my first

*Exp. CO*

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION

## FORENSIC SERVICES LABORATORY

NIKKI R. HALEY  
*Governor*



MARK A. KEEL  
*Chief*

James Allsbrook  
Sumter Police Department  
107 East Hampton Avenue  
Sumter, SC 29150

October 03, 2012  
SLED Lab Number: L11-07133  
Your Case Number: 11070427  
Incident Date: 6/8/2011

(S) David Duren  
(B) Cash & Carry

Dear James Allsbrook,

Evidence for this case submitted to the DNA Department was referred to Strand Analytical Laboratory for DNA analysis.

Attached is the report from their laboratory with results of the analysis. The analysis data and final report have been reviewed by a SLED DNA analyst and:

- The DNA profile from item 1 (swab from refrigerator) was compared to the DNA profile obtained from item 3 (David Duren).
- no DNA profiles were entered into the Combined DNA Index System.
- no DNA profiles qualified for entry into the Combined DNA Index System (CODIS).

If you have any questions regarding this report or the analysis performed, please contact the SLED DNA Department at (803) 896-7383.

Sincerely,

Kenneth L. Bogan  
Forensic Scientist



**LABORATORY EXAMINATION REPORT**  
**(Supplemental Report)**

August 6, 2012



Laura H. Mills, Ph.D.  
SLED  
4416 Broad River Road  
Columbia, SC 29210

Strand Case No.: 12F0090-2  
SLED Case No.: L11-07133  
Submitting Agency: Sumter Police Department  
Submitting Agency Case No.: 11070427

The following item was received at Strand Analytical Laboratories via FedEx from the South Carolina Law Enforcement Division on July 24, 2012:

Item	Sub item	Description
3		Buccal swabs from David Duren

**Methodology:**

Deoxyribonucleic Acid (DNA) was analyzed through the Polymerase Chain Reaction (PCR) at the following genetic loci: D8S1179, D21S11, D7S820, CSF1PO, D3S1358, TH01, D13S317, D16S539, D2S1338, D19S433, vWA, TPOX, D18S51, D5S818, FGA and Amelogenin.

**Results and Conclusions:**

Item 3 was analyzed for DNA. The results of this analysis are shown in the STR Allele Table that follows this report.

The results obtained from item 3 (buccal swabs from David Duren) were compared to results obtained from item 1 (swabs from top of refrigerator near corner) previously analyzed and reported on March 20, 2012.

The single source male DNA profile obtained from item 1 (swabs from top of refrigerator near corner) matches the DNA profile of David Duren (item 3). The probability of an unrelated individual selected at random from the population being the source of this DNA profile is approximately 1 in 330 quintillion.

FS Laboratory Examination Report  
Case Number: 12F0090-2/L11-07133/11070427 (Supplemental)  
The results in this report relate only to the items tested.

Page 1 of 2

Analyst's initials: CC  
Date of distribution: 8/8/12

5770 Decatur Boulevard, Suite A • Indianapolis, IN 46241 • USA  
1-866-WE-ID-DNA • 1-317-455-2100 • www.strandlabs.com

**Results and Conclusions (continued):**

Frequencies published by the FBI were used for the statistical calculations.

For results of previous DNA analyses, please refer to my laboratory report dated March 20, 2012.

**Evidence Disposition:**

Portions of the pertinent evidence and lab product derived from these items are stored in a secure location. Any remaining evidence and/or packaging will be returned to the requesting agency.

Signature: Cynthia M. Cale  
Cynthia M. Cale

Title: Forensic Scientist

**STR Allele Table**

Sample	12F0090-1† (Swabs from top of refrigerator near corner)	12F0090-2-3 (Buccal swabs from David Duren)
D8S1179	15,16	15,16
D21S11	28	28
D7S820	10,11	10,11
CSFIPO	9,12	9,12
D3S1358	15,16	15,16
TH01	8,10	8,10
D13S317	11	11
D16S539	8,12	8,12
D2S1338	17,21	17,21
D19S433	12,14	12,14
vWA	16	16
TPOX	9,11	9,11
D18S51	18,19	18,19
Amel	X,Y	X,Y
D5S818	12	12
FGA	22,23	22,23

†Previously analyzed and reported on March 20, 2012

John Davis

2425 Peach Orchard Rd.

Sumter, S.C. 29154

803-491-4817 / fax 803-499-4044

## Investigative Report

**Client:** Attorney Jake Smith

215 N. Harvin St.

Sumter, S.C. 29150

**Defendant:** David Duren

Burglary 2<sup>nd</sup>

10/16/2014 (Thursday)

I reviewed available discovery and started investigative report.

### Incident Report:

Incident Date – 6/8/2011 @ 17:00 hrs – 6/9/2011 @ 08:30 hrs

### Investigative Summary:

Officer - Det. J. Melton

Incident Date – 6/8/2011

Location – 156 S. Harvin St. (Thomas & Howard)

Suspects broke in through wall.

On other side of wall was a refrigeration unit which suspects would have to climb over.

Blood was discovered on top of the unit.

~~Exhibit~~  
Exhibit P

Sample was collected and submitted to SLED

The sample was positively identified through CODIS as being that of David Duren.

Duren is and never has been an employee of Thomas and Howard.

Duren was arrested and charged.

Duren provided Buccal swabs at law enforcements request.

**SLED forensic Services Lab Report:**

Sample was compared to combined DNA index.

Additional biological specimen must be submitted for court.

**Criminal History:**

Has prior history of Burglary

10/24/2014 (Friday)

Interviewed David Duren at the Sumter Detention Center.

He related the following:

He is in pretty good shape for his age -- regarding the ability to commit the burglary as described in the incident report.

He has learned that the buccal swabs that he had submitted to have been lost.

Inv. John Melton has been to see him requesting more swabs.

He said that he was in Columbus Georgia between 6/6/11 and 6/13/11.

He had to be in Columbus on 6/13/11 for a bond meeting. He had went down early and was working for Gregg Carter

Gregg Carter            706-507-3032

Phoenix City Alabama

Fay Cogdell – Duren's sister

Pinewood, S.C.

803-795-2378

Sonya Dow

803-464-0913

Terra Drakeford – Duren's sister

561-543-2597

Alton Spencer Carter's son-in-law

Columbus Georgia

He states that he was threatened by Inv. Melton – Melton told him that if he did not submit to the buccal swabs he (Melton) would go to the judge and have his bond revoked. Melton's cell mate was present at the time.

10/30/2014 (Thursday)

I called telephone number for Gregg Carter. No answer and voice mail was full.

I called Sonya Dow. She said that Duren has been back and forth to Georgia over the years and has worked for her. She does not recall the dates but will check her records if available. She will contact Carter and have him call me.

11/14/014 (Friday)

I have not heard from Sonya Dow as of this date.

I ran data searches on Gregg Carter – No record for Alabama

I ran data searches for Alton Spencer:

3565 Green forest Dr.

Columbus Ga.

706-507-3177 – Not in service

706-562-9756 – disconnected

706-593-6599 – Not in service

I called and spoke with Sonya Dow. She said that she gave Carter my message and will try to contact him again.

11/19/2014 (Wednesday)

*Exhibit P*

I have not heard from Sonya Dow.

I ran extensive data searches for Gregg Carter with no results.

1/25/2015 (Monday)

I received email from Public Defender office instructing me to close this case.

1/26/2015 (Tuesday)

I completed investigative report and time & expense log.

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John Davis

1/26/2015

Proof of Service

I certify that I have served a copy of this formal Complaint with the attached exhibits to the South Carolina Supreme Court, Attn: the Honorable Donald Beatty, by placing said document in U.S. Postal Service, postage pre-paid on June 13, 2018.

David Duren

David Duren

David Duren #181965  
Perry C.I. Q3B-215  
430 OAKLAND Rd  
Peltzer, S.C. 29669

Sworn or Affirmed to and subscribed  
before me this day June 13, 2018

Tamara Crum  
Notary Public

My Commission Expires September 25, 2023