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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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SC Court of Appeals

Appeal from Spartanburg County Court of General Sessions  
The Honorable J. Mark Hayes, II Circuit Court Judge

Appellate Case No. 2018-001031

State of South Carolina,.....Respondent.

v.

Calvin Lee Phillips, III,.....Appellant,

**RECORD ON APPEAL**

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**INDEX**

Guilty Plea Hearing Transcript, May 16, 2018.....1-39

Indictments and Sentencing Sheets (2017-GS-42-3582 – 3585, 3585A).....40-48

Certificate of Counsel.....49

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	)	IN THE COURT OF
	)	GENERAL SESSIONS
COUNTY OF SPARTANBURG	)	OF THE SEVENTH
	)	JUDICIAL CIRCUIT
	)	
	)	
THE STATE,	)	
	)	
Plaintiff,	)	TRANSCRIPT OF RECORD
	)	2017-GS-42-03582
vs.	)	2017-GS-42-03583
	)	2017-GS-42-03584
CALVIN LEE PHILLIPS, III,	)	2017-GS-42-03585
	)	2017-GS-42-03585A
Defendant.	)	
	)	

**ORIGINAL**

May 16, 2018  
Spartanburg, South Carolina

B E F O R E:  
HONORABLE J. MARK HAYES, II, Judge.

A P P E A R A N C E S  
SPENSER H. SMITH, ESQUIRE  
    For The State  
  
WILLIAM G. YARBOROUGH, III  
    For The Defendant

Julie A. Ashbrook,  
Circuit Court Reporter  
Seventh Judicial Circuit

I N D E X

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

WITNESS

PAGE

GROUP PLEA QUALIFICATION  
By The Court

4

ANNOUNCEMENT OF CASE  
By Mr. Smith

16

PLEA QUALIFICATION  
By The Court

17

STATEMENT OF FACTS  
By Mr. Smith

19

FURTHER QUALIFICATION OF PLEA  
By The Court

24

STATEMENT OF VICTIM  
By Mr. Barns

29

PROBATION FACTS  
By Ms. Manigan

31

STATEMENT FOR DEFENDANT  
By Mr. Jackson

32

STATEMENT OF DEFENSE  
By Mr. Yarborough

33

ORDER OF THE COURT

37

CERTIFICATE OF REPORTER

39

- 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

EXHIBITS

MARKED

ENTERED

NO EXHIBITS PROFFERED

1                   THE STATE VERSUS CALVIN LEE PHILLIPS, III

2           THE COURT: All right. When I call your name, if  
3 you would, just raise your hand and let me eyeball where  
4 you are right now. If by chance you're in the gallery  
5 and I call your name, come forward, if you will, and  
6 have a seat.

7           All right. We have Tanner Cain.

8           DEFENDANT CAIN: (Raises hand.)

9           THE COURT: Tiffany Dixon.

10          DEFENDANT DIXON: (Raises hand.)

11          THE COURT: Allen Edmonds.

12          DEFENDANT EDMONDS: (Raises hand.)

13          THE COURT: Amanda Fisher.

14          DEFENDANT FISHER: (Raises hand.)

15          THE COURT: Myra Hines.

16          DEFENDANT HINES: (Raises hand.)

17          THE COURT: Jess or Jesse Gray.

18          DEFENDANT GRAY: (Raises hand.)

19          THE COURT: Kevin Green.

20          DEFENDANT GREEN: (Raises hand.)

21          THE COURT: Shannon Jeter. Shannon Centele  
22 Jeter.

23          MR. NEELY: Your Honor, I represent Mr. Jeter.  
24 He called the office to let us know he was at the  
25 courthouse and I've got another on the plea docket, so I

1 haven't been able to lay eyes on him yet, but I will.

2 THE COURT: Frederick Means.

3 DEFENDANT MEANS: Yes, sir.

4 THE COURT: Rosa Morales.

5 DEFENDANT MORALES: (Raises hand.)

6 THE COURT: Jessica Nesbitt.

7 DEFENDANT NESBITT: (Raises hand.)

8 THE COURT: Calvin Phillips.

9 DEFENDANT PHILLIPS: (Raises hand.)

10 THE COURT: Eric Teamer.

11 DEFENDANT TEAMER: Yes, sir.

12 THE COURT: Travis Timmons.

13 DEFENDANT TIMMONS: (Raises hand.)

14 THE COURT: Joseph Radford.

15 DEFENDANT RADFORD: Yes, sir.

16 THE COURT: Brittany Wofford.

17 DEFENDANT WOFFORD: (Raises hand.)

18 MR. NEELY: Judge, may we approach for a moment?

19 (Whereupon, a bench conference was held off the  
20 record.)

21 THE COURT: Melissa Hartsoe.

22 DEFENDANT HARTSOE: (Comes forward.)

23 THE COURT: Arien Hamrick.

24 DEFENDANT HAMRICK: Right here.

25 THE COURT: David Statzer.

1 DEFENDANT STATZER: (Raises hand.)

2 THE COURT: Joshua Wicks.

3 DEFENDANT WICKS: (Raises hand.)

4 THE COURT: Chavis Cunningham.

5 DEFENDANT CUNNINGHAM: (Comes forward.)

6 THE COURT: Shannon Jeter. All right. Madam  
7 Clerk (sic), will you call Shannon Jeter.

8 THE BAILIFF: No response, Your Honor.

9 THE COURT: All right. We'll need to get a bench  
10 warrant.

11 All right, ladies and gentlemen, I need for you  
12 all to please listen to me for a few moments. I've been  
13 told that each one of you has one or more matters that  
14 are presently pending in the court of General Sessions.  
15 I've also been told that each one of you has expressed a  
16 desire or intent to enter into a plea to those matters.

17 I need to let you know that as a part of every  
18 plea that is presented in front of me we make a  
19 recording. This lady, who's sitting over here to my  
20 right, she's a court reporter. She's taking down  
21 everything that's said. I tell you that because if ever  
22 during this process or if you need to speak to me, I  
23 need you to speak up loud enough so that she and I can  
24 hear you, because if we can't hear you, I cannot accept  
25 your plea. But likewise, if ever during this process if

1 you cannot hear me, immediately let me know and I'll  
2 speak up as well.

3 Now, in just a few moments I'm gonna ask you a  
4 series of questions. I'm gonna ask you these questions  
5 as a group, but I do not wish you to think or conclude  
6 that simply because I'm asking these questions as a  
7 group, then for some reason these questions are not  
8 important because these questions are very important.

9 The questions that I ask you and the answers you  
10 give me to these questions, help me decide whether or  
11 not I can, in fact, accept your pleas, so please listen  
12 to them. If you need to respond to the questions, I'm  
13 gonna ask you, if you would, to please stand up and let  
14 me call on you one at a time. Just don't everybody  
15 speak out at once, but let me call on you one at a time.

16 Now, if ever during this process if any of you  
17 feel the need to want to speak with your lawyer, you  
18 just let me know and I'll allow you to talk to your  
19 lawyer in private. I am now going to call your names  
20 one more time. Now, this time when I call your name,  
21 I'm gonna ask, if you would, to please stand and remain  
22 standing. After everybody's name's been called and the  
23 court reporter has your names written down, the lady on  
24 this side of the courtroom, the Clerk of Court, she's  
25 gonna swear you in, so please respond out loud when she

1 asks you to do so.

2 All right. We have Chavis Cunningham, Tanner  
3 Cain, Tiffany Dixon, Allen Edmonds, Amanda Fisher, Myra  
4 Hines, Jesse Gray, Kevin Green, Frederick Means, Rosa  
5 Morales, Jessica Nesbitt, Calvin Phillips, Eric Teamer,  
6 Travis Timmons, Joseph Radford, Melissa Hartsoe, Arien  
7 Hamrick, David Statzer, Joshua Wicks.

8 (Whereupon, all defendants stood.)

9 Please raise your right hand. (All comply.)

10 THE CLERK: Do you solemnly swear that the  
11 testimony you're about to give will be the truth, the  
12 whole truth and nothing but the truth so help you God?

13 (Whereupon, all defendants answer in the  
14 affirmative.)

15 THE CLERK: Thank you. You may be seated.

16 THE COURT: Here are the questions that I need  
17 for you to please listen to. During the last 24 hours  
18 have you consumed any type of substance that is  
19 adversely or negatively affecting your ability to  
20 understand what we're doing today? If you have taken  
21 something, I need for you to please stand at this time.

22 (Whereupon, no defendant stood.)

23 In the past, if you've ever received any type of  
24 substance abuse treatment, that's for drug or alcohol  
25 abuse, I need for you to please stand at this time. If

1 you've ever received any substance abuse treatment,  
2 please stand.

3 All right. We'll start first right here.

4 (Indicating.) Yes, sir, your name.

5 DEFENDANT CAIN: Tanner Cain.

6 THE COURT: And, Mr. Cain, did you receive  
7 treatment for drugs, alcohol or both?

8 DEFENDANT CAIN: Just drugs, sir.

9 THE COURT: Where did you receive that last  
10 treatment?

11 DEFENDANT CAIN: Three Rivers in Columbia.

12 THE COURT: How long ago was that approximately?

13 DEFENDANT CAIN: Over a year, sir.

14 THE COURT: And was it successful at the time?

15 DEFENDANT CAIN: Yes, sir.

16 THE COURT: Thank you, sir, you may be seated.

17 Yes, sir, your name?

18 DEFENDANT EDMONDS: Al Edmonds.

19 THE COURT: And, Mr. Edmonds, did you receive  
20 treatment for drugs, alcohol or both?

21 DEFENDANT EDMONDS: Drugs.

22 THE COURT: Where?

23 DEFENDANT EDMONDS: The Phoenix Center.

24 THE COURT: And how long ago was that  
25 approximately?

1           DEFENDANT EDMONDS: Um, it was a couple years  
2 ago.

3           THE COURT: And was it successful at the time?

4           DEFENDANT EDMONDS: It wasn't, Your Honor.

5           THE COURT: Thank you, sir, you may be seated.

6           We'll start over here on the end this time. Your  
7 name?

8           DEFENDANT NESBITT: Jessica Nesbitt.

9           THE COURT: Ms. Nesbitt, did you receive  
10 treatment for drugs, alcohol or both?

11          DEFENDANT NESBITT: Drugs.

12          THE COURT: Where did you receive that last  
13 treatment?

14          DEFENDANT NESBITT: At a place called the Water  
15 Shed in Oakley Pine, Florida.

16          THE COURT: How long ago was that approximately?

17          DEFENDANT NESBITT: 2013.

18          THE COURT: Was it successful at the time?

19          DEFENDANT NESBITT: Yes, sir.

20          THE COURT: Thank you. You may be seated.

21          Yes, ma'am, your name again?

22          DEFENDANT HINES: Myra Hines.

23          THE COURT: Ms. Hines, did you receive treatment  
24 for drugs, alcohol or both?

25          DEFENDANT HINES: Both.

1 THE COURT: Where?

2 DEFENDANT HINES: At the Phoenix Center in  
3 Greenville.

4 THE COURT: How long ago was that approximately?

5 DEFENDANT HINES: 2007, right before I had my  
6 son.

7 THE COURT: And was it successful at the time?

8 DEFENDANT HINES: No, sir.

9 THE COURT: Thank you, ma'am.

10 Yes, ma'am, your name?

11 DEFENDANT FISHER: Amanda Fisher.

12 THE COURT: Ms. Fisher, did you receive treatment  
13 for drugs, alcohol or both?

14 DEFENDANT FISHER: Drugs.

15 THE COURT: Where?

16 DEFENDANT FISHER: The Forester Center in  
17 Spartanburg.

18 THE COURT: How long ago was that approximately?

19 DEFENDANT FISHER: 2015.

20 THE COURT: Was it successful at the time?

21 DEFENDANT FISHER: Yes. Yes, sir.

22 THE COURT: Thank you.

23 Yes, sir, your name?

24 DEFENDANT MEANS: Frederick Means.

25 THE COURT: Mr. Means, did you receive treatment

1 for drugs, alcohol or both?

2 DEFENDANT MEANS: Yes, sir.

3 THE COURT: Both?

4 DEFENDANT MEANS: Drugs.

5 THE COURT: Drugs. Where did you receive that  
6 treatment.

7 DEFENDANT MEANS: Forester Center.

8 THE COURT: How long ago was that?

9 DEFENDANT MEANS: 2016.

10 THE COURT: Was it successful at the time?

11 DEFENDANT MEANS: Yes, sir.

12 THE COURT: Thank you, sir.

13 Yes, sir, in the back row. Your name?

14 DEFENDANT TIMMONS: Eric Timmons.

15 THE COURT: Timmon?

16 DEFENDANT TIMMONS: Yes, sir.

17 THE COURT: Mr. Timmons, did you receive  
18 treatment for drugs, alcohol or both?

19 DEFENDANT TIMMONS: Drugs.

20 THE COURT: Where?

21 DEFENDANT TIMMONS: Don Foster.

22 THE COURT: How long ago was that approximately?

23 DEFENDANT TIMMONS: 2015.

24 THE COURT: Was it successful at the time?

25 MR. TIMMONS: Yes, sir.

1 THE COURT: Thank you, sir.

2 Yes, sir, your name?

3 DEFENDANT RADFORD: Joseph Radford. Went to  
4 Morris Village.

5 THE COURT: Give me one second. Drugs or alcohol  
6 or both?

7 DEFENDANT RADFORD: Both.

8 THE COURT: Morris Village?

9 DEFENDANT RADFORD: Yes, sir.

10 THE COURT: How long ago was that?

11 DEFENDANT RADFORD: 23 years ago.

12 THE COURT: Successful at the time?

13 DEFENDANT RADFORD: Yes, sir.

14 THE COURT: Thank you, sir, you may be seated.

15 Yes, sir, your name?

16 DEFENDANT GREEN: Kevin Green.

17 THE COURT: Kevin?

18 DEFENDANT GREEN: Green.

19 THE COURT: Drugs or alcohol or both?

20 DEFENDANT GREEN: Both.

21 THE COURT: Where did you receive that treatment?

22 DEFENDANT GREEN: SADAC.

23 THE COURT: How long ago was that approximately?

24 DEFENDANT GREEN: 2015.

25 THE COURT: Was it successful at the time?

1           DEFENDANT GREEN: Yes, sir.

2           THE COURT: Thank you, sir, you may be seated.

3           If you are satisfied with the work that your  
4 lawyer has done for you, then I need for you to please  
5 stand at this time. If you're satisfied with the work  
6 that your lawyer has done, please stand. Let the record  
7 reflect that everyone stood. Thank you very much, you  
8 may be seated.

9           If anybody has come to you and threatened you in  
10 any way or if they had made you any promises in order to  
11 get you to make the decision to enter the plea, then I  
12 need for you to please stand. If anybody has threatened  
13 or promised you anything, please stand.

14           (Whereupon, no defendant stood.)

15           If the decision by you to enter the plea is a  
16 free and voluntary decision on your part, then I need  
17 for you to please stand at this time. If this is a free  
18 and voluntary decision, please stand. Let the record  
19 reflect that everyone stood. Thank you very much, you  
20 may be seated.

21           I need for each of you to understand that under  
22 the law you are presumed innocent on each and every  
23 charge that's presently against you and you are entitled  
24 to have a jury trial on each and every one of those  
25 charges. Now, in any jury trial that would take place,

1 it would be the State that has the burden of proof. The  
2 State would have to convince all 12 members of a jury  
3 that you are, in fact, guilty beyond a reasonable doubt  
4 of each and every one of those charges.

5 Now, in order to enter a plea, however, you have  
6 to give up your right to that jury trial. But if you  
7 wish to have a jury trial on any of the charges that are  
8 presently against you, that is perfectly fine. We will  
9 simply schedule a jury trial for you.

10 Is there anyone who wishes to have a jury trial  
11 on any of the charges that are presently against them?  
12 If you do wish to have a jury trial, please stand at  
13 this time.

14 (Whereupon, no defendant stood.)

15 In addition to giving up your right to that jury  
16 trial, there are other very important constitutional  
17 rights that you are entitled to, but that you have to  
18 give up in order to enter a plea. You have to give up  
19 your right to confront and cross-examine the State's  
20 witnesses. You also have to give up your right to  
21 present evidence, which you or your lawyer might be able  
22 to establish a defense and you have to give up your  
23 right of subpoena and you have to give up your right to  
24 remain silent.

25 Now, if you understand those rights and you wish

1 to give up those rights and go forward with entering the  
2 plea, then I need for you to please stand at this time.  
3 Let the record reflect that everyone stood. Thank you  
4 very much, you may be seated.

5 Again, if ever during this process any of you  
6 wish to speak to your lawyer, just let me know and I'll  
7 let you talk to your lawyer in private. Now, the four  
8 of you who joined us from the gallery, you can return  
9 back to the gallery. Thank you very much.

10 (Whereupon, this ends group qualification.)

11 MR. SMITH: Calvin Phillips.

12 MR. YARBOROUGH: Good morning, Your Honor.

13 MR. SMITH: Your Honor, Mr. Phillips is here to  
14 plead on four indictments with five charges. First is  
15 2017-GS-42-3583. That's a true billed indictment for  
16 assault and battery in the first degree. He's pleading  
17 as charged. There's a recommendation for all of these  
18 cases of a range of 5 to 20 years. Some of the charges  
19 don't carry that much, but that's the overall  
20 recommendation, Your Honor.

21 Next is 2017-GS-42-3584. That is a true billed  
22 indictment for kidnapping. He is pleading as charged to  
23 that.

24 Next is 2017-GS-42-3585. True billed indictment  
25 for armed robbery and possession of a weapon during a

1 violent crime. He's pleading guilty to the lesser  
2 included offense of attempted armed robbery for count  
3 one. And he's pleading guilty to the weapon charge as  
4 charged on count two.

5 And finally, there's 2017-GS-42-3582. That was a  
6 true billed indictment for burglary in the first degree.  
7 He's pleading guilty to the lesser included offense of  
8 burglary second-degree violent.

9 He's represented by Bill Yarborough. I do have a  
10 victim that would wish to address the Court at the  
11 appropriate time, Your Honor. And I do believe he has a  
12 probation matter.

13 THE COURT: You are Mr. Phillips?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Sir, it is your intent to enter a  
16 plea to the charges that were just announced?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: How old are you?

19 THE DEFENDANT: 24, sir.

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

21 THE DEFENDANT: I graduated high school and I did  
22 one year in college.

23 THE COURT: Where did you do that one year of  
24 college?

25 THE DEFENDANT: I didn't finish it. I was at

1 Upstate.

2 THE COURT: Are you married, single, divorced or  
3 widowed?

4 THE DEFENDANT: Single.

5 THE COURT: Do you have children?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you or did you have a job outside  
8 the home prior to your arrest?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: What were you doing?

11 THE DEFENDANT: I was working for MCS, Moving and  
12 Cleaning Solutions, and for Addidas, sir.

13 THE COURT: Ever serve in the military?

14 THE DEFENDANT: No, sir.

15 THE COURT: On these charges how long of a time  
16 have you been in jail?

17 THE DEFENDANT: Oh, a little over a year, sir.

18 THE COURT: Number of days?

19 MR. YARBOROUGH: I think it's 380.

20 THE COURT: 380?

21 MR. SMITH: He was arrested on the second, so 365  
22 plus 15? 300 ---

23 MR. YARBOROUGH: That's what I said.

24 MR. SMITH: 381, I guess.

25 MR. YARBOROUGH: Well, we'll take 81.

1 THE COURT: Okay. Mr. Phillips, please listen to  
2 the Solicitor, he's going to provide us with the facts.

3 MR. SPENSER: Thank you, Your Honor. This  
4 incident occurred on April 24th of 2017, in the early  
5 morning hours around 5 o'clock on Sprouse Road here in  
6 Spartanburg County. The victims are Jacob Scottie  
7 Burns. They have previous relationships to some extent,  
8 and I can let him speak to that, with Mr. Phillips.  
9 Knew him, not a direct friend, but knew him through  
10 people.

11 The co-defendant in this case, Destinie Matheny  
12 has already pled, Your Honor. Pled to the same charges  
13 except the weapon charge. She got a sentence of 20  
14 years suspended to ten years with five years probation.

15 Your Honor, what happened is Jacob Burns was  
16 sitting out in his vehicle listening to the radio at  
17 around 5 o'clock in the morning. He says that a truck  
18 or a car pulls up and basically blocks his driveway.  
19 And he's backed up to where his headlights would be  
20 facing towards the driveway.

21 And a passenger gets out of that vehicle and  
22 starts walking towards him. He cuts on his high beams  
23 and recognizes it to be a person he knows as Trip from  
24 prior dealings. He says, you know, what do you need?  
25 And Mr. Phillips expressed that he wanted to speak to

1 his brother, Scott, who was inside asleep at the time.

2 He told him, you know, that you showed up  
3 unannounced, he's asleep, you need to go. They started  
4 getting into a bit of a verbal altercation. Mr.  
5 Phillips gestures towards the car and Ms. Matheny gets  
6 out of that vehicle, Your Honor, and approaches.

7 At that point she produces a handgun and Mr.  
8 Phillips then robs Jacob of his wallet. I believe his  
9 cellphone was left in the car, but he didn't get that.  
10 but he gets his wallet and that's important later, Your  
11 Honor.

12 They basically then say we're going inside the  
13 house. He -- it's Jacob leading with Destinie following  
14 behind and then Calvin falling behind Destinie. And Mr.  
15 Burns will get into what feelings are going through his  
16 mind at this time. But when he goes in first she has  
17 the gun out, I guess, extended and he sees an  
18 opportunity to slam the door on the gun and that knocks  
19 the gun out of her hands and a struggle ensues then  
20 between all three of them inside of the living room/kind  
21 of kitchen area of the house.

22 He's screaming for his brother to wake up and  
23 come downstairs. There ends up -- they were painting  
24 the house at the time, Your Honor, so they all get  
25 covered in paint. And the whole house gets basically --

1 the whole area where all this happens gets covered in  
2 paint. That's also important later, Your Honor.

3 They're fighting over the gun. A gun is later  
4 recovered at their residence that both the Burns's say  
5 it's not theirs. It's also covered in paint, consistent  
6 that it was involved in the struggle. While they're  
7 struggling over the gun, Mr. Phillips ends up getting on  
8 top of Mr. Burns assaulting him. That's the basis for  
9 the assault and battery first.

10 Mr. Scott (sic) wakes up, hears his brother. He  
11 comes down, sees what's happening, sees that he's being  
12 assaulted. At this point he thinks it was two men. He  
13 goes to another room, gets a shotgun, comes back and he  
14 shoots Ms. Matheny. At that point realizes that she's a  
15 female. Tells, who he doesn't even know who it is, but  
16 Trip to get off of his brother. He doesn't and he  
17 shoots him in the back with a shotgun.

18 Then Trip leaves and they head to the hospital.  
19 Ultimately they go to the hospital first and it gets  
20 reported as a shooting prior to the Burns's calling in.  
21 And I will let him explain that to some extent. They  
22 went and met with an attorney prior to going to the  
23 sheriff's office. They came to the sheriff's office  
24 later that afternoon after consulting with an attorney.

25 Mr. Phillips was in such a bad condition when he

1 gets to the hospital he's not able to speak to any law  
2 enforcement. He goes straight into surgery and he  
3 stayed in the hospital until he was arrested on May 2nd.

4 Ms. Matheny was not as badly hurt. They spoke to  
5 her to try to figure out what happened. She said that  
6 Trip and her had been fighting, that they're not allowed  
7 to fight at the house, so they went out just riding  
8 around so they can figure out whatever their  
9 disagreement was. And then they decided to stop on the  
10 side of the road somewhere and smoke a cigarette and  
11 have an argument.

12 She says that out of nowhere a car drives by and  
13 shot at her and she didn't see the car, she doesn't know  
14 what type of gun it was. And for explaining the paint,  
15 she says that Trip and her run into a field and there  
16 was a construction sight there where they got paint  
17 covered on them. Police checked that. There is a  
18 construction site where she told them, but it was the  
19 wrong color of paint.

20 Your Honor, while they're trying to figure out  
21 what's going on with all that, Ms. Matheny basically  
22 outside of that not giving much information. The  
23 Burns's come into the sheriff's office. It's the two  
24 that I mentioned and Scottie's girlfriend, who was  
25 asleep at the time when this happened.

1           They come in, they start giving details. The  
2 sheriff's office realizes that they're involved, but  
3 they don't know what happened at this point. They're  
4 Mirandized. They were both identified, Phillips and  
5 Matheny out of federal lineups as the people who had  
6 done it. They both gave a consistent story, at least to  
7 the parts that they were witnesses to, about what  
8 happened inside the house.

9           I forgot to mention, at the hospital, Your Honor,  
10 Jacob Burns's wallet with his Social Security card is  
11 recovered in Mr. Phillips' pants. The vehicle that Mr.  
12 Phillips and Ms. Matheny are in is searched. It's got  
13 blood and, among some other things, some marijuana in  
14 it.

15           That's important too because later Ms. Matheny  
16 changed her story and said that they had just showed up  
17 there unannounced to try to get marijuana. I find that  
18 interesting because they have marijuana in the car. So  
19 they arrived for marijuana or they had marijuana and  
20 that explanation is a lie.

21           Regardless, Your Honor, that would be burglary  
22 first. It occurred at night. It was an assault that  
23 occurred inside. Weapons were used. Armed robbery for  
24 taking the wallet. A and B first for assaulting Mr.  
25 Burns inside during the course of a kidnapping, a

1 burglary and an armed robbery. And a kidnapping for  
2 having the gun held in the back of him.

3 Mr. Burns does wish to address the Court at the  
4 appropriate time, Your Honor. And he does have a prior  
5 record, Your Honor.

6 THE COURT: Do you believe that as he stated the  
7 facts that the Solicitor is substantially correct?

8 THE DEFENDANT: Yes, sir, I do, Your Honor.

9 THE COURT: And, sir, do you understand that I'm  
10 not bound by the recommendation made by the State?

11 THE DEFENDANT: Can you repeat that, sir?

12 THE COURT: Do you understand that I am not bound  
13 by a recommendation made by the State?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And that on the assault and battery  
16 in the first degree I could sentence you up to ten  
17 years?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: On the kidnapping I could sentence  
20 you up to 30 years?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you also understand that the  
23 kidnapping charge is classified as both a violent and a  
24 most serious offense under the law?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And you've been able to talk to your  
2 lawyer as to the consequences and ramifications of that  
3 offense being classified as both violent and most  
4 serious?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And you still wish to enter the plea?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand that on the  
9 attempted armed robbery I could sentence you up to 20  
10 years?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You also understand that that  
13 particular charge is classified as both violent and most  
14 serious as well?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you have been able to talk to  
17 your lawyer as to the consequence and ramifications of  
18 that offense being classified as both violent and most  
19 serious?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you still wish to enter the plea?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You understand that on the possession  
24 of a weapon during the commission of a violent crime I  
25 could sentence you up to five years on that charge?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And you still wish to enter that plea  
3 as well?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you understand that on the  
6 burglary second-degree violent charge that I could  
7 sentence you up to 15 years?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And do you understand that that  
10 particular charge is classified as both a violent and  
11 also a serious offense under the law?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And you have been able to talk to  
14 your lawyer as to the consequence and ramifications of  
15 that offense being classified as both violent and  
16 serious?

17 THE DEFENDANT: Yes, sir, Your Honor.

18 THE COURT: And you still wish to enter that  
19 plea?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You also understand that by entering  
22 a plea will be a violation of your present probation  
23 case?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you still wish to enter the plea?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Are you, in fact, guilty of this  
3 burglary second-degree violent charge?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Are you also guilty of this attempted  
6 armed robbery charge?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You're also guilty of a possession of  
9 a weapon during the commission of a violent crime  
10 charge?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Are you also guilty of the kidnapping  
13 charge?

14 THE DEFENDANT: Yes. Yes, sir.

15 THE COURT: Are you also guilty of the assault  
16 and battery in the first-degree charge?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Have all of your answers to my  
19 questions today been truthful and honest?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Discovery has been shared with the  
22 defense?

23 MR. SMITH: It has, Your Honor. I have one thing  
24 to add. On the kidnapping, there's no allegation that  
25 there was any sexual, so we're not asking for registry

1 and the State's in agreement. There was no need for him  
2 to be registered as a sex offender.

3 And Jacob Burns had injuries. They were just  
4 mostly of a struggle, scrapes and things like that on  
5 knees and cuts and looking like fingernails probably.  
6 And he would wish to address the Court and his record at  
7 the appropriate time, Your Honor.

8 THE COURT: Prior record?

9 MR. SMITH: 2013 a shoplifting and possession of  
10 marijuana. 2014, a possession of marijuana and unlawful  
11 carry. 2016, possession of marijuana, reckless driving,  
12 speeding, no license and assault and battery third.

13 2017, Your Honor, he pled in December of that  
14 year to possession of a stolen vehicle, unlawful carry  
15 of a pistol, failure to stop for a blue light, hit and  
16 run with property damage. All of those were connected  
17 events, Your Honor. That plea took place in front of  
18 you two months prior to this incident. And he also pled  
19 to a DV third that was actually against Ms. Matheny and  
20 he got a suspended YOA on that case, Your Honor.

21 THE COURT: Did you say that the victim did wish  
22 to address the Court?

23 MR. SMITH: Yes, Your Honor.

24 THE COURT: Sir, if you would, just come right up  
25 here and stand beside the Solicitor. Sir, we are making

1 a recording of everything that happens here today, so  
2 please speak up loud enough so that both the court  
3 reporter and I can hear you.

4 MR. BURNS: Yes, sir.

5 THE COURT: Start by giving us your full name.

6 MR. BURNS: My name is Jacob Phillip Burns.

7 THE COURT: Yes, sir, Mr. Burns, go ahead.

8 MR. BURNS: Okay. So basically I just wanted to  
9 run through the night for you, exactly what happened.

10 THE COURT: Uh...

11 (Whereupon, a discussion was had off the record  
12 between Solicitor and Mr. Burns.)

13 MR. BURNS: No, there's no discrepancies. I  
14 mean, this is what happened that night was something  
15 that I won't forget. You know, it -- it's kept me up  
16 nights, it's affected me. As he said, they had a gun to  
17 the back of my head, fortunately to open the door. And  
18 that's when Mr. Phillips looked at me. When Ms. Matheny  
19 had the gun at the back of my head he made it a point  
20 and he said, hey, do you feel that and smiled in my  
21 face. He said that's not even me. And that was the  
22 moment that I had decided that I might die at that  
23 moment.

24 So, you know, any rational person with a gun to  
25 the back of their head, they would let that person have

1 whatever they wanted. So I decided in that moment, you  
2 know, my life might be forfeit. So I just tried to help  
3 my brother out and I, you know, I really thought that I  
4 was gonna die. I had a moment of peace where the only  
5 thing that mattered were the people inside of my house.

6 I mean, I went over and over with him. You know,  
7 he kept, he kept badgering me basically. I said, hey,  
8 it's 5 o'clock in the morning. Nobody usually does  
9 this. He says, no, you're not gonna disrespect me like  
10 that. I'm a real fucking thug. I'm not gonna visit.

11 And, you know, it's just I've been anxious and  
12 nervous and just the whole -- you know, I don't, I don't  
13 even really know what to say except I just need some  
14 closure for this part of my life. This is, this is  
15 something that keeps me up nights and that's -- this is  
16 every night. I don't trust people as much as I used to.  
17 I mean, it's -- you know, I don't really even know what  
18 to say.

19 I could speak forever on this subject and how it  
20 makes me feel, but you know if you could just help me  
21 get closure to this. And I would, would you please, I  
22 would recommend the maximum sentence. And that's really  
23 all I have to ask -- I had to say.

24 THE COURT: Thank you, sir.

25 MR. BURNS: You're welcome.

1 MR. SMITH: That's all, Your Honor.

2 THE COURT: He was presently on probation?

3 MS. MANIGAN: Your Honor, may it please the  
4 Court? On February the 15th of 2017, Mr. Phillips was  
5 before Your Honor on 2017-GS-42-0587 for failure to stop  
6 for a blue light. And at that time he received a  
7 sentence of the YOA not to exceed three years and the  
8 balance was suspended to 36 months probation.

9 Also that same day, 2017-GS-42-0588, possession  
10 of a stolen vehicle. The sentence was a YOA not to  
11 exceed three years, suspended to 46 months probation.

12 Also, under 2017-GS-42-0589, unlawful carrying of  
13 pistol, the sentence was a YOA not to exceed one year,  
14 provided upon the service of 58 days. The balance was  
15 suspended to 36 months probation with special conditions  
16 of the case could PTUP after he completed batterers  
17 treatment or if he was enrolled in school or was  
18 gainfully employed.

19 And finally, Your Honor, under 2017-GS-42-0590, a  
20 hit and run, and he received a sentence of a YOA not to  
21 exceed one year. The balance was suspended to 36 months  
22 probation.

23 THE COURT: Thank you, ma'am.

24 Yes, sir.

25 MR. YARBOROUGH: Your Honor, we'd like to first

1 have the family, his pastor, but he's got a number of  
2 members of the family with him. They are four rows in.  
3 I'd ask you to stand up. And his pastor is right there,  
4 he'd like to speak, if he could. Please come around.  
5 Sir, if you'd come this way. If that would be okay. We  
6 were just going to ask one person to speak, but all the  
7 family is here to support him.

8 THE COURT: Just come up here and stand beside  
9 the police officer. Sir, I just need to let you know we  
10 are making a recording of everything that happens here,  
11 so please speak up loud enough so both the court  
12 reporter and I can hear you. Just start by giving us  
13 your full name.

14 MR. JACKSON: Gavis Jackson, Sr.

15 THE COURT: Yes, sir. Will be more than happy to  
16 hear from you.

17 MR. JACKSON: I've known actually the Calvin  
18 folks, his family, well pastor'd them for going into my  
19 29th year. So I've known Calvin here, who's  
20 incarcerated, even when he was born, you know? As was  
21 mentioned, his parents are here. His sister, she's also  
22 here. They're very upright people in the community.  
23 Very productive and people of honor and high character  
24 and dignity.

25 I will state I've done my very best to try to

1 stay in Trip's life and in Calvin's life. Even when he  
2 wasn't in church, at one time he was coming on a  
3 consistent basis. And when he saw that, at least once a  
4 month I would personally call him too on my cellphone to  
5 his cellphone and we would talk, just trying to keep him  
6 on the right track.

7 And he's got his mom and his dad in his life.  
8 And I'm just here asking that you would extend some form  
9 of grace toward him. I don't know exactly what that  
10 would be, but I do know that I would do everything that  
11 I -- that's possible for me. If it's once or twice a  
12 month or whatever, I'll be there. I've always tried to  
13 be there for him.

14 I certainly didn't want him to end up in another,  
15 you know, African-American male with a statistic of a  
16 prison sentence and a felony and that sort of thing. So  
17 he and I will continue to communicate. So I remember,  
18 you know, he just got on the wrong track. But what God  
19 says, you know, bad company will corrupt big matters.  
20 But, again, I'm just asking that you would show grace  
21 toward him and his family, if possible, sir.

22 THE COURT: Thank you, sir.

23 MR. JACKSON: Yes, sir.

24 MR. YARBOROUGH: Your Honor, briefly I will just  
25 add that his family is here, they strongly support him.

1 They've always been involved in this case since he got  
2 arrested. I've represented him for over a year.

3 Judge, you know, when I first got involved in  
4 this case I looked at him and something just didn't add  
5 up. I mean, when I went to see Calvin the first time,  
6 he had been shot in the back and he was in the hospital  
7 in bad shape. He was put into the sick bay over at the,  
8 at the jail dealing with wounds to a gunshot.

9 All of those gunshot wounds were to the back.  
10 And so I looked at it pretty closely about the potential  
11 of going to a trial. I felt like his involvement with,  
12 with the girl that was sentenced to 10 years, I felt  
13 that Calvin was much less of the instigator of that  
14 deal. I felt like that she was the one that had the gun  
15 and she was the pointing the gun.

16 Calvin always kind of relayed to me that, to be  
17 quite frank with you, this was a marijuana deal that  
18 went bad. And I don't know if there was any truth to  
19 that. I know there was marijuana that ended up changing  
20 hands that night.

21 He spent a year in college. He has gotten off to  
22 a bad start here. And I'm not beating on somebody  
23 that's already been sentenced. I'm just telling you  
24 that his family will tell you that he was totally a  
25 different person until he got involved with her.

1           And she was sentenced to ten years. She clearly  
2 was the one pointing the gun and carrying the gun. I'd  
3 ask the Court to sentence him to the low end of the  
4 potential sentence here. I think the low end is five  
5 years. I'd ask the Court to be as lenient on him as  
6 possible. I know that the State's position is it was  
7 given, it was the hand of one, hand of all, but I think  
8 in any type of case you have to look at kind of where  
9 the difference was.

10           But Calvin made some gestures or said some stuff  
11 that night that he shouldn't have. That was one thing,  
12 that he did get shot in the back and he did -- he has  
13 suffered. He has been hurt. And I would just ask the  
14 Court to consider being as lenient on him as possible.

15           And I think he wanted to address the Court at the  
16 proper time and also say he was sorry to the victim.

17           THE COURT: Do you agree with the statements just  
18 made by your lawyer?

19           THE DEFENDANT: Yes, sir.

20           THE COURT: Is there anything else that you would  
21 like to say or want me to know?

22           THE DEFENDANT: Other than I'm sorry. I'd like  
23 to apologize to the victim personally.

24           MR. SMITH: Your Honor, can I add since Ms.  
25 Matheny got brought up? She had no prior record.

1 MR. YARBOROUGH: I don't think that the State  
2 disagrees that she was the one wielding the gun.

3 MR. SMITH: That's true, but as Mr. Burns said,  
4 we'd be saying it was Calvin that was running the show  
5 based off of what he said and that he had control over  
6 her.

7 MR. YARBOROUGH: And I would also, not to beat  
8 this thing up, but I would point out that if he had died  
9 that night when he got shot in the back, I don't know  
10 what we'd be looking at here, but it would be a  
11 different case. So anyway, this Court is very good at  
12 figuring this stuff out and I'd ask the Court for as  
13 much leniency as possible. Thank you.

14 THE COURT: Thank you. There is complicating  
15 facts with Mr. Phillips. The fact that he had been in  
16 front of me before.

17 MR. YARBOROUGH: Yes, sir.

18 THE COURT: And this Court extended a lot of  
19 mercy and grace the first time.

20 MR. YARBOROUGH: And if you will, Judge, I'll say  
21 along those lines I think that he didn't really get off  
22 to a really good track. I think if the parents were to  
23 have to do it all over again, they would have brought  
24 him back up in North Carolina and they would have  
25 brought him back up in North Carolina instead of let him

1 be here. And I think they kick themselves for that a  
2 little bit and then this happened.

3 And, Judge, I just, I think you have to look -- I  
4 would ask you to look at his role in the State's version  
5 of the facts and the fact that he did get shot.

6 THE COURT: Okay. I'll find that there's a  
7 substantial factual basis for the plea. I find there  
8 was a willful violation of the terms and conditions of  
9 his probation by having entered the plea. We'll do a  
10 full revocation overall, give him credit for 381 days.  
11 If the YOA sentence is removed, do I convert those into  
12 regular sentences?

13 MS. MANIGAN: Convert it to an adult sentence?

14 THE COURT: Yeah, convert them to adult  
15 sentences.

16 MS. MANIGAN: Credit for 300 and ---

17 THE COURT: 381.

18 MS. MANIGAN: Thank you, Your Honor.

19 THE COURT: Let the time he's gonna serve satisfy  
20 any monetary obligations he can and anything that's left  
21 over will be for civil judgment, if there is any.

22 MS. MANIGAN: Yes, sir.

23 THE COURT: All right. Those will run concurrent  
24 with the sentences on the present charges. It'll be a  
25 20-year sentence on the attempted armed robbery;

1 five-year sentence on the possession of a weapon during  
2 the commission of a violent crime. Burglary  
3 second-degree violent will be a 15-year sentence. On  
4 the kidnapping it'll be a 20-year sentence. On the  
5 assault and battery in the first degree it's a ten-year  
6 sentence.

7 All those will run concurrent with each other.  
8 He gets credit for the 381 days. I've indicated on the  
9 kidnapping that this is not a sex offender registration  
10 case. As well as, I've indicated on the sentencing  
11 sheet he can't have any contact with the victims. Good  
12 luck to you, sir.

13 MR. SMITH: Thank you, Your Honor.

14 MR. YARBOROUGH: Thank you, Your Honor.

15 (Whereupon, hearing concluded at 2:52 p.m.)  
16

17 --- THIS ENDS REQUESTED TRANSCRIPT ---  
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COURT REPORTER CERTIFICATE

I, the undersigned Julie A. Ashbrook, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that to the best of my ability the foregoing is a true, accurate, and complete transcript of record of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 16th day of May, 2018.

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

*Julie A. Ashbrook*  
s/ Julie A. Ashbrook.  
Julie A. Ashbrook  
Circuit Court Reporter  
Seventh Judicial Circuit

**WITNESSES**

REPORT MADE  
 REPORT MADE  
 CARD FILLED  
 INDEXED  
 INDEXED  
 CHECKED  
 INDEXED  
 INDEXED  
 INDEXED

*J. W. R.*

**ARREST WARRANT NUMBER**

2017A4210201236

**ACTION OF GRAND JURY**

**True Bill**

*RE*  
Foreperson of Grand Jury JUL 21 2017  
Date:

**VERDICT**

Foreperson of Petit Jury  
Date:

DOCKET NO. **17-GS-42-3582**

**The State of South Carolina**  
**County of Spartanburg**

**Barry Barnette, Solicitor**

**COURT OF GENERAL SESSIONS**

JUL 24 2017

**TERM**

**THE STATE**  
vs.

**Calvin Lee Phillips III**

Indictment for

**BURGLARY, FIRST DEGREE**  
**(Dwelling)**

SC Code: 16-11-0311  
CDR Code: 0079  
Class: FEL/EXM (V)

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY

2017 JUL 26 AM 9:57

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG VS. Calvin Lee Phillips III

AKA: Race: Sex: M Age: 24 DOB: 04-08-1994 SS#: 237-79-2403 Address: 368 Castleton Cir City, State, Zip: Boiling Springs, SC 29316-6231 DL#: 102174642 SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4203582 A/W#: 2017A4210201236 Date of Offense: 4/24/2017 S.C. Code §: 16-11-0311 CDR Code #: 0079

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No In disposition of the said indictment comes now the Defendant who was

TO: Burglary (Violent) (After 06/20/85) - Second degree (0-15yr) Rec: 5-20 concurrent CONVICTED OF or PLEADS

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury, Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: SMITH, SPENSER H 101370 SC Bar# Calvin Phillips 10271 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 15 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 38 days

The Defendant is to be placed on the 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, (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Payment Terms: Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public De/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

PTUP days/hours Public Service Employment

Obtain GED Attend Voc. Rehab. or Job Corp.

May serve W/E beginning Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund

Other: no contact with victims

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge Judge Code: 2133 Sentence Date: 15/16/17

Clerk of Court/ Deputy Clerk Court Reporter: SCCA/217 (07/2016)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

INDICTMENT

JUL 21 2017

At a Court of General Sessions, convened on \_\_\_\_\_, the Grand Jurors of Spartanburg County present upon their oath:

**BURGLARY, FIRST DEGREE**

**(DWELLING)**

That the Defendant, Calvin Lee Phillips III, did in Spartanburg County, on or about April 24, 2017 enter the dwelling located at 133 Sprouse Road, Spartanburg, SC, without consent and with the intent to commit a crime therein, and that the defendant did enter the dwelling and/or while in immediate flight from the dwelling either:

- (1) enter in the nighttime and/or
- (2) while armed with a deadly weapon; and/or
- (3) use or threaten the use of a dangerous instrument; and/or
- (4) cause physical injury to any person who is not a participant in the crime; and/or
- (5) displayed what was or appeared to be a handgun or other firearm,

in violation of Section 16-11-311, 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.

  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG  
STATE VS.

Calvin Lee Phillips III

INDICTMENT/CASE#: 2017GS4203583

A/W#: 2017A4210201238

Date of Offense: 4/24/2017

S.C. Code §: 16-03-0600(C)(1)

CDR Code #: 3412

AKA:

Race: Sex: M Age: 24

DOB: 04-08-1994 SS#: 237-79-2403

Address: 368 Castleton Cir

City, State, Zip: Bolling Springs, SC 29316-6231

DL#: 102174642 SID#:

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was  
TO: Assault & Battery 1st degree (0-10) Rec: 5-20yr concurrent

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC)  §17-25-45  
w/minor 1st or Lewd Act

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentation to Grand Jury.  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State. (defendant's initials)

ATTORNEYS: SMITH, SPENSER H (101370 SC Bar#) Calvin Phillips (Defendant) [Signature] (Attorney for Defendant) [Signature] (10271 SC Bar#)

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 10 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.

The Defendant is to be placed on the 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS

Recipient: \_\_\_\_\_  
Obtain GED   
Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_  
Substance Abuse Counseling

\*Fine: \_\_\_\_\_ \$  
§ 14-1-206 (Assessments 107.5%) \_\_\_\_\_ \$  
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \_\_\_\_\_ \$  
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \_\_\_\_\_ \$ 100.00

§ 56-5-2995 (DUI Assessment) \$12 \_\_\_\_\_ \$  
§ 56-1-286 (DUI Breath Test) \$25 \_\_\_\_\_ \$  
Proviso 61.6 (Public Def/Probation) \$500 \_\_\_\_\_ \$

§ 14-1-212 (Law Enforce. Funding) \$25 \_\_\_\_\_ \$ 25.00  
§ 14-1-213 (Drug Court Surcharge) \$150 \_\_\_\_\_ \$  
§ 50-21-114 (DUI Breath Test Fee) \$50 \_\_\_\_\_ \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \_\_\_\_\_ \$  
3% to County (if paid in installments) \$ 3.75 \_\_\_\_\_ \$

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: [Signature]  
Court Reporter: [Signature]  
Presiding Judge: [Signature]  
Judge Code: 2132  
Sentence Date: 5/16/17

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

INDICTMENT

JUL 21 2017

At a Court of General Sessions, convened on \_\_\_\_\_ the  
Grand Jurors of Spartanburg County present upon their oath:

**ASSAULT AND BATTERY 1<sup>st</sup> Degree**

That the Defendant, Calvin Lee Phillips III, did in Spartanburg County on or about April 24, 2017 commit an assault and battery on the victim, Jacob Burns, by unlawfully,

(a) Injuring the victim, and the act:

(i) occurred during the commission of a robbery, burglary, kidnapping, or theft; or

(b) did offer or attempt to injure the victim with the present ability to do so, and the act:

(i) was accomplished by means likely to produce death or great bodily injury; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft.

To wit: striking him in the head and legs, in violation of §16-3-800(C)(1), THE 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.

  
ASSISTANT SOLICITOR

44

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Calvin Lee Phillips III

AKA:
Race: Sex: M Age: 24
DOB: 04-08-1994 SS#: 237-79-2403
Address: 368 Castleton Cir
City, State, Zip: Boiling Springs, SC 29316-6231
DL#: 102174642 SID#:

\*CDL Yes [ ] No [ ] CMV Yes [ ] No [ ] Hazmat Yes [ ] No [ ]
In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping (0-30yr) Rec: 5-20yr concurrent

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4203584
A/W#: 2017A4210201239
Date of Offense: 4/24/2017
S.C. Code §: 16-03-0910
CDR Code #: 0095

SENTENCE SHEET

[ ] CONVICTED OF or [X] PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
[ ] NON-VIOLENT [X] VIOLENT [ ] SERIOUS [X] MOST SERIOUS
[ ] Mandatory GPS(CSC w/minor 1st or Lowd Act) [ ] §17-25-45

The charge is: [X] As Indicted, [ ] Lesser Included Offense, [ ] Defendant Waives Presentment to Grand Jury, (defendant's initials)
The plea is: [ ] Without Negotiations or Recommendation, [ ] Negotiated Sentence, [X] Recommendation by the State.

ATTEST: [Signature] SMITH, SPENSER H 10/13/17 SC Bar# Calvin Phillips Defendant [Signature] Attorney for Defendant 10/27/17 SC Bar#

WHEREFORE, the Defendant is committed to the [X] 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.
[X] CONCURRENT or [ ] CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
[ ] The Defendant is to be placed on the 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 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:
[ ] RESTITUTION: [ ] Deferred [ ] Def. Waives Hearing [ ] Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
[ ] Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED [ ]
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling [ ]
Random Drug/Alcohol testing [ ]
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:
No Sex Offender Registration
No contact with victim
[ ] Appointed PD or appointed other counsel;
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (DUI Breath Test Fee) \$50, § 56-5-2942(I) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$3.75. TOTAL \$128.75

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]
SCCA/217 (07/2016)

Presiding Judge: [Signature]
Judge Code: 2132
Sentence Date: 5/16/17

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS. Calvin Lee Phillips III

AKA:
Race: Sex: M Age: 24
DOB: 04-08-1994 SS#: 237-79-2403
Address: 368 Castleton Cir
City, State, Zip: Boiling Springs, SC 29316-6231
DL#: 102174642 SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4203585
A/W#: 2017A4210201237
Date of Offense: 4/24/2017
S.C. Code §: 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Attempted armed, or allegedly armed, robbery (0-20yr) Rec: 5-20yr

CONVICTED OF or PLEADS

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, Negotiated Sentence, Recommendation by the State
The plea is: Without Negotiations or Recommendation, Defendant's initials

ATTEST: Spenser H Smith 101370 Calvin Phillips 10271
SMITH, SPENSER H 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:
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. 38 Day
The Defendant is to be placed on the 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 (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: \$
Payment Terms:
Set by SCDPPPS
Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(I) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$ 3 75.

TOTAL \$128 75

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: [Signature]
SCCA/217 (07/2016)

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge: [Signature]
Judge Code: 2132
Sentence Date: 5/16/18

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG  
STATE VS.

Calvin Lee Phillips III

AKA:

Race: Sex: M Age: 24

DOB: 04-08-1994 SS#: 237-79-2403

Address: 368 Castleton Cir

City, State, Zip: Boiling Springs, SC 29316-6231

DL#: 102174642 SID#:

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was TO: Poss. weapon during violent crim (5yr) Rec: 5-20yr concurrent

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4203585A

A/W#: 2017GS4203585A

Date of Offense: 4/24/2017

S.C. Code §: 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

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

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury, (defendant's initials)

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

ATTEST: SMITH, SPENSER H 102370 Calvin Phillips Defendant Attorney for Defendant 10271

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:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered FTUP \_\_\_\_\_

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

Payment Terms: Obtain GED

Set by SCDPPPS Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

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

\*Fine: Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_ Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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

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

§ 56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_

Proviso 61.6 (Public Def/Probation) \$500 \$ \_\_\_\_\_

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

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

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

3% to County (if paid in installments) \$ \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

Appointed PD or appointed other counsel Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge: \_\_\_\_\_ Judge Code: 2137

Sentence Date: 5/16/18

47

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF SPARTANBURG )

INDICTMENT

At a Court of General Sessions, convened on JUL 21 2017, the Grand Jurors of Spartanburg County present upon their oath:


**COUNT ONE--ARMED ROBBERY**

That Calvin Lee Phillips, did in Spartanburg County on or about April 24, 2017, while armed with a deadly weapon, being a handgun, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present at the time reasonably believed to be a deadly weapon, did feloniously take from the person or presence of Jacob Burns, by means of force, violence, and/or intimidation, goods or monies, such goods or monies being described as follows: a wallet belonging to Jacob Burns, with intent to deprive the owner permanently of such property, in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

**COUNT TWO--POSSESSION OF WEAPON DURING COMMISSION OF A VIOLENT CRIME**

That Calvin Lee Phillips, did in Spartanburg County on or about April 24, 2017, possess a firearm or visibly display what appeared to be a firearm during the commission of a violent crime, to-wit: ARMED ROBBERY, in violation of Code §16-23-490, *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.

  
ASSISTANT SOLICITOR-

Certificate of Counsel

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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

May 8, 2019

*William G. Yarborough*

William G. Yarborough, III  
522 N. Church Street  
Greenville, South Carolina 29601  
(864) 331-1612  
Attorney for Appellant

**RECEIVED**  
MAY 13 2019  
SC Court of Appeals