

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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FEB 03 2023  
SC Court of Appeals

Appeal from Beaufort County

Honorable Brooks P. Goldsmith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ISAIAH GADSON, JR.

APPELLANT

APPELLATE CASE NO 2018-001041

RECORD ON APPEAL

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BEAUFORT COUNTY SHERIFFS DEPARTMENT  
P.O. BOX 848  
BEAUFORT, SOUTH CAROLINA 29902

SUPPLEMENTARY REPORT

AGENCY I.D.  
SC 8878888

Case No. 80-0110

Classification

Name of Complainant: Collins, David  
Address: 1409 King St. Beaufort, SC 29902  
Phone No: 524-2777

Offense: man with a gun

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:  
(Investigating Officer must sign)

Page No. 1 Date 1-5-79

This report was regarding to a rape, and a gunshot victim on Salem Drive. This report had no knowledge of who had been shot, did not know who had been raped or who did the shooting. This unit arrived at scene of Salem Point Drive and observed a silver van parked in a side road and a white male standing by a blue pickup with a shotgun. The white male asked this unit to call an ambulance which I did. As I was getting out of patrol car I could see white male with up bet and was cursing and waving the shotgun and talking incoherently. I asked a white female where the gunshot victim was and she stated he was in the silver van. The white male at this time started cursing me and told me that he would kill the sheriff a bitch at this time I asked white male to put the shotgun away and he grabbed me by the left arm and tried to throw me against the patrol car. I grabbed the shotgun and physically took it away from subject, put shotgun on patrol car hood and placed subject under arrest for disorderly conduct. D/S Harris arrived and Sgt Courtney had pulled up and I was taking shotgun away from subject.

INVESTIGATING OFFICER: Collins  
REPORT MADE BY: David Collins  
DATE: 1-5-79  
CASE STATUS:  ACTIVE  CLEARED BY APST  EX CLEARED  OVER IS UNDER IS  UNFOUNDED  INACTIVE  
REPORTING OFFICER: COLLINS, David NUMBER: 7776 APPROVING OFFICER: [Signature]  
REPORT DATE: 1-5-79  
NUMBER: [Blank]

Be 17 March 80

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BEAUFORT COUNTY SHERIFFS DEPARTMENT  
P.O. BOX 868  
BEAUFORT, SOUTH CAROLINA 29902

SUPPLEMENTARY REPORT

AGENCY ID  
SC 8828888

CASE NO. 80-0110

Name of Complainant: Collins David Address: 1409 King St. Beaufort, SC Phone No. 524-2777

Offense: man with a gun

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:  
(Investigating Officer must sign)

Page No. 2 Date 1-5-80

Subject fought me and D/S Harris to patrol car. Subject was subdued and placed in back of D/S Harris patrol car and carried to jail as subject was in a rage and was talking incoherently and I was afraid he would hurt himself and someone else. At the time this was happening I did not know who the white male was. At this time I was informed by Sgt. Courtney who subject with the gun was and how he was related to this incident. Sgt Courtney told me the subject name was Johnny West.

INVESTIGATING OFFICER: Collins, Courtney REPORT MADE BY: D.H. Collins DATE: 1-5-80  
CASE STATUS:  ACTIVE  CLEARED BY ARREST  EX CLEARED  OVER IS UNDER  UNFUNDING  INACTIVE REPORT DATE: 1-5-80  
REPORTING OFFICER: Collins, David NUMBER: 1710 APPROVING OFFICER: [Signature] NUMBER: [Blank]  
OFFICE: [Blank] Rec 17 March 80

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BEAUFORT COUNTY SHERIFFS DEPARTMENT  
 P.O. BOX 866  
 BEAUFORT, SOUTH CAROLINA 29502

SUPPLEMENTARY REPORT

AGENCY I.D. SC 8878888 Murder/Criminal Sexual Cond. Case No. 00-0110  
Classification

Name of Complainant Johnny Weed Address Plantation Dr. Beaufort, S.C. Phone No. 524-XXXX  
 Offense Murder/Criminal Sexual Assault

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:  
 (Investigating Officer must sign)

Page No. One **C O N F I D E N T I A L** Date 06 January 19 80

Complainant reported that his daughter had been sexually assaulted and her boy-  
 friend had been shot on a dirt road off Old Salem Point Road in Burton, S.C. at  
 approximately 2350 hrs 01-05-80. Upon reporting to the crime scene, I found the  
 victim's vehicle, a 1976 Dodge Van S.C. 80 tag WRN-419 Vin B11AB6X155437, parked  
 approximately 75 feet off Old Salem Point Rd. on a dirt path, the vehicle was  
 facing into the wooded area, I noticed both doors were open and the right side  
 double doors were open, both left and right doors were opened by officers/E.M.S.  
 during their treatment of the victim. Both door glass was shattered/broken out  
 during the shooting. The radio was on in van and small light (dome) was lit. I  
 noted a large amount of glass inside and outside of the van, on the drivers (left  
 side of the vehicle I noted two bumps in the metal which appeared to be projectile  
 marks pushing outward. We recovered two spent projectiles from that area. Also  
 noted was blood on the drivers seat and floor area between the two bucket-type  
 seats, the passenger seat appeared to be pushed to the rear as far as it would  
 go. Also recovered in the area was a empty KOOL cigarette pack, pack of WRICLEY'S  
 chewing gum, two matches, and one KOOL cigarette that had been smoked half way.  
 Photographs were taken by this officer of the scene and victim at the hospital.  
 I noted that the victim was shot in the right shoulder, in the right side of the  
 neck and in the back/top of the head. Detective Johnson is taking photos of the  
 autopsy. Information received from Deputy Sheriff Collins is that a black male  
 of the description given by this victim was seen in a 1973 Ford 2d Cream bottom/  
 Tan top, S.C. Tag HKS-274 at the Lantry store Ladys Island around 2 A. in the  
 company of two other black males, one being covered with blood. It is suspected  
 this bloodied male may have been involved in a vehicle accident on Boundry St.  
 earlier in the morning/late evening. Investigation to continue.

INVESTIGATING OFFICER(S) Courtney/Huston REPORT MADE BY Det. R.L. Huston DATE 01-06-80

CASE STATUS  ACTIVE  CLEARED BY ARREST  EX CLEARED  OVER 18  UNDER 18  UNFOUNDED  INACTIVE REPORT DATE 01 06 80

REPORTING OFFICER F. J. Huston NUMBER 117 APPROVING OFFICER [Signature] NUMBER



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BEAUFORT COUNTY SHERIFFS DEPARTMENT  
P.O. BOX 866  
BEAUFORT, SOUTH CAROLINA 29902

SUPPLEMENTARY REPORT

AGENCY ID  
SC0878808

Case No. 0110

Name of Complainant

Address

Phone No.

Offense

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.  
(Investigating Officer must sign)

Page No. 2

Date \_\_\_\_\_ 19\_\_

Plaza, then we turned left at the light onto 170, drove to the blinking light at the intersection of 170 and 280 turned onto 280 drove to Sky City turned around and drove back the same way we came. We was going to stop at Pack-A-Sack but it was closed so we turned onto the street beside Ace Hardware, then turned onto Old Salem Point Road which is a dirt road that leads down to Salem Point. David drove on down to this little dirt road off the main dirt road and parked the van. We was just setting in the van with the music and light on when all of a sudden....I think David was drinking a coke or a beer Can't remember which. I was suppose to be home at 12 midnight and I looked at my watch and I believe it said 11:45. All of a sudden a gun shots was fired breaking the glass. The shots was fired through the window on my side and I jumped towards the back, hid behind the seat. Then the man started yelling for me to get out, David was bent over with his head towards the floor, he wasn't saying anything and I knew something was wrong with him, that he had been hit or something. I started begging him not to shoot me that I would give him money or anything if he wouldn't kill me. I think he was standing at the passenger door right next to the door or something but I'm not sure. He then opened the door and told me to get out as I came towards the door he held the gun at my head. The gun was a small gun pistol type, black in color I think. As I got out of the van I reached into my purse and took out all my money and gave it to him which was about \$60.00. He told me to take off my pants, he unzipped his pants and took out his penis and told me to give him a blow job. I got down on my knees and he stood, and I started sucking on his penis. Then he said lets walk this way, we went in front of the van down the dirt road about 100 feet or so. He told me to take off my pants and I pulled my pants and panties down to my ankles and he told me to

INVESTIGATING OFFICER(S) COURTNEY, D. P. Sgt. 152 REPORT MADE BY HESLIN, Faye DATE 1-7-80

CASE STATUS  ACTIVE  CLEAR BY ARREST  FILED  OVER 11 MONTHS  UNFOUNDED  INACTIVE

REPORTING OFFICER HASLEY, D NUMBER 2156 APPROVING OFFICER [Signature] REPORT DATE 01 07 80

ADJ. NUMBER [Grid] NUMBER [Grid]

OFFICE

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BEAUFORT COUNTY SHERIFFS DEPARTMENT  
P.O. BOX 868  
BEAUFORT, SOUTH CAROLINA 29902

SUPPLEMENTARY REPORT

AGENCY I.D.

SC 8017000

Classification

Case No. 80-0110

Name of Complainant

Address

Phone No.

Offense

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:  
(Investigating Officer must sign)

Page No. Three (3)

Date \_\_\_\_\_ 19\_\_

lay down which I did. He started having oral sex with me, then he pulled his pants down and got on top of me and raped me. I just layed as quite as I could because I didn't want him to kill me. He layed the gun down on the ground about 5 feet from us but I didn't try to reach for it because I was afraid he was goint to kill me. He just got on top of me then he came, he was getting up and said "that was too quick" then we pulled up our pants and walked back towards the van. As I was walking down the dirt road I asked him for a cigarette and he got a pack of cools out of his coat pocket and gave me one, he then threw the matches which was in a box and I lite my cigarette. We were talking and he told me his name but I can't remember anything except BROWN. We walked back to the van and he told me to stay in the van until he was gone. I stayed in the van trying to see if David was alright. After about 5 minutes I got out and ran home. After finishing the interview I collected the evidence from Dr. Fontana.

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INVESTIGATING OFFICER(S)	COURTNEY, D. P. Sgt.	REPORT MADE BY	HESLIN, Faye	DATE	1-7-80
ADM	CASE STATUS	<input checked="" type="checkbox"/> ACTIVE	<input type="checkbox"/> CLEARED & ARREST	<input type="checkbox"/> EX CLEARED	<input type="checkbox"/> OVER IS UNDER IS
	REPORTING OFFICER	<u>MARSHALL</u>	NUMBER	<u>256</u>	<input type="checkbox"/> UNFOUNDED
					<input type="checkbox"/> INACTIVE
					REPORT DATE
					<u>01/07/82</u>
					NUMBER

CP 1711

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BEAUFORT COUNTY SHERIFFS DEPARTMENT  
 P.O. BOX 858  
 BEAUFORT, SOUTH CAROLINA 29502

SUPPLEMENTARY REPORT

AGENCY ID: SC# 87888 Classification: Murder/Criminal Sexual Assault Case No: 80-0110

Name of Complainant: WEED, Johnny Address: Plantation Dr., Burton, S.C. Phone No: 524- [redacted]  
 Offense: Murder/Criminal Sexual Assault

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.  
 (Investigating Officer must sign)

Page No 1 Date Jan. 7 19 80

I made an appointment to meet with Susan Lynn Weed and her mother at their residence located at [redacted] Plantation Drive, Burton, S.C. Received authorization from Mrs. Weed to obtain medical examination from Beaufort Memorial Hospital and Dr. John Fontana. Susan will write a full statement as to what occurred from the time she left home until her arrival back home. Susan stated they drove into Burger King drive thru window and David paid for the food, that he had to count out to the penny enough money to pay for it. That they pulled over into a parking place to eat because David got sick and thought he was going to throw up. They drove towards Sky City that she became angry with David because he had been complaining about dizzy spells but wouldn't go to the doctor. That on the way to Sky City they didn't talk too much but on the way back they started talking, that they didn't have a fight but did disagree but there was no hard feelings. That they didn't have intercourse Saturday night but have had intercourse with David approxisately four (4) times. She didn't have any other boyfriends and had never had intercourse with anyone else. The trailer they went too on Lady's Island was behind Mitchell Brothers down the dirt road to a steep curve turning right to the last trailer on the left. They followed Mark Jaggi to the trailer. At the trailer was 6 adults and 2 children Bernedette Jaggi who was baby setting the two children, a boy by the name of Mike last name unknown but believes he lives there and a boy by the name of David last name unknown also. That David had lost his wallet he had gotten for christmas that had all his personal papers, pictures and driving license it it, that he was using his old wallet to keep his money in. She didn't think he had much money because he had a van payment. After they pulled into the dirt road a car passed but didn't hear it stop or start, that the car came from Salem Point going up the dirt road towards Ace Hardware. There is a black boy who

INVESTIGATING OFFICERS: COURTNEY, D. P. Sgt. REPORT MADE BY: HESLIN, Faye DATE: 1-7-80

CASE STATUS:  ACTIVE  CLEARED BY ARREST  EX CLEARED  OVERT UNDER 16  UNFOUNDED  INACTIVE REPORT DATE: 1/07/80

REPORTING OFFICER: HESLIN NUMBER: 756 APPROVING OFFICER: [signature] NUMBER: [ ]

OFFICE

BEAUFORT COUNTY SHERIFFS DEPARTMENT  
P.O. BOX 868  
BEAUFORT, SOUTH CAROLINA 29902

SUPPLEMENTARY REPORT

AGENCY I.D.  
SC 878888

Case No. 80-C110

Classification

Name of Complainant

Address

Phone No.

Offense

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:  
(Investigating Officer must sign)

Page No. Two (2)

Date \_\_\_\_\_ 19\_\_

is a friend of Davids that works the Shell Station on Lady's Island by the name of Murphy, that the man look's something like the man that did the shooting and raping. When she first saw the man that was who she thought it was but she is sure it wasn't him. She was sure she didn't see anybody before they parked the van, and she is sure nobody followed them to the dirt road, she believes the person was already there. Susan also related that when they walked up the dirt road they were talking but can't remember what was said except he told her his name was BROWN and she told him her name. That when he told her to pull her pants off, she stated "and lay on the ground" and that he pulled his coat off and she layed on his coat, that he had a belt thing on for the gun and was wearing a white shirt. I clocked the millage from the incident location to residence which was .7 of a mile. Susan also stated as she was running home a car passed and she jumped into the woods, but don't remember what kind of car or anything. I turned over the form for medical records at 4:35 P.M.

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INVESTIGATING OFFICER(S)		COURTNEY, D. P. Sgt.		REPORT MADE BY	HESLIN, Faye	DATE	1-7-80
ADVIS	CASE STATUS	<input checked="" type="checkbox"/> ACTIVE	<input type="checkbox"/> CLEARED BY ARREST	<input type="checkbox"/> EX. CLEARED	<input type="checkbox"/> OVER 18	<input type="checkbox"/> UNDER 18	<input type="checkbox"/> UNPOUNDED
							<input type="checkbox"/> INACTIVE
REPORTING OFFICER	HESLIN, Faye		NUMBER	7516	APPROVING OFFICER	DATE	
						01/07/80	
						NUMBER	

OFFICE

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	INDICT. NOS.:
STATE OF SOUTH CAROLINA	)	2016-GS-07-1548 CSC 1 <sup>st</sup>
	)	2016-GS-07-1549 MURDER
	)	2016-GS-07-1550 KIDNAPPING
vs.	)	2016-GS-07-1551 ARMED ROBBERY
	)	
	)	
	)	STATE'S MOTION AND MEMORANDUM
	)	IN SUPPORT OF THE INTRODUCTION
Isaiah Gadson, Jr.	)	OF 404(b) EVIDENCE
	)	
Defendant.	)	
_____	)	

2016 JUL 15 PM 3:00  
 CLERK OF COURT  
 14TH JUDICIAL CIRCUIT  
 BEAUFORT COUNTY  
 SOUTH CAROLINA

COMES NOW, the State of South Carolina, by the Fourteenth Circuit Solicitor and through the undersigned Assistant, hereby asks this Court to allow the evidence of a subsequent bad act committed by the Defendant, Isaiah Gadson. In May of 1983, the Beaufort County Grand Jury indicted the Defendant for Criminal Sexual Conduct in the First Degree. On July 12<sup>th</sup>, 1983, in a negotiated plea, the Defendant pled *Nolo Contendere* to a Count 2 on that indictment before the Circuit Court which states:

“That Isiah Gadson, Jr. did in Beaufort County on or about the 24<sup>th</sup> day of February, 1983, commit an assault and battery upon one Lori Ann Krug constituting an unlawful act of violent injury to the person of the said Lori Ann Krug accompanied by circumstances of aggravation, to-wit: a difference in the sexes, indecent liberties or familiarities with a female.”

The State seeks to introduce evidence of this crime under a 404(b) analysis pursuant to the South Carolina Rules of Evidence in the Defendant's trial for charges arising from his conduct occurring in January of 1980.<sup>1</sup>

### FACTS

#### January 1980 Murder and Sexual Assault

January 5<sup>th</sup>, 1980 was a Saturday night and around 7:30 PM, Susan Weed was picked up by her boyfriend, David Krulewicz. She was fifteen at the time and David was eighteen. The two went to a few places that evening—the bowling alley and a party on Lady's Island before ending up on what was a 'Lover's Lane' of sorts shortly before Susan's twelve o'clock curfew.

With a few minutes to pass, Susan and David were listening to music at about 11:45 PM when gunshots came through the passenger side of his van. David was first shot in the head and also had gunshot wounds to the right shoulder and the right side of his neck. He later died on scene. Susan tried to hide in the van but was ordered out by a black male in his mid-twenties who was armed with a small pistol.

Susan got out of the van, begging for her life, and offering him anything to spare her. He took the fifty dollars that she had on her and told her to get on her knees and perform oral sex on him. Afterward, the Defendant led Susan about one hundred feet down the dark dirt road, forcing her to lie down, so that he could perform oral sex on her prior to raping her. She was eventually

---

<sup>1</sup> SCRE 410(2) states that a plea of nolo contendere is inadmissible in a civil or criminal proceeding against the defendant who made the plea. Case law indicates that such a plea is not to be offered as substantive evidence of guilt. *State v. Wills*, 409 S.C. 183; 762 S.E.2d 3 (2014) explores the legislative intent behind SCRE 410 which also prohibits the use of a withdrawn guilty plea and any discussions involving plea negotiations in an effort to foster free communication and encourage 'early disposition' of criminal cases. In the instant case, the State only wishes to offer evidence of the plea during a pre-trial hearing for admissibility purposes in meeting the 'clear and convincing' standard under 404(b). In other words, State will only offer evidence of the Defendant's conduct during its case-in-chief and not evidence of the plea itself.

led back to van and told to get inside and stay there until he left with the keys. As soon as she could, Susan ran the quarter of a mile home for help.

Susan went to the Beaufort Memorial Emergency Room that night where she was examined by Dr. John Fontana who found semen present, performed a rape kit and collected her clothing. That clothing and the rape kit was sent to SLED for analysis, though in 1980, forensic testing was in its infancy. At some point, prior to the evidence preservation act, the rape kit was destroyed in SLED's effort to consolidate evidence onto microfilm.

A number of leads were followed up on throughout the early years of the investigation and Susan was shown many photo line-ups but could never identify anyone in them as being her rapist and David's killer. Eventually, the case grew cold as technology in the field of forensics revolutionized. By 2003, advancements made in the field DNA testing revealed a profile from the semen that was present on Susan's underwear and pants from 1980.

In 2016, the Defendant was arrested and booked into the Beaufort County Detention Center on Attempted Murder. A buccal swab was taken from him for entry into CODIS. The Beaufort County Sheriff's Office received a 'hit' from the SLED DNA Database Unit. On August 25<sup>th</sup> of 2016, the Defendant consented to the taking of another buccal swab for comparison purposes. A SLED Analyst concluded that the Defendant's DNA profile established by the buccal swabs, MATCHED the profile developed from semen found on cuttings of the Victim's underwear and pants.

#### February 1983 Sexual Assault

On February 24<sup>th</sup>, 1983, Lori Ann Krug was walking on Highway 21 at 5:45 AM to meet up with her ride to work on Parris Island when the Defendant pulled over and asked if she

needed a ride. She got into the car and though the Defendant initially headed toward the meet-up spot, he made his way to an isolated dirt road and locked the doors of the car. He began to grab at her and she tried to fight him off but the Defendant told her that he would 'blow her brains out' if she continued to struggle.

Gadson then ordered her to take her clothes off and began to perform oral sex on her. After a few minutes, he proceeded to vaginally rape her. Before dropping her off, the Defendant asked Lori if she was going to tell anyone and then said that he was sorry and was not sure why he had done it. She called police immediately, was able to recall the license tag, describe the Defendant and had a rape kit done at the Beaufort Naval Hospital.

SLED analysis of the rape kit revealed semen and pubic hair that was consistent with that of the Defendant. There was also a head hair consistent with the Victim's found in the clothing that he had been wearing. When the Defendant was interviewed, he admitted to picking Lori up after having been out all night but denied ever having intercourse with her.

#### LAW

Rule 404(a) of the South Carolina Rules of Evidence prohibits the introduction of evidence of a person's character for proving action in conformity therewith on a particular occasion. However, under 404(b), evidence of other crimes is admissible when that evidence tends to establish (1) motive; (2) intent; (3) absence of mistake or accident; (4) a common scheme or plan; or (5) identity.

The 2009 South Carolina Supreme Court case, *State v. Wallace*, 384 S.C. 428; 683 S.E.2d 275 (2009), sums up the trial court's considerations in analyzing a prior bad act in a sexual assault case. The trial court begins with an analysis under SCRE, Rule 401, and thus, the

record must support a logical relevance between the prior bad act and the crime for which the defendant is accused. *State v. King*, 334 S.C. 504, 511; S.E.2d 578, 582 (1999).

Once the relevance of the evidence is established, the trial court must determine whether the evidence fits within at least one of the 404(b) exceptions. When determining whether to allow evidence under the 'common scheme or plan' exception, there must be a close degree of similarity between the offenses: 'when the similarities outweigh the dissimilarities, the bad act evidence is admissible under Rule 404(b).' *State v. Wallace*, 384 S.C. at 433 (2009). In considering the similarity in sexual assault cases, the trial court is instructed to use the following factors: (1) the age of the victims at the time of the assault; (2) the relationship between victim and perpetrator; (3) the location where the assault occurred; (4) the use of coercion or threats; and (5) the type of sexual assault. *Id.* at 433.

Finally, once the evidence is established as relevant under SCRE 401 and admissible under SCRE 404(b), the trial court must turn to SCRE 403 to determine whether the probative value outweighs the danger of unfair prejudice. *Id.* at 435. Additionally, any evidence of bad acts, which can be either prior or subsequent, is held to a 'clear and convincing' standard with the burden upon the State. *State v. Atkins*, 309 S.C. 542, 544-545; 424 S.E.2d 554 (1992).

#### Argument

There are striking similarities in the sexual assaults committed by the Defendant in 1980 and 1983. In looking at the admissibility of the 1983 assault in the present 1980 case, it is appropriate to consider the factors outlined in the *Wallace* case cited above.

*1. Age of the Victims When the Abuse Occurred*

While Victim Susan Weed was just fifteen years old and Lori Ann Krug was twenty-one, both women bore similarities to each other. Weed and Krug are 5'9" and 5'7" respectively. Each had light brown hair at the time of the assaults and were young, slender, white females.

*2. Relationship between the Victims and the Assailant*

Both victims were strangers to the Defendant. He chose to prey upon females that did not know him. The strategy employed by the Defendant in his rapes makes identity an issue in the present case. The descriptions given to law enforcement by the victims were very similar. Susan reported a black male, 5'5 or 5'6 in his mid-twenties with a small afro and maybe a mustache as her perpetrator. Lori described a thin black male, about 5'9, mid-twenties with a short afro and mustache. She was also able to provide a license plate number which led police to Gadson.

*3. Location where the abuse occurred*

In each instance, the sexual assaults occurred in the hours of darkness. Both took place on a dark dirt road in Beaufort County and either in or close to Burton. Gadson isolated both victims- driving Lori to a rural and remote location while finding Susan already in a remote location and killing the one person that was around to witness the assault.

*4. Any Use of Coercion or threats*

The use and/or threat of a gun was present in both sexual assaults. Susan was held at gunpoint after her boyfriend was murdered and made to comply with the Defendant's orders to engage in sexual acts. In the 1983 sexual battery, the Defendant threatened to 'blow her brains out' if Lori did not succumb to him. Both women, fearing for their lives, submitted to Gadson in an effort to survive.

The gun used in the 1980 case was a .32 caliber and when a Search Warrant was conducted on Defendant's car during the 1983 case, a .32 caliber pistol was found. Though they are not the same weapon, the Defendant had the same type of weapon in both assaults.

*5. Manner of Occurrence/Type of Sexual Battery*

In each instance, the Defendant performed oral sex on the women prior to penetrating them. He also apologized after each rape. To Susan, he said 'I'm sorry about your friend in there, but I knew that was the only way to get to you.' To Lori, he stated that he was sorry afterward and did not know why he had done it.

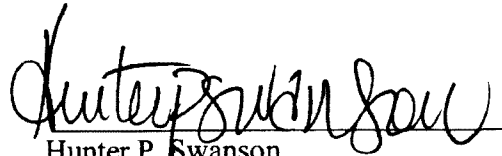
Another interesting characteristic of each sexual battery is that the Defendant asked the victims if they liked it. About four months after her brutal rape, in May of 1980, Susan had a phone call from a man whose voice she recognized as her rapist. While he began the conversation asking for her father, he ended up asking her if she was the 'one that was raped' and 'did you like it?' and 'did you enjoy it?' In the 1983 case, Lori reported that during the rape, the Defendant asked 'did she enjoy it' and 'didn't it feel good.'

*Motive, Intent and Identity*

The common scheme, shown by the similarities in the two sexual assaults, also helps to establish the Defendant's motive and intent. There are unique characteristics shared by these assaults that point to the fact that the Defendant is a predator who derives sexual satisfaction from violent rapes. And while not offered as propensity evidence, this is an identity case and proof of one is strong proof of the other. Neither victim identified her perpetrator by name or sight as he was a stranger to both and these were non-consensual sexual batteries.

Conclusion

For all of the foregoing reasons, the State asserts that the 1983 sexual assault is relevant and admissible evidence against the Defendant in his 1980 Criminal Sexual Conduct trial under SCRE 401 and 404(b). In addition to establishing a common scheme or plan, it helps prove motive and intent as well as identity. The primary evidence in the instant case is a DNA 'hit' from CODIS. There is no victim identification of the perpetrator. Therefore, the 404(b) exceptions substantially outweigh the danger of unfair prejudice to the defendant under the SCRE 403 analysis. *State v. Wallace, citing State v. Gillian*, 373 S.C. 601, 646 S.E.2d 872 (2007).



Hunter P. Swanson  
Assistant Solicitor  
14<sup>th</sup> Judicial Circuit

May 15<sup>TH</sup> 2018

WITNESSES

Bromage / BCSO

DOCKET NO. 2016GS0701548

The State of South Carolina  
County of Beaufort

After being fully advised as to my <sup>517</sup>  
legal rights, I hereby waive  
presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

October Term 2017

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

ARREST WARRANT NUMBER

2016A0710300262

THE STATE

vs.

Isaiah Gadson

Indictment For

Criminal Sexual Conduct

SC Code: 16-3-652(1)(a)

CDR Code: 0160

Defendant

**True Bill**

*Hally B. Basworn*

Foreperson of Grand Jury

Date: OCT 12 2017

Witness:

VERDICT

*Guilty*

*Angela Bugh*

Foreperson of Petit Jury

Date: 5-24-18

C.C.C. PLS. and G.S.

INDICT

518

STATE OF SOUTH CAROLINA     )  
  )  
COUNTY OF BEAUFORT         )

INDICTMENT  
2016GS0701548

At a Court of General Sessions, convened on *October 12,* 2017, the Grand Jurors of Beaufort County present upon their oath:

**Criminal Sexual Conduct**

That in Beaufort County, South Carolina, on or about January 5, 1980, the Defendant, Isaiah Gadson, did engage in sexual battery with the use of aggravated force upon 15 year old female, to wit: the Defendant did force her to engage in sexual intercourse with the use of a deadly weapon, all in violation of Section 16-3-652(1)(a), et al. of the Codes of Law of South Carolina.

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

*James M. Stovall*

Solicitor

**True Bill**

**WITNESSES**

Bromage / BCSO

DOCKET NO. 2016GS0701549

**The State of South Carolina**  
**County of Beaufort**

After being fully advised as to my **519**  
legal rights, I hereby waive  
presentment to the Grand Jury.

Defendant

**COURT OF GENERAL SESSIONS**

*October* Term 2017

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

**THE STATE**

vs.

Isaiah Gadson

**ARREST WARRANT NUMBER**

2016A0710300263

**Indictment For**

**Murder**

SC Code: 16-3-10

CDR Code: 0116

Defendant

**True Bill**

*Nelly S. Beaworth*

Foreperson of Grand Jury

Date: *OCT 12 2017*

Witness:

**VERDICT**

*Guilty*

C.C.C. PLS. and G.S.

*Malcolm*

Foreperson of Petit Jury

Date: *5-24-18*

INDICT

520

STATE OF SOUTH CAROLINA     )  
  )  
COUNTY OF BEAUFORT         )

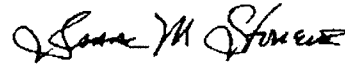
INDICTMENT  
2016GS0701549

At a Court of General Sessions, convened on *October 12*, 2017, the Grand Jurors of Beaufort County present upon their oath:

**Murder**

That in Beaufort County, South Carolina, on or about January 5, 1980, the Defendant, Isaiah Gadson, did, with malice aforethought, kill David Krulewicz and David Krulewicz did die as a proximate result of Isaiah Gadson's actions, to wit: shoot him with a firearm, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

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



---

Solicitor

**True Bill**

WITNESSES

Bromage / BCSO

DOCKET NO. 2016GS0701550

The State of South Carolina

County of Beaufort

After being fully advised as to my <sup>521</sup> legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

October Term 2017

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

THE STATE

vs.

Isaiah Gadson

ARREST WARRANT NUMBER

2016A0710300264

Indictment For

Kidnapping

SC Code: 16-3-910

CDR Code: 0948

**True Bill**

*Jolly B. Brown*

Foreperson of Grand Jury

Date: OCT 12 2017

Defendant

VERDICT

Witness:

*Guilty*

*Angela B. ...*

Foreperson of Petit Jury

Date: 5-24-18

INDICT

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

INDICTMENT  
2016GS0701550

At a Court of General Sessions, convened on *October 12, 2017*, the Grand Jurors of Beaufort County present upon their oath:

**Kidnapping**

That in Beaufort County, South Carolina, on or about January 5, 1980, the Defendant, Isaiah Gadson, did seize, confine, inveigle, decoy, kidnap, abduct or carry away 15 year old female victim without authority of law and Isaiah Gadson was sentenced for murder as provided in Section 16-3-20, to wit: the Defendant forced the victim out of a vehicle at gun point and took her into the woods to sexually assault her, all in violation of Section 16-3-910, et al. of the Codes of Law of South Carolina.

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

*James M. Stover*

Sol **MS SU**

WITNESSES

Bromage / BCSO

DOCKET NO. 2016GS0701551

The State of South Carolina

County of Beaufort

After being fully advised as to my <sup>523</sup> legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

October Term 2017

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

THE STATE

vs.

Isaiah Gadson

ARREST WARRANT NUMBER

2016A0710300265

Indictment For

Robbery - Armed or Alleging Armed With Deadly Weapon

SC Code: 16-11-330(A)

CDR Code: 0139

True Bill

*Nally B. Bosworth*

Foreperson of Grand Jury

Date: OCT 12 2017

Defendant

VERDICT

Witness:

*Guilty*

C.C.C. PLS. and G.S.

*Hal B...*

Foreperson of Petit Jury

Date: 5-24-18

INDICT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

INDICTMENT  
2016GS0701551

At a Court of General Sessions, convened on October 12, 2017, the Grand Jurors of Beaufort County present upon their oath:

**Robbery - Armed or Alleging Armed With Deadly Weapon**

That in Beaufort County, South Carolina, on or about January 5, 1980, the Defendant, Isaiah Gadson, did commit robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, Defendant was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, to wit: a gun, to wit: did take fifty dollars from the victim after murdering her boyfriend and during a sexual assault on the 15 year old female victim., all in violation of Section 16-11-330(A), et al. of the Codes of Law of South Carolina.

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

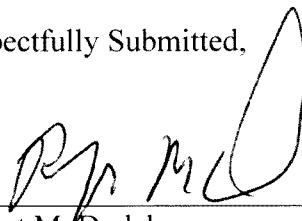
*James M. Spence*

\_\_\_\_\_  
Bill Spence

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



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Robert M. Dudek  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of February, 2020.

**RECEIVED**  
FEB 03 2020  
SC Court of Appeals