

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Case No. 2012-212712

John Barnette, Appellant,

v.

State of South Carolina, Respondent.

Record on Appeal

Bobby G. Frederick, Esquire
Matthew S. Swilley, Esquire
P.O. Box 8219
Myrtle Beach, SC 29578
843-444-6122
Attorneys for Petitioner

RECEIVED
MAR 01 2013
SC Court of Appeals

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STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)
)
State of South Carolina,)
)
vs.)
)
John Woodrow Barnette.)
)

IN THE MAGISTRATE'S COURT
COUNTY OF HORRY

ORDER RELIEVING COUNSEL

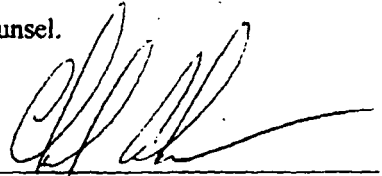
Re: Criminal Domestic Violence
Ticket No.: 21792 ES
Incident Date: December 24, 2008
Arresting Officer: J. Crews, HCPD

2011 OCT 10 AM 11:09:36
CLERK OF COURT
Horry County

THIS MATTER COMES before the Court this the 10th day of Oct, 2011, by motion of M. Gregory McCollum who advises this Court that he requests to be relieved from further representation of the above named Defendant because of lack of contact between the Defendant and his Attorney. Mr. McCollum, advises the Court that he has made numerous attempts to contact the Defendant, both by telephone and mail, and is unable to communicate with the Defendant. Mr. McCollum's last contact with the Defendant was in June 2010.

NOW THEREFORE, after considering Attorney McCollum's request, this Court finds that M. Gregory McCollum shall be relieved of counsel.


AND IT IS SO ORDERED.



The Honorable
Presiding Judge
Horry County Magistrate Court


Myrtle Beach, SC
October 10, 2011

I CONSENT:



Manuela Ardeljan,
Assistant Solicitor
Conway, South Carolina
October 10, 2011

I SO MOVE:



M. Gregory McCollum, Esquire

Myrtle Beach, South Carolina
October 10, 2011

FILED
 HORRY COUNTY

CASE NO. 2011- CP-26-10435



12 JUL 25 AM 8:09

John W Barnette

South Carolina State

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: *Clerk of Court*

Attorney for: Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Magistrate *Appeal is denied. decision is affirmed.*

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	\$ N/A
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Morgan M. Culbertson
 Circuit Court Judge

2148
 Judge Code

July 24, 2012
 Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Bobby G. Frederick

J Gregory Hembree

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: Grae Hurley

WE THE JURY HAVE UNANIMOUSLY HEARD,
DELIBERATED, AND FOUND THE FOLLOWING IN THE
BELOW-CAPTIONED CASE:

STATE OF SOUTH CAROLINA

-VS-

DEFENDANT: John Woodrow Barnette

CHARGE: COV

*****Write Either: GUILTY OR NOT GUILTY*****

VERDICT: Guilty

FOREPERSON: Heather Wells

DATE: 11-15-11

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)
)
 vs.)
)
John W. Barnette,)
)
)
 Defendant.)
)
_____)

IN THE MAGISTRATE COURT

NOTICE OF MOTION AND MOTION
FOR A NEW TRIAL

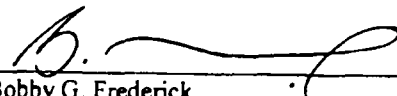
Warrant/Ticket: 21792ES
Charge: CDV 1st

PLEASE TAKE NOTICE that the Defendant, does hereby move before the Presiding Judge of the Central Jury Court for an Order granting a New Trial in the above listed case.

1. The Defendant was found guilty in his absence on November 15, 2011.
2. Defendant requested a jury trial following his arrest in December of 2008.
3. Defendant subsequently retained Attorney Greg McCollum to represent him in the above referenced matter.
4. In 2010, Attorney Greg McCollum was relieved from representation in the above referenced matter.
5. Defendant's case was subsequently sent to the pre-trial intervention program, and his correct address was used.
6. Defendant has changed addresses since his arrest and assumed that his attorney at the time notified the appropriate offices of his address change before being relieved of his representation.
7. Defendant did not complete PTI, and his case was sent back to Horry County Central Jury Court.
8. Defendant did not receive notice of a roster meeting or trial date, and can only assume that these notices were sent to the wrong address.

9. Defendant learned that he was convicted in his absence, and timely files this request for a new trial, on grounds that he was not notified of the date of trial or that the trial would proceed in his absence.

Respectfully submitted,



Bobby G. Frederick
Attorney for the Defendant
P.O. Box 8219
Myrtle Beach, S.C. 29578
843-444-6122

November 21, 2011.

STATE OF SOUTH CAROLINA) IN THE SUMMARY COURT
) CRIMINAL APPEAL
 COUNTY OF HORRY) Ticket #: 21792 ES
 Charge: Criminal Domestic Violence

THE STATE OF SOUTH CAROLINA)
)
 -VS-)
)
 JOHN W. BARNETTE)
 C/O Attorney Bobby G Frederick)
 FREDERICK LAW OFFICE)
 P. O. Box 8219)
 Myrtle Beach, SC 29578)
 _____)

ANSWER TO CRIMINAL APPEAL

RECEIVED
 11 DEC 20 11 09:32 AM
 CLERK OF COURT
 HORRY COUNTY

THIS MATTER comes before the Court pursuant to an action of Appeal filed by the Defendant, JOHN W. BARNETTE, by and through his Attorney, Bobby G. Frederick, Myrtle Beach, SC, and the Horry County Bar.

Said Appeal was filed with the Clerk of Court for the Civil and Criminal Jury Court on December 14, 2011.

The Appeal further comes pursuant to a Motion by defense to Reopen the case after the defendant had been tried in Absentia on November 15, 2011. The motion hearing was scheduled heard on December 8, 2011 whereby this Court denied such motion.

Present at the hearing was Solicitor Manuela Ardeljan for the Fifteenth Judicial Circuit Solicitor's Office and Attorney Bobby G. Frederick for the defendant.

PAGE 1

The Court heard defendant's reasoning for such motion, giving the State of South Carolina an opportunity to respond. After hearing the facts from both parties, the court ruled to deny the defense's motion, finding that:

- 1) The defendant *was* notified of the date, time and place of his trial
- 2) The defendant *was* notified that the trial would proceed in his absence;
- 3) The defendant, by not appearing, waived his right to be present at the trial.
- 4) More than 10 days had passed since the disposition of the case, and
- 5) No request for reconsideration was made within five (5) days

The taped transcription of the hearing will be provided to the higher court by the Appellant, pursuant to Order of Judge Stephen John. Supporting documents of the above five (5) points are enclosed and made a part of this Answer.

The Defendant was charged under ticket #: 21792 ES by Officer J. Crews, PFC, Horry County Police Department, with Criminal Domestic Violence that transpired on December 24, 2008. The Defendant's bond was set @ \$1,000, surety, and he was released by Judge Aaron Butler from the J. R. Long Detention Center on 12/26/08. Special conditions were placed upon the bond & the explanation of the CDV statute was provided to the defendant. Coastal Bail Bonds signed as surety with the defendant to guarantee his appearance.

The defendant thereafter pled "Not Guilty" prior to his court date of January 23, 2009, by requesting, in writing, a Jury Trial on January 13, 2009. He showed a permanent address of: 4295 Lilac Road, Myrtle Beach, SC 29588. He further signed stating:

*I understand that if my address changes, it is my
Responsibility to notify the COURT in writing immediately."*

He was given the Court's address. The case had been continued several times prior to scheduling of trial on November 15, 2011.

On November 15, 2011, the Court called for the Defendant three times in and outside of the Olin I. Blanton Building @ 21st Avenue, Myrtle Beach S.C. He did not answer @ 8:30 a.m., nor within the courtroom at the calling of the case later. The court noted for the record it's as well as the Solicitor's notes regarding the defendant's notice. The trial proceeded as a jury was selected. Opening statements were heard by Solicitor Ardelijan, who called the following witnesses:

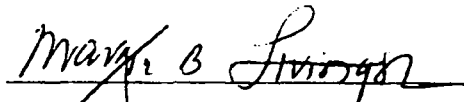
- 1) PFC J. Crews, Horry County Police Department
- 2) Carol Renee' Turner (victim)

The Court received one state's exhibit: Four (4) photos of the victim's bruises. Closing Statements were provided to the Jury by Solicitor Ardelijan and the Court gave Jury instructions and the charge of the Law.

The jury deliberated, finding the defendant guilty. The Jury was excused and the Court heard sentencing remarks.

The defendant was sentenced to a fine of \$2,105 or to serve 30 days, along with completion of the 26-week Batterer's Program (with charges to be dismissed upon completion).

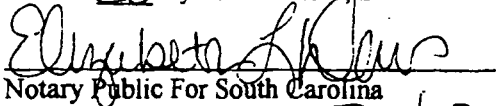
The case was fairly heard, the defendant was properly notified, and a sentence according to the law was given after a finding of guilty. The defendant thereafter hired Attorney Bobby G. Frederick, who was not present at any proceedings beforehand. This Court requests the higher Court to dismiss defendant's Appeal, with prejudice.



Margie B. Livingston,

Central Civil & Criminal Jury Court Judge

Sworn to and subscribed before
me this 20 day of December, 2011



Notary Public For South Carolina

My commission expires: 7-4-2013

Frederick Law Office

Bobby G. Frederick
Trial Lawyer

P.O. Box 8219
Myrtle Beach, SC 29578
Phone: 843-444-6122
Fax: 843-444-6133
bfrederick@grandstrandlaw.com

December 9, 2011

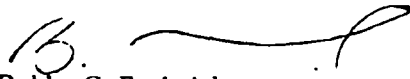
Central Jury Court
Clerk of Court
1201 Third Ave.
Conway, SC 29526

RE: John W. Barnette
Case No.: 2011-CP-26-

Enclosed is a Notice of Appeal, a request for the trial in absence recording, and a request for the motion hearing with two extra copies of each. Please file the notice and requests and return clocked copies in the envelope provided.

Thank you for your assistance in this matter.

Sincerely,


Bobby G. Frederick
Attorney at Law

STATE OF SOUTH CAROLINA)
COUNTY OF Horry)
The State of South Carolina,)
v.)
John W. Barnette,)
Defendant,)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT


Notice of Appeal
Case no. 2011-CP-26-

John Barnette appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Margie B. Livingston on November 15, 2011.

On November 15, 2011, the Defendant was found guilty in his absence of criminal domestic violence, ticket number 21792ES. A post-trial Motion for a New Trial was timely filed and was denied by Judge Livingston December 8, 2011. The grounds for appeal are as follows:

- 1) The defendant was not notified of the date, time and place of his trial;
- 2) The Defendant was not notified that the trial would proceed in his absence;
- 3) The Defendant did not knowingly and voluntarily waive his right to be present at trial;

Respectfully Submitted


Bobby G. Frederick
Frederick Defense Firm
P.O. Box 8219
Myrtle Beach, SC 29578
843-444-6122

December 9, 2011

STATE OF SOUTH CAROLINA
UNIFORM TRAFFIC TICKET

CITY OR COUNTY OF Liberty VERSUS
 FIRST NAME: John MIDDLE NAME: Wendron LAST NAME: Barnette
 STREET AND NO.: 4295 Lake Rd CITY: Myrtle Beach STATE: SC ZIP CODE: 29555
 STATE LICENSED: SC DRIVER'S LICENSE NO.: C1115846 COL.: YES NO ORL LIC. CLASS: D
 VEH. LIC. NO.: STATE: MAKE OF VEH. YEAR: COLOR: VEH. AUTO: IS PREL. VEH.: COMB.:
 HAZ. MT.: MOPED: MOTORCYCL.: OTHER:

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER

NAME OF TRIAL OFFICER: CDV Court STREET AND NO.: 1302 3rd Ave
 DATE OF TRIAL: 1/23/09 TIME OF TRIAL: 0930 CITY: Myrtle Beach STATE: SC ZIP CODE: 29526
 VIOLATION - COURT APPEARANCE REQUIRED: YES NO VIOLATION SECTION NO.: 16-25-20
 OWNER OF VEHICLE: Criminal Domestic Violence DATE OF ARREST: 12/24/08
 ADDRESS OF OWNER: DATE OF VIOLATION: 12/24/08

BAIL DEPOSITED: Nil NAME OF ARRESTING OFFICER: S. Crews RANK: PEC

DESCRIPTION OF ACCUSED: Henry COUNTY: Myrtle Beach NUMBER: 25
 RACE: W SEX: M BIRTH DATE: 2/19/62 HT.: 600 HAIR: BRO EYES: BRO BADGE: 670 DISTRICT: 5
 DATE BAIL RECD.: BY:

CASE BEFORE: MAGISTRATE JAIL COURT
 CIRCUIT COURT FAMILY COURT FEDERAL COURT
 NAME OF TRIAL OFFICER: IF DIFFERENT FROM ABOVE:
 DEFENDANT: DID NOT APPEAR APPEARED

NOLLE PROSEQUI: GUILTY
 FORFEITED BOND: PLED: NOLO CONTENDERE
 TRIAL BY: TRIAL OFFICER JURY
 VERDICT OF: GUILTY NOT GUILTY DATE OF TRIAL IF ANY: 20

JAIL: SUSPEND: FINE: AMT. COLLECTED: AMT. SUSPENDED:
 COMMITTED TO: Vehicle Searched: Arrest or Result of Collision:
 CERTIFIED CORRECT: DATE: 20

21792 ES

TRIAL OFFICER'S COPY
Jury Trial: Guilty
26 wk B.P.
2105/30 days

Case # 08137149
DOCKET NO.

STATE OF SOUTH CAROLINA
COUNTY/CITY OF Horry

John Woodrow Barnette
4295 Lilac Rd
Myrtle Beach, SC 29588

SUMMARY COURT SUMMONS

STATE VS.	John Woodrow Barnette
TICKET #(S)	21792ES
OFFICER	Crews, Jeremy
AGENCY	Horry County Police Department
CHARGE	Domestic / Criminal Domestic Violence - 1st offense

Please be advised that the above referenced case is scheduled to be heard on
January 21, 2009 at 9:30 AM.

You are hereby summoned to appear in the **Horry COUNTY/CITY Criminal Domestic Abuse Court, 1201 Third Avenue, Conway, SC**, on that date. Please notify any witnesses you may have of this Court date.

HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN SUCH CASES MADE AND PROVIDED.

Margie B. Livingston / at
Judge

**Horry COUNTY/CITY Criminal Domestic Abuse Court
1201 Third Avenue,
Conway, SC 29526
PHONE (843) 915-6676 FAX (843) 915-6070**

December 30, 2008

CDV4

**STATE OF SOUTH CAROLINA
COUNTY/CITY OF HORRY**

Bobby G. Frederick
P.O. Box 8219
Myrtle Beach, SC 29578

SUMMARY COURT SUMMONS

STATE VS.	John Woodrow Barnette
CASE #(S)	21792ES
OFFICER	Crews, Jeremy
AGENCY	Horry County Police Department
CHARGE	Domestic / Criminal Domestic Violence - 1st offense

Please be advised that a Motion has been filed on the above referenced case and that Motion Hearing is now scheduled to be heard on **December 8, 2011 at 8:30 AM.**

You are hereby summoned to appear in the Horry County/City Central Jury Court Court, 1201 Third Avenue, on that date.

HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN SUCH CASES MADE AND PROVIDED.

JUDGE

Horry County/City
Central Jury Court
1201 Third Avenue
Conway, SC 29526
Phone: (843) 915-5065 Fax: (843) 915-6065

November 29, 2011

MC17

**STATE OF SOUTH CAROLINA
COUNTY/CITY OF HORRY**

Manuela Ardeljan
1301 Second Avnue
Conway SC 29526

SUMMARY COURT SUMMONS

STATE VS.	John Woodrow Barnette
CASE #(S)	21792ES
OFFICER	Crews, Jeremy
AGENCY	Horry County Police Department
CHARGE	Domestic / Criminal Domestic Violence - 1st offense

Please be advised that a Motion has been filed on the above referenced case and that Motion Hearing is now scheduled to be heard on **December 8, 2011 at 8:30 AM.**

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HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN SUCH CASES MADE AND PROVIDED.

JUDGE

Horry County/City
Central Jury Court
1201 Third Avenue
Conway, SC 29526
Phone: (843) 915-5065 Fax: (843) 915-6065

November 29, 2011

MC17

**STATE OF SOUTH CAROLINA
COUNTY/CITY OF HORRY**

John Woodrow Barnette
4295 Lilac Rd
Myrtle Beach, SC 29588

SUMMARY COURT SUMMONS

STATE VS.	John Woodrow Barnette
CASE #(S)	21792ES
OFFICER	Crews, Jeremy
AGENCY	Horry County Police Department
CHARGE	Domestic / Criminal Domestic Violence - 1st offense

Please be advised that a Motion has been filed on the above referenced case and that Motion Hearing is now scheduled to be heard on **December 8, 2011 at 8:30 AM.**

You are hereby summoned to appear in the Horry County/City Central Jury Court Court, 1201 Third Avenue, on that date.

HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN SUCH CASES MADE AND PROVIDED.

JUDGE

Horry County/City
Central Jury Court
1201 Third Avenue
Conway, SC 29526
Phone: (843) 915-5065 Fax: (843) 915-6065

November 29, 2011

MC17

WE THE JURY HAVE UNANIMOUSLY HEARD,
DELIBERATED, AND FOUND THE FOLLOWING IN THE
BELOW-CAPTIONED CASE:

STATE OF SOUTH CAROLINA

-VS-

DEFENDANT:

John Woodrow Barnette

CHARGE:

COV

*****Write Either: GUILTY OR NOT GUILTY*****

VERDICT:

Guilty

FOREPERSON:

Heather Wells

DATE:

11-15-11

State vs Barnett
MA - Crews TIA

5

- ①84 Yvonne Evans
- ②87 Ralph Miller
- ③162 Juliet Turano
- ~~④39 Clarence Smith~~
- ④45 Courtney Philson
- ⑤155 Kristin Leggett
- ⑥275 Heather Wells

State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit



Timmy A. Richardson, II
Deputy Solicitor

REPLY TO

P.O. BOX 1276
CONWAY, SC 29528
843-915-5460
FAX: 843-915-6461

Scott R. Hixson
Deputy Solicitor

REPLY TO

P.O. BOX 1688
GEORGETOWN, SC 29642
843-545-1169
FAX: 843-545-1268

J. GREGORY HEMBREE
Solicitor

11-15-11

ELIZABETH DAVIS
CENTRAL JURY COURT
1201 THIRD AVE
CONWAY, SC. 29526

DEFENDANT: John Woodrow Barnette

Dear Elizabeth:

Please be advised that the charge(s) on the above-named defendant has been disposed of as follows:

<u>TICKET(S)#</u>	<u>CHARGES</u>	<u>DISPOSITION</u>	<u>DATE</u>
21792ES	CDV	TIA - Guilty Jury Trial	11-15-11
		\$2100. OR 30 days & DFP	
		BW would	

OFFICER: JEREMY CREWS/ HORRY COUNTY POLICE DEPARTMENT

SOLICITOR: MANUELA ARDELJAN

DEF. ATTY: ~~MCCOLLUM, M. GREGORY~~ PRO SO

VICTIM: CAROL TURNER

**BAIL PROCEEDING
FORM II**

STATE OF SOUTH CAROLINA
COUNTY OF Horry

IN THE Criminal Domestic Abuse Court

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

Barnette, John Woodrow

NAME OF DEFENDANT

Offense Charged: Domestic / Criminal Domestic Violence - 1st offense (21792ES)

At a bail proceeding conducted by undersigned Judge, for the defendant named above, it was determined by the court (check one or both):

- The release of the defendant on recognizance will not reasonably assure his appearance as required.
- The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact: _____

Nature of Circumstances of Offense; Must Notify Court Immediately of Change of Address _____

[Considerations: Nature and Circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

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

CASH IN LIEU OF BOND

The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of \$ _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of \$ _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits \$ _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the state.

APPEARANCE RECOGNIZANCE WITH SURETY

The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$ _____.

3. That the defendant shall appear at (check one):

the term of COURT OF GENERAL SESSIONS beginning on _____ at _____ o'clock, M, at _____

and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

the session of MAGISTRATE COURT MUNICIPAL COURT beginning on 1-21-09 at 930 o'clock, AM, at Criminal Domestic Abuse Court - 1201 Third Avenue/Conway, SC 29526 / (843) 915-6676

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

Bond Amount(s): \$1,000.00 (CS) or \$1,000.00 (SB)

INITIALS OF DEFENDANT

[Handwritten signature]

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions hereinafter in the Order.

[Signature]
SIGNATURE OF JUDGE

12/24/08
DATE

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED
Original Copy For The Trial Court - Copy For The Defendant

ACKNOWLEDGEMENT BY DEFENDANT

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

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

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

4295 Lilac Rd
 ADDRESS Myrtle Beach, SC 29588
 CITY/STATE/ZIP 245-23-4638
 SOCIAL SECURITY NUMBER _____
 TELEPHONE 843-340-8245
 TELEPHONE 011115848 (SC)
 DRIVER'S LICENSE OR ID NUMBER _____
 SIGNATURE OF DEFENDANT *[Signature]*
 DATE 12-24-08
 ATTORNEY REPRESENTING ACCUSED (IF KNOWN) _____

SPECIAL CONDITIONS OF RELEASE

a. Placement in custody. The defendant is placed in the custody of: _____
 NAME OF PERSON OR ORGANIZATION

ADDRESS _____ CITY/STATE _____ ZIP _____ TELEPHONE _____
 who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED) _____ DATE _____

b. Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions: _____

c. Part-time Release. The defendant will be released from custody from _____ o' clock, _____ to _____ o' clock, _____
 on _____ on condition that he return to the custody of _____
 DATE(S) _____ NAME OF PERSON OR ORGANIZATION _____
 at _____ as designated.
 LOCATION _____

d. Other conditions. The defendant will comply with the following other conditions of release: _____

APPEARANCE RECOGNIZANCE WITH SURETY

On the 26 day of December, 2008, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$ 1,000.00, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

Coastal Bail Bonds 842-236-7245
 NAME OF SURETY BONDSMAN TELEPHONE
2507 Frostbark Rd
 ADDRESS OF SURETY BONDSMAN
Myrtle Beach SC 29579
 CITY/STATE/ZIP
Accordite Surety & Surety Co.
 NAME OF INSURANCE COMPANY
4798 5th St SW
 ADDRESS OF INSURANCE COMPANY
Orlando Florida
 CITY/STATE/ZIP

[Signature]
 SIGNATURE OF SURETY BONDSMAN
H. Coarman
 SIGNATURE OF JUDGE
 DATE 12/26/08

STATE OF SOUTH CAROLINA)
COUNTY/CITY OF HORRY,)

CHECKLIST

John Woodrow Barnette)
Name of Defendant)

- TRIAL COURT:
 GENERAL SESSIONS COURT
 MAGISTRATE COURT
 MUNICIPAL COURT

CASE NUMBER/CHARGE:
21792ES Domestic / Criminal Domestic Violence - 1st offense

CHECKLIST FOR MAGISTRATE AND MUNICIPAL JUDGES

DIRECTIONS: Magistrate and Municipal Court Judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE. The judge shall attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections. Defendant must be provided a completed copy of this form.

BAIL PROCEEDING/ FIRST APPEARANCE (NON-BAILABLE OFFENSES)

1. Form used at bail proceeding
 - a. Bond Form I (personal recognizance)
 - b. Bond Form II (surety, cash, percentage)
 - c. None (Non-Bailable Offense)
2. For cases in which bond was set, defendant was informed:
 - a. Warrant for arrest will be issued for violation of any condition of bail bond order.
 - b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
 - c. Failure to appear in court as required will result in institution of additional criminal charges. Failure to appear in connection with a felony, or while awaiting sentence after conviction, additional charge has penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, additional charge has penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.
3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:
 - a. Orally
 - b. In writing [NOTE: Defendant must be informed of right both orally and in writing]
4. Defendant was informed of the right to trial by jury.
5. In all general sessions cases, in all criminal domestic violence cases, and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:
 - a. Charges against defendant and nature of the charges.
 - b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.
 - c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet federal poverty guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before _____ located at _____ for indigency screening. Defendant is responsible for a statutory fee of \$_____ for indigency screening.
6. In all criminal domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household member resides constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.

2008-12-24

First Appearance or Bond Hearing Date


JUDGE'S SIGNATURE

STATE OF SOUTH CAROLINA)
)
COUNTY/CITY OF HORRY)
-----)
State of South Carolina)
)
vs)
)
John Woodrow Barnette)
-----)
Defendant

IN THE SUMMARY COURT

ORDER

SPECIAL CONDITIONS OF BOND

This matter is before me to add Special Conditions to the Defendant's Bond. The Defendant is before me at this time for the purpose of setting Bond on his/her arrest for the crime(s) of:

CASE NUMBER:

OFFENSE:

21792ES

Domestic / Criminal Domestic Violence - 1st offense

The alleged victim in this case is: CAROL TURNER

Due to the nature of the charges against the Defendant, the Court hereby Orders the following Special Conditions of the Bond in addition to those noted on the initial Bond Order:

- The Defendant is to undergo substance abuse counseling and treatment. The Defendant is to notify the Court of the program he/she is participating in and agree to report on his/her attendance and completion status.
- The Defendant cannot have any firearms in his/her possession; and is to immediately turn over to law enforcement any and all firearms within his/her possession or under his/her control.
- The Defendant is not to go near the victim's home or workplace or _____ and is not to have or attempt to have any contact with the victim either directly or indirectly (through mail, by telephone, through the delivery of any message or item by any means, etc.)

It is further Ordered: *Defendant is allowed to go get personal items with police escort*

I acknowledge these conditions of bond and understand that if I am found in violation of any condition I will be subject to immediate arrest, and/or additional criminal charges, and will be brought before this court for a bond revocation or contempt hearing. I understand any possession or attempt to possess a weapon during the term of this order will be in violation of Federal Law reference in 18 USC922(g). I also understand that if I violate the no trespass notice, I will be subject to immediate arrest for trespass after notice.

I ACKNOWLEDGE THESE ADDITIONAL CONDITIONS OF BOND:

John Woodrow Barnette
Signature of Defendant
December 24, 2008

Aaron Bell
Judge
Bond Court

BC11

TO BE USED IN BOND HEARINGS FOR CRIMINAL DOMESTIC
VIOLENCE CASES AND/OR CASES WHERE DEFENDANT IS
SUBJECT TO AN ORDER OF PROTECTION OR RESTRAINING
ORDER

Pursuant to Section 16-25-125, it is unlawful for a person who has been charged with or convicted of criminal domestic violence or criminal domestic violence of a high and aggravated nature, who is subject to an order of protection, or who is subject to a restraining order, to enter or remain upon the grounds or structure of a domestic violence shelter in which the person's household member resides or the domestic violence shelter's administrative offices. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both. If the person is in possession of a dangerous weapon at the time of the violation, the person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

Charging Document(s) # 21792ES
Charge (s) CDV

JOHN WOODROW BARNETTE

Defendant's Name

JW Barnett

12/24/2008

Defendant's Signature

Date

Defendant was given the opportunity to review and sign this document, but refused to do so.

Witnessed: *Judge Aaron Bell*

A copy of this document has been provided to the defendant.

SCCA/698 (8/2008)

CITY OR COUNTY OF Horry VERSUS
 FIRST NAME John MIDDLE NAME Woodrow LAST NAME Barnette
 STREET AND NO. 4295 Lilac Rd CITY Myrtle Beach STATE SC ZIP CODE 29588
 STATE LICENSED SC DRIVER'S LICENSE NO. 01115846 CDE YES NO DRL LIC. CLASS 0
 VEH. LIC. NO. STATE MAKE OF VEH YEAR COMB VEH AUTO II PRIOR VEH COMB
 HAZ. MT. MOPED MTRCYCL OTHER

Horry County Police
 2580 N Main St
 Conway, SC 29528
 843 915-8013

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER
 NAME OF TRIAL OFFICER CDV Crews STREET AND NO. 1361 3rd Ave CITY Conway STATE SC ZIP CODE 29526
 DATE OF TRIAL 1/23/09 TIME OF TRIAL 0930 VIOLATION - COURT APPEARANCE REQUIRED YES VIOLATION SECTION NO. 16-25-20
 OWNER OF VEHICLE Criminal Domestic Violence DATE OF ARREST 12/24/08
 ADDRESS OF OWNER 1361 3rd Ave DATE OF VIOLATION 12/24/08

12/24/2008 4:11:51 AM
 5656 - Crews, Jeremy

Reporting Officer
 5656 - Crews, Jeremy

BAIL DEPOSITED 500 NAME OF ARRESTING OFFICER J. Crews RANK PFC
 RACE WM SEX M BIRTH DATE 2/19/1962 HT. 600 HAIR BRN EYES BRN COUNTY Horry NUMBER 26
 DATE BAIL REC'D. BY 29 BADGE 670 DISTRICT 5
 CASE BEFORE MAGISTRATE JUD. COURT TIME OF VIOLATION 0300 WEATHER PM 27.5
 CIRCUIT COURT FAMILY COURT FEDERAL COURT DISTANCE IN FEET FROM INTERSECTION OF 4295 Lilac Rd
 DEPENDANT: DID NOT APPEAR APPEARED MILES 0 N E S W
 TRIAL BY: TRIAL OFFICER JURY HWY NO. 541 CITY MB
 VERDICT OF TRIAL IF ANY GUILTY NOT GUILTY 29
 COMMITTED TO: Vehicle Searched Arrest as Result of Collision OFFENSE CODE 911 B.A. LEVEL 21792 ES
 CERTIFIED CORRECT DATE 20

Arrest
 Horry County Police

VICTIM IN REFERENCE TO A DOMESTIC DISPUTE. VICTIM STATES NTHS AND HAS LIVED WITH HIM SINCE THE BEGINNING OF T DRINKING AT A BAR WHEN SHE CALLED HIM TO TELL HIM HIS IM STATES SHE WAS ASLEEP WHEN THE ARRESTEE ARRIVED THE ARRESTEE DRAGGED HER OFF OF THE BED AND BEGAN NT OF TIMES TO THE HEAD. VICTIM STATES THE ARRESTEE KEPT OWN TO THE GROUND AND GRABBED HER AROUND THE NECK ATED THAT IF SHE DIDNT FOLLOW BY HIS RULES SHE WOULD D OF HEAD, NECK, AND LIP PAIN FROM THE ALTERCATION. R/O IT FROM HER HEAD IN CHUNKS AND A SMALL CUT ON THE INSIDE IS OF THE VICTIMS HAIR ON THE ARRESTEE'S SHIRT. VICTIM WAS TION. ARRESTEE DENIED THAT HE TOUCHED OR ASSAULTED THE EFUSED TO FURTHER ANSWER ANY OF R/O'S QUESTIONS ON THE VAS TAKEN TO J. RUBEN LONG AND CHARGED WITH CDV 1ST.

TRIAL OFFICER'S COPY
 Judge
 1,000 d/s

IBR Code 13B - Simple Assault
 IBR Group A
 Crime Against PE
 Using
 Victim Use
 Offense Date 12/24/2008
 Location 20 - Residence/Home
 2nd Location Type
 Special Circumstance
 Offense Completed? Yes
 Hate/Bias 88 - None (No Bias)
 Domestic Violence Yes
 No. Prem. Entered
 Entry Method
 Type Security
 Tools Used

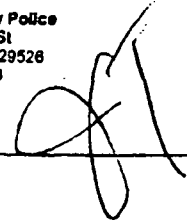
Arrestee A1: Barnette, John Woodrow

Arrestee Number A1
 Name Barnette, John Woodrow
 AKA
 Alias(s)
 Address 4295 Lilac Ln
 CSZ Myrtle Beach, SC 29588
 DOB 2/9/1962
 Age 46
 Sex M - Male
 Race W - White
 Ethnicity N - Not of Hispanic Origin
 Place of Birth
 SSN 245-23-4636
 DLN 011115846
 DLN State SC - South Carolina
 DLN Country USA - United States of America
 Occupation/Grade
 Employer/School

Horry County Police Arrest Report

Case No. 08137149
 Report No. 08137149.1
 Report Date: 12/24/2008

Horry County Police
 2580 N Main St
 Conway, SC 29526
 843 915-8013



1

Page 1 of 2

Subject: CDV/4295 Lilac Ln

Case Report Status Status Indicator	1 - In Process C - Administratively Closed (Investigation is admin. closed until further leads)	Date Entered Entered By	12/24/2008 4:11:51 AM 5656 - Crews, Jeremy	Reporting Officer	5656 - Crews, Jeremy
Status Change Date Occurred On (and Between) End Date End Time	12/24/2008 2:30:00 AM 12/24/2008 4:00:00 AM	Date Verified Verified By Date Approved Approved By		Assisted By	
Location Jurisdiction Grid Sector Map Tract/Geo-Indicator Call Source	4295 Lilac Ln 5 - Sector 5	Connecting Cases Disposition Clearance Reason Date of Clearance Reporting Agency Division Notified	Arrest Horry County Police		
Vehicle Activity Vehicle Traveling Cross Street		Means Other Means Motive Other Motives			

Report Narrative: ON THE ABOVE DATES AND TIMES I SPOKE WITH THE VICTIM IN REFERENCE TO A DOMESTIC DISPUTE. VICTIM STATES SHE HAS BEEN DATING THE SUBJECT FOR FOUR MONTHS AND HAS LIVED WITH HIM SINCE THE BEGINNING OF DECEMBER. VICTIM STATES THE ARRESTEE WAS OUT DRINKING AT A BAR WHEN SHE CALLED HIM TO TELL HIM HIS MOTORCYCLE HAD FELL OVER IN THE GARAGE. VICTIM STATES SHE WAS ASLEEP WHEN THE ARRESTEE ARRIVED HOME AND BEGAN CUSSING AT HER. VICTIM STATES THE ARRESTEE DRAGGED HER OFF OF THE BED AND BEGAN PUNCHING AND SLAPPING HER AN UNKNOWN AMOUNT OF TIMES TO THE HEAD. VICTIM STATES THE ARRESTEE KEPT PULLING HER HAIR AND EVENTUALLY PINNED HER DOWN TO THE GROUND AND GRABBED HER AROUND THE NECK AND CHEST AREA. VICTIM STATES THE ARRESTEE STATED "THAT IF SHE DIDN'T FOLLOW BY HIS RULES SHE WOULD NEVER BE HEARD FROM AGAIN". VICTIM COMPLAINED OF HEAD, NECK, AND LIP PAIN FROM THE ALTERCATION. R/O OBSERVED THAT THE VICTIM'S HAIR WAS COMING OUT FROM HER HEAD IN CHUNKS AND A SMALL CUT ON THE INSIDE OF THE VICTIM'S UPPER LIP. R/O OBSERVED PORTIONS OF THE VICTIM'S HAIR ON THE ARRESTEE'S SHIRT. VICTIM WAS CHECKED OUT BY EMS AND DECLINED TRANSPORTATION. ARRESTEE DENIED THAT HE TOUCHED OR ASSAULTED THE VICTIM. ARRESTEE WAS TAKEN INTO CUSTODY AND REFUSED TO FURTHER ANSWER ANY OF R/O'S QUESTIONS ON THE INCIDENT WITH HIS SIDE OF THE STORY. ARRESTEE WAS TAKEN TO J. RUBEN LONG AND CHARGED WITH CDV 1ST.

Offense Detail: 1313 - Simple Assault

Offense Description	1313 - Simple Assault	Offense Date	12/24/2008	No. Prem. Entered	
IBR Code	13B - Simple Assault	Location	20 - Residence/Home	Entry Method	
IBR Group	A	2 nd Location Type		Type Security	
Crime Against	PE	Special Circumstance		Tods Used	
Using		Offense Completed?	Yes		
Victim Use		Hate/Bias	88 - None (No Bias)		
Criminal Activity	N - None/Unknown	Domestic Violence	Yes		
Weapons/Force	40 - Personal Weapons (Hands, Feet, Teeth, etc.)				

Arrestee A1: Barnette, John Woodrow

Arrestee Number	A1	DOB	2/9/1962	Place of Birth	
Name	Barnette, John Woodrow	Age	46	SSN	245-23-4636
AKA		Sex	M - Male	DLN	011115848
Alias(s)		Race	W - White	DLN State	SC - South Carolina
		Ethnicity	N - Not of Hispanic Origin	DLN Country	USA - United States of America
Address	4295 Lilac Ln	Ht.	6' 0"	Occupation/Grade	
CSZ	Myrtle Beach, SC 29588	Wt.	180	Employer/School	

NetRMS_CPL.rtf v21 10-10-11 - C

Printed For: _____
 Printed: December 24, 2008 - 4:25 AM

Horry County Police Arrest Report

Case No. 08137149
 Report No. 08137149.1
 Report Date: 12/24/2008

Horry County Police
 2580 N Main St
 Conway, SC 29528
 843 915-8013

2

Page 2 of 2

Home Phone	Eye Color	BRO - Brown	Employer Address	
Work Phone	Hair Color	BRO - Brown	Employer CSZ	
Email Address	Hair Style		Res. County	Horry
	Hair Length		Res. Country	USA - United States of America
	Facial Hair		Resident Status	J - This Jurisdiction
	Complexion			
	Build			
	Teeth			
Scars/Marks/Tattoos				
Modus Operandi				
Other MO				
Attire				
Habitual Offender Status				
Arrest No.	Arrested For	1313 - Simple Assault	Arrested On	12/24/2008 3:30:00 AM
Arrest Type	Fingerprints		Arrest Location	
FBI No.	Photos		Booked On	
State No.	Miranda Read		Booked Location	
Armed With	Miranda Waived		Released Location	
Mult. Clearance	Number of Warrants		Released On	
Mult. Clearance	Juvenile Disposition		Released By	
Offense	Adult Present		Release Reason	
Prev. Suspect No.			Held For	
Notified				
Type Criminal Activity				
Drug Type				
Arrest Notes				

Victim V1: Turner, Carol Rena

Victim Code	V1	Victim Of	1313 - Simple Assault	
Victim Type	I - Individual			
Name	Turner, Carol Rena	DOB	8/23/1964	Place of Birth
AKA		Age	44	SSN
Alert(s)		Sex	F - Female	DLN
		Race	W - White	DLN State
Address	4295 Lilac Ln	Ethnicity	N - Not of Hispanic Origin	DLN Country
CSZ	Myrtle Beach, SC 29588	Ht.	5' 2"	Occupation/Grade
		Wt.	105	Employer/School
Home Phone	843 246-5777	Eye Color	BLU - Blue	Employer Address
Work Phone		Hair Color	BLN - Blond	Employer CSZ
Email Address		Facial Hair		Res. County
		Complexion		Res. Country
				Horry
				USA - United States of America
Attire				J - This Jurisdiction
Injury	M - Apparent Minor Injury			Resident Status
Circumstances				Testify

Law Enforcement Officer IGIed or Assisted Information	Type
	Assignment
	Activity
Other ORI	

Justifiable Homicide Circumstances	
------------------------------------	--

Victim Offender Relationship
 Offender Relationship
 A1 BG - Victim Was Boyfriend/Girlfriend

Victim Notes

STATE OF SOUTH CAROLINA)

COUNTY/CITY OF HORRY)

STATE OF SOUTH CAROLINA)

Vs)

John Woodrow Barnette)

Defendant)

21792ES
CASE NUMBER

IN THE SUMMARY COURT

JURY TRIAL REQUEST

Case Number(s): 21792ES

Original Court Date: December 24, 2008

Officer Name: Jeremy Crews Agency: Horry County Police Department

Permanent Address: 4295 Lilac Rd, Myrtle Beach, SC 29588

Mailing Address:

Phone Number:

Attorney of Record:

Address:

Phone Number:

Bonding Company:

I understand that if my address changes, it is MY responsibility to notify the COURT in writing immediately. The Court address is:

Horry County/City
Criminal Domestic Abuse Court
1201 Third Avenue
Conway, SC 29526
Phone: (843) 915-6676 Fax: (843) 915-6070

HORRY COUNTY SUMMARY COURT
CLERK
01/21/09
2009 JAN 13 PM 5:31
CIVIL / CRIMINAL

Subpoena Information

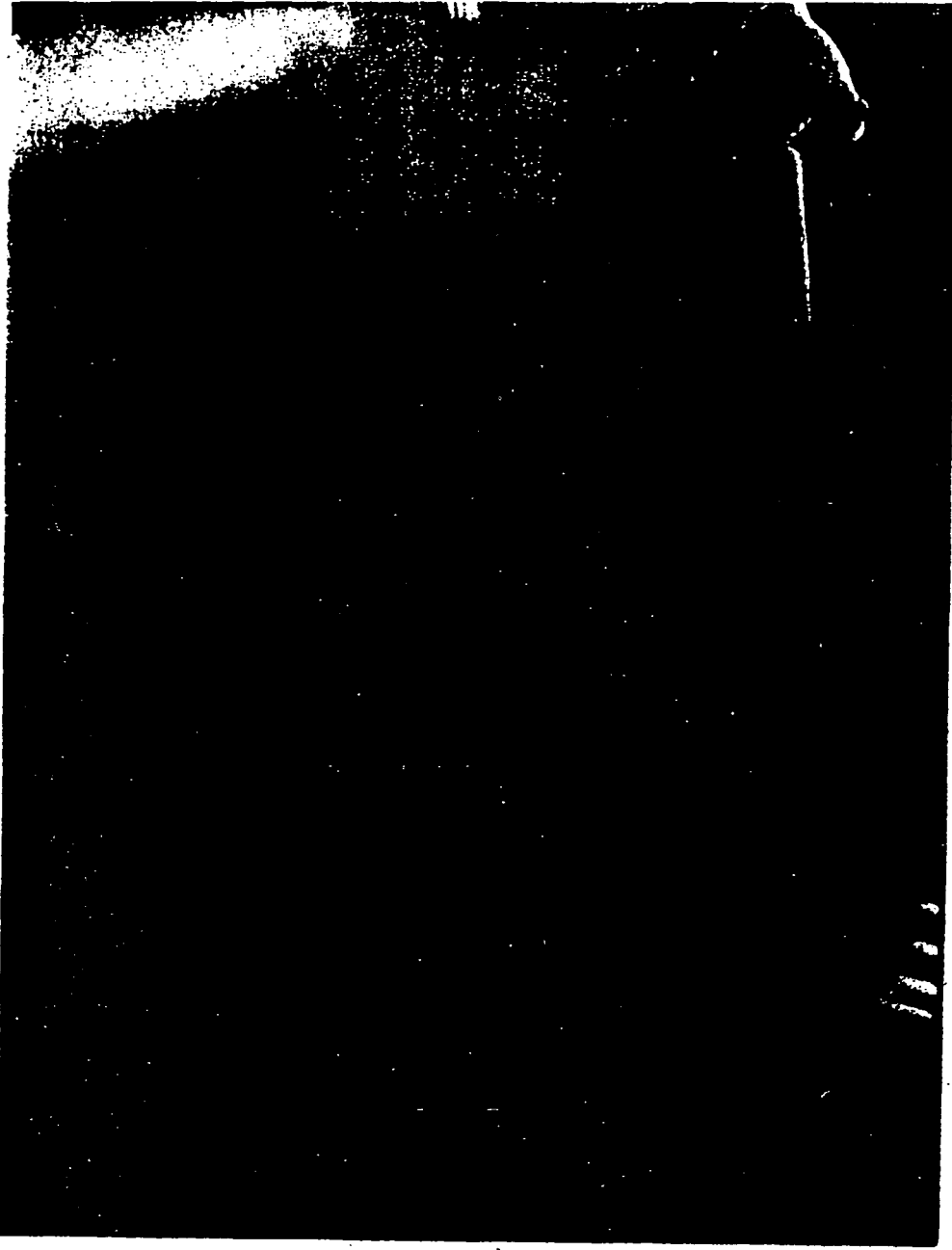
January 13, 2009

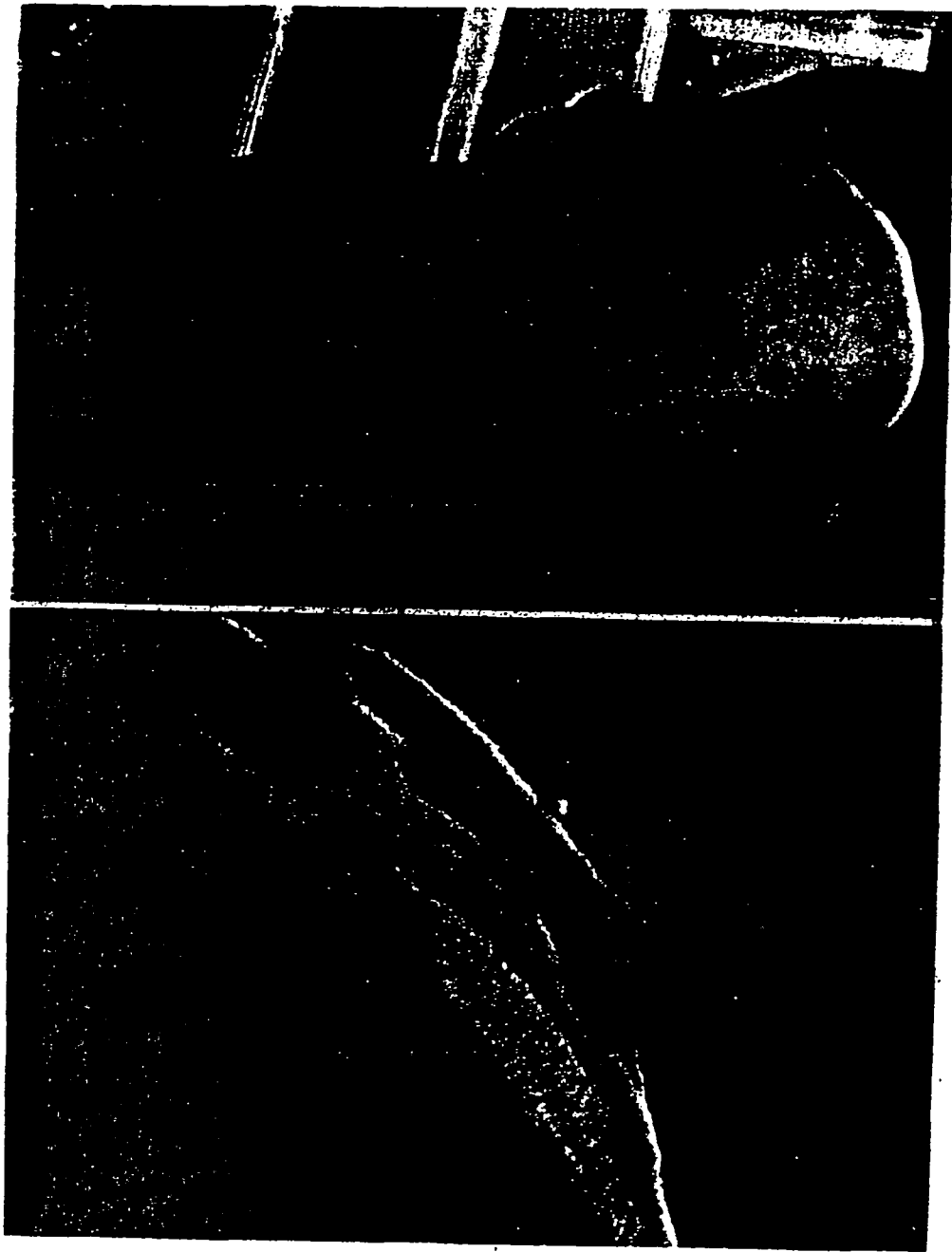
Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

John W. Barnette
Signature of Defendant

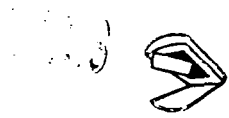




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STATE OF SOUTH CAROLINA

COUNTY OF HORRY



STATE OF SOUTH CAROLINA

Plaintiff,

vs.

JOHN W. BARNETTE,

Defendant.

ORIGINAL

AUDIO TRANSCRIPTION

DATE: November 15, 2011

TRANSCRIBED BY: LORA L. McDANIEL,
Registered Professional Reporter

A. WILLIAM ROBERTS, JR. & ASSOCIATES

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1 (Begins audio recording.)

2 THE COURT: We're going to let the record
3 reflect that the jury panel in the matter, Barnette,
4 is in the courtroom with the appointing of Heather
5 Wells as forelady of the jury. Thank you for
6 assuming that role.

7 Ladies, it just means that she will be the
8 spokesperson for you in the deliberation of the case
9 in the jury room. All jurors have equal standing on
10 the jury panel; again, spokesperson and bringing back
11 to the court what the six of you say is your verdict
12 in this particular case.

13 You've heard the introduction of the
14 matter. We'll go directly into it. I would ask at
15 this time ask you to stand, raise your right hand to
16 say your oath.

17 JURY PANEL
18 being first duly sworn.

19 THE COURT: Thank you very much. Be
20 seated.

21 Now forelady, members of the jury panel, I
22 explained to you on Monday that you may not see
23 someone sitting at this table. It simply means that
24 the person asked for a jury trial; that's his or her
25 right in this case.

1 Mr. Barnette asked for a jury trial. And,
2 of course, for whatever reason, he is not here.
3 We're not concerned with that because this Court has
4 the authority to go forward, and he has been so
5 notified of that, if they choose not to appear for
6 whatever reason.

7 My only instruction to you at this time
8 is that you cannot hold that against him. And the
9 reason is, which I told you on yesterday, too, is
10 that the State of South Carolina has the burden here.
11 They have to prove to you beyond a reasonable doubt
12 that he committed the offense.

13 I believe Solicitor told you what that is.
14 If she didn't, she's going to come forward now
15 because she has the burden, through an opening
16 statement, if she so chooses.

17 Solicitor, will you be making an opening?

18 THE SOLICITOR: Yes, Your Honor.

19 THE COURT: You may.

20 THE SOLICITOR: Ladies and gentlemen, this
21 case is going to be short; it doesn't take away from
22 the seriousness. The Defendant is charged with
23 criminal domestic violence (inaudible). It's one
24 charge, state charge.

25 What I have to prove to you is that the

1 Defendant created visible harm or attempted to create
2 visible harm to a household member. Household member
3 means a person that they're cohabitating with
4 together, a spouse, somebody they normally
5 cohabitated with. In this case, they were boyfriend
6 and girlfriend for about four or five months, living
7 together one month.

8 I'm going to go quickly into some facts.
9 You'll hear from the officer and from the victim in
10 the case. This occurred back in 2008, December 24th.
11 On the night of the 23rd, the Defendant and the
12 victim had gone to a Christmas party. And the victim
13 will tell you that the Defendant was acting a little
14 bit strange. She wanted to go home. She left with a
15 friend, went home.

16 It appeared that somebody had broken into
17 their house. His motorcycle was laid over into the
18 garage. She had called him, scared, you know, asking
19 that he come home. He didn't.

20 When he did come home, he accused her of
21 knocking over his motorcycle. She was laying in bed,
22 he grabbed her. He pulled her hair so hard that,
23 when the officer arrived, he saw chunks of hair on
24 the Defendant's shirt from where he pulled her hair
25 on the scene.

1 She was punched numerous times in the
2 head, kicked. She doesn't even remember how many
3 times, it was that many times.

4 Like I said, you'll hear from both parties
5 and then I'll come back (inaudible).

6 THE COURT: Thank you for the opening
7 statement. Ladies of the jury panel, opening
8 statements are her opinions of what she's going to
9 show you. It is not fact. Facts, remember, come
10 from the witness stand through sworn testimony.

11 She will call her first witness now to the
12 stand. And Solicitor you may.

13 THE SOLICITOR: First witness is Officer
14 Jeremy Cruz, Your Honor.

15 THE COURT: Officer Jeremy Cruz has been
16 called to the witness stand. As he comes forward,
17 the Court notes the same for the record, and asks him
18 for the raising of his right hand.

19 OFFICER JEREMY CRUZ
20 being first duly sworn, testified as follows:

21 THE COURT: Thank you, Officer Cruz.
22 Solicitor, your witness.

23 THE SOLICITOR: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY THE SOLICITOR:

1 Q. Officer Cruz, can you tell the jury where
2 you're employed.

3 A. (Inaudible) Police Department.

4 Q. How long?

5 A. Four years next month.

6 Q. Were you employed on December 24th of
7 2008?

8 A. Yes.

9 Q. And what were your duties that day?

10 A. Patrol officer. Responding to calls.

11 Q. And did you get a call for this case?

12 A. Yeah, to 4295 Highlander.

13 Q. What happened when you got there?

14 A. I pulled up. I met with him. He was
15 outside the house. I spoke with him, got his side of
16 the story. She had called. And spoke with him
17 briefly. He had pieces of her hair on his shirt.

18 When I went inside and spoke with her, she
19 had stated the story about how she had called him
20 about the motorcycle, how it had been knocked over.

21 She was laying in bed. She stated he had
22 dragged her out of bed and started striking her in
23 the head and pulling her hair. She had parts of her
24 hair, like chunks of it were coming out. She also
25 pulled her upper lip back and there was like a slight

1 cut inside her upper lip.

2 Q. What was the demeanor of the Defendant?

3 A. The Defendant, he was intoxicated.

4 Q. What was the Defendant's (inaudible)?

5 A. (Inaudible).

6 Q. Have you received training as far as
7 criminal domestic violence cases?

8 A. Yes.

9 Q. What was the extent of that training?

10 A. We were -- during the academy, there was a
11 period where we focused on criminal domestic
12 violence.

13 Q. And when you go out to the scene, did you
14 determine who was the primary aggressor?

15 A. Yes.

16 Q. It was the Defendant?

17 A. (Inaudible).

18 Q. And where did this occur?

19 A. Lilac Road, which runs off (inaudible).

20 Q. What county is that in?

21 A. Horry.

22 Q. The relationship between the parties, did
23 you determine that as well?

24 A. Yeah, she said they had been dating four
25 months, five months, and they lived together about a

1 month.

2 THE SOLICITOR: Nothing further from this
3 witness, Your Honor.

4 THE COURT: None from the Court. Thank
5 you, Officer Cruz. You may step down.

6 (The witness exited the stand.)

7 THE SOLICITOR: Next witness, Your Honor
8 is Carol Turner.

9 THE COURT: Thank you. Ms. Turner, please
10 come around.

11 Let the record reflect that Carol Turner
12 has been called. Thank you as well, Ms. Turner, for
13 the raising of your right hand.

14 CAROL TURNER
15 being first duly sworn, testified as follows:

16 THE COURT: Thank you, Ms. Turner. Be
17 seated.

18 Solicitor, she's your witness.

19 THE SOLICITOR: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY THE SOLICITOR:

22 Q. Ms. Turner, can you tell the jury how you
23 know the Defendant in this case.

24 A. Him and I met at a (inaudible)
25 lounge-bar area in Myrtle Beach about six months

1 prior to this incident.

2 Q. Were you living together?

3 A. Yes, ma'am.

4 Q. For how long?

5 A. About a month. We moved in together
6 (inaudible).

7 Q. Can you go ahead and explain to the jury
8 what happened on this night in question.

9 A. We got to the Christmas party, and he kept
10 disappearing for long periods of time; could never
11 find him. This happened several times during the
12 course of the evening.

13 I got ready to go. My girlfriend was
14 there. I couldn't find him. She said: I'll take
15 you home. She took me home.

16 I walked in the house, and I walked in
17 because I went to the upstairs office. And I opened
18 the garage door to the garage. His motorcycle was
19 laying over on the side. The back door from the
20 inside of the garage leading to the backyard was open
21 like someone had been trying to get it out the door.
22 Big garage door was locked with a padlock.

23 So I immediately called him, and he didn't
24 answer. I texted, telling him he needed to get home,
25 someone had been in the garage. He called me back,

1 said he would be home soon, having some difficulties.

2 He came home. I went to bed. I made sure
3 the house was clear, there was no one else in the
4 house, nothing else was taken. That's where I can't
5 remember anything. I left the outside lights on. I
6 went to bed.

7 Next thing I know, I'm hearing running
8 through the house (inaudible). Sounds like concrete
9 floor. Next thing I know, coming back through the
10 house, he dragged me out of bed, starts threatening
11 me, telling me if I say another word, no one will
12 ever hear from me again.

13 He's choking me. He's kicked me. He
14 dragged me through the house. I finally -- he threw
15 me in the bathroom, in the master bathroom.
16 Fortunately my pocketbook was in there with the cell
17 phone. I was able to call 911.

18 I came back out. Walked outside of the
19 house to call my girlfriend on my cell phone. And he
20 grabbed it away from me and repeatedly hit me again
21 during that. And then I was able to get out the
22 front door when the officers arrived.

23 Q. You called the police?

24 A. Yes, ma'am, I did.

25 Q. When the officer arrived, you spoke to

1 him?

2 A. Yes, ma'am, there were three officers
3 on-site. One came in the house, approached me. The
4 other two stayed outside.

5 Q. As a result, he was arrested?

6 A. Yes, he was.

7 Q. Shortly after that, you and your
8 girlfriend had taken this. Do you recognize these?

9 A. Yes.

10 Q. Looking at these pictures, is that a fair
11 and accurate representation of your pictures?

12 A. Yes.

13 THE SOLICITOR: Your Honor, the State
14 would like to introduce these. I don't know if you
15 want to introduce them all as one.

16 THE COURT: As one exhibit. Thank you.
17 Four photos, ladies of the jury panel, being
18 submitted as State's Exhibit Number 1. They will
19 follow you into your jury room to assist in your
20 deliberation. Now marked as State's Exhibit Number
21 1, the four photographs. Thank you. Continue,
22 Solicitor.

23 (PLF. EXH. 1, Photographs, was marked for
24 identification.)

25 BY THE SOLICITOR:

1 Q. It appears that (inaudible).

2 A. (Inaudible) That was on my forearm here
3 where he struck me. (Inaudible)

4 Q. Were you afraid?

5 A. Yes, ma'am. I'm still afraid.

6 Q. Have you had any contact with him since
7 this incident?

8 A. He tried to contact me. And I never
9 (inaudible) in jail. I filed a report because he was
10 in violation of his bond, had contact with me. He
11 tried to call me at work. Tried to get him from
12 jail. He also drove by the house a couple of times.
13 I had a restraining order on him that's good for a
14 year. I haven't had any contact with him since the
15 bond (inaudible).

16 THE SOLICITOR: Nothing further from this
17 witness, Your Honor.

18 THE COURT: Nothing from the Court. Would
19 you step down, Ms. Turner.

20 (The witness exited the stand.)

21 THE COURT: Other witnesses, Solicitor?

22 THE SOLICITOR: Nothing further from the
23 State.

24 THE COURT: Thank you.

25 In conclusion then, the Solicitor has

1 presented its two witnesses. Members of the jury
2 panel, as she came before you in the beginning with
3 an opening statement, she now has a right to a
4 closing statement. We rested the case, and she will
5 give her closing statement at this time, Solicitor.

6 THE SOLICITOR: Thank you, Your Honor.

7 Ladies and gentlemen, you heard from the
8 parties that were involved in the case. Again, the
9 Defendant chose not to be here (inaudible). I just
10 hope that, after hearing the evidence, that you'll
11 see what we see.

12 They were household members. They were
13 dating, cohabitating. And, again, I have to prove to
14 you that he created physical harm. You'll get to
15 take the photos back there with you. I just ask that
16 you look at each of the photos.

17 And there's another part to the CDV. He
18 can either create physical harm or attempt to create
19 physical harm. In other words, she was in fear of
20 imminent peril. I think that you'll see that has
21 occurred in this case. And I just ask that you come
22 back with a verdict of guilty. Thank you.

23 THE COURT: Thank you, Solicitor, for the
24 presentation of this matter to the jury panel.

25 And ladies of the jury panel, Ms. Wells,

1 as forelady of the ladies of the jury panel, Evans,
2 Chosen, Miller, Ludgett, Turano, thank you for giving
3 this case your attention. It is serious. It is an
4 important case. It's important to the State of South
5 Carolina, having brought the case on behalf of the
6 victim.

7 It is also important to the Defendant.
8 Don't argue it: If it was so important, why isn't he
9 here?

10 Don't know. Doesn't matter. He's been
11 advised. He had the opportunity. He asked for the
12 jury trial to protect his rights and, of course, he
13 has been given the date. It does not stop the wheels
14 of justice from turning.

15 We don't know why he's not here. That's
16 why I'm telling you not to consider it in your jury
17 room. Again, the purpose is for the State of South
18 Carolina to prove to you beyond reasonable doubt that
19 he committed the offense. Don't get hung up on why
20 he wasn't here. Go directly to what you heard in
21 this case.

22 Criminal domestic violence. Is he guilty?
23 Is he not? What is a reasonable doubt? Under the
24 law, the kind of doubt that would cause a reasonable
25 person to hesitate to act after they've heard in a

1 jury case all the testimony in the case.

2 Do you have to hesitate to act? Question.
3 If you do, then, it's to: What do I do? You find
4 him not guilty because that says you have a doubt.
5 Hopefully, it's reasonable.

6 Let me further explain that. That is
7 because the Solicitor is not required to prove to you
8 everything. We can find doubt just about on any
9 subject that we would talk about. The subject here
10 today is whether or not the Defendant, on the date in
11 question, which I believe was December 24, 2008,
12 whether or not he committed the offense of criminal
13 domestic violence.

14 Again, what you, as a jury, should be left
15 with is feeling strongly convinced, firmly convinced
16 even when there might be some doubt, with all that
17 you've heard. Do I believe it? Again, look at the
18 credibility or the believability of the witnesses who
19 took the stand; that being Officer Cruz and Ms. Carol
20 Renee Turner in this particular case.

21 Now, look at them both. You've never met
22 them, probably. You're talking on the subject today
23 of criminal domestic violence that happened on
24 December 24, 2008. What has he and she to lose or
25 gain by coming in and testifying as they did? Were

1 they credible to me? What was their attitude? What
2 was their demeanor today? Based on their testimony
3 of how they conducted themselves on that day back in
4 2008, does it seem credible to me?

5 Again, you can look at many things in
6 deciding credibility. I believe you do it on a
7 day-to-day basis. Meet somebody, know nothing about
8 them, you're talking on a subject and at the time
9 that you're talking, you are summing that person up
10 as to what they are saying to you and if I'm
11 comfortable with that based on what the conversation
12 is.

13 Supporting testimony here is what you have
14 and, of course, you have to determine whether I
15 believe these witnesses or not, together with what
16 the law says in the particular case. Let's look at
17 the law.

18 Under Section 16-25-20, let me give you
19 some definitions first. As to a household member, a
20 household member under Section 16-25-10 says that it
21 can be a spouse. It can be a former spouse. It can
22 be a person or persons who have a child in common, or
23 it can be a male or a female who are cohabitating or
24 formerly have cohabitated.

25 So you first got to answer what Solicitor

1 has to prove to you: If they are household members.
2 I'm not going to comment on what the testimony said.
3 She said-he said. That's your job. Remember, you're
4 judges this week. Not of the law but of facts. The
5 law is mine. The facts are yours.

6 Many times I'm listening, I don't comment
7 on the testimony, but it's yours to do, the six of
8 you.

9 Now, what does the statute of the
10 particular charge says? It moves down to Section
11 16-25-20. I'm going to read to you: A person is
12 guilty of the offense of criminal domestic violence,
13 and it is unlawful for that person to cause physical
14 harm or injury to a person's own household member, or
15 the statute says: It's unlawful for that person to
16 offer or to attempt to cause physical harm or injury
17 to a person's own household member with apparent
18 present ability under the circumstances existing to
19 create fear of imminent peril.

20 Was the victim here fearful? Did he cause
21 injury or attempt to cause injury to her? And,
22 again, based on the testimony that you heard, was he
23 the primary aggressor as the officer testified? Does
24 this law fit the facts that you heard from the
25 witness stand? If it fits, your burden is only to

1 find him guilty.

2 You have no friends to reward or to
3 punish. Your job is to listen and apply the law this
4 week. Again, do you have reasonable doubt? Are you
5 firmly convinced?

6 The verdict one way or the other must be
7 unanimous; the six of you agreeing. You have an
8 exhibit in this case or one exhibit with four
9 photographs to assist you herein. And that's the
10 evidence in this case. Take the law. Take the
11 testimony. Take the evidence with you into your jury
12 room and find a verdict that will speak the truth.

13 Latin term veredicto means that this week
14 your words will speak the truth. You have heard them
15 as a jury panel, individually and collectively. And
16 now we turn to you to bring back to the Court what
17 the six of you say.

18 I have prepared for you, Ms. Wells, a jury
19 verdict form that lists Mr. John Woodrow Barnette as
20 the Defendant in this particular action. The charge
21 is criminal domestic violence. Attached hereto I
22 will attach the State's Exhibit Number 1; the four
23 photographs.

24 Move down to this form after you and your
25 jury have discussed it in full in your jury room and

1 determine what your verdict is going to be. If it's
2 guilty, write out the word guilty. If it is not
3 guilty, write out the words not guilty and sign your
4 name as forelady of this jury, dating this form
5 today's date. That will tell us then that your
6 verdict is unanimous, and I'll further qualify that
7 on the record when you get back in the courtroom.

8 We thank you for your attentiveness.
9 Remember again, not the Defendant's burden to prove
10 himself innocent; it is the State of South Carolina
11 to prove him guilty beyond a reasonable doubt. Thank
12 you very much.

13 Thank you, Ms. Wells.

14 (The jury exited the courtroom.)

15 THE COURT: Exceptions or additions to the
16 charge, Solicitor?

17 THE SOLICITOR: Nothing from the State,
18 Your Honor. We just ask that the officer be excused
19 from his subpoena in case he needs to leave.

20 THE COURT: You are, Officer Cruz.

21 Let the record reflect that, at
22 approximately 11:10, the jury is out of the
23 courtroom. We will await the jury's verdict.

24 (Others matters were heard.)

25 THE COURT: Let us receive this verdict.

1 Solicitor, are you okay with that?

2 (The jury entered the courtroom.)

3 THE COURT: Mr. Miller, I just want to ask
4 that your forgive me. You were surrounded by all of
5 these women. I may have said ladies of the jury
6 panel. You have forgiven me already? Thank you.

7 We're awaiting the Solicitor to come in,
8 and she will receive the verdict.

9 Thank you, Attorneys, in this matter.

10 Thank you as we have the Solicitor now
11 back in the courtroom.

12 Madam Forelady Wells, have you and the
13 jury panel reached a verdict in this case?

14 THE FOREPERSON: Yes, Your Honor, we have.

15 THE COURT: And what is your verdict in
16 this case?

17 THE FOREPERSON: Guilty.

18 THE COURT: And is that verdict unanimous?

19 THE FOREPERSON: Yes, ma'am.

20 THE COURT: Thank you. Now I'm going to
21 excuse you for today, as you have completed your
22 services, and we'll see you in the morning at 9:00.
23 Thank you so much.

24 (The jury exited the room.)

25 THE COURT: Matters for sentencing,

1 Solicitor.

2 THE SOLICITOR: Your Honor, for the
3 record, he has nothing on his record. He (inaudible)
4 chose just not to show up for (inaudible). We ask
5 for max (inaudible.)

6 THE COURT: Thank you. Having heard and
7 holding in hand now jury verdict form that finds John
8 Woodrow Barnette guilty of criminal domestic
9 violence, The Court sentences as follows: That he
10 pay the fine of \$2,100 plus the fees and assessments
11 or serve 30 days together with bench warrant to issue
12 and the (inaudible) program for criminal domestic
13 violence. That is the maximum penalty in the case.

14 And, of course, a bench warrant to issue.
15 That is The Court's ruling. Thank you very much,
16 Solicitor.

17 THE SOLICITOR: Thank you.

18 (The audio recording was concluded.)
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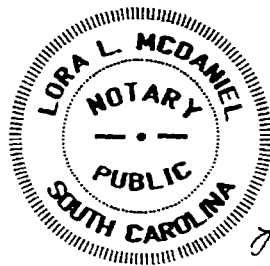
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CERTIFICATE OF REPORTER

I, Lora McDaniel, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing audio transcription was produced to the best of my ability and may include inaudible sections.

I further certify that I am neither related to, nor counsel for, any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 2nd day of February, 2012 at Charleston, Charleston County, South Carolina.



Lora McDaniel

Lora L. McDaniel,
Registered Professional Reporter
My Commission expires:
September 18, 2016

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CAROL TURNER

BY THE SOLICITOR

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CERTIFICATE OF REPORTER

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REQUESTED INFORMATION INDEX

(No Information Requested)

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STATE OF SOUTH CAROLINA
COUNTY OF Horry



STATE OF SOUTH CAROLINA,
Plaintiff,
vs.
JOHN BARNETTE,
Defendant.

ORIGINAL

AUDIO TRANSCRIPTION

DATE: December 8, 2011

TRANSCRIBED BY: LORA L. McDANIEL,
Registered Professional Reporter

A. WILLIAM ROBERTS, JR. & ASSOCIATES
Fast, Accurate & Friendly

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Motion Hearing - December 8, 2011

2

1 (Audio recording begins.)

2 THE COURT: (Inaudible) in relation, I
3 believe, Solicitor, to reopen.

4 THE SOLICITOR: Yes, Your Honor.

5 THE COURT: Attorney Frederick?

6 MR. FREDERICK: Yes, ma'am.

7 THE COURT: Officers of the court, good
8 morning to you as well. Thank you very much for
9 being present.

10 Now before The Court, as I understand,
11 having a hearing that of John Woodrow Barnette.
12 Thank you, Attorney Frederick, I'll hear from you.

13 MR. FREDERICK: Yes, ma'am. Looks like
14 Mr. Barnette was found guilty in his absence on
15 November 15th of this year during a term of
16 (inaudible). Before that he had requested a jury
17 trial after he was arrested in December 2008. He had
18 Attorney Greg McCollum, representing him for a period
19 of time.

20 At some point in 2010, I don't know the
21 dates, Mr. McCollum was relieved from representation.

22 THE SOLICITOR: It was actually October
23 2011.

24 MR. FREDERICK: Okay, October 2011. And
25 before that, I also don't know the date, Mr. Barnette

Motion Hearing - December 8, 2011

3

1 was sentenced to PTI. He did not conclude PTI. His
2 case came back to the (inaudible).

3 Since he was arrested, Mr. Barnette's
4 address has changed. He has received notices through
5 his attorney up until, according to his attorney
6 (inaudible), received notices from PTI. I don't know
7 if that was through his attorney or not.

8 When this case came up on the trial roster
9 at the time, he received no notice of the roster
10 number or of the trial date. He believed that Greg
11 McCollum -- I was representing him since 2010.
12 Either way, whenever Attorney McCollum was relieved
13 from representation, I'm guessing, Judge, I'm
14 assuming that his new-found (inaudible) information
15 was not provided to the court. He received no notice
16 of the trial date.

17 I ask The Court to reopen his case rather
18 than new trial on several grounds; one, is he didn't
19 receive notice of the roster or trial date. I don't
20 know the reason for that other than it was sent to
21 the wrong address because he didn't receive notices.

22 And additional ground for reopening the
23 case, we believe that he didn't knowingly,
24 voluntarily waive his right to be present at the
25 trial, and that he did not receive notice as is

1 required by the State versus Jackson. I don't have
2 the citations with me. There's more basis.

3 And also, the Defendant has not received
4 notice of the actual trial date and the trial would
5 proceed in his absence if he was not here.

6 Apart from those grounds, Judge, just in
7 the instant case, he wanted to be here. He's always
8 appeared when he was supposed to in the past. And he
9 had no notice of the trial.

10 THE COURT: Solicitor, care to be heard?

11 THE SOLICITOR: Please, Your Honor. We're
12 objecting to the motion to reopen the case from 2008.
13 The Defendant has had since 2008 to notify the clerk
14 of his new address. Your Honor, initially his
15 address was provided by (inaudible) Cory Richardson
16 case.

17 And he came in as -- on July 29th, he gave
18 Cory his new address. He was present in 2009
19 (inaudible) North Carolina. And since then we have
20 not had contact with him (inaudible). They both came
21 back (inaudible). There was no new forwarding
22 address or anything.

23 The last address that his attorney had
24 (inaudible) October because the last time Greg
25 McCollum had contact with him was in 2010.

1 (Inaudible) The address they had in North Carolina.
2 He did not change his address with the court or with
3 his attorney. He was notified that, if he did not
4 show up, he would be tried in his absence.

5 Again, the case is almost three years old.
6 He had three years to change his address with the
7 court, and he did not.

8 And the victim that morning of trial
9 actually told me that she spoke to his family member,
10 to a sister, I believe, to notify them that there was
11 a trial (inaudible). Whether it ever got to the
12 defendant or not, she didn't have his number. He had
13 ample time to change his address with either his
14 attorney or clerk of court (inaudible.)

15 THE COURT: Thank you.

16 MR. FREDERICK: Judge, if I may, his
17 current address is 2217 Matthews Township Parkway,
18 Matthews, North Carolina. It's his understanding his
19 attorney knew how to contact him.

20 I would ask -- the Solicitor made a
21 statement he was notified the trial was proceeding in
22 his absence. I would like to see that notice. And
23 the Solicitor stated the victim stated that she
24 notified a family member of the Defendant
25 (inaudible).

1 THE COURT: (Inaudible)

2 THE SOLICITOR: Last address that he gave
3 the Solicitor's office, Matthews, North Carolina.
4 (Inaudible) don't show up, that he would be tried in
5 his absence (inaudible).

6 MR. FREDERICK: It never made it to him.
7 (Inaudible)

8 THE COURT: (Inaudible).

9 THE SOLICITOR: (Inaudible).

10 THE COURT: Let the record reflect that my
11 bond paperwork states that the case -- the paperwork
12 which is the ticket, case was, the date of arrest was
13 12/24/08. On 12/26/08, the Defendant bonded out of
14 J. Reuben Long Detention Center with Coastal Bail
15 Bonds as his security. He gave a bond.

16 Judge Arakas (inaudible) did the release
17 and renewed the bond. States that the person, as we
18 all know is (inaudible) any person comes in and gives
19 the update of address, who should it be incumbent --
20 it's incumbent upon them to do.

21 Along with the attorneys, the court
22 purports to every opportunity for them to be notified
23 at the last known address (inaudible).

24 We here this morning is that the matter
25 was tried in absence. He was found guilty of

1 criminal domestic violence on the 15th of May. Jury
2 trial that he requested.

3 I have a letter that relieves Attorney
4 Greg McCollum, which is dated October 10th of '11,
5 which sated that we held the case over until the next
6 term of court, which is always what I would do.

7 (Inaudible) standing order and come back to court
8 right then. Give him an opportunity to acquire any
9 counsel and, of course, we put it back into court the
10 next term. And he was found guilty.

11 From 2008 until today, it's quite strange,
12 from December '08 until now, December '11, is such
13 that I think the court has done everything within its
14 power, attorney notwithstanding, (inaudible) as hired
15 counsel, that it was supposed to do; notify the
16 Defendant of the stage of the case. All that has
17 been done to the record.

18 (Inaudible) on the matter of the roster or
19 to the court date and, secondly, not giving up his
20 right to the jury trial is respectfully denied.

21 I appreciate your appearance before the
22 court. That is The Court's ruling. Thank you very
23 much.

24 MR. FREDERICK: Thank you, Judge.

25 (The audio recording ended.)

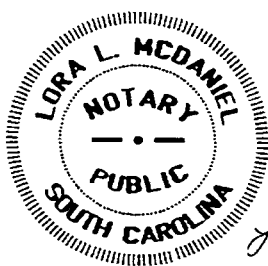
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Lora McDaniel

Lora L. McDaniel,
Registered Professional Reporter
My Commission expires:
September 18, 2016

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF Horry) 2011-CP-26-10435

John W. Barnette,)
)
 Plaintiff,) Transcript of Record
)
 vs.) Hearing
)
 The State of South Carolina,) July 24, 2012
)
 Defendant.)

B E F O R E :

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

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

Bobby G. Frederick, Esquire
Attorney for Plaintiff

Scott Hucks, Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM-M
Circuit Court Reporter

E X H I B I T S

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1 (On the record, July 24, 2012.)

2 THE COURT: All right, the next case is 2011-CP-26-
3 10435. This is the case of John W. Barnette versus State of
4 South Carolina.

5 MR. FREDERICK: Good morning, Judge.

6 THE COURT: Good morning.

7 Let's see, this matter is before the Court pursuant to -
8 this is an appeal?

9 MR. FREDERICK: Yes, sir, it's an appeal from the
10 magistrate court.

11 THE COURT: All right, please give the court reporter
12 your name and who you represent.

13 MR. FREDERICK: It's Bobby Frederick. I represent
14 John Barnette.

15 THE COURT: All right.

16 All right, Mr. Hucks, you represent the State of South
17 Carolina?

18 MR. HUCKS: Yes, Your Honor.

19 THE COURT: All right, Mr. Frederick, this is your
20 appeal?

21 MR. FREDERICK: Yes, sir.

22 THE COURT: All right, let me hear from you.

23 MR. FREDERICK: Judge, this was a trial in absence.
24 The appellant, John Barnette, was charged with CDV first
25 offense in the magistrate court. He had an attorney, Greg

1 McCollum, and his case was pending for it looks like a couple
2 of years and he went to PTI. He decided not to complete PTI.
3 At that point he went back to court. On October 10th, 2011,
4 Mr. McCollum was relieved as counsel. That's in the - just to
5 not to get off track but what I handed up to the Court, Judge,
6 is notice of appeal on top and then the return from the
7 magistrate.

8 THE COURT: All right.

9 MR. FREDERICK: Then there are two transcripts. The
10 first one is from the motion to reopen the case, but October
11 10th, 2011, Mr. McCollum was relieved as counsel. Then on
12 November 15th, 2011, was the trial date where Mr. Barnette was
13 tried in his absence. The notices that I have that were sent
14 to Mr. Barnette were sent to an incorrect address. He had
15 been getting notice through his attorney for the duration of
16 the case. Neither he nor his attorney changed his address on
17 the - when Mr. McCollum was relieved, October 10th, 2011.

18 I'm assuming that for the November 15th, 2011, trial date
19 notice was sent to 4295 Lilac Road in Myrtle Beach, which is
20 the address that Mr. Barnette gave several years prior on his
21 bond paperwork. However, his address currently and at the
22 time of trial was 2217 Matthews Township Parkway in Matthews,
23 North Carolina.

24 Judge, the basis of the appeal is that he was not given
25 notice of the date, the time and place of his trial and the

1 best I can tell, Judge, he did not receive notice. I'm
2 looking at the return that was filed by the magistrate who
3 presided over the trial and she's included in the record on
4 appeal notices that were sent to Mr. Barnette at the Myrtle
5 Beach address. There is no notice of the trial date of
6 November 15th included in the return on appeal and reading
7 through the transcripts from the motion hearing and the trial
8 that notice was never presented during the hearing either.
9 So, Judge, based on the fact that he did not receive notice of
10 this trial date and that no proof of him receiving notice of
11 that trial date was presented in the magistrate court I'd ask
12 you to reverse and remand for a new trial.

13 THE COURT: All right, Mr. Hucks, let me hear from
14 you.

15 MR. HUCKS: Your Honor, it's the State's position that
16 the - hearing what Mr. Frederick has to say the State has no
17 affirmative duty to go find somebody who moves and doesn't put
18 the court on notice, on notice of a new address. It's the
19 responsibility of the State to notify the Defendant at his
20 address of record, which was done throughout this entire
21 process. The - I believe in the - I just got the
22 magistrate's, the magistrate's answer, Your Honor, the
23 magistrate's return and was looking through it and I believe
24 that the logic listed by Judge Livingston speaks for itself
25 and I believe that she covered every base that she needed to

1 cover according to her return and the, and that the trial in
2 absentia was proper. The simple argument that the guy moved
3 and didn't tell anybody is not a, is not an argument for a
4 remand for a new trial, Your Honor.

5 MR. FREDERICK: And Judge, that's, that's not our
6 argument. He was receiving notice through his attorney up
7 until a few weeks prior to his trial date when his attorney
8 was relieved as counsel. I would point out to the Court that
9 the magistrate's return is - when I was reading it I thought
10 that the Solicitor's Office had written it and, you know, I
11 get to the last paragraph on page four where it makes the
12 argument the case was fairly heard, the Defendant was properly
13 notified and properly sentenced and it requests that the Court
14 dismiss the Defendant's appeal with prejudice and then it's
15 signed by the magistrate. Judge, these returns are supposed
16 to provide to the Court what happened in the lower court and
17 the documents in evidence from the lower court. The
18 magistrate's not supposed to be an advocate on the part of the
19 State. So, I'd ask you to disregard the magistrate's advocacy
20 on behalf of the State and looking in the return and the
21 transcript from the hearing, Judge, there is no notice to the
22 Defendant of a November 15th trial date. They did provide a
23 notice of a January 21st, 2009, trial date that was mailed to
24 the Defendant's old address and it looks like provided
25 everything that was in their file. There are several notices

1 in here but there is no notice of the November 15th trial date.
2 Whether it was sent to the correct address or the wrong
3 address there's no evidence in our record from the transcripts
4 or the return that a notice was ever sent period.

5 THE COURT: All right, let me hear from you, Mr.
6 Hucks, on the notice. He's saying that there was no notice
7 given. I agree with you on the request for a jury trial Mr.
8 Barnette states that his address is 4295 Lilac Road, Myrtle
9 Beach, South Carolina. "I understand that it is my address,
10 that if my address changes it's my responsibility to notify
11 the court in writing," but I also agree with Mr. Frederick I
12 can't find anything in the appeal, I mean in the return here
13 where he was notified of a trial date on November the - what
14 was it?

15 MR. HUCKS: 15th, Your Honor.

16 THE COURT: November the 15th. I see where he was
17 notified of a trial date on January 21st, 2009, December 8th,
18 2011.

19 MR. HUCKS: The Court's indulgence one moment, Your
20 Honor. I just received the return just a few moments ago.

21 THE COURT: Yeah.

22 MR. HUCKS: I just want to have a chance to look
23 through it if that's okay.

24 THE COURT: That'll be fine.

25 MR. HUCKS: Your Honor, the - our file includes a

1 notice that was sent to the Defendant from our office at
2 central jury courtroom November 15th, 2011, at 8:30 in the
3 morning to an address of Clearbrook Road in Matthews, North
4 Carolina, and to Lilac Road in Myrtle Beach, and I would pass
5 forward those.

6 THE COURT: So, you're saying your office sent out the
7 notice?

8 MR. HUCKS: Our office sent notice to the Defendant,
9 Your Honor.

10 MR. FREDERICK: Judge ---

11 MR. HUCKS: And that notice says that the Defendant's
12 failure to appear will result in a bench warrant being issued,
13 estreatment of the bond and a trial of the Defendant in his or
14 her absence.

15 MR. FREDERICK: And Judge, I think we appeal this
16 case based on the record. I don't think ---

17 THE COURT: Yeah, but the fact of the matter is is I
18 mean either he had notice or he didn't have notice.

19 MR. FREDERICK: Judge, the - there's two, two parts
20 to my case here. One is there is no - there's nothing in the
21 record that says he received notice, nothing was introduced.
22 We argued this specifically on I think it was December the 8th
23 and there is nothing to show that that notice was sent, and it
24 was not introduced on that day. There's nothing in the
25 record. I don't think on the day of the appellate argument

1 on appeal I don't think we can hand up new evidence but the
2 second part of it, Judge, is that ---

3 THE COURT: Well, the fact of the matter is is you're
4 not - they didn't put - you're not dealing with substantive
5 evidence on the guilt or innocence in this case. You're
6 arguing that notice wasn't given. So, there would be no
7 reason for them to show proof that notice was given to
8 determine his guilt. So, it might - if they sent notice of
9 the hearing that wouldn't even be an issue.

10 MR. FREDERICK: On December 8th we argued in a motion
11 to - for a new trial we argued this issue of whether notice
12 was provided to the Defendant or not. That would be the first
13 transcript.

14 THE COURT: All right, well, were you saying that it
15 was sent to the wrong address or were you saying that it was
16 never sent?

17 MR. FREDERICK: Judge, I'm saying two things. One is
18 and we're talking about the November 15th hearing. We argued
19 this on November - December the 8th at a motion to, motion for
20 a new trial but there's two things I'm arguing, Judge. One is
21 when we argued this on December the 8th I have not seen and I
22 don't see in the transcripts and it's not in the return on
23 appeal any notice that was sent to the Defendant of a November
24 15th trial date. This is the first that we see that. It is
25 not in the record on appeal. The second thing, Judge, is that

1 he had' an attorney for two or three years who he was receiving
2 his notice through and his attorney didn't change his address.
3 I think if, even if the notice was mailed to an incorrect
4 address he did not receive the notice. His trial date was
5 about three weeks after Greg McCollum was relieved from
6 representing him and he didn't receive a notice. Greg
7 McCollum did not give his new address to the court. I think
8 that it's reasonable to rely on your attorney to do that.

9 THE COURT: Okay, well, let me see where's the notice
10 that you all gave?

11 MR. HUCKS: Yes, Your Honor, I'll pass it up
12 immediately, and Your Honor, I can clarify the difference in
13 the types of notice. The, the difference is our office sends
14 out postcards. We used to send subpoenas and Your Honor's
15 aware of all that stuff that happened a few years ago, and as
16 a result we now send out notice cards. As Your Honor is aware
17 the requirement under the law is that a Defendant be notified
18 of his trial date and that the trial can proceed without him
19 and in this particular case the addresses of record in our
20 computer of where notice was sent which fulfilled the
21 requirements of going forward in a trial in absentia.

22 THE COURT: Okay, and I understand your argument, Mr.,
23 Mr. Frederick. Let's mark these. I'm going to mark this as
24 State's Exhibits One and Two admitted over the objection of
25 the appellant. I'm going to find that proper notice was

1 given. I'm going to deny your appeal. I don't know if I'm
2 right or wrong on accepting that, but I think that they have
3 shown that they did give him notice to the address on his
4 request for a jury trial that he said was going to be his
5 permanent address and that he was obligated to notify the
6 Court if there was a change of address. I grant you there's
7 nothing in the record on appeal that shows that notice was
8 given of the November 15th date, but based upon State's
9 Exhibits One and Two that I'm putting into evidence over your
10 objection ---

11 MR. FREDERICK: Yes, sir.

12 THE COURT: --- I'm finding that proper notice was
13 given. So, I'm going to deny the appeal. I'm either right or
14 wrong. It's pretty clear cut. They're going to say I can
15 consider that or I can't consider it. Okay?

16 MR. FREDERICK: Okay. Thank you, Judge.

17 THE COURT: All right, thank you.

18 (Adjourned.)

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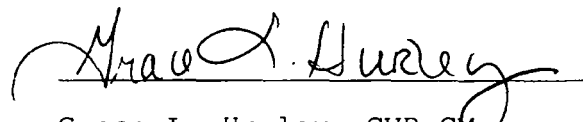
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C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of John W. Barnette versus State of South Carolina held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on July 24, 2012.

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


Grace L. Hurley, CVR-CM
Official Reporter

August 27, 2012.

SOLICITOR, 15TH JUDICIAL CIRCUIT
HORRY COUNTY JUDICIAL BUILDING
1301 2ND AVE, CONWAY, SC. 29526

AS: ATTORNEY FOR/BONDSMAN FOR/DEFENDANT

John Woodrow Barnette

is notified to appear in

CENTRAL JURY COURTROOM

OLIN BLANTON BUILDING
1201 21ST AVE N., MYRTLE BEACH, SC. 29577

Re: Warrant 21792ES

on November 15, 2011 at 8:30 a.m.

Marucla Ardejian, Assistant Solicitor

843-915-8658

Defendant's failure to appear will result in a bench warrant being issued for the defendant's arrest, estreatment of the bond, and trial of the defendant in his/her absence.

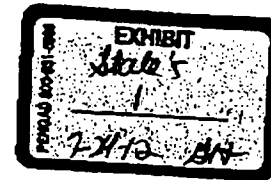
PLEASE BRING THIS CARD WITH YOU.

October 19, 2011

TO:

John Woodrow Barnette
819 CLEARBROOK RD
MATTHEWS NC 28105

Do not bring cell phones, pagers, or weapons of any type to Court.



Oct. 29. 2012 2:49PM

Oct. 29, 2012 2:49PM

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Horry County Judicial Building
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TO:

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4295 Lilac Rd
Myrtle Beach SC 29588

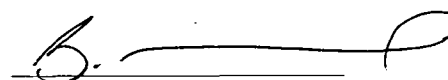
**Do not bring cell phones, pagers, or
weapons of any type to Court.**



CERTIFICATION 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.

December 19, 2011



Bobby G. Frederick
Attorney for the Petitioner
P.O. Box 8219
1053 London Street, Suite A
Myrtle Beach, S.C. 29578
843-444-6122

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Case No. 2012-212712

John Barnette, Appellant,

v.

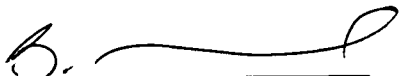
State of South Carolina, Respondent.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on the Attorney General's Office by depositing a copy of it in the United States Mail, postage prepaid, on February 28, 2013, addressed to:

J. Benjamin Aplin
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211
Attorney for Respondent

February 28, 2013



Bobby G. Frederick
Matthew Swilley
P.O. Box 8219
Myrtle Beach, SC 29578
843-444-6122
Attorneys for Appellant

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MAR 01 2013

SC Court of Appeals