

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,

Respondent,

v.

John Dodge Haynes,

Appellant.

Appellate Case No.: 2020-000502

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SC Court of Appeals

**Explanation of Sentencing Issue on Appeal
Pursuant to Rule 203 (d) (1) (B) (iv)**

- One: The Appellant above named entered into a Plea Bargain in 2019.
- Two: The Honorable Presiding Judge, Honorable Edgar Dickson, ordered a Pre-Sentence investigation to be completed by the South Carolina Department of Probation and Parole.
- Three: The Pre-Sentence Report was finally completed at which time Appellant, in writing, objected to the submission of certain "facts" on the basis of they should not be submitted because of the holding in **Crawford v. Washington 541 U.S. 36 (2004)**.
- Four: The objection and prayer for a new Pre-Sentence Report was not acted upon.
- Five: That prior to the imposition of sentence the record will reflect that Appellant sought to reserve his **Crawford v. Washington** objection.
- Six: The Sentencing was conducted.
- Seven: The factual basis for the objection is as follows:
The Appellant was involved in an automobile accident in which one of the passengers died. He was charged with Felony D.U.I. with death. During the investigation an investigating officer collected a blood sample for testing and was involved in the accident reconstruction. The officer later, in the performance of his duties unrelated to Appellant's case, died from natural causes. It was the Appellants position that the blood

sample and any results could not be utilized as evidence because the deceased officer was deceased and unavailable for cross examination as to the collection process and other incidents of handling the sample and the chain of evidence. The Appellant raised the **Crawford** issue by way of a Motion to Suppress and the Appellant appealed the ruling. The attempted appeal was based in part, on the decision in **State v. Rearick 417 S.C. 341;790 SE2d 192** since that opinion in Footnote 14 pointed out the writ jurisdiction of the Courts. The appeal was rejected as premature and the case was returned to the Circuit Court. There was a subsequent agreement on the reconstruction of the speed of the Appellants automobile and the Plea to reckless homicide. As stated the Pre-Sentence Report was done by an agent who, at the time of the Appellants collision, worked for the investigating agency as an intern and was familiar with the case. The possible bias was noted by the written objection to the report and the request for a new report.

Eight: The Appellant has raised the issue on the record in the following manner:

A: By its Motion to Suppress

B: By written objection to the Pre-Sentence Report

C: By the reservation of his **Crawford** objections on the record prior to sentencing.

The Lower Court originally issued an opinion on the record by denying the Motion to Suppress. Further the Appellants reservation of the **Crawford** issue was noted for the record by the Honorable Trial Court. Furthermore the Court accepted the objected to Pre-Sentence Report and did not order the requested new Pre-Sentence Report.

Nine: The Appellant raised the issue herein on the record accompanied by a written Motion to Suppress and written objection to the Pre-Sentence Report.

Ten: Therefore the issues to be raised are (1) the **Crawford** issues related to the case and sentencing and (2) the issue related to there being no due process procedure to guarantee a defendant an unbiased Pre-Sentence Report for the Courts consideration.

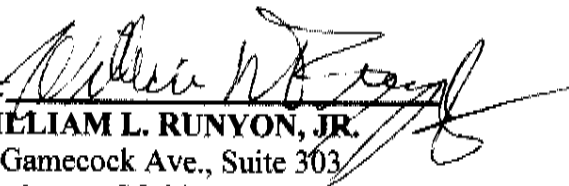
Eleven: It should be noted that argument herein will center on the "Testimonial" nature of the allegations in the Pre-Sentence Report. This case was a "criminal proceeding" to which **Crawford** would definitely apply if the case were tried. **Crawford v. Washington 41**

US at 43. Here the State will argue that **Crawford** should not apply since the Trial Court heard the factors and not a jury. E.g. **State v. Bell 359 N.C.1 (2004)**. However the action where **Crawford** might apply at sentencing could be inferred from the Supreme Court's decision in **Blakely v. Washington 542 U.S. 296 (2004)**. Simply because the objected to material was presented at sentencing does not mean that **Crawford** should not apply. **Blakely v. Washington Supra**. It is suggested also that a **Crawford** error, if deemed present, would require this Court to analyze the proceedings below to a harmless error analysis. Furthermore it seems to be the holding that forensic laboratory tests are testimonial and therefore subject to **Crawford** analysis if one reads **Melendez-Diaz v. Mass. 549 U.S. 305 (2009)** (Note Melendez was a jury Trial.)

Conclusion

In light of this foregoing the Appellant respectfully submits that the Appellant respectfully submits that the Appellant has complied with Rule 203 (d) (1) (B) (iv) of the South Carolina Appellate Court Rules in that there are issues to be reviewed on the record including an outstanding constitutional issue as to the right of confrontation under **Crawford v. Washington 541 U.S. 361 (2004)** and that this Honorable Court can review same based on the record below which when printed, can be reviewed by the Honorable Court of Appeals and ruled on.

William L. Runyon, Jr., Esquire
Eric Laquiere, Esquire

By: 
WILLIAM L. RUNYON, JR.
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SC Bar No.: 4838
Attorney's for the Appellant

Dated this 27th day of March, 2020
In Charleston, South Carolina.

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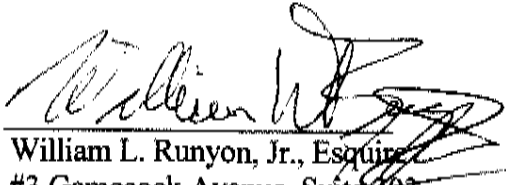
Certificate of Mailing

I William L. Runyon, Jr., Esquire, do hereby certify that on the 27th day of March, 2020, I served a copy of the **EXPLANATION OF SENTENCING ISSUE ON APPEAL PURSUANT TO RULE 203 (d) (1) (b) (iv)** on South Carolina Attorney General Alan Wilson and Assistant Solicitor Michael Spears in the within matter, by mailing copies to them by way of the United States Mail, with sufficient postage attached thereto and addressed as follows:

Honorable Alan Wilson
South Carolina Attorney General
100 Assembly Street
Columbia, SC 29201

Honorable Michael Spears
Assistant Solicitor For Dorchester County
140 N. Main Street, Suite 102
Summerville, SC 29483

Honorable Clerk of Court
Dorchester County
5200 Jim Bilton Blvd.
St. George, SC 29477


William L. Runyon, Jr., Esquire
#3 Gamecock Avenue, Suite 303
Charleston, SC 29407
SC Bar No.: 4838
(843) 571-3515

Dated this 27th day of March, 2020
in Charleston, South Carolina.

William L. Runyon, Jr.

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March 27, 2020

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SC Court of Appeals

Honorable Jenny A. Kitchings
Clerk of South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC, S.C. 29211

RE: State, Respondent v. John Dodge Haynes, Appellant.
Appellate Case No.: 2020-000502

Dear Ms. Kitchings:

Please find enclosed **EXPLANATION OF SENTENCING ISSUE ON APPEAL PURSUANT TO RULE 203 (d) (1) (B) (iv) and CERTIFICATE OF SERVICE**, for filing in the above-captioned matter. Please file originals and return certified copies to me in the stamped, self-addressed envelope provided for your convenience.

Sincerely,



William L. Runyon, Jr.

WLR, JR. /bb

Enclosure

Cc: Honorable Clerk of Dorchester County
Honorable Attorney General Alan Wilson
Honorable William Blitch
Honorable Solicitor Michael Spears
Eric Laquiere, Esquire

WILLIAM L. RUNYON, JR.
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To: *Honorable Jacklyn Orr* **From:** Bill Runyon
Fax: *(803) 734-1839* **Pages:** *(6)*
Phone: *(803) 734-2315* **Date:** *4-21-20*
Re: *State of John D. Harper, Jr.* **CC:**

Appellate Case No. 2020-000502-

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