

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Honorable Clifton Newman, Circuit Court Judge

THE STATE,

Respondent,

RECEIVED

SEP 02 2020

SC Court of Appeals

v.
MARQUILLE RONDAIE LIVINGSTON,

Appellant,

APPELLATE CASE NO. 2018-001595

APPELLANT PRO SE

BRIEF

MARQUILLE R. LIVINGSTON
APPELLANT

Marquille R. Livingston #274774
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472

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STATEMENT OF ISSUE ON APPEAL

- 1.) Did the prosecutor commit Prosecutorial Misconduct, By failing To disclose, known false and misleading statements, of Material facts, Made by several witness Called by the State, And where false and misleading statements was Made while under oath. The prosecutors failure to act, when disclosure was necessary, to avoid Appellant of being deprived of due process, fundamental fairness, And Equal protection of the law, And where prosecutors Improper acts (or failure to act) Resulted In Appellant being Wrongly and unlawfully Convicted, where fact finders based Their findings of "guilty" upon the use of false testimony known and solicited by the prosecutors?
- 2.) Did the trial Court err in finding Appellant "Guilty" of alleged criminal charges, where there was no evidence to support, ~~alleged criminal~~ Appellant's involvement of alleged criminal charges, Resulting In a "Miscarriage of Justice" do to the want of probable cause?
- 3.) Newly discovered evidence of official misconduct and fraudulent conveyance of property By representatives on behalf of the state, That deprived Appellant of his U.S. Constitutional v Amendment Right to life, Liberty, Property, without due process of law, and in violation of Appellants Substantive due process rights, By the conveyance of Appellant property Assets within the MARQUILLE RONDALE LIVINGSTON, estate, without legal contract and consent from Appellant.

STATEMENT OF THE CASE

ON 2-16-18 Richland County Sheriff Investigator Aubrey Raymond submitted a search warrant and arrest warrant Affidavit to the Magistrate Court stating that Appellant's DNA was found on the victims life Alert Switch and Around her mouth and lip area, Appellant was ~~was~~ ^(P1) arrested and charged with Burglary in the first degree, Criminal Sexual Conduct in the first degree, Kidnapping, and petit larceny ON 2-17-18. At a bond Court on or about 2-20-18, at the Alvin S. Glenn Detention Center, Appellant timely notified the Magistrate Court that he would like to have a preliminary Hearing on the Alleged criminal charges against him. Appellant was ~~was~~ ^(P1) provided a copy of the request form to be granted a preliminary Hearing, and did sign and return said form to the Magistrate at that point in time during ABOVE MENTIONED ~~was~~ ^(P1) bond Court Hearing, Pursuant to (Code 1976 § 17-23-160) R. 129, II. 24-25 ; R. 130, II. 1-7.

The Richland County Solicitors Office presented Appellants case to a Richland County Grand Jury on March 13, 2018, where Appellant was Indicted ON the charges of First degree burglary, First degree Criminal Sexual Conduct (CSC), Kidnapping, and petit larceny. R. 729-736, II

At a pretrial Hearing held on July 30, 2018 Appellant notified the trial Court Judge that he timely Requested for a Preliminary Hearing on the above listed charges, but was not granted such Hearing. R. 130, II. 1-7.

Appellant was ultimately forced to proceed with further litigation of the matter despite his timely and proper Request to have a probable cause Hearing, pursuant to (Code 1976 § 17-23-160)

Appellant's case was called to trial on August 20, 2018 before Judge Newman, and a jury. R. 237

On August 22, 2018, The jury found Appellant Guilty as indicted. R. 712, III. 16-713, II. 1-12

1.) Prosecutorial Misconduct . STANDARD OF REVIEW

A conviction acquired through the knowing use perjured testimony by the prosecution violates due process, and this is true regardless of whether the prosecution solicited testimony it knew to be false or simply allowed such testimony to pass uncorrected;
Napue v. Illinois, 360 U.S. 264, 269, 79 S.Ct 1173, 32 L.Ed 2d 1217 (1959)

As long ago as Mooney v. Holohan, 294 U.S. 103, 112, 55 S.Ct 340, 342, 79 L.Ed 791 (1935) This Court made clear that deliberate deception of a court or jury by the presentation of know false evidence is incompatible with "rudimentary demands of justice," when the ~~trial~~ reliability of a given witness may well be determinative of guilt or innocence; Non-disclosure of evidence affecting credibility falls with this general rule. Napue, supra, at 269, 79 S.Ct at 1177

In Pyle v. Kansas, 317 U.S. 213, 215-216, we phrased the rule in broader terms:

"Petitioner's papers are ineptly drawn, but they do set forth allegations that his imprisonment resulted from perjured testimony, knowingly used by the state authorities to obtain his conviction, and from the deliberate suppression by those same authorities of evidence favorable to him. These allegations sufficiently charge a deprivation of rights guaranteed by the federal Constitution, and, if proven, would entitle petitioner to release from his present custody. Mooney v. Holohan, 294 U.S. 103" (quotes from) Brady v. Maryland, 373 U.S. 83, 86 (1963)

"If the suppression of evidence results in constitutional error, it's because of the character of the evidence, not the character of the prosecutor." United States v. Agurs, 427 U.S. at 110, 96 S.Ct. at 2401, 49 L.Ed.2d at 353

Prosecutorial Misconduct (1963)

criminal law. A prosecutor's improper or illegal act (or failure to act), esp. involving an attempt to avoid required disclosure or to persuade the jury to wrongly convict a defendant or assess an unjustified punishment.

"Black's Law Dictionary Fourth Edition"

Argument

The prosecutor committed prosecutorial misconduct, by failing to disclose, known false and misleading statements, of material facts. Made by several witnesses called by the state, and where false and misleading statements was made while under oath. The prosecutors failure to act, when disclosure was necessary, to avoid Appellant of being deprived of due process, fundamental fairness, and equal protection of the law, and where prosecutors improper acts (or failure to act) resulted in Appellant being wrongly and unlawfully convicted, where fact finders based their findings of "guilty" upon the use of false testimony known and solicited by the prosecutors.

Relevant Facts

In her ~~original~~ ⁽¹⁴⁾ original statement, that was taken by Richland County Sheriff Investigator, Victim ~~Donna~~ ⁽¹⁵⁾ stated, when asked by officer. That she was "in the bedroom". When the suspect entered her home. The above listed statement was taken on 2-14-18, by Investigator Raymond of the Richland County Sheriff Department.

The victim later testified at a pre-trial hearing that was held on 6-14-18, before Judge Hood, the victim then testified that, "she was returning from making sure that her door was closed and as she started back, someone was in behind her." R. 52, 1. 16-21.

During the same pretrial hearing, and direct examination. The victim later gave testimony stating that, ~~she~~ ⁽¹⁶⁾ her memory of the suspects face was "not too good" when in question, given by prosecution. R. 64, 2. 1-6

The victim also testified ~~that~~ ⁽¹⁷⁾ during cross examination, that when the persons first came inside her home she thought that it was her daughter "Pam" returning because ~~that~~ ⁽¹⁸⁾ maybe she left something behind. R. 69, 1. 6-25

On 8-20-18 Appellants trial ~~begin~~ ⁽¹⁹⁾ started before Judge Clifford Newman, and a jury. During the trial, the state called victim witness "Ms Henley" to testify as witness on behalf of the state. during ~~direct~~ ⁽²⁰⁾ direct examination "Ms Henley" stated that after checking on her son, someone was behind her, the door, it looked like my door opened a little bit, and some cold air came in. And I went back to lock my door, because I knew I had locked my door. R. 321, 1. 1-15

HENLEY later stated that her son "Chester was in his bedroom" during the assault. HENLEY further stated that "I heard Chester calling, MAMMA, So I got to see what was wrong with him. And I opened his door and closed it. About that time, HE WENT to the bathroom, And then WENT BACK and got in the bed." R. 327, 1. 4-17

As Ms HENLEY continued to give her testimony she alleged that she was RAPE, AND BEAT by SUSPECT over the course of several hours. R. 324, 1. 12-21

Further stating that the suspect RAPE her with his hands and penis, IN her vagina, Mouth, also stating, "Anywhere he could get in a hole." R. 328, 1. 2-10

Victim stated that she made attempts to call for help by SCREAMING. R. 328, 1. 18-20

HENLEY also stated that she was forced to take a ~~bath~~⁽¹⁹⁾ bath and while in the bathroom she turned on the lights and pushed a fire alarm button to alarm the fire department. Stating that "There's two buttons, ONE to turn the lights ON and ONE to turn the fire alarm ON. And just as I both buttons, and that's when he hit ME again.... When they called, he said, WE DON'T HAVE NO FIRE." R. 330, 1. 1-9

HENLEY stated she was beat with her CANE by the suspect and that "He took the CANE and with that, He stuck it up in there and he hit ME ~~in~~ again with that CANE UP Side My head. He beat the hell out of ME." R. 329, 1. 4-14

HENLEY stated that a officer came to see her in the hospital to take her statement. and that the officer asked her "Could I identify him, and did I insulte him in, and I told her NO." R. 332, 1. 13-18

During cross examination HENLEY was questioned as to why her statements were Contradicting, HENLEY then testified stating "It might be. You know why? You are terrible." R. 339, 1. 7-13

Victim witness also stated that Appellant came into her "Bedroom" and that she didn't invite him in her "Bedroom." R. 340, 1. 22-24.

HENLEY testified that the suspect entered her home around 10:00^{PM} o'clock the night of her sexual, kidnapping, and home was broken into. R. 346, 1. 16-19

Victim testified that Appellant made her nose bleed, and made her vagina bleed. R. 347, 1. 9-15. Also see: (EMS Report page 2 "Initial physical findings")

HENLEY stated that she was also beat with a pipe by the Appellant. R. 350, 1. 11-13 (also see: R. 74, 1. 14-25, and R. 75, 1. 1-4)

The state called JAMEL LEE as a witness, during her direct testimony, she stated "The first thing she noticed was the missing door handle, and that the door was closed, but not closed all the way." R. 363, 1. 19-23

During CROSS EXAMINATION State called witness JAMEL LEE TESTIFIED that the victim suffered from the physical assault, And that she noticed "light bleeding abrasions, contusions, swelling" to the victim, primarily in her face. R. 375, 1.1-10
Also see: (EMS report page 2 injury physical findings)
The state then called officer West as their next witness, During her testimony, officer West was asked, did she observe any blood coming from the victims body area that she could see, officer West then replied "No, it wasn't." R. 401, 1.16-19

The state called officer Aubrey Raymond as a witness to testify, during her in-camera testimony officer Raymond stated that, "we located his (Appellant) ~~DNA~~ DNA on the victims life alert necklace and inside of her mouth", R. 291, 1.17-19

During officer Aubrey Raymond direct examinations, she stated twice that Appellants ~~DNA~~ DNA was found "in the mouth" of the victim. R. 547, 11.7-8 (also see) R. 550, 11.22-23

DNA Expert from the Richland County Sheriff Department "John Barron" was called as the states next witness, during his testimony. Stated that the DNA found on the victims life alert (Item #10) was the results of three ~~possible~~ possibilities, R. 579, 11.20-25

John Barron later testified that "when something is too weak for match purposes, that means we cannot ~~do~~ develop any statistical weight to it. So we just can't use it", R. 585, 11.3-7

Mr Barron later testified that, the DNA mixture from Item Number 24 (swab of area around mouth and lips) "Matched Marquille Livingston". R. 588, 11.13-15

When the prosecutor questioned Mr. Barron about the male DNA on the life alert, Mr Barron admitted that the DNA from Item Number 12 (life alert) was the only thing submitted to be tested by Database. R. 338, 11.16-19

DISCUSSION

The state prosecutor's committed misconduct, by failing to disclose the known false testimony entered into evidence, when disclosure was necessary, to avoid Appellant of being deprived of due process, and fundamental fairness. The prosecutor's improper acts (or failure to act) violated Appellants U.S. Constitutional. XIV ⁽¹⁴⁾ Amend Right to due process.

The South Carolina Rules of Criminal Procedure provide that "a lawyer shall not knowingly offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal."
Rule 3.3 (a)(3), SCRCRIMP

In support of this Rule, The South Carolina Rules of Criminal procedure provide that "In the course of representing a client a lawyer shall not knowingly fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6." (see: Rule 4.1 (b), SCRCRIMP)

The Federal Rules of Criminal Procedure also provides that, The prosecution has a duty to disclose exculpatory evidence in its possession or control when the evidence maybe material to the outcome of the case, see: Fed. R. Crim. P. 16

In this case the prosecution failed to disclose any evidence to support the testimony given by Ms Henley, when she stated that there was a alert to the fire department and that the fire department called back, and appellant notified ~~the~~ said fire department that there was no fire, and the fire department was not needed. R. 330, 4, 1-9

Furthermore the South Carolina Rules of Criminal Procedures provide that, the prosecution commits misconduct if it, "violates or attempt to violate the Rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another," see: Rule 8.4(a) Misconduct, Rule 8.4(d) also provides that misconduct is displayed if a prosecutor, engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

The victim Ms Henley, as well as state called witness Jamell Lee (EMS driver) both testified that the victim was bleeding from her face, Henley stated that Appellant made "her nose and vagina bleed," R. 347, 4, 9-15; Also Jamel Lee stated that the victim suffered from bleeding from her lip, and also abrasions, contusions, swelling, "to the victim face area. R. 375, 4, 1-10, where there was no probative evidence presented to support their false and misleading testimony. This evidence was allowed to be presented to the fact finders and court, in blatant disregard for the truth and the law. The prosecution allowed this illegal evidence to pass uncorrected, in direct violation of "Brady" see: Brady v. Maryland, 373 U.S. 83, 89 (1963) see: (EMS Report, page 2, Injury Details and Initial Physical Findings)

This egregious attempt to deprive Appellant of due ~~press~~ process, was also used as a strategy to support the element of sexual battery, where the state prosecutor lack proof beyond a reasonable doubt. to support the charge of CSC first degree, therefore also leading to a "miscarriage of justice," by the suppression of such evidence. know to be false to the prosecutors.

The prosecutor failed to disclose any evidence to the victim witness testimony, that the fire department was notified of a fire, and also called back to the home of the victim, and where Appellant answered call that was in relation to these made by victim witness Ms Henley. No evidence of probative value was submitted to fact finders to support the perjured testimony of the witness, and the prosecutors allowed this act to go uncorrected. R. 330, 4, 1-9

The South Carolina Rules of Criminal Procedures provide that, A lawyer shall not falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law (see: Rule 3.4(b) SCR Crim P)

In the EMS Report dated 2-14-18, JAMEL LEE logged into the record that the victim "Ms Henley" notified her that she was "in bed sleeping when she was attacked" (SEE: EMS REPORT) This Report is also supported by Ms Henley's statement given to Investigator Aubrey Raymond on 2-14-18 where the victim stated the same. (SEE: WITNESS STATEMENT)

The testimony Ms Henley gave during trial was not the same as the statements she gave to EMS, and police officers the day of the alleged crimes, The prosecutor was provided with discovery from the Investigator's in relation to this matter and fail to correct the known false testimony provided by witness called by the state. SEE: EMS REPORT, FORENSIC EXAMINATION REPORT, VICTIM STATEMENT

When the state called Investigator Aubrey Raymond to the stand, she testified several times that the Appellants DNA was found "inside" the victims mouth. There was no DNA submitted to S.L.E.D. in relation to item #24 (swab of area around mouth and lips) There was also no CODIS Hit in relation to the swab taken from the mouth area of the victim. The Forensic Examination Report provided by the Richland County Sheriff's Department clearly proves, that the testimony given by officer Raymond of the Richland County Sheriff Department, was false and misleading.

The Serology Results of the Forensic Report states that, No seminal fluid was identified on the vaginal swabs, rectal swabs, oral swabs, and swab from area around mouth and lips. (SEE: FORENSIC EXAMINATION REPORT) page 2

On page 2 of the forensic examination report, it further states that. "No Male DNA was extracted from item 15 and 24 (vaginal, rectal, labia and oral swabs) (SEE: FORENSIC EXAMINATION REPORT)

The Forensic Examination Report further states, in the conclusions, opinions, and interpretations section, that the DNA mixture in relation to item #24 (swab of area around mouth and lip) that Appellant cannot be conclusively included or excluded within the mixture, The results were also unable to provide a statistical probability of being a match to Appellant. (SEE: FORENSIC EXAMINATION REPORT)

Providing that the state prosecutors were provided with copies of the Forensic Examination Report, and aware of the ~~results~~ results. The prosecution failed to disclose that the testimony provided by officer Aubrey Raymond, was false and misleading.

Fed. R. Evid. 607-610 provides that Impeachment Evidence, is evidence used to undermine a witness credibility.

Witness Dorothy Henley's false and misleading statement that she was in her living room area when Appellant Alleged entered the home, was false testimony used by prosecutors to support elements of the charge of Burglary first, where there was no evidence presented to support that false claim. (SEE: R. 321, 1.10-13) Also SEE: (EMS REPORT page 3 Activity)

The U.S. Constitution V Amendment gives the right to due process, stating that No Person shall be deprived of life, liberty, or property, with due process of law;

DUE PROCESS.

The Conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights, including notice and the right to a fair hearing before a tribunal with power to decide the case.
(Blacks Law Dictionary 4th Ed)

A conviction acquired through the knowing use of perjured testimony by the prosecution violates due process, and this is true regardless of whether the prosecution solicited testimony it knew to be false or simply allowed such testimony to pass uncorrected; Napue v. Illinois, 360 U.S. 264, 269, 79 S.Ct 1173, 32 L. Ed 2d 1217 (1959)

"Suppression of evidence favorable" to the accused was itself sufficient to amount to a denial of due process; Pyle v. Kansas, 317 U.S. 213, 195 F.2d, at 820. The same result obtains when the state, although not soliciting false evidence, allows it to go uncorrected when it appears. Napue v. Illinois, 360 U.S. 264, 269. (quotes from Brady v. Maryland, 373 U.S. 83, 87)

Holding

The failure of the prosecutor to correct the testimony of the witness which he knew to be false denied petitioner due process of law in violation of the ~~fourth~~ ^{fourteenth} Amendment. Napue v. Illinois, 360 U.S. 265, 270.

The established principle that a state may not knowingly use false testimony to obtain a tainted conviction does not cease to apply merely because the false testimony goes only to the credibility of the witness. Napue v. Illinois, 360 U.S. 269-270 (1959)

A criminal conviction procured by the state prosecuting ⁽⁴⁾ authorities solely by the use of perjured testimony known by them to be perjured and knowingly used by them in order to procure the conviction is without due process of law, and in violation of the Fourteenth Amendment. Mooney v. Holohan, 294 U.S. 113 (1935)

CONCLUSION

Since Appellant has clearly shown that state prosecutors used unconstitutional methods to procure a conviction, and violated his 14th U.S. Constitutional Right to due process of law, Appellant respectfully request this Court vacate his conviction and sentence, according to the law, and that appellant be released from his unlawful confinement.

STANDARD OF REVIEW

2. Probable Cause

A search warrant may only issue upon a finding of probable cause, State v. Bellamy, 363 S.C. 140, 143, 519 S.E.2d 347, 348 (1999) The duty of the reviewing Court is to insure the Magistrate had a substantial basis upon which to conclude that probable cause existed. State v. Adams, 291 S.C. 132, 352 S.E.2d 483 (1987) In Illinois v. Gates, 462 U.S. 213, 238, 103 S.Ct. 2317, 2332, 76 L.Ed.2d 527 (1983) The United States Supreme Court adopted a "Totality-of-the-Circumstances" Test for probable cause determinations:

The task of the issuing Magistrate is simply to make a practical common-sense decision whether, given all the circumstances set forth in the affidavit before him, including the "veracity" and "basis of knowledge" of person supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.

In South Carolina, search warrants may be issued "only upon affidavit sworn to before the Magistrate... Establishing the grounds for the warrant" S.C. Code Ann. § 17-13-140 (2003) also see: State v. McKnight, 291 S.C. 110, 352 S.E.2d 471 (1987) Affidavit must set forth particular facts and circumstances underlying the existence of probable cause to allow the Magistrate to make an independent evaluation of the matter. Franks v. Delaware, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978)

Mere conclusory statements which give the Magistrate no basis to make a judgment regarding probable cause are insufficient. "His action cannot be a mere ratification of the bare conclusions of others." Illinois v. Gates 462, U.S. 213, 239, 103 S.Ct. 2317, 2333, 76 L.Ed.2d 527, 549 (1983)

Because it is the Magistrate who must determine independently whether there is probable cause; Johnson v. United States, 333 U.S. 1013-14, 68 S.Ct. 367, 368-369, 92 L.Ed. 436 (1948); It would be unthinkable imposition upon his authority if a warrant affidavit, revealed after the fact to contain a deliberately or reckless false statement were to stand beyond impeachment; Jones v. United States, 362 U.S. 257, 270-271, 80 S.Ct. 735, 735-736, 4 L.Ed.2d 697 (1960)

Impeachment Evidence. Evidence used to undermine a witness's credibility. Fed.R.Evid. 607-610

The admissions of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion: SEE: STATE V. PEGAN, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006) "An abuse of discretion arises from an error of law or a factual conclusion that is without evidentiary support," STATE V. TRICK, 344 S.C. 460, 464, 545 S.E.2d 282, 284 (2001); SEE: STATE V. FUNDERBURK, 367 S.C. 236, 239, 625 S.E.2d 248, 249-250 (Ct. App. 2006) ("An abuse of discretion occurs when the trial courts ruling is based on an error of law")

Argument

The trial court erred in finding Appellant "Guilty" of alleged criminal charges, where there was no evidence to support, Appellant's involvement of alleged criminal charges, resulting in a "miscarriage of justice" do to the want of ~~probable~~ probable cause, provided by The United States Constitution Amendment IV.

Relevant Facts

On February 16, 2018 Richland County Investigator Aubrey Raymond drafted search warrants, and arrest warrants for Appellant in ~~regards~~ regards to a Burglary^{1st}, CSC 1st kidnapping, and petit larceny. That occurred on February 14, 2018. (SEE: S.C. Code Ann. § 17-13-140)

In the search warrants and arrest warrants officer Aubrey Raymond submitted to the Magistrate, to determine independently whether there was probable cause. Officer Raymond stated under oath and affirmation that, "Appellant's DNA was found around the victims mouth and on the Life Station alert switch," as grounds or basis establishing probable cause.

Investigator Raymond's omission that the DNA that was submitted into the database was, DNA in reference to skin cells found on the victims Life alert switch, that also matched a total of three people in the S.L.E.D database, there was no DNA from Item # 24 (swab of area around mouth and lips) presented to S.L.E.D to establish that said DNA, ~~was~~ was in any way connected to Appellant, officer Raymond was well aware of the fact that the DNA from Item # 24 (swab of area around mouth and lips) did not match Appellant, and that there was no ~~statistical~~ statistical probability to support her false statements presented. within the arrest warrant and search warrants submitted to Magistrate, for the Magistrate to determine independently ~~if~~ if probable cause existed.

There was no male DNA found within the sexual assault protocol kit done by the Richland Memorial Hospital, Officer Raymond stated in the search warrants Affidavit, that Appellants DNA was detected in protocol kit done by the Richland Memorial Hospital, (SEE: Search warrant Affidavit, Also SEE Forensic Examination Report)

In the arrest warrant affidavit, Officer Raymond stated that the Appellants DNA was detected from the processing of the crime scene, done by the Richland County Sheriff Department. Also stating that Appellants DNA was located on the victims life alert switch and from area around her mouth and lips. SEE: (Arrest warrant Affidavit). Officer Raymond also omitted the fact that the DNA in reference to Codis, (swab of life alert switch) also matched a total of three known offenders within the S.L.E.D database, said officer also omitted the fact that S.L.E.D. (DNA database unit investigator) Theresa Hines and the S.L.E.D recommended that R.C.S.D perform their own investigation, by obtaining additional biological specimen, and that this sample be examined by R.C.S.D. SEE: (S.L.E.D Codis kit notification)

On August 6th Appellants then counsel requested a Franks Hearing during pretrial motions, the basis of the Franks Hearing, was to establish if there was probable cause to suspect Appellant's involvement in the alleged crimes. And also to see if Affiant submitted false, and misleading statements within the search warrant and arrest warrant Affidavit to establish the existence of probable cause. R. 186, 1.1-6

The S.L.E.D did not do any independent investigation in reference to item # 12 (swab of life alert switch) and item # 24 (swab of area around mouth and lip) ~~was~~ was never submitted to S.L.E.D for any testing at all, prior to the search warrants and arrest warrants being issued, the investigating officer was well ~~aware~~ aware of the fact that the Appellants DNA was not associated with any DNA found in the sexual ~~assault~~ assault protocol kit. Investigating officer was also informed that there was no male DNA found in the sexual assault protocol kit as well, but officer Raymond submitted a Affidavit to the Magistrate stating that the ~~App~~ Appellants DNA was found in sexual assault protocol kit, as a supporting link to establish that there was probable cause. (SEE: Search warrants and arrest warrants.) Also SEE: R. 547, 11. 7-8 (and) R. 550, 11. 22-23

Discussion

The trial court erred in finding Appellant "Guilty" of alleged criminal charges, where there was no evidence to support Appellants involvement of alleged criminal charges, resulting in a "miscarriage of justice" do to the want of probable cause, provided by the United States Constitution Amendment IV.

The United States Constitution Amendment IV guarantees the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The admission of evidence is within the discretion of the trial court and will not be reversed an abuse of discretion: see: STATE V. PEGAN, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006) "An abuse of discretion arises from an error of law or a factual conclusion that is without evidentiary support." STATE V. IRICK, 344 S.C. 460, 464, 545 S.E.2d 282, 284 (2001); see: STATE V. FUNDERBURK, 367 S.C. 236, 239, 625 S.E.2d 248, 249-250 (Ct. App. 2006) ("An abuse of discretion occurs when the trial courts ruling is based on an error of law")

A search warrant may only issue upon a finding of probable cause, STATE V. BELLAMY, 363 S.C. 140, 143, 519 S.E.2d 347, 348 (1999) The duty of the reviewing court is to insure the Magistrate had a substantial basis upon which to conclude that probable cause existed. STATE V. ADAMS, 291 S.C. 132, 352 S.E.2d 483 (1987) In Illinois v. Gates, 462 U.S. 213, 238, 103 S.Ct. 2317, 2332, 76 L.Ed.2d 527 (1983) The United States Supreme Court adopted a "Totality-of-the-Circumstances" test for probable cause determinations:

The task of the issuing Magistrate is simply to make a practical common-sense decision whether, given all the circumstances set forth in the Affidavit before him, including the "veracity" and "basis of knowledge" of person supplying hearsay information, there is a fair probability that contraband or evidence of a crime will be found in a particular place.

In South Carolina, Search warrants may be issued "Only upon affidavit sworn to before the Magistrate.... Establishing the grounds for the warrant." S.C. Code Ann. § 17-13-140 (2003) also see: STATE v. MCKNIGHT, 291 S.C. 110, 352 S.E.2d 471 (1987) Affidavit must set forth particular facts and circumstances underlying the existence of probable cause to allow the Magistrate to make an independent evaluation of the matter. FRANKS v. DELAWARE, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978)

Mere conclusory statements which give the Magistrate no basis to make a judgment regarding probable cause are insufficient. "His actions cannot be a mere ratification of the bare conclusions of others." ILLINOIS v. GATES 462, U.S. 213, 239, 103 S.Ct. 2317, 2333, 76 L.Ed.2d 527, 549 (1983)

Because it is the Magistrate who must determine independently whether there is probable cause; JOHNSON v. UNITED STATES, 333 U.S. 10 ⁽¹⁹⁴⁸⁾ 13-14, 68 S.Ct. 367, 368-369, 92 L.Ed. 436 (1948); It would be unthinkable imposition upon his authority if a warrant affidavit, revealed after the fact to contain a deliberately or reckless false statement were to stand beyond impeachment: JONES v. UNITED STATES, 362 U.S. 257, 270-271, 80 S.Ct. 725, 735-736, 42 L.Ed.2d 697 (1960)

Officer Aubrey Raymond submitted false sworn testimony within the affidavit she submitted to the Magistrate, for the Magistrate to establish if there was probable cause, to suspect Appellants involvement in the alleged crimes presented by Officer Raymond of the Richland County Sheriff Department. The actions of the officer were in direct violation of Appellants IV Amendment U.S. Constitutional Right to Illegal search and seizure, where there was no probable cause to suspect Appellants involvement in crimes.

On July 30th 2018 Appellant notified the trial court that he timely requested a preliminary hearing pursuant to Code Ann. § 17-23-160 (1976) Appellant explained to trial court that prior to being indicted by a grand jury in Richland County on March 13 2018, Appellant notified Bond Court judge that he would like to have a preliminary hearing on the alleged charges, and Appellant filled out the proper paperwork to request such hearing, but was not granted said hearing. R. 130, 1. 1-7

3C. Code Ann. § 17-23-160 states that, when any person charged with a crime who is entitled to a preliminary hearing on such charges appears in person or by counsel in a hearing to set bond, he shall be notified by a magistrate orally and in writing of his right to such hearing. When a person is notified of his right to preliminary hearing, he shall be furnished a simple form providing him an opportunity to request a preliminary hearing by signing and returning this form to the advising magistrate then and there. Any person so notified who fails to timely request a preliminary hearing shall lose his right to such hearing.

In this case the trial court erred, because there was no basis to establish that probable cause existed, and where trial court error was a clear abuse of discretion arising from an error of law, and a factual conclusion without evidentiary support. Therefore, the judgement issued by the trial court should be reversed and judgement for the ~~plaintiff~~ ^{Appellant} should be granted, sentencing and conviction should be vacated according to law.

Conclusion

Since Appellant has clearly shown that the State lack probable cause in Appellants case, in violation of his 4th Amendment U.S. Constitutional Right to probable cause, Appellant respectfully request that this court vacate his conviction and sentence, according to the law, and that appellant be released from his unlawful confinement.

Newly Discovered Evidence

The evidence presented within Appellants "Letter of Rogatory for Relief," is newly discovered evidence pursuant to Fed. R. Civ. P 60 (b) (see: Letter Rogatory for Relief) Attached:

Marquille Rondale Livingston
220 Springtree Drive Apt 429
Columbia, SC [29223-9998]



LETTER OF ROGATORY FOR RELIEF
CRIMINAL Case No: 180020046-14

Under the Hague Convention Title 18 §1781.

I, **Livingston, Marquille Rondale** Executor for the **MARQUILLE RONDALE LIVINGSTON aka MARQUILLE LIVINGSTON** and cestui que trust, to notice the Court of my Letter Rogatory to the **COUNTY RICHLAND IN COLUMBIA GENERAL SESSIONS COURT** for the COUNTY OF RICHLAND; and demand my name be cleared of this alleged Criminal Case No. 180020046-14 for the reasons set forth below:

- 1) I, **Livingston, Marquille Rondale**, have learned that this alleged Court that has scheduled cases/causes/claims against me is not really a court as per the Constitution of the United States, but rather a tribunal operated as a private corporation.
- 2) I have learned of the fraud that goes on behind the scenes of these alleged criminal cases, which are really civil claims in equity, and the steps taken to securitize these civil claims, without giving full disclosure to the people. I am hereby letting the court know that I am opting out of any contract and do not allow any documents regarding me or my cestui que trust to be securitized and sold to any investors etc.
- 3) The fraudulent process is as follows: All cases are civil, though often fraudulently called criminal. The courts are operating under trust law, assuming the Defendant is a decedent. After finding the alleged Defendant guilty, the court clerks sell the judgments to the Federal Courts. Since the Defendant is a decedent, the court officials consider themselves as a beneficiary.
- 4) When a judge asks if a person understands, he/she is asking if the person is liable for the bond. I am not responsible for the bond of this/these cases, but I will appoint the Judge as Trustee/Fiduciary and I will be the beneficiary of all proceeds.
- 5) The judgments are stamped with something to the effect of Pay To The Order Of on the back and taken to the federal discount window. The judgment now becomes a note.
- 6) The notes are then pooled together and then become securities, which are yet pooled together and sold as bonds.
- 7) Said bonds are liens against me.

U.S. DISTRICT COURT
SOUTH DISTRICT OF SOUTH CAROLINA
COLUMBIA, SOUTH CAROLINA

2019 JUN 17 PM 3:54

FILED
RICHLAND COUNTY



Handwritten scribble

Handwritten scribble

Handwritten scribble

8) The United States Attorney's Office has a put code number, NAICS (North American Identification Security Classification). Said NAICS number enables the United States Attorney's Office to trade globally all securities.

9) All US federal courts are registered with the DOD (Department of Defense), where they are registered with CCR (Contractor's Central Registration), under the DOD, which another department called DLIS (Defense Logistics Information Service), which issues a cage code, which means a commercial and government entity, which everything corresponds with their bank account.

10) Said United States Attorney's Office and Courts have a Dunn's numbers. (Dunn & Bradstreet)

11) Everything filed into court is securitized without the knowledge or consent of the people or of all parties.

12) All criminal cases not heard in an Article 3 court (District Court of the United States) are really civil, however, the courts again commit fraud by labeling the case as criminal. All cases which are plead out or have a guilty conviction label the civil defendant (through unlawful conversion) as felons, when they are not. This is fraud upon the people at large, and certainly fraud upon the alleged Defendants.

13) The Bank Account is at Federal Reserve Bank of New York, in New York City. The Depository Agreement is signed by the Clerk of Court.

14) All securities are then deposited with the DTC in New York.

15) An Escrow Agent is used as a go-between - between the Clerk's Office and the Federal Reserve Bank of New York.

16) The securities end up being listed through the Fifth Circuit (Columbia, SC), then sent to the DTCC, the clearinghouse whom lists the securities for trading.

17) All of the lawyers involved are acting as private debt collector according to the FDCPA (Title 15§1692). The BAR Association exempts them from having to be registered as such; however, they operate through call warrants, which are like a put, or a call. Doing margin calls is where they convert a case through (similar to a Writ of Execution) use the case number to buy equity securities.

18) Everything filed into court is securitized and turned into negotiable instruments, and then turning them into securities. These items are sold commercial items, calling them distress debts (Unifund). The items are then pooled together in what is now called a hedge fund, where they are sold globally.

19) Anytime when there is risk management involved, it is for the securities. This is an underwriting company. When the hedge funds are going into the global market, they go through Luer Hermes, a bond holder and underwriting company and subdivision of Alliance SE, of Munich Germany (Pimco Bonds).

20) After 9 months, all paper is converted to a securities status. This is defined in Title 15§77(a)(b)(1) and is now considered to be an investment contract. The paper is endorsed to become a security, and the trust is then collapsed.

2008 JUN 17 PM 3:24
CLERK OF COURT
RICHMOND COUNTY
FILED

21) The courts have an account with the IMF (International Monetary Fund) under Interpol. The Judges involved, and the US Attorneys involved do not have an accessible Oath of Office, because they cover up the fact that the oath of office is between them and the IMF.

22) The US Judges and US Attorneys are actually employees of the IMF and have expatriated out of the United States. They are now unregistered foreign agents under Title 22, which states all foreign agents must be registered.

23) The court judgments are deposited with the IMF. Since this case obviously involves me, I have a drawing right to all proceeds. See UCC §3-305 and §3-306. The court judgments are monopolized according to Title 16, which is a violation of anti-trust laws, and also unfair trade practices.

24) Indictments are True Bills, meaning they are negotiable instruments. The District Attorney failed to give me a 1099 OID showing me as the recipient of the funds, which is a fraud upon me. In my case, I have not been indicted, but still request a 1099 OID unless the court wishes to close this account.

25) The unlawful funds, through fraud and deception, are deposited in the Federal Reserve Bank of New York and they have not paid the tax on this income. According to the IRC, is a §7201 of Title 26 violation (willful failure to file with the intent to evade the tax).

26) A copy of the Depository Resolution Agreement was not made available to me from the Clerk of Court. The Clerk of Court makes deposits into the Federal Reserve Bank of New York via electronic funds transfers (EFT's).

27) The Clerk has a PMIA (Private Money Investment Account) is, which also has a government code. According to Clerks Praxis, the Clerk of the US District Court is the Registrar in Admiralty.

28) According to the IRS §6209 Decoding Manual and the ADP (Automated Data Processing Manual), all 1099's are Class 5 gift and estate taxes. I am asking for a 1099 OID in this case, as I am not willing to gift you the proceeds. I am hereby asking for the proceeds in their entirety, including interest.

29) I have never pledged my rights or my body to any gifting program, including any court or court process.

30) I am not a charitable organization. I demand all funds from the cases (current and past cases) be sent to me within 30 days or I will file complaints to the IRS and SEC explaining the fraud and thefts committed upon me and issue a 1099 OID.

31) I demand my name and my cestui que trust name, Marquille Rondale Livingston/ Marquille R. Livingston/ Marquille Livingston /MARQUILLE RONDALE LIVINGSTON / MARQUILLE R. LIVINGSTON / MARQUILLE LIVINGSTON be removed from any and all government databases indicating bad credit, commercial liens and/or the titles of criminal, felon and/or convicted felon be removed immediately and permanently nunc pro tunc.

32) I hereby request a copy of the Depository Resolution Agreement from the Clerk of Court. And a W-9 from the Judge and the US Attorney and or District Attorney involved.

33) I hereby notice the Court that I am the executor of the cestui que trust of MARQUILLE RONDALE LIVINGSTON / MARQUILLE R. LIVINGSTON / MARQUILLE

ROHLAND COUNTY
FILED
JUL 19 11 54 AM '08
CLERK OF COURT

2008 JUL 19 11 54 AM '08

LIVINGSTON. According to Title 26 §303 & §7701, companies, corporations, and associations and trusts are all decedents. This means my all capital letter name is a legal estate. My all capital letter name falls into this class. I direct all of the affairs and financial affairs of MARQUILLE RONDALE LIVINGSTON / MARQUILLE R. LIVINGSTON/MARQUILLE LIVINGSTON.

34) I demand this case/account be closed and no further steps taken to securitize it.

35) I hereby demand this Court to notify local agents and agencies to put me on a do not disturb list, so we do not have to go through this again.

36) I am confident that the Court and its officers want to follow the law, and perhaps were unaware of the processes of civil and criminal cases.

37) I expect no further harassment from your rogue unregistered foreign agents.

38) Conviction and sentencing should be vacated immediately and the body release from captivity without any hesitance.

Without Prejudiced UCC1-207, 1-308 All Rights Reserved Without Recourse

Date: 1-10-19

Livingston, Marquille Rondale
Livingston, Marquille Rondale

2019 JUN 17 PM 3:54
JENNIFER W. MCGRIDE
C.O.P., G.S., & F.C.
RICHLAND COUNTY
FILED

(704) 341-1234
1000 N. ...
...
...

STATE OF SOUTH CAROLINA

County of Richland

SEARCH WARRANT

Person of Marquille Rondale Livingston, B/M DOB 02/17/1982

Date: 02/16/2018

Officer: A. Raymond

2018 FEB 16 PM 7:05

BOND COURT

STATE OF SOUTH CAROLINA }

COUNTY OF RICHLAND }

SEARCH WARRANT

Form approved by SC Attorney

General - Section 17-13-160

March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF _____:

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

The person of Marquille Rondale Livingston, B/M DOB 02/17/1982.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

A DNA sample obtained from a Buccal Swab.

2018 FEB 16 PM 7:05
BOND COURT

This Search Warrant shall not be valid for more than ten days from the date of issuance.
A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Columbia, S.C.

February 16, 2018



Signature of Judge 7302

(LS)

STATE OF SOUTH CAROLINA}

AFFIDAVIT

COUNTY OF RICHLAND }

On 02/14/2018 I received a report in reference to a home invasion and a sexual assault at 80 Brighton Hill Rd., Apt 3312, Columbia SC 29223. The victim, Dorothy Henley, B/F 03/27/1932 stated to deputies that she was in her home and a black male subject broke in and physically and then sexually assaulted her. She advised the deputies that the subject then made her bathe and clean herself. She advised that he cleaned up after he was done, wiping all surfaces down and taking the victim's bedsheets, pillowcases, some clothing items, and her gold watch with him when he left the scene.

The victim, who lives with her son Chester Jones, B/M, DOB 10/25/1947, stated she was in her room when a B/M subject wearing a white shirt and light colored jeans entered her room and when she asked who he was and why he was there, he began to assault her, and then sexually assaulted her several times over the course of a few hours. She advised that she tried to activate her LifeStation system, (similar to Life Alert) and the male subject identified himself as "Mr. Jones" and stated that everything was fine. After the subject left the scene, Henley contacted Life Station again and advised she had been raped. LifeStation then contacted deputies and they responded to the scene.

Henley had a code protected lock box on her doorknob that housed keys to her residence inside it. The lockbox was there for EMS to gain entry to Henley's home should she or Jones need medical attention. When deputies arrived on scene they observed Henley's door knob and lock box missing. It appears the subject knocked the lock box and door knob off of the door, and used the keys inside to gain entry to the residence. The doorknob and lock box were not located on the scene or nearby.

I contacted LifeStation and confirmed that Henley had activated her alert at 0157 am on 02/14/2018 where a male subject identified himself as Mr. Jones. They also confirmed that her alert had been activated at 0549 hours on 02/14/2018 where Henley stated that someone had broken in and she had been raped. Henley described the subject as a clean cut black male who was about 5'5", 125 pounds and looked to be between the ages of 25-30. She stated he was wearing a white shirt and light colored jeans.

Investigators of the Technical Services Unit responded to the area of 80 Brighton Hill Rd. and pulled video surveillance from several area businesses. Based on the time the victim activated the LifeStation, the Investigators were able to view what appeared to be a silver/gold or similar in color SUV attempt to get into the gated community by following cars in to the drive. The vehicle was observed entering the lot of the apartment complex, leaving once entry could not be gained, and then driving down Brighton Hill Rd. and parking in the rear parking lot of a business, and walking into the apartment complex via a trail in the woods. The subject is seen on the apartment complex's video footage walking through the parking lot. The subject was then seen leaving the complex near the time that Henley activated her second LifeStation alert. EMS drivers also observed a subject matching the description Henley gave walking through the parking lot carrying a bag upon their arrival.

Sworn to and Subscribed before me }
This 16th day of February, 2018 }
[Signature] (L.S.) }
Signature of Judge 7302

[Signature]
Affiant

Address Richland County Sheriff's Department
5623 Two Notch Road, Columbia, S.C. 29223
Phone (803) 576-3000

REC'D
COURT
FEB 14 2018
PM 7:12

STATE OF SOUTH CAROLINA }
COUNTY OF RICHLAND }

AFFIDAVIT

Henley had a protocol kit done at Richland Memorial Hospital and a male DNA profile was detected. The male profile was identified as Marquille Rondale Livingston, B/M DOB 02/17/1982 from swabs collected from the victim's mouth area and the Life Station alert device.

COPIES #1
1581E

(The 2 buccal swabs are needed to compare to any DNA collected by RCSD lab units and investigators.) Based on the totality of the circumstances outlined within this affidavit, the affiant believes that probable cause exists to suspect Marquille Livingston, B/M DOB 02/17/1982, is the perpetrator in this case. (In order to further this investigation, a buccal swab containing DNA from the mouth of Marquille Livingston is needed to compare with any evidence found in the sexual assault protocol kit.) This procedure will not threaten Livingston's health or safety and will pose only a minor intrusion upon his dignitary interest in personal privacy and bodily integrity, and therefore will not constitute a violation of his Fourth Amendment rights. The community's high interest in fairly and accurately determining the guilt or innocence of this defendant will best be served by performing the requested procedure. This procedure will be performed by law enforcement. This case is documented under RCSD Case # 18020046-14.

REQUEST
1581E

2018 FEB 16 PM 7:05

Sworn to and Subscribed before me

this 16th day of February, 2018

[Signature] (LS)
Signature of Judge 7302

[Signature]
Affiant

Address Richland County Sheriff's Department
5623 Two Notch Road, Columbia, S.C. 29223
Phone (803) 576-3000

ARREST WARRANT

2018A4010200597

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland Bond Court

THE STATE

1802004614 R2

against

Marquillie Rondale Livingston

Address:

Columbia, SC 29223-

Phone: SSN:

Sex: M Race: B Height: 5 8 Weight: 250

DL State: SC DL #:

DOB: Agency ORI #: SC0400000

Prosecuting Agency: Richland County Sheriff

Prosecuting Officer: Aubrey J Raymond - S00510

Offense: Kidnapping / Kidnapping

Offense Code: 0095

Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant on Marquillie Livingston 2-12-18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland Bond Court

Personally appeared before me the affiant Aubrey J Raymond

being duly sworn deposes and says that defendant Marquillie Rondale Livingston

did within this county and state on or about 2/14/2018

violate the criminal laws of the

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

Richland Bond Court

in the following particulars:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

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

That on or about 02/14/18 while at 80 Brighton Hill Road Apt. 3312 in the Dentsville Magisterial District of Richland County, one Marquillie Rondale Livingston did commit the crime of Kidnapping / Statute Number 16-9-910, CDR 0095 It is believed the def committed the crime because the defendant did during the hours of darkness, unlawfully enter the 85 year old victims dwelling and did unlawfully with his penis penetrate the victim's anus, vagina and mouth causing significant injuries to the vict, while threatening and physically assaulting the victim. The def did unlawfully seize the 85 year old vic, took her against her wishes to the bathroom and forced her into the tub to wash her off to get rid of DNA. The def did steal the victim's bed linen, walking cane & clothing she was wearing during the incident. RCSD Lab investigator processed the crime scene and the def's DNA was found around her mouth and on the Life Station alert switch, implicating the defendant. Affiant and others are witness to prove same

Signature of Affiant

Aubrey Raymond

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland Bond Court

Affiant's Address 5623 Two Notch Road
Columbia, SC 29223-

Affiant's Telephone (803)576-3000

ARREST WARRANT

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

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

on or about 2/14/2018 defendant Marquillie Rondale Livingston

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

County/ Municipality of Richland Bond Court as set forth below.

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

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

on 2/16/2018

Deirdre L Simmons (L.S.)

Signature of Issuing Judge

Deirdre L Simmons

Judge Code: 7302

Judge's Address Post Office Box 192
Columbia, SC 29202-

Judge's Telephone (803)576-3281

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

COPY

ARREST WARRANT

2018A4010200598

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland Bond Court

THE STATE 1802004614 R2

against

Marquillie Rondale Livingston

Address:

Columbia, SC 29223-

Phone: SSN:

Sex: M Race: B Height: 5 8 Weight: 250

DL State: SC DL #: Agency ORI #: SC0400000

DOB: Prosecuting Agency: Richland County Sheriff

Prosecuting Officer: Aubrey J Raymond - S00510

Offense: Larceny / Petit or Simple Larceny - \$2,000 or less

Offense Code: 3419

Code/Ordinance Sec: 16-13-0030(A)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on Marquillie Livingston 2-17-18

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland Bond Court

Personally appeared before me the affiant Aubrey J Raymond

being duly sworn deposes and says that defendant Marquillie Rondale Livingston

did within this county and state on or about 2/14/2018

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

Richland Bond Court

DESCRIPTION OF OFFENSE: Larceny / Petit or Simple Larceny - \$2,000 or less

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

That on or about 02/14/18 while at 80 Brighton Hill Road Apt. 3312 in the Dentsville Magisterial District of Richland County, one Marquillie Rondale Livingston did commit the crime of Petit Larceny / Statute Number 16-13- 30 (A). CDR 3419 It is believed the def committed the crime because the def did during the hours of darkness, unlawfully enter the 85 year old victims dwelling and did unlawfully with his penis penetrate the victim's anus, vagina and mouth causing significant injuries to the vict, while threatening and physically assaulting the victim. The def did unlawfully seize the 85 year old vic, took her against her wishes to the bathroom and forced her into the tub to wash her off to get rid of DNA. The def did steal the victim's bed linen, walking cane & clothing she was wearing during the incident. RCSD Lab investigator processed the crime scene and the def's DNA was found around her mouth and on the Life Station alert switch, implicating the defendant. Affiant and others are witness to prove same

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland Bond Court

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 2/14/2018 defendant Marquillie Rondale Livingston

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

Richland Bond Court

) as set forth below:

DESCRIPTION OF OFFENSE: Larceny / Petit or Simple Larceny - \$2,000 or less

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

Sworn to and subscribed before me on 2/16/2018

[Signature]
Signature of Issuing Judge

(L.S.)

Deirdre L Simmons

Judge Code: 7302

Judge's Address Post Office Box 192

Columbia, SC 29202-

Judge's Telephone (803)576-3281

Issuing Court: Magistrate Municipal Circuit

ORIGINAL ORIGINAL

ORIGINAL ORIGINAL ORIGINAL

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 - BCCA 518

COPY

ARREST WARRANT

2018A4010200595

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland Bond Court

THE STATE

1602004614 R2

against

Marquillie Rondale Livingston

Address:

Columbia, SC 29223-

Phone:

SSN:

Sex: M Race: B Height: 5 8 Weight: 250

DL State: SC DL #:

DOB: Agency ORI #: SC0400000

Prosecuting Agency: Richland County Sheriff

Prosecuting Officer: Aubrey J Raymond - S00510

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

Offense Code: 0079

Code/Ordinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Marquillie Rondale Livingston

on 2-17-18

[Signature]

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland Bond Court

Personally appeared before me the affiant Aubrey J Raymond

being duly sworn deposes and says that defendant Marquillie Rondale Livingston

did within this county and state on or about 2/14/2018

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

Richland Bond Court

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

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

That on or about 02/14/18 while at 80 Brighton Hill Road Apt. 3312 in the Dentsville Magisterial District of Richland County, one Marquillie Rondale Livingston did commit the crime of Burglary 1st / Statute Number 16-11-311. CDR 0079 It is believed the def committed the crime because the defendant did during the hours of darkness, unlawfully enter the 85 year old victims dwelling and did unlawfully with his penis penetrate the victim's anus, vagina and mouth causing significant injuries to the vict, while threatening and physically assaulting the victim. The def did unlawfully seize the 85 year old vic, took her against her wishes to the bathroom and forced her into the tub to wash her off to get rid of DNA. The def did steal the victim's bed linen, walking cane & clothing she was wearing during the incident. RCSD Lab investigator processed the crime scene and the def's DNA was found around her mouth and on the Life Station alert switch, implicating the defendant. Affiant and others are witness to prove same

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA

County/ Municipality of

Richland Bond Court

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

ARREST WARRANT

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

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

on or about 2/14/2018

defendant Marquillie Rondale Livingston

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

County/ Municipality of Richland Bond Court

) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

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

Sworn to and subscribed before me

on 2/16/2018

[Signature]
Signature of Issuing Judge

(L.S.)

Deirdre L. Simmons

Judge Code: 7302

Judge's Address Post Office Box 192

Columbia, SC 29202-

Judge's Telephone (803)576-3281

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
Aug 21, 2003
S-20-010

CERTIFIED TRUE COPY
OF ORIGINAL FILED
[Signature]
C.C.C. PEG. S.

RICHLAND COUNTY
SOUTH CAROLINA

2018 FEB 14 PM 1:44
JEANETTE M. McBRIDE
C.C.C. & G.S.

RICHLAND COUNTY
FILED



PRID: 49839034 Call #: 001325328

Service: Richland County EMS
Base: HQ
Unit: S248
Shift: C
Vehc. Grid: Jackson Creek
Type of Svc: Scene Unscheduled
Response Code: Lights and Siren
Mode to Ref: Lights / Sirens
Moved Via: Stretcher
Position: Semi-Fowlers
Treated COUNTY
Outcome: RESIDENT,
Transported by EMS
Amb. Transport Code: Initial Trip
Date: February 14, 2018
Team: ALS
Crew 1: Driver/Pilot - Transport
*Lee, Jamell EMT-P
Crew 2: Primary Caregiver - Transport
Major, Brittany EMT-B
* designates an ALS Provider
Mode to Rec: No Lights/Sirens
Moved From: Stretcher
Pt. Condition: Unchanged

* partner that night

Ref Other Type: Residence
Location: 80 BRIGHTON HILL RD
80 Brighton Hill Rd
3312
APT 3312
COLUMBIA, SC 29223
United States

Receiving: Hospital
Palmetto Richland Memorial
Emergency Department
5 Richland Medical Park
Columbia, SC 29203-6863
803-434-1662
Dest. Grid: HQ

Last Name: Henley First: Derothy Middle: M
Address: 80 Brighton Hill Road
Apt 3312
City: Columbia ST: SC Zip: 29223
County: Richland
Country: United States
Citizenship: United States
DOB: SSN:
Age: Unknown Sex: F Weight:
Height:
Subscriber: No

Table with 2 columns: Odometer, Times. Rows include: Ld Miles: 4.3, Received: 05:52, Dispatch: 05:54, EnRoute: 05:58, At Ref: 06:01, Leave Ref: 06:58, At Rec: 07:11, Available: 07:30

Consent Signed: No
PCS / Medical Necessity Signed: No

Billing Information:
None Given

Payment Information: CMS Transport Patient was transported to the nearest facility for care of symptoms, complaints, Reason: or both
Scene Information: Description: PATIENT'S RESIDENCE, First Agency Unit on Scene?: Yes, Patient Belongings: NONE, Other Agencies: Law, Contact w/ Fluids: No, Protective Equip: Eye Protection, Gloves
Chief Complaint (Category: Assault): SEXUAL ASSAULT

Chief Complaint (Category: Assault)																						
Duration: 20 Minutes ALS Assessment: Not Required																						
History of Present Illness																						
85 Y/O FEMALE WAS SEXUALLY ASSAULTED BY A MAN AND WANTS TO BE TRANSPORTED FOR AN EXAM.																						
Medical History	Current Medications	Allergies																				
Obtained From: Patient	None Listed	None Listed																				
Neurological Exam																						
Level of Consciousness: Alert Loss of Consciousness: No		<table style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">Glasgow Coma Scale</td> </tr> <tr> <td style="text-align: center;">E</td> <td style="text-align: center;">V</td> <td style="text-align: center;">M</td> <td style="text-align: center;">Tot</td> </tr> <tr> <td style="text-align: center;">Int: 4</td> <td style="text-align: center;">5</td> <td style="text-align: center;">6</td> <td style="text-align: center;">= 15</td> </tr> </table>	Glasgow Coma Scale		E	V	M	Tot	Int: 4	5	6	= 15										
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E	V		M	Tot																		
Int: 4	5		6	= 15																		
Chemically Paralyzed: No																						
Neuro Comments: WNL																						
Neurological Present: Normal																						
Mental Present: Normal																						
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Pupils		Motor	Sensory																			
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		RL: Normal	Normal																			
Airway	Respiratory																					
Status: Patent	Effort: Normal																					
	Sounds: L: Clear R: Clear																					
	Sounds: EQUAL																					
Cardiovascular																						
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Carotid: Not Checked	Not Checked																					
Radial: Normal	Normal																					
Femoral: Not Checked	Not Checked																					
Dorsalis: Normal	Normal																					
Injury Details																						
Reason for Encounter: Injury/Trauma																						
Drugs/Alcohol?: None																						
Intentional: Yes - Other																						
Work Related: No																						
Injury Cause: Not Applicable																						
Equipment: Not Applicable																						
Initial Physical Findings																						
Assessment	Pregnant: No																					
Skin: Normal																						
Skin Findings:																						
	Tubes/Drains:																					

JSMELL 1/22
TESTIMONY

Impression / Diagnosis	
System:	Global
Symptoms:	Not Applicable
Impression:	Sexual assault / rape

Activity									
Time	H.R.	B.P.	MAP	RA SaO2	Resp	Rhythm	GCS	ECG Method	CRW*
	H.R. Method	Method			Resp Effort				
06:35	70	105 / 60	75	100	16	(REG)	4/5/6		42
		Auto. Cuff			Normal				
<p>ADDS TO FIND AN 85 Y/O FEMALE STANDING IN THE DOORWAY OF HER APARTMENT, P/T STATES THAT SOMEONE BROKE INTO HER APARTMENT AND SEXUALLY ASSAULTED HER WHILE SHE WAS SLEEPING IN HER BED. P/T STATES THAT SHE WAS RAPED BOTH PHYSICALLY AND ORALLY. P/T STATES THAT THE SUSPECT MADE HER GET INTO THE BATH TUB AND WASHED HER OFF BEFORE LEAVING. P/T STATES THAT SHE IS NOT IN ANY PAIN CURRENTLY BUT DOES HAVE A HEADACHE. P/T IS ANO x3 AND HAS PMS IN BOTH UPPER AND LOWER EXTREMITIES, PEARL. EMS LOADED P/T ONTO THE STRETCHER AND INTO THE AMBULANCE. VITALS WERE OBTAINED WHILE EN ROUTE TO RICHLAND ER. GAVE REPORT AND TRANSFERRED CARE OVER TO ER NURSE.</p>									

* Assessment made by
 Response Factors Affecting Care: None
 Scene Factors Affecting Care: None
 Transportation Factors Affecting Care: None

Lee, Jamell: Electronically Signed on 02/15/2018 17:57:50 EST

Major, Brittany: _____

*Coworker
 that night*

STATEMENT

STATE OF SOUTH CAROLINA }
COUNTY OF RICHLAND } WS

DATE: 2/14/18
TIME: 0749 HRS

Personally appeared before me, this date, an officer duly and legally authorized to administer oaths in the above-named county and state aforesaid, comes one: Dorothy Hestley Jones
DOB: _____ Address: Brighton Hill rd Apt
Phone (H) #: _____ Phone (W) #: _____

Who makes the following statement under oath to wit:

Q: Inu Raymond

A: Jones

Q: Can you tell me what happened to you last night and/or this morning?

A: He raped me.

Q: Who is he?

A: A young man. Between 25-30. He was a black male with brown skin, 125 lbs, about 5'5", nice haircut, clean cut. He was wearing a white shirt, black one underneath, light colored jeans. He raped everything down with his shirt. He took everything with him & bathed me.

Q: Where were you when he came inside?

A: In my bedroom.

Q: Did you hear anything?

This statement was made in the presence of Inu. A Raymond of the Richland County Sheriff's Department.

I make this statement of my own free will and accord, without reward or intimidation. All of the above is the truth, the whole truth, and nothing but the truth.

SWORN TO AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 20____

Notary Public for South Carolina

My commission expires: _____

SIGNED: Dorothy Hestley Jones

WITNESS: Inu. A Raymond

WITNESS: [Signature]

180200464793

STATEMENT OF

Dorothy Jones

(CONTINUED)

DATE: 2/11/18 TIME: 0749 hrs

A: Not until he was in my room. I got up to check on Chester & something pushed me & hit me at the same time.

Q: How was he hitting you?

A: With his fists. Everywhere. Choking me.

Q: What happened after he hit you?

A: He started raping me.

Q: Can you describe what the rape was like?

A: He put his dick in my mouth. He made me suck his dick. He raped my butt. He raped me everywhere.

Q: Did he put his dick in your vagina?

A: Yes ma'am. I told you already. He raped me any way he could. In my mouth, my vagina, my butt.

Q: Do you know if he wore a condom?

A: No he wasn't wearing a condom.

Q: Did he ejaculate?

A: I don't know what he did. All I know is he was in my mouth, my butt, my vagina.

I make this statement of my own free will and accord, without reward or intimidation. All of the above is the truth, the whole truth, and nothing but the truth.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS _____ DAY OF _____, 20____.

Notary Public for South Carolina

My commission expires: _____

SIGNED:

Dorothy M. Harvey Jones

WITNESS:

Sh. A. Rayner

WITNESS:

John Scott Hess

1802004614

MS

STATEMENT OF

Dorothy Jones
(CONTINUED)

DATE: 2/14/18 TIME: 0749

Q: Did he have a weapon?

A: I don't remember seeing no knife.

Q: What room in the house did this happen?

A: It was all in the bedroom.

Q: Did he bathe you in your bathroom?

A: Yes.

Q: Do you know how many times he raped you?

A: I sure don't.

Q: Was it one time or more than one time?

A: Lots of times.

Q: Was he saying anything during this?

A: Suck my dick, bitch, shut up bitch. He tried to choke me with his penis.

Q: What areas did he hurt down?

A: My bathroom, my bedroom, the front door knob.

Q: Can you remember anything else?

A: He asked me for money + my cards. He hit me + took my 'S + ID.

Q: Is there anything else you can remember?

A: No.

I make this statement of my own free will and accord, without reward or intimidation. All of the above is the truth, the whole truth, and nothing but the truth.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS _____ DAY OF _____, 20____.

Notary Public for South Carolina

My commission expires: _____

SIGNED

Dorothy Jones

WITNESS:

Sh. A. Meyer

WITNESS:

John Steel

180200461493

Regional Forensic Nurse Examiner Program

Adult/Adolescent Forensic Record

Unit Record: 012980464

Intake Information

Patient Information:

- Name Dorothy M. Henley Soc Security _____
- Age 85 DOB 03/21/1932 Gender F Race African American
- Date of Arrival 02/14/2018 Time of Arrival 07:20 Entry Date 02/14/2018 09:54
- Home address 80 Brighton Hill Road 3312 Apt B Columbia SC 29223 Richland
- Contact information H# 803-665-5780 C# 803-422-0158
- Examining facility: Palmetto Health Richland
- Referred from: _____
- FNE Contacted 02/14/2018 09:54
- Report Received Call received from Dr. Nolting stating pt presented who had been sexually assaulted early this morning and last night by a stranger during a home invasion. Pt medically cleared.
1100-Arrived at PHR, supplies and equipment for exam obtained
1120-Report from Dr. Nolting and primary care RN, Nora
1130-In to meet with pt and granddaughter, POC discussed with verbalized understanding.

Law Enforcement:

N/A Law enforcement not involved at this time per patient request

- Agency: Richland County Sheriff's Department
- Forensic Exam Req.: Yes No If no, describe: _____
- SANE Kit Used: Yes No If no, describe: _____
- Anonymous Report: Yes No
- Reporting Officer: Faust

Case Number 1802004614

Advocacy:

- | NA | Agency | Comments |
|-------------------------------------|---|----------------|
| <input type="checkbox"/> | <u>Sexual Trauma Services of Midlands</u> | <u>Frances</u> |
| <input checked="" type="checkbox"/> | | |
| <input checked="" type="checkbox"/> | | |
| <input checked="" type="checkbox"/> | | |

Medical Clearance by: Dr. Nolting Time: 9:30 AM NA

Persons present during collection of history:

Advocate Family Law Enforcement Only SANE Other

Tashia Geiger (granddaughter) per pt's request Donna DeBrew RN, SANE-A, SANE-P to assist

Persons present during medical exam:

Advocate Family Only SANE Other

Tashia Geiger (granddaughter) per pt's request Donna DeBrew RN, SANE-A, SANE-P to assist

Regional Forensic Nurse Examiner Program

Adult/Adolescent Forensic Record

Unit Record: 012980464

Pertinent Medical History:

Reproductive Status Menarchal

LMP: _____ Normal: Yes No _____ G: 6 P: 6

Tampon use: No Yes last usage? _____

- Any recent (60 days) anal-genital injuries, surgeries, diagnostic procedures or medical treatment that may affect the interpretation of current physical findings Yes No

If yes, describe: _____

- Any other pertinent medical conditions or injuries that may affect the interpretation of current physical findings? Yes No

If yes, describe: "I see my heart doctor (pacemaker) and high blood pressure"

- Physical injuries and/or pain described by patient

"I have a little headache, my butt hurts excuse the expression, my mouth and my neck are sore"

Current medications: None see medical record

Allergies: NKA Tetanus "swells me up"

Pertinent pre and post assault related history:

- | | No | Yes |
|---------------------------------------|-------------------------------------|--------------------------|
| Consensual intercourse within 7 days? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ○ Oral | <input type="checkbox"/> | <input type="checkbox"/> |
| ○ Vaginal | <input type="checkbox"/> | <input type="checkbox"/> |
| ○ Anal | <input type="checkbox"/> | <input type="checkbox"/> |
| If yes, was a condom used? | <input type="checkbox"/> | <input type="checkbox"/> |
| Comments: | | |

Ingestion of alcohol/drugs by patient:

- | | | | | |
|---|-------------------------------------|--------------------------|--------|--------------------------|
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Unsure | <input type="checkbox"/> |
| If yes, <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs Amount: _____ Date: _____ | | | | |
| <input type="checkbox"/> Voluntary <input type="checkbox"/> Forced <input type="checkbox"/> Coerced <input type="checkbox"/> Suspected Time | | | | |

Describe: _____

- Any voluntary use of alcohol 12 hours prior to assault?
- Any voluntary use of drugs 96 hours prior to assault?
- Any voluntary use of alcohol or drugs between time of assault and forensic exam?

Post assault hygiene/activity:

- | | No | Yes | Describe: |
|--------------------------|-------------------------------------|-------------------------------------|---|
| Urinated | <input type="checkbox"/> | <input checked="" type="checkbox"/> | "after I got out the bathtub pee was running down my leg" |
| Defecated | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| Genital or body wipes | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| Douched | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| Removed tampon/diaphragm | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| Brushed teeth | <input type="checkbox"/> | <input checked="" type="checkbox"/> | "I don't remember if he made me,so many things happened" |
| Mouthwash | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| Bath/shower/wash | <input type="checkbox"/> | <input checked="" type="checkbox"/> | see assault history |
| Ate or drank | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |

Regional Forensic Nurse Examiner Program

Adult/Adolescent Forensic Record

Unit Record: 012980464

Post assault hygiene/activity:	No	Yes	Describe:
● Changed clothing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	"he took my clothes, the bed linens, he took my brand new robe, my watch, pillowcases, the towels"
● Smoked	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
● Vomited	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Assault History

Date of Assault: 02/13/2018 -Time of Assault: 22:00:00

Location: "my house"

City: Columbia State: SC

Any Witnesses see the assault? Yes No If yes, identify: _____

History of assault per patient:

"I was getting ready to go to bed, I was going to cut the TV in the living room off and I was on my way to the bedroom and that was at 10:00. He was in my house beating my butt making me lick him and telling me he was going to kill me, choking me he did that about an hour and a half. The telephone was laying there and I called Life Alert, that was around 10:00, he said something, 'every thing is okay that was just a mistake' [referring to the assailant talking to Life Alert operator when they responded] and that's when he took the thing around my neck I don't know what he did with it did he break it or what, that's when he started stomping my butt at least two hours or more. He did everything; he put his ding-a-ling in my mouth, up my butt in my teetee and in my mouth again. He made me suck his prick and I wanted to squeeze his nuts and he took his hands by my head and went boom [pt indicating a closed hand hitting motion towards her head]. I told him get out of here, he said you're not through yet, he wouldn't turn the light on in the bathroom, he made the water [for the bath] and I said that's cold and I said I was going to stand up take a shower and he said no you're going to take a bath and that's when he put me in the bathtub. After the bath, I tried to get up I got the railings on the side and finally I got up and he hit me, but he made sure the shower curtain was in between me and him and my walker was there and he would take his hand and wipe down everything he was touching. Everything he used he carried with him. He went out the door. I called Life Alert again and went to screaming and hollering saying someone raped me and I called Tashia and said someone raped me. Life Alert [one] that called the police. I grabbed this and pulled this off the chair and put this on cuz I didn't want to be naked."

Pt further recalled: "Someone knocked on the door last week and said 'I'm looking for my mother' I never saw out the peep hole because they were off to the side. He knocked again the next morning and did the same thing and I said you knock on my door again I'm going to call the police." Patient's granddaughter Tashia called her Mother (pt's daughter Pam Stackhouse) who was aware this happened to try to figure out the date. Pam had just left visiting the house Saturday February 3rd around approximately 6:00-6:30 and the patient thought it was them coming back for something. and then she called and told Pam what happened.

"We have for Life Alert, he took the doorknob off, he had to use the key to open the lock box, we didn't find the key or the lock box."

Pt reports her son Chester who is 70 and blind and hard of hearing who she cares for full time reported to her "He heard the noise, he heard voices but he thought it was the TV, his room door is always up open but he got up to go to the bathroom and this person went and closed his door as well. There was another elderly lady's lock box in the complex and her lock box was missing, and they replaced it and they fingerprinted the door this morning too, the lady was okay"

During physical exam pt reports: "He pulled my hair oh he pulled my hair, that's why my head hurts"
Pt reports he took also took her cane.

RICHLAND COUNTY SHERIFF'S DEPARTMENT

SUPPLEMENTAL INCIDENT REPORT

AGENCY I.D.
SCOR: 40000

CASE NUMBER

1802004614

NCIC

IND ENTD

- ORIGINAL REPORT SUPPLEMENTAL REPORT INVESTIGATIVE FOLLOW UP
 MODIFIED ORIGINAL CASE STATUS CHANGE

- ADDITIONAL STOLEN PROPERTY
 ADDITIONAL RECOVERED PROPERTY

PAGE 2 OF 3 PAGES

VICT / SUBJ I. D. OVERFLOW

- COMPLAINANT
 VICTIM #
 SUBJECT #
 RUNAWAY
 WANTED
 WARRANT
 ARREST
 JAIL
 SUMMONS

NAME (LAST, FIRST, MIDDLE) **JONES, CHESTER** VICTIM RELATIONSHIP TO SUBJECT: 1 2 3
 RES: J RACE: B SEX: M AGE: 70 DATE OF BIRTH: 10251947 ETH: N

WEIGHT: 510 HEIGHT: 235 HAIR: 1 EYES: 7 FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC

ADDRESS: **80 BRIGHTON HIL RD APT 3312** CITY: **COLUMBIA** STATE: **SC** ZIP CODE: **29223** DAY PHONE: **8036655780** EVENING PHONE:

VISIBLE INJURIES: NO YES COMPLAINT OF NON-VISIBLE INJURIES: NO YES
 EXPLAIN: VICTIM USING ALCOHOL: NO YES UNK TWO-MAN VEHICLE DET./SP/ASMT
 ONE-MAN VEHICLE ALONE
 ASSISTED OTHER

USING ALCOHOL: NO YES DRUGS: NO YES TYPE: UNK
 USING DRUGS: NO YES TYPE: UNK

VICT / SUBJ I. D. OVERFLOW

- COMPLAINANT
 VICTIM #
 SUBJECT #
 RUNAWAY
 WANTED
 WARRANT
 ARREST
 JAIL
 SUMMONS

NAME (LAST, FIRST, MIDDLE) VICTIM RELATIONSHIP TO SUBJECT: 1 2 3
 RES: RACE: SEX: AGE: DATE OF BIRTH: ETH:

HEIGHT: WEIGHT: HAIR: EYES: FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS: CITY: STATE: ZIP CODE: DAY PHONE: EVENING PHONE:

VISIBLE INJURIES: NO YES COMPLAINT OF NON-VISIBLE INJURIES: NO YES
 EXPLAIN: VICTIM USING ALCOHOL: NO YES UNK TWO-MAN VEHICLE DET./SP/ASMT
 ONE-MAN VEHICLE ALONE
 ASSISTED OTHER

USING ALCOHOL: NO YES DRUGS: NO YES TYPE: UNK
 USING DRUGS: NO YES TYPE: UNK

NARRATIVE

I/T: CSA/ BURGLARY
 I/L: 80 BRIGHTON HILL RD APT 3312 (WINDHAM POINT APT)
 JONES STATED HE WOKE UP AROUND 03:30 AM AND NOTICED HIS BEDROOM DOOR TO BE CLOSED BECAUSE WALKED INTO IT AND IT IS ALWAYS OPEN. FAMILY MEMBERS THAT WERE ON SCENE CONFIRMED THAT JONES IS BLIND AND DEAF. JONES STATED HIS BATHROOM LIGHT WAS TURNED OFF BUT HE KEEPS IT ON BECAUSE THAT'S THE ONLY THING HE CAN SEE. JONES STATED BEFORE HE GOT UP TO USE THE BATHROOM, HE HEARD TWO LOUD "BOOMS" BUT DID NOT THINK ANYTHING OF IT. JONES STATED HE WOKE UP WHEN HENLEY CAME INTO HIS ROOM AND HAD HIS LIFE ALERT IN HER HANDS. DUE TO JONES BEING BLIND, I ASKED JONES DID HE SPEAK WITH LIFE ALERT AND HE STATED HE DID NOT. JONES STATED HE DID NOT EVEN HAVE HIS LIFE ALERT BUTTON ON HIM WHILE HE WAS SLEEPING. I WAS ABLE TO OBSERVE HENLEY'S BATHROOM, WHERE I NOTICED A RED SPLATTER ON THE FLOOR AND WHAT APPEARED TO BE BLOOD INSIDE OF THE BATHTUB. DESK SGT WAS NOTIFIED AS WELL AS CID INV. RAYMOND AND CSI INV. SCHROEDER. HENLEY WAS TAKEN TO EMER FOR TREATMENT. INV. SCHROEDER PROCESSED THE SCENE.

APPROX VALUE OF ITEMS TAKEN FROM HENLEY: \$25
 APPROX VALUE OF LIFE ALERT EMERGENCY LOCKBOX: \$300
 APPROX VALUE OF DAMAGES TO HENLEY'S FRONT DOORNOB: \$30

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY					
PROPERTY	STATUS	TYPE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.	2018 FEB 15 SC STATE CASE CALIBER SECURITIES DATE		
	<input type="checkbox"/> STOLEN	<input type="checkbox"/> VEHICLE	SERIAL AND/OR OWNER APPLIED NO.				
	<input type="checkbox"/> RECOVERED	<input type="checkbox"/> GUN	YEAR OF REGISTRATION	YEAR OF EXPIRATION		YEAR	MAKE
	<input type="checkbox"/> FOUND	<input type="checkbox"/> BOAT	MODEL	STYLE		COLOR	BRAND NAME
	<input type="checkbox"/> TOWED	<input type="checkbox"/> LICENSE PLATE	NC. NO.	DENOMINATION		ISSUER	SECURITIES DATE
	<input type="checkbox"/> SUSPECT	<input type="checkbox"/> SECURITIES, STOCKS	MISCELLANEOUS				
	<input type="checkbox"/> VICTIM	<input type="checkbox"/> ARTICLE					
SEIZED		BURNED		DAMAGED			

ADMINISTRATIVE	<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18		<input type="checkbox"/> EX-CLEAR UNDER 18	
	<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER		<input type="checkbox"/> EX-CLEAR 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY					
	S. NO.	REPORTING OFFICER(S)	DATE	S. NO.	APPROVING OFFICER	DATE
1761	West, Lakeisha	02142018				
			FOLLOW UP INVESTIGATION	S. NO.	OFFICER	DATE
			<input type="checkbox"/> YES <input type="checkbox"/> NO			

HENRY D. MCMAS TER
Governor

MARK A. KEEL
Chief

SCSIS
SOUTH CAROLINA
SHERIFFS ASSOCIATION

February 16, 2018

John Barron
Richland County Sheriff's Department
5623 Two Notch Road
Columbia, SC 29223

Dear John Barron,

A search of the State DNA Index System (SDIS) resulted in match # SA000G098859 between specimen number 1802004614-12 (SC0400000) and offender specimen number 5-31238 (SCLED0000)

This report is to inform you of a possible investigative lead related to your specimen. The offender information has been examined and this match has been confirmed. It is recommended that your agency obtain an additional biological specimen from this subject and that this sample be examined in your laboratory.

The Offender information is:

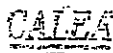
Marquill Livingston aka Marquille Livingston
FBI# 935536NB9
SC SID# SC01326360

If the South Carolina DNA Database Unit can be of any further assistance please call (803) 896-7383.

Sincerely,



Theresa Hines
DNA Database Unit



AN ASCLD/LAB-International ACCREDITED TESTING LABORATORY SINCE 09/19/2014
P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351



Richland County Sheriff's Department
DNA Analysis Section
Forensic Examination Report



S. Faust
Richland County Sheriff's Department

Report Date: 03/06/2018
Case No: 1802 0048 14
Analysis Initiated: 02/15/2018
Analysis Completed: 03/06/2018

INITIAL REPORT

This is an official report of the Richland County Sheriff's Department Forensic Sciences Laboratory. Additional information not included in this report may be found in the case record. Unless otherwise noted, all examinations are conducted at this location. The contents of this report are confidential and may not be reproduced, except in full, without approval of the laboratory.
Sheriff Leon L. Lott, Richland County Sheriff's Department, 5623 Two Notch Road, Columbia, SC 29223
An ASCLD/LAB-International ACCREDITED TESTING LABORATORY (Since September 30, 2008)

Items Received:

12. Swab from "Life Alert" on floor in bedroom
13. Swab from keys on chair in living room
14. Swab from front door (exterior, near broken knob)
15. Swab from "walker" frame and seat
16. Swab from Mr. Jones' bedroom (exterior door handle)
17. Swab from green wallet on chair in living room
18. Swab from R/B stain marker AC
19. Swab from R/B stain marker AD
20. Swab from R/B stain marker AE (soap)
21. Swab from R/B stain marker AF
22. Swab from white shower handle
23. Buccal swab from Chester Jones (E)
24. Sexual Assault Evidence Collection Kit from Dorothy Henley containing the following:
 - Buccal swabs from victim
 - Vaginal swabs
 - Oral swabs
 - Rectal swabs
 - Swab from area around mouth and lips
 - Labia swabs
 - Hair
 - Fingernail scrapings-left hand
 - Fingernail scrapings- right hand
 - Pubic combings.
31. Buccal swabs from Marquille Livingston (S)
32. Buccal swabs from Marquille Livingston (S)

Serology Results:

1. No seminal fluid identified on the vaginal swabs, rectal swabs, oral swabs and swab from area around mouth and lips.
2. Blood indicated on items 18-21.

DNA Examinations:

The extracted DNA from items 12-21, 23, 24 (buccal swabs from victim, swabs from area around mouth and lips, hair, left and right hand fingernail scrapings) and 32 was amplified and typing attempted at genetic loci Amelogenin, D3S1358, D1S1656, D2S441, D10S1248, D13S317, Penta E, D16S539, D18S51, D2S1338; CSF1PO, Penta D, TH01, vWA, D21S11, D7S820, D5S818, TPOX, DYS391, D8S1179, D12S391, D19S433, FGA, and D22S1045 using the Powerplex® Fusion System (Promega Corporation).

The extracted DNA from items 12, 13, 24 (swab from area around mouth and lips) and 31 was amplified and typing attempted at genetic loci DYS456, DYS389I, DYS390, DYS389II, DYS458, DYS19, DYS385, DYS393, DYS391, DYS439, DYS635, DYS392, GATA-H4, DYS437, DYS438, and DYS448 using the AmpFISTR® Yfiler® kit (Applied Biosystems).

No DNA was extracted from item 22.

No male DNA was extracted from item 15 and 24 (vaginal, rectal; labia and oral swabs).

No analysis performed on item 32.

Conclusions, Opinions, and Interpretations:

PCR DNA typing using STR loci and Amelogenin using the Powerplex® Fusion System (Promega Corporation) determined the following:

1. The DNA result from item 12 is a mixture. Neither Dorothy Henley nor Marquille Livingston can be excluded from the mixture. Based on the most recent population data available and the genetic results obtained Dorothy Henley is approximately 38 million times more likely to be included in this DNA result than a random unrelated individual.** Marquille Livingston is approximately 100 million times more likely to be included in this DNA result than a random unrelated individual.**
2. The DNA result from item 24 (swab of area around mouth and lips) is a mixture. Dorothy Henley cannot be excluded from the mixture.* Marquille Livingston cannot be conclusively included or excluded from the mixture.**
3. The DNA result from items 17-21 and 24 (left and right fingernail scrapings) matches the victim.*
4. The DNA result from item 13 is a mixture. The major contributor matches the victim.* Marquille Livingston and Chester Jones are eliminated.
5. The DNA result from 18 is a mixture. The major contributor matches Chester Jones.* The DNA result developed from the minor contributor is too weak for match purposes.
6. The DNA result from 24 (hair) is a mixture. The major contributor matches the victim.* The DNA result developed from the minor contributor is too weak for match purposes.
7. The DNA result from item 14 is a mixture. The victim cannot be eliminated.* Marquille Livingston and Chester Jones are eliminated.

PCR DNA typing of Y-STR loci using the AmpFISTR® Yfiler® kit (Applied Biosystems) determined the following:

1. The Y-STR DNA result from items 12 and 24 (swab of area around mouth and lips) matches Marquille Livingston. The match is approximately 1850 times more likely to occur if Marquille Livingston (or a paternal relative) is the contributor than if the source of the evidence is from a random unrelated individual.
2. The Y-STR DNA result from 13 is a mixture that is too weak for match purposes.

Disposition of Evidence

Items received will be returned to the Evidence and Property Section. The case will be considered closed with these results until additional evidence is submitted and/or requests for analysis are made.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
Appeal from Richland County
Honorable Clifton Newman, Circuit Court Judge

RECEIVED

SEP 02 2020

THE STATE

Respondent, SC Court of Appeals

v.

MARQUILLE RONDALE LIVINGSTON

Appellant,

Affidavit
of
SERVICE

The undersigned hereby certifies that a true copy of Appellants Pro SE Brief on Appeal in above referenced case has been served upon William M. Bitch, Jr, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, This 10th day of August, 2020.

Subscribed and sworn to
before me this 25th day
of August 2020

S/ Marquille R. Livingston

Appellant

Marquille R. Livingston

Lida K. B
Notary Public for South Carolina

My Commission Expires: 6-20-26

TERRI LEWINGSTON
FOR

MARQUILLE LEWINGSTON

RECEIVED
SEP 02 2020
SC Court of Appeals