

200115

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

C. Victor Pyle, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH LIPSEY,

APPELLANT

APPELLATE CASE NO. 2012-207167

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA )  
 ) COURT OF GENERAL SESSIONS  
 COUNTY OF GREENVILLE ) 2010-GS-23-8782; 8783; 9045  
 ) 2011-GS-23-4163  
 )

STATE OF SOUTH CAROLINA )  
 )  
 ) PLAINTIFF)  
 vs. )  
 )  
 KENNETH LIPSEY, JR. )  
 )  
 PATRICK CONNOR )  
 )  
 ) CO-DEFENDANTS)  
 \_\_\_\_\_)

TRANSCRIPT OF RECORD

**ORIGINAL**

January 11, 2012  
 Greenville, South Carolina

B E F O R E:

THE HONORABLE C. VICTOR PYLE, JR., Judge.

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

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 Attorney for the State

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 Attorney for the Defendant Lipsey

LARRY COOKE, ESQ.  
 Attorney for the Defendant Connor

APRIL HERRON  
 Official Court Reporter

» > ○ < «

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1           MR. MOYER: May it please the Court. Your  
2 Honor, the first case for today involve two co-defendants,  
3 Patrick Connor and Kenneth Lipsey. And both have signed  
4 sentencing sheets so I anticipate a plea soon.

5           THE COURT: All right.

6           MR. MOYER: May it please the Court, we'll call  
7 that case first. Patrick Connor and Kenneth Lipsey.

8           THE CLERK: Your Honor, this is case number  
9 2010-GS-23-9055, The State vs. Patrick Bouvier Demetric  
10 Connor, indictment for armed robbery and possession of a  
11 weapon during the commission of a violent crime. He is  
12 pleading to the same. And it is a true bill.

13 2010-GS-23-9063, indictment for armed robbery and  
14 possession of a weapon during the commission of a violent  
15 crime, pleading to the same. It is also a true bill.

16 2010-GS-23-9065, indictment for armed robbery and  
17 possession of a weapon during the commission of a violent  
18 crime, pleading to the same. It is also a true bill.

19           2010-GS-23-8782, Kenneth Lipsey, Jr., indictment  
20 for armed robbery, pleading to the same. It is a true  
21 bill. 2010-GS-23-8783, indictment for armed robbery,  
22 pleading to the same it is a true bill. 2010-GS-23-9045,  
23 indictment for armed robbery, pleading to the same. It is  
24 a true bill. I'm sorry, Your Honor, he's pleading to  
25 armed robbery or armed or allegedly armed with a deadly

1        weapon. I'm sorry, it is a true bill as well.  
2        2011-GS-23-4163, indictment for possession of marijuana  
3        with intent to distribute, pleading to possession with  
4        intent to distribute marijuana, second offense. It is a  
5        true bill as well.

6                    Would you raise your right hand to be sworn in,  
7        please:

8                    (WHEREUPON, the Defendants were sworn.)

9                    THE COURT: All right, you are Patrick Connor?

10                   MR. CONNOR: Yes, sir.

11                   THE COURT: And how old are you, Mr. Connor?

12                   MR. CONNOR: Twenty-three, sir.

13                   THE COURT: And how much education do you have?

14                   MR. CONNOR: Tenth grade level.

15                   THE COURT: So you know how to read and write?

16                   MR. CONNOR: Yes, sir.

17                   THE COURT: And have you ever worked?

18                   MR. CONNOR: Yes, sir. I'm currently working  
19        right now, Your Honor, at Executive Cabinetry.

20                   THE COURT: All right. And Mr. Cooke is your  
21        lawyer?

22                   MR. CONNOR: Yes, sir, Your Honor.

23                   THE COURT: You're Kenneth Lipsey?

24                   MR. LIPSEY: Yes, sir.

25                   THE COURT: How old are you, sir?

1 MR. LIPSEY: Twenty-three.

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

3 MR. LIPSEY: I graduated with a high school  
4 diploma?

5 THE COURT: So you know to read and write?

6 MR. LIPSEY: Yes, sir.

7 THE COURT: Have you ever worked?

8 MR. LIPSEY: Yes, sir, I work at McGee Brothers.

9 THE COURT: All right. And Mr. Farnsworth is  
10 your lawyer?

11 MR. LIPSEY: Yes, sir.

12 THE COURT: Now, have questions I'm going to  
13 direct to both of you at same time and I'll need your  
14 response to them. Have each of you talked to your lawyers  
15 sufficient amount of time to plead guilty?

16 MR. CONNOR: Yes, sir.

17 MR. LIPSEY: Yes, sir.

18 THE COURT: I can't hear you.

19 MR. CONNOR: Yes, sir, Your Honor.

20 MR. LIPSEY: Yes, sir, Your Honor.

21 THE COURT: When you've talked with them have  
22 you understood your talks with them?

23 MR. CONNOR: Yes, sir.

24 MR. LIPSEY: Yes, sir.

25 THE COURT: Have they done everything for you

1 that you've asked them to do?

2 MR. CONNOR: Yes, sir.

3 MR. LIPSEY: Yes, sir.

4 THE COURT: Have they done anything at all that  
5 you don't like?

6 MR. CONNOR: No, sir.

7 MR. LIPSEY: No, sir.

8 THE COURT: Are you fully and completely  
9 satisfied with their services?

10 MR. CONNOR: Yes, sir.

11 MR. LIPSEY: Yes, sir.

12 THE COURT: Either of you have any complaints to  
13 make against your lawyer?

14 MR. CONNOR: No, sir.

15 MR. LIPSEY: No, sir.

16 THE COURT: Now, has any one used any force or  
17 made any threats against you in order to get you to plead  
18 guilty?

19 MR. CONNOR: No, sir.

20 THE COURT: Has anybody promised you a lighter  
21 sentence if you pled guilty?

22 MR. CONNOR: No, sir.

23 MR. LIPSEY: No, sir.

24 THE COURT: Has anybody promised you anything  
25 for pleading guilty?

1 MR. CONNOR: No, sir.

2 MR. LIPSEY: No, sir.

3 THE COURT: Are you pleading guilty voluntarily,  
4 that is of your own freewill?

5 MR. CONNOR: Yes, sir.

6 MR. LIPSEY: Yes, sir.

7 THE COURT: Now you understand the maximum  
8 sentence for armed robbery is up to 30 years in prison?

9 MR. CONNOR: Yes, sir.

10 MR. LIPSEY: Yes, sir.

11 THE COURT: Do you understand that? Five years  
12 for possession of a weapon during the commission of a  
13 violent crime, 10 years for assault and battery, and 10  
14 years for possession of marijuana with intent to  
15 distribute, second offense.

16 MR. CONNOR: Yes, sir.

17 MR. LIPSEY: Yes, sir.

18 THE COURT: Do you understand those maximum  
19 sentences?

20 MR. CONNOR: Yes, sir.

21 MR. LIPSEY: Yes, sir.

22 THE COURT: And you still want to plead guilty?

23 MR. CONNOR: Yes, sir.

24 MR. LIPSEY: Yes, sir.

25 THE COURT: Now you don't have to plead guilty

1 you've got a perfect right to stand trial by jury. Do  
2 each of you know that?

3 MR. CONNOR: Yes, sir.

4 MR. LIPSEY: Yes, sir.

5 THE COURT: You're on the trial docket today for  
6 a jury trial. I understand you're going to give up that  
7 right and plead guilty, is that correct?

8 MR. CONNOR: Yes, sir.

9 MR. LIPSEY: Yes, sir.

10 THE COURT: If you stood trial by jury you would  
11 have no burden whatsoever, you would not have to take the  
12 stand and testify or present evidence because that's your  
13 Constitutional right. The burden would be on the State to  
14 prove you guilty beyond a reasonable doubt. Do you  
15 understand those rights?

16 MR. CONNOR: Yes, sir.

17 MR. LIPSEY: Yes, sir.

18 THE COURT: You give up all those rights when  
19 you plead guilty, is that what you want to do?

20 MR. CONNOR: Yes, sir.

21 MR. LIPSEY: Yes, sir.

22 THE COURT: Are you under the influence of any  
23 alcohol, or any other substance right at this moment?

24 MR. CONNOR: No, sir.

25 MR. LIPSEY: No, sir.

1 THE COURT: You're sober?

2 MR. CONNOR: Yes, sir.

3 MR. LIPSEY: Yes, sir.

4 THE COURT: You know what you're doing?

5 MR. CONNOR: Yes, sir.

6 MR. LIPSEY: Yes, sir.

7 THE COURT: And you want to plead guilty?

8 MR. CONNOR: Yes, sir.

9 MR. LIPSEY: Yes, sir.

10 THE COURT: All right, Solicitor, tell me about  
11 it.

12 MR. MOYER: Thank you, Your Honor, may it please  
13 the Court. The three armed robberies occurred on the  
14 early morning hours of June 29th of 2010 in the space of  
15 about an hour, hour and a half period of time. Somewhere  
16 between about 1:30 and 2:30 in the morning. The testimony  
17 the trial would have consisted of some friends of these  
18 defendants who would say that they were with the  
19 defendants that evening at their trailer in Greenville  
20 County. That about somewhere around one o'clock in the  
21 morning, the defendants borrowed a very distinctive  
22 looking black Honda vehicle from one of their friends,  
23 female friend. They also picked up a pistol and they left  
24 and they came back somewhere around hour, hour and a half,  
25 two hours later. And they had money and they had some

1 cell phones that did not belong to them and also admitted  
2 to committing some robberies.

3           The testimony would be that the defendants first  
4 went to some apartments in Greenville County on Cedar Lane  
5 Road. And they pulled up to the apartments. The  
6 Defendant, Patrick Connor got out of the car, approached  
7 two people who were in the breezeway of the apartment, a  
8 man and woman. The man turned and ran into the apartment  
9 and Patrick Connor robbed the female of her purse  
10 containing her wallet and some other personal items. He  
11 then ran back to the car and the defendants left. And I  
12 would add at this time that the Defendant, Kenneth Lipsey  
13 was the driver for the entire evening and Patrick Connor  
14 is the one who committed the -- actually committed the  
15 robberies.

16           The defendants then went to a residence on Green  
17 Avenue in Greenville County. Where a man had just gotten  
18 off work. He was standing out by his car, listening to  
19 some music before he went to bed. When the black Honda  
20 came up, drove up, stopped. Patrick Connor got out of the  
21 vehicle, approached the victim and robbed him of his of  
22 his wallet, including money that was in the wallet.  
23 During the course of that robbery Patrick Connor actually  
24 punched the victim one time in the face, then he got back  
25 in the car and they drove off again.

1           They then went up to -- to Security Drive in  
2 Greenville where they saw another man and woman standing  
3 out next to a car. They stopped the car, Patrick Connor  
4 again got out, armed with a pistol, approached the male,  
5 robbed him of about \$300 cash that he had. And during the  
6 course of that he punched the man, forced him to get on  
7 the ground and hit him several times with the pistol. He  
8 then went over to where the female was who was seated in  
9 the car and he attempted to rob her as well. She did not  
10 have any money on her. But he grabbed her, got her out of  
11 the car, hit her as well as and knocked her to the ground  
12 and then got back in the car where Kenneth Lipsey then  
13 drove them back to the apartment.

14           The officers were able to identify the vehicle.  
15 Based on that information they were able to identify the  
16 owner of that vehicle. She gave up the information that  
17 these defendants had been using the car that night that  
18 led to the arrest of the defendants the following morning.  
19 They found some of the property in their trailer, a couple  
20 of the cell phones. Kenneth Lipsey gave a statement to  
21 the police admitting his involvement in these three  
22 robberies that day as well as. Your Honor, that  
23 essentially would be the evidence that would come before  
24 the trial.

25           Also, there is a charge against Kenneth Lipsey

1 that was not on the trial docket. That's the PWID  
2 marijuana. And the facts for that case are that on  
3 March 5th, 2011, he was pulled over by police on Woodruff  
4 Road in Greenville. A search of his vehicle resulted in  
5 bag of marijuana being found. The lab weight for that  
6 marijuana was 220 grams.

7 THE COURT: All right, gentleman, you've heard...  
8 the facts related to me on these different occasions, is  
9 that what happened?

10 MR. CONNOR: Yes, sir.

11 MR. LIPSEY: Yes, sir.

12 THE COURT: Mr. Lipsey, the statement you gave  
13 to the police, did you give that to them freely and  
14 voluntarily?

15 MR. LIPSEY: Yes, sir.

16 THE COURT: Did they promise you anything for  
17 giving that statement?

18 MR. LIPSEY: No, sir.

19 THE COURT: And were you under the influence of  
20 any alcohol, drugs or other substance when you gave that  
21 statement?

22 MR. LIPSEY: No, sir.

23 THE COURT: So it was freely and voluntarily  
24 given, is that correct?

25 MR. LIPSEY: Yes, sir.

1           THE COURT: I'll accept the pleas as being  
2 voluntarily made and as having a substantial, factual  
3 basis.

4           Who wants to go first?

5           MR. COOKE: I'll go first. First of all, Judge,  
6 I'd like to point out that no one was hurt in this case.  
7 Nobody was treated, nobody was taken to the hospital.  
8 Just totally out of character for my client. I've kind of  
9 got to know him for the last year. And he's really a  
10 gentle, nice, young guy. Call him June bug. I asked him  
11 the other day how he got that name. He said when he was  
12 young he was always running into the wall and stuff like  
13 that, like a June bug does. So anyhow his family's here,  
14 good people, come from a good background.

15           Judge, he grew up in Greenville. He's 23 years  
16 old. He has -- he has two children and one on the way.  
17 He's working at Executive Cabinets and he is a good  
18 employee. The -- he's really young. I mean, I know that  
19 he's staring at jail time, Judge, no question about that.  
20 He understands that. But he's awful young. And I would  
21 ask the Court to please take that into consideration.  
22 That he's going to have to do 85 percent of whatever you  
23 give him. And that's a long time in prison. I hope that  
24 he'll try to make something out of himself and learn a  
25 trade while he's in prison.

1           Your Honor, the young girl in this case whose  
2 car was used, I don't know that she had any involvement  
3 but whatever it was she got pre-trial intervention. So  
4 that's why she's not up here today. And I believe that  
5 what she told everybody was the truth of the matter. Your  
6 Honor, if you would just consider the minimum sentence in  
7 this case. Taking into consideration that they're going  
8 to have to do 85 percent. The family, everybody is behind  
9 them. I mean, they really -- they really support them.  
10 And they were quite shocked about this as well, Judge.

11           I don't know what makes these young kids, I get  
12 these cases, a lot of them, where the young kids get to  
13 fooling with guns and all of a sudden they feel like Wyatt  
14 Earp. It's just incredible. But this gun did not belong  
15 to my client. He borrowed it from another guy who was  
16 involved in this case. The other guy didn't get charged  
17 with anything. So I just wanted you to know that. It  
18 wasn't a gun that he had, that he planned anything. It's  
19 just that crazy night. And whatever you would do to help  
20 him would be greatly appreciated, Judge. I'm, of course,  
21 court appointed in the case. We worked pretty hard on  
22 this. This file I have here is very thin compared to what  
23 I have in my bag over there. But I've gone over this case  
24 with my client, we went over it yesterday.

25           He said, I through myself at the mercy of the

1 Court and just ask the Judge to be as lenient as possible.  
2 And I am very sorry for what I did.

3 Thank you, Judge.

4 THE COURT: Anything you want to say,  
5 Mr. Connor?

6 MR. CONNOR: Yes, sir. I want to say sorry to  
7 any of the victims. I mean, I wish I could take it all  
8 back. If I had the chance to I would. That would be one  
9 thing in my life that I would take back. Your Honor, I  
10 just -- I just want to get home to my kids. And I don't  
11 want to get a long time away. I know I did the crime. So  
12 I know there's going to be a sentence, Your Honor. So I  
13 just hope you have mercy on me, Your Honor. I'm very  
14 sorry.

15 THE COURT: All right, Mr. Farnsworth.

16 MR. FARNSWORTH: Thank you, Your Honor, may it  
17 please the Court. Your Honor, as the Solicitor said,  
18 Mr. Lipsey admitted to his involvement with the State once  
19 he was arrested. He was the driver in these three  
20 incidents. He has offered to testify all along, Judge.  
21 In fact, we had had scheduled a couple of different times  
22 before this ever got on the plea docket to enter a plea  
23 and defer sentencing. That ended up not happening until  
24 the Solicitor, I think, decided to do these together once  
25 he realized that Mr. Connor was demanding trial initially.

1           Judge, Mr. Lipsey is 23 years old, he's got one  
2 child, one year old child, one on the way. Due in April.  
3 He's been working construction jobs since he got released  
4 from bond about 13 months ago, 12 months ago. He  
5 understands, Judge, he made some very bad decisions that  
6 night. He's has some of a prior record, not that much,  
7 Judge. He's got, I think, a simple assault in his prior  
8 record, a drug possession, marijuana possession and I  
9 think a CDV first charge. But nothing like this, Judge.  
10 And he understands that he's looking at 10 to 30 on this,  
11 Judge. Then up to 10 on the marijuana charge.

12           Judge, I'd ask you to consider the minimum  
13 sentence in this case. I think it's appropriate due to  
14 the fact that he hasn't really been in much trouble before  
15 now. The Solicitor, I think, will acknowledge that my  
16 client is less culpable as not being the one that had the  
17 pistol and assaulted the victims. He does know that he's  
18 just as guilty as Mr. Connor. But I think I would just  
19 ask the Court to consider that. I think with the 10 year  
20 prison sentence, Judge, Mr. Lipsey will definitely be  
21 making better decisions once he's released.

22           THE COURT: All right, Mr. Lipsey, anything you  
23 to want say, sir?

24           MR. LIPSEY: I just want to say I know I did  
25 wrong. I just want to apologize to everyone for putting

1 them through this. I just ask you to be lenient. And I  
2 just want to make it home to my kids in a decent amount of  
3 time.

4 THE COURT: All right, Solicitor, did I miss it  
5 or did you tell me -- I see they were originally charged  
6 with five cases rather than the three. As part of the  
7 deal are you dismissing --

8 MR. MOYER: Well it's actually not part of the  
9 deal, Your Honor, I mean, it's a strategic decision. If  
10 we were going to go to trial today I was just going to go  
11 forward on those three. There were two other incidents  
12 that happened that night. The evidence was not -- I did  
13 not believe was as strong as it was on these three cases.  
14 And so it's not part of a deal, Your Honor, but just a  
15 strategic decision.

16 THE COURT: All right, anything else?

17 MR. COOKE: I forgot to mention, Judge, my  
18 client has no substantial record. He's got a driving  
19 under suspension, I believe, he's got a simple possession  
20 of marijuana, Judge.

21 What was the other one?

22 MR. MOYER: May it please the Court, Your Honor,  
23 their records, Mr. Connor in 2008 was convicted of false  
24 information to police, simple possession of marijuana and  
25 DUS. Mr. Lipsey in 2008 was convicted of possession of

1 controlled substance. In 2010 was convicted of criminal  
2 domestic violence.

3 The -- just want to make a couple other  
4 comments. All the victims, they're five victims total to  
5 these three cases, the victims are all present in the  
6 courtroom. I've been told they do not want to address the  
7 Court. Want to make a couple other comments. There was  
8 mention the girl who owned the car and the guy whose gun  
9 it was, who were not charged in this case. And that's  
10 simply because there was no evidence that we had that  
11 showed that they knew that these defendants were going to  
12 commit armed robberies. With the car or the gun. So  
13 that's the reason for that.

14 Your Honor, there was mention about injuries.  
15 Although it's true no one went to the hospital, two of the  
16 victims did have some cuts and scrapes and bruises. There  
17 were photographs taken which I would just like to show the  
18 Court briefly. Again, medical attention was not required,  
19 they didn't have to go to the hospital. But from being  
20 knocked on to the ground they did have some scrapes and  
21 cuts to their arms and to their knees. Your Honor, the  
22 jail -- both these defendants got out on bond. Mr. Lipsey  
23 was in jail for 182 days. And Mr. Connor was in jail for  
24 121 days before they made bond.

25 THE COURT: A 121 and how much on the other,

1 181?

2 MR. MOYER: Mr. Lipsey was 182. Mr. Connor was  
3 121.

4 MR. FARNSWORTH: Judge, one other thing I'd like  
5 to add as far as that marijuana charge. There were two  
6 other passengers in the car when that car was pulled over.  
7 My client was not the driver, he was the passenger. But he  
8 did admit right away that was his marijuana. He didn't  
9 try to avoid it or deny possession of it.

10 THE COURT: Now these offenses occurred back in  
11 June of 2010?

12 MR. COOKE: Ten.

13 THE COURT: And you both fathered a child since  
14 you got out on bond?

15 MR. CONNOR: Yes, sir.

16 MR. LIPSEY: Yes, sir.

17 MR. COOKE: Judge, my client has been on curfew  
18 and he has not broken it since that day. Judge, he hadn't  
19 had a child since he's been out on bond, no. He has one  
20 on the way but he has not had a child.

21 THE COURT: When was that child conceived? When  
22 is it due?

23 MR. COOKE: Sir?

24 MR. CONNOR: It's in due March, Your Honor.

25 March.

1 THE COURT: Okay. Well it occurred since.

2 MR. CONNOR: Yeah.

3 MR. COOKE: Right, I understand.

4 SENTENCING.

5 THE COURT: All right, gentlemen, on the  
6 indictments for armed robbery, the sentence on each of  
7 those is that you be committed to the Department of  
8 Corrections for a period of 25 years. Those sentences to  
9 run concurrent. On the possession of a weapon during the  
10 commission of a violent crime, five years, concurrent.

11 Mr. Lipsey, on the marijuana charge, five years,  
12 concurrent.

13 Did I cover all them?

14 MR. COOKE: I think that covers it.

15 THE COURT: All right.

16 (WHEREUPON, the proceedings were concluded.)  
17  
18  
19  
20  
21  
22  
23  
24  
25



THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of General Sessions

C. Victor Pyle, Jr., Circuit Court Judge

Case Nos. 2010-GS-23-8782, 2010-GS-23-8783,  
2010-GS-23-9045, 2011-GS-23-4163

The State, ..... Respondent,

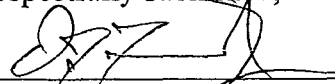
v.

Kenneth Lipsey, Jr., ..... Appellant.

EXPLANATION OF ISSUES FOR REVIEW ON APPEAL

Appellant would seek to address on appeal the length of the sentence imposed, particularly as to the facts relied on by the Court to determine its sentence and whether the Court took into consideration Appellant's role as a potential state's witness as a mitigating circumstance.

Respectfully submitted,



\_\_\_\_\_  
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January 18, 2012

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**WITNESSES**

M. N. Moore

Greenville County Sheriffs Office

3/5/2011

**ARREST WARRANT NUMBER**

1431832

**ACTION OF GRAND JURY**

**TRUE BILL**

*Bobby L. Damm*  
FOREMAN GRAND JURY  
Foreperson of Grand Jury

**VERDICT**

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-23-

LMM

004163

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June

TERM 2011

THE STATE

vs.

KENNETH LIPSEY, JR.

Indictment for

0188

**POSSESSION OF MARIJUANA W/INTENT TO  
DISTRIBUTE**

VIOLATION § 44-53-0370

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

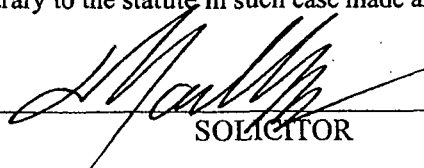
INDICTMENT FOR  
**POSSESSION OF MARIJUANA W/INTENT TO DISTRIBUTE**

At a Court of General Sessions, convened on **JUN 07 2011** the Grand Jurors of Greenville

County present upon their oath:

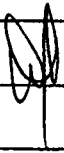
That KENNETH LIPSEY, JR. did in Greenville County, on or about the 7th day of January, 2000, possess with intent to distribute or aid, abet, or conspire to possess with the intent to distribute a quantity of Marijuana, a controlled substance, such possession not having been authorized by law. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

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

  
\_\_\_\_\_  
SOLICITOR

WITNESSES

Alvin King



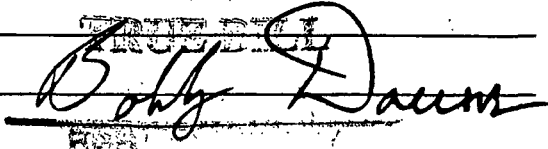
Greenville County Sheriffs Office

6/29/2010

ARREST WARRANT NUMBER

1481021

ACTION OF GRAND JURY



Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-  
LMM

008782

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June

TERM 2010 2011

THE STATE

vs.

KENNETH LIPSEY, JR.

Indictment for

0139

ARMED ROBBERY

VIOLATION § 16-11-0330

RECEIVED

NOV 15 2010

Clerk of Court  
Greenville County

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ARMED ROBBERY

At a Court of General Sessions, convened on **JUN 07 2011** the Grand Jurors of Greenville

County present upon their oath:

That KENNETH LIPSEY, JR. did in Greenville County, on or about the 29th day of June, 2010, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: U. S. Currency from the person or presence of Christopher Williams and/or Shanika Terry. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

WITNESSES

T M Conroy *[Signature]*

Greenville Police Department

7/16/2010

ARREST WARRANT NUMBER

M383470

ACTION OF GRAND JURY

**TRUE BILL**

*[Signature: Bobby Lamm]*

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-  
LMM

008783

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June

TERM ~~2010~~ 2011

THE STATE

vs.

KENNETH LIPSEY, JR.

Indictment for

0139

ARMED ROBBERY

VIOLATION § 16-11-0330

RECEIVED

NOV 15 2010

Clerk of Court  
Greenville County

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ARMED ROBBERY

At a Court of General Sessions, convened on **JUN 07 2011** the Grand Jurors of Greenville  
County present upon their oath:

That KENNETH LIPSEY, JR. did in Greenville County, on or about the 29th day of June, 2010, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: a Cell Phone, U. S. Currency, and/or Wallet and contents from the person or presence of Demarkus Johnson. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

WITNESSES

Michael Jarvis

Greenville County Sheriffs Office

7/2/2010

ARREST WARRANT NUMBER

1481055

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-

LMM

009045

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2010

204

June

THE STATE

vs.

KENNETH LIPSEY, JR

Indictment for

0139

ARMED ROBBERY

VIOLATION § 16-11-0330

RECEIVED

NOV 17 2010

Clerk of Court  
Greenville County

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ARMED ROBBERY

JUN 07 2011


At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That KENNETH LIPSEY, JR. did in Greenville County, on or about the 29th day of June, 2010, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: Cell phones, Purse, U. S. Currency, Credit Cards, and/or Sunglasses from the person or presence of Diana Teutle and/or Danny Galeax. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

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

  
SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.
Kenneth Lipsey Jr

INDICTMENT/CASE#: 2011GS2304163
A/W#: 1431832
Date of Offense: 1/7/2000
S.C. Code § : 44-53-0370(B)(2)
CDR Code #: 0188

AKA:
Race: BLACK Sex: M Age: 23
JOB: SS#
Address:
City, State, Zip: Greenville, SC 29617-2306
DL#: 101008723 SID#:

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Possession with intent to distribute marijuana, 2nd offense

in violation of § 44-53-0370(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0188
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

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

ATTEST: Moyer/Mark SC Bar# 64155 Defendant Kenneth Lipsey Attorney for Defendant SC Bar# 6922

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment
of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, JTAL.

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

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Paul B. Wickens
Court Reporter: Henson
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 2070
Sentence Date: 1-11-2012

STATE OF SOUTH CAROLINA )  
 COUNTY OF Greenville )  
 STATE VS. )  
Kenneth Lipsey Jr )  
 AKA: )  
 Race: BLACK Sex: M Age: 23 )  
 JOB: SS# )  
 Address: )  
 City, State, Zip: Simpsonville, SC 29681 )  
 DL#: 0101008723 SID#: )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS2308782  
 A/W#: I481021  
 Date of Offense: 6/29/2010  
 S.C. Code §: 16-11-0330(A)  
 CDR Code #: 0139

SENTENCE SHEET

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

CONVICTED OF or  PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
 w/minor 1st or Lewd Act)

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

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

ATTEST: [Signature] 69155 [Signature] [Signature] 6922  
 Moyer, Mark SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 25 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
 / the State Department of Corrections. 182 days  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
 Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment  
 Payment Terms: \_\_\_\_\_ Obtain GED   
 Set by SCDPPPS \_\_\_\_\_ Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
to County (if paid in installments)		\$
JTAL		\$

Substance Abuse Counseling   
 Random Drug/Alcohol testing   
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_  
 Appointed PD or appointed other counsel,  
 § 47.12 requires \$500 be paid to Clerk  
 during probation.

Clerk of Court/ Deputy Clerk Paul B. W. Jensen  
 Court Reporter: Henson  
 SCCA/217 (03/2011)

Presiding Judge [Signature]  
 Judge Code: 2000  
 Sentence Date: 1-11-2012

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.
Kenneth Lipsey Jr

INDICTMENT/CASE#: 2010GS2308783
A/W#: M383470
Date of Offense: 6/29/2010
S.C. Code §: 16-11-0330(A)
CDR Code #: 0139

AKA:
Race: BLACK Sex: M Age: 23
JOB: SS#:
Address:
City, State, Zip: Greenville, SC 29611
DL#: SID#:

SENTENCE SHEET

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

CONVICTED OF or PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

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

ATTEST: Moyer, Mark SC Bar# 64155
Defendant Kenneth Lipsey
Attorney for Defendant [Signature] SC Bar# 6922

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment
of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Recipient:

Table with 3 columns: Description, Amount, Total. Rows include § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, to County (if paid in installments), JTAL.

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

Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk Paul Bukkensin
Court Reporter:
SCCA/217 (03/2011)

Presiding Judge C. Vito B. [Signature]
Judge Code: 2070
Sentence Date: 1-11-2012

STATE OF SOUTH CAROLINA )  
 COUNTY OF Greenville )  
 STATE VS. )  
Kenneth Lipsey Jr )  
 AKA: )  
 Race: BLACK Sex: M Age: 23 )  
 JOB: SS# )  
 Address: )  
 City, State, Zip: Simpsonville, SC 29680 )  
 DL#: 0101008723 SID#: )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS2309045  
 A/W#: I481055  
 Date of Offense: 6/29/2010  
 S.C. Code § : 16-11-0330(A)  
 CDR Code #: 0139

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS  
 TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
 w/minor 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.  
 ATTEST: Mark Moyer 64155 Kenneth Lipsey 6922  
 Moyer, Mark SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 25 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
 the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
 Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
to County (if paid in installments)		\$
JTAL		\$

\_\_\_\_\_ days/hours Public Service Employment  
 Obtain GED   
 Attend Voc. Rehab. or Job Corp. \_\_\_\_\_  
 May serve W/E beginning \_\_\_\_\_  
 Substance Abuse Counseling   
 Random Drug/Alcohol testing   
 Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: \_\_\_\_\_  
 Appointed PD or appointed other counsel,  
 § 47.12 requires \$500 be paid to Clerk  
 during probation.

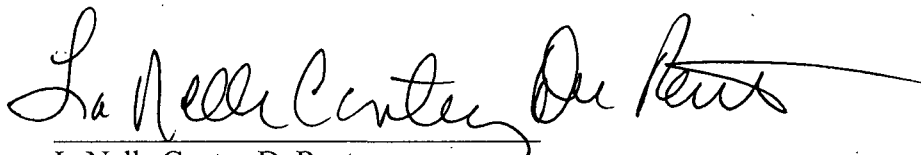
Clerk of Court/ Deputy Clerk Paul Wickensimer  
 Court Reporter: Heron  
 SCCA/217 (03/2011)

Presiding Judge [Signature]  
 Judge Code: 2020  
 Sentence Date: 1-11-2012

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 12th, 2012



LaNelle Cantey DuRant  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

**ORIGINAL**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

C. Victor Pyle, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

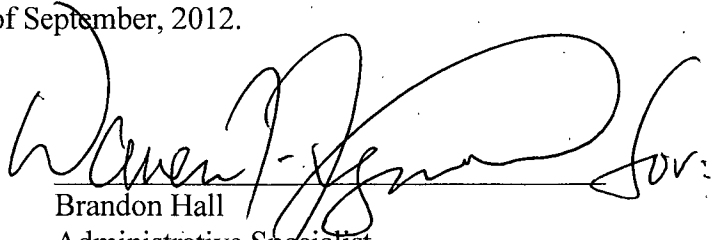
KENNETH LIPSEY,

APPELLANT

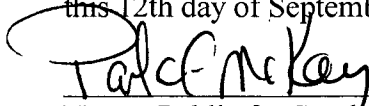
APPELLATE CASE NO. 2012-207167

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of September, 2012.

  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 12th day of September, 2012.

  
\_\_\_\_\_  
Notary Public for South Carolina (L.S.)

My Commission Expires: July 24, 2022.