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APR 25 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM HORRY COUNTY
Court of General Sessions
Larry B. Hyman, Circuit Court Judge

CASE NO: 2013-GS26-00469

The State, Respondent,

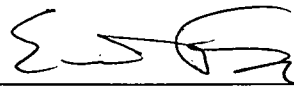
v.

John Smith, Appellant.

NOTICE OF APPEAL

John Smith, appeals the conviction and sentence in this case. The sentence was imposed by the Honorable Larry B. Hyman, on April 18, 2013.

April 22, 2013



Eric Fox
Public Defender
Horry County Public Defender Office
Post Office Box 1666
Conway, SC 29528
843-915-5385
Attorney for Appellant

Other Counsel of Record

George DeBusk
Solicitor
Post Office Box 1276
Conway, SC 29528
843-915-5460
Attorney for Respondent

FILED
HORRY COUNTY
2013 APR 22 PM 3:55
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CLERK OF COURT

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CLERK OF COURT
HORRY COUNTY

STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM HORRY COUNTY
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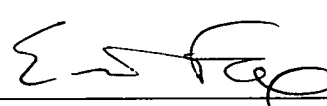
John Smith , Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina by depositing a copy of the Notice in the United States Mail, postage prepaid, on April 22, 2013, addressed to the attorney of record:

George DeBusk
Solicitor
Post Office Box 1276
Conway, South Carolina, 29528
Attorney For Respondent

April 22, 2013



Eric Fox
Public Defender
Horry County Public Defender Office
Post Office Box 1666
Conway, SC 29528
843-915-5385
Attorney for Appellant

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CLERK OF COURT
HORRY COUNTY

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APR 25 2013

SC Court of Appeals

EF

COUNTY OF Horry
STATE VS.

John Henry Smith

AKA: _____

Race: _____ Sex: M Age: 54

DOB: 08-23-1958 SS#: 250-02-3087

Address: 67 Julian Rutledge Dr

City, State, Zip: Pawleys Island, SC 29585-6021

DL#: 004937519 SID#: _____

*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 (10-30 years)

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] SCB16182
Debusk, George H. 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 by 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 § 25-11-10

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

SPECIAL CONDITIONS:
 RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service/ Employment
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	\$ 100.00
§ 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	\$ 25.00
§ 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	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL		\$ 133.90

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 \$ 25.00 beginning 3/18/2013
\$ _____ paid to Public Defender Fund
Other: _____
 Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

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Horry County
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Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (03/2011)

Melanie Higgins Ward
Henry Young

Residing Judge
Judge Code: 2152
Sentence Date: 4-18-13

WITNESSES

Christopher Wayne Johnson Conway Police
Department

ARREST WARRANT NUMBER

I219109
CDR: 0139 16-11-0330(A)
DOA: 12/12/2011

ACTION OF GRAND JURY

TRUE BILL

Brandon Leach
Foreperson of Grand Jury
Date: FEB 23 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-26-00469

FILED
HORRY COUNTY
The State of South Carolina
2013 APR 22 PM 3:55
County of Horry

George H. Debusk
MELANIE HUGGINS-WARD
CLERK OF COURT 11H05265

COURT OF GENERAL SESSIONS

February, 2012 TERM

THE STATE

vs.

John Henry Smith
/ M
67 Julian Rutledge Dr
Pawleys Island, SC 29585-6021
DOB: 1958-08-23
SSN: 250023087

ATTORNEY: Hazzard, Ronald W.

Indictment for

Armed Robbery

J. Gregory Hembree, Solicitor

ORIGINAL

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Melanie Huggins-Ward
CLERK OF COURT
HORRY COUNTY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on February 23, 2012, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That John Henry Smith did in Horry County on or about December 12, 2011, while armed with a deadly weapon or while alleging by action or words he was armed, to wit: defendant advised the clerk that he had a gun, take and carry away personal property of Walgreens from or in the immediate presence of Walgreens with intent to deprive Walgreens of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. 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.

J. Gregory Healy
J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

MELANIE HUGGINS-WARD
CLERK OF COURT

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HORRY COUNTY

Melanie Huggins-Ward
CLERK OF COURT
HORRY COUNTY

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ARREST WARRANT

I-219109

STATE OF SOUTH CAROLINA

County/ Municipality of

Conway

THE STATE 2011022344

against

John Henry Smith

Address: 67 Julian Rutledge Dr

Pawleys Island, SC 29585-6021

Phone: _____ SSN: 250-02-3087

Sex: M Race: _____ Height: 5 11 Weight: 225

DL State: SC DL #: 004937519

DOB: 8/23/1958 Agency ORI #: SC0260200

Prosecuting Agency: Conway Police Department

Prosecuting Officer: Tyrone Williams - 0125

Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Offense Code: 0139

Code/Ordinance Sec: 16-11-0330(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 John Smith

on 12-12-11

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

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ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Conway

Personally appeared before me the affiant Tyrone Williams who

being duly sworn deposes and says that defendant John Henry Smith

did within this county and state on or about 12/12/2011 violate the criminal laws of the

State of South Carolina (or ordinance of Horry County) Municipality of Conway

in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon
CLERK OF COURT Horry County

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 THE ABOVE DATE AT WALGREENS IN THE CITY OF CONWAY THE DEFENDANT DID ADVISE THE CLERK THAT HE HAD A GUN AND DID DEMAND THE MONEY FROM THE REGISTER. THAT THE DEFENDANT DID TAKE STEAL AND CARRY AWAY \$60.00 IN CASH. THAT THE ACTS OF THE ACCUSED CONSTITUTE THE OFFENSE OF ARMED ROBBERY.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Conway

Affiant's Address 200 Laurel Street

Conway 29526-

Affiant's Telephone

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 12/12/2011 defendant John Henry Smith

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

County/ Municipality of Conway) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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 12/12/2011

Signature of Issuing Judge Jane A. Mackey

Judge Code: 6184

Judge's Address Post Office Box 1428

Conway, SC 29528-1428

Judge's Telephone (843)248-1765

Issuing Court: Magistrate Municipal Circuit

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MELANIE HURD
CLERK OF COURT
Horry County

AFFIDAVIT

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

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
STATE OF SOUTH CAROLINA)
V.)
JOHN SMITH)
DEFENDANT)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT
NOTICE OF SUBSTITUTION
OF COUNSEL
PUBLIC DEFENDER TO PUBLIC DEFENDER
NEW ATTORNEY: ERIC FOX

File No. 26A12-00000017
S.S. No. 250-02-3087

To: Court of General Sessions of the Fifteenth Judicial Circuit
Office of the Solicitor
Appointed Counsel
Defendant

Please be advised that RONALD HAZZARD, Public Defender for the above named defendant in the above-captioned matter has been replaced by Eric Fox, Public Defender:

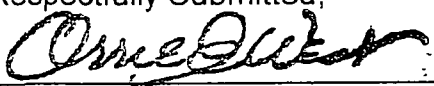
ERIC FOX
203 Laurel Street
P.O. Box 1666
Conway, SC 29526
Phone: 843-915-5385
Fax: 843-915-6385

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HORRY COUNTY
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CLERK OF COURT

On the offense(s) listed below:

I-219109 Robbery / Armed Robbery, robbery while armed with a deadly weapon

Conway, South Carolina
April 25, 2012

Respectfully Submitted,

ORRIE E. WEST
CHIEF PUBLIC DEFENDER
203 Laurel St.
P.O. Box 1666
Conway, South Carolina 29526

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CLERK OF COURT
HORRY COUNTY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSION
COUNTY OF HORRY) OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA) NOTICE AND MOTION FOR PRODUCTION
OF SPECIFIC EVIDENCE AND

-VS-) DISCLOSURE OF WITNESSES

JOHN SMITH)
DEFENDANT)

FILE NO: 26A12-00000017

SSN: 250-02-3087

TO: SOLICITOR FOR THE FIFTEENTH JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that unless the prosecution responds to the Defendant's request for disclosure within 30 days, or within such time as may be ordered by the Court, Counsel for the Defendant will move this Court for an Order compelling that the State:

1. Make available for Defendant any and all written and oral statements of the Defendant which are, or may come to be, in the possession of the State;
2. Make available for purposes of inspection, and copying, any and all police reports relating to the investigation and circumstances surrounding the crime which the Defendant is charged with, including any and all statements taken from witnesses and the Defendant.
3. Make available to the Defendant all tangible objects obtained during the investigation of this case, including, but not limited to:
 - (a) All tangible objects obtained from the scene of the crime; and
 - (b) All tangible objects obtained from the State's witnesses in this case
 - (c) All tangible objects the State intends to introduce into evidence at Trial which are relevant to the offense charged.
4. Make available any witnesses known to the State who have knowledge of facts which might be favorable to the Defendant.
5. Make available any promises made or actions taken by the State which caused or might have caused any witnesses for the State to testify on behalf of the State.
6. Make available any inconsistent statements made by witnesses for the State or any statements made by witnesses for the State which tend to exculpate the Defendants or to negate participation by the Defendants in the alleged crime.
7. Make available to the Defendant all results of laboratory tests, scientific tests, or physical examinations conducted in connection with this case, including but not limited to:
 - (a) Analysis of handwriting
 - (b) Photographs secured of the scene of the crime
 - (c) Comparison of fingerprints

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8. Make available any facts which tend to exculpate the Defendant.
9. Make available any and all scientific or medical, psychiatric, legal or other information, reports or records which might tend to reflect on the credibility or competence of any of prospective witnesses for the State.
10. Make available to the Defendant the names and addresses of all persons who have knowledge of this case or who have been interviewed by the investigating officers in connection with this case.
11. Make available to the Defendant, the SLED, FBI, and local arrest and conviction records of all persons, including the Defendant, named in connection with this proceeding.
12. Make any chemist, analyst, and all persons within the chain of custody appear in Court for the purpose of personally testifying. Attorney for the Defense thus objects to the introduction of any chemist's or analyst's report pursuant to Rule 6, S.C. Rules of Criminal Procedure.

This information is requested pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure. This information is further requested pursuant to Brady vs Maryland, 373 U.S. 383, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963), U.S. vs Agurs, 427 U.S. 97, 49 L Ed 2nd 342, 96 S. Ct. 2392 1976, State vs Mixon 274 S.E. 2nd 406 (1981). Further this information is requested on the grounds that it is essential to insure the Defendant's right to a fair trial, right to confrontation of witnesses, the right to effective Counsel and due process of law guaranteed by the South Carolina Constitution, and the United States Constitution.

WHEREFORE, Defendant prays:

- (a) That the Solicitor be Ordered to produce all information described herein and allow the Defendant the right to examine, inspect, copy and photograph such materials and information at a specific time and place to be fixed by the Court.
- (b) That the information be provided no later than 30 days from the date of this request as reflected by the Clerk of Court's time-stamp appearing on the face of this Document.
- (c) That the Court enter an Order requiring the Solicitor's Office to make continuing disclosure of all matters requested herein up to and during the Trial of the charges against the Defendant.

RESPECTFULLY SUBMITTED,



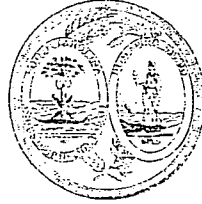
ORRIE E. WEST
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

DATED: January 6, 2012
CONWAY, SOUTH CAROLINA

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State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit



Scott R. Hixson
Chief Deputy Solicitor

REPLY TO

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

Alicia A. Richardson
Deputy Solicitor

REPLY TO

P.O. BOX 1688
GEORGETOWN, SC 29442
843-545-3169
FAX: 843-545-3268

JIMMY A. RICHARDSON, II
Solicitor

April 18, 2013

Officer Christopher Johnson
Conway Police Department
200 Laurel Street
Conway, SC 29526

RE: STATE V. JOHN HENRY SMITH
CASE NO: 2011023346

Dear Officer Johnson:

Please be advised that on April 18, 2013, the Defendant above referenced was tried before Circuit Court Judge Larry Hyman and was found Guilty and sentenced to 25 years on the following charge(s):

I219109 Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

On behalf of the Fifteenth Circuit Solicitor's Office and the citizens of Conway County, I want to thank you for your part in bringing this defendant to justice.

Please contact me at (843) 915-8641 if I can answer any questions about this case or otherwise be of service.

Sincerely,

George H. Debusk
Senior Assistant Solicitor

cc: J. Eric Fox, Esquire
11H05265

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HORRY COUNTY
M. Huggins-Ward

The mission of the Fifteenth Circuit Solicitor's Office is to uphold the public's trust in the pursuit of justice and enforcement of the law.

Fifteenth Circuit Public Defender

HORRY & GEORGETOWN COUNTIES

HORRY

Edward "Ed" Chrisco
CHIEF PUBLIC DEFENDER
203 LAUREL STREET
P.O. BOX 1666
CONWAY, SC 29526



Orrie E. West
CIRCUIT PUBLIC DEFENDER

TEL: 843-915-5385
FAX: 843-915-6385

WWW.HGCDEFENDER.ORG

GEORGETOWN
Ronald Hazzard
SENIOR TRIAL ATTORNEY
401 CLELAND STREET
P.O. BOX 2898
GEORGETOWN, SC 29440

TEL: 843-545-3671
FAX: 843-545-3673

APRIL 22, 2013

The Honorable Jeanette Barber
Clerk of the South Carolina Court Of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: STATE OF SOUTH CAROLINA VS. JOHN SMITH
CASE NO: 2013-GS26-00469

Dear Ms. Barber:

Enclosed for filing is a Notice of Appeal in the above criminal case. Also enclosed are the following:

1. Proof of Service of the Notice of Appeal on the Respondent.
2. A copy of the Order(s)/ Sentence Sheet(s) which is/are to be challenged on appeal.
3. Self-addressed stamped envelope

I would appreciate your filing the Notice of Appeal, as well as the Proof of Service, and returning to me the date-stamped copies in the enclosed self addressed envelope.

If you have any questions concerning this matter please contact me.

Sincerely,

Eric Fox
Horry County Public Defender
Post Office Box 1666
Conway, South Carolina, 29528
Phone: 843-915-5385

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SC Court of Appeals



PUBLIC DEFENDER OF HORRY COUNTY
203 LAUREL ST.
CONWAY, SC 29526

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APR 25 2013

SC Court of Appeals

The Honorable Jeanette Barber

Clerk of the South Carolina Court Of Appels

Post Office Box 11629

Columbia, South Carolina 29211