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MARISSA COHEN
2394 BROWNSFERRY RD.
GEORGETOWN S. C. 29440

Jimmy RICHARDSON
REMBERT DENNIS
MILK HALEY

APRIL 18TH 2016

TO WHOM THIS MAY CONCERN,

ON AUGUST 5TH 2015 I WAS PRESENTED WITH A WARRANT OF A & B 1ST DEGREE. ON JANUARY 7TH 2016 I WAS SERVED AN INDICTMENT OF THREATENING A STATE'S WITNESS. THE WARRANT DOES NOT MATCH THE INDICTMENT. ON DECEMBER 14TH I RECEIVED A LETTER STATING THAT THE STATE INTENTIONS IS TO DISMISS THE A & B 1ST DEGREE WRONG CHARGE, BUT HAVEN'T BEEN DISMISSED AS OF YET. THIS WARRANT GOES INTO GREAT DETAILS ABOUT AN ALLEGED TELEPHONE CALL. MY MOTION WAS FILED OCT 26TH 2015 FOR SPECIFIC EVIDENCE AND DISCLOSURE OF WITNESSES. IT ALSO READS IF NOT INDICTED AND TRIED THE SECOND TERM AFTER MY COMMITMENT HE/SHE SHALL BE DISCHARGED FROM HIS IMPRISONMENT. UNDER MY FIFTH AND EIGHTH AMENDMENT I QUESTION THE CODE OF WHICH I'M CHARGED UNDER. 16-03-0600 (C)(1)

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(2)

I ASK THAT YOU LOOK INTO THIS,

THANK YOU

Mariesa Cohen

2015A2220100057

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Georgetown

15052030

THE STATE
against

Marissa Cohen

Address: 10 James Dr

Andrews, SC 29510-3134

Phone: (843)461-5398 SSN: 210-34-8703

Sex: F Race: B Height: 5 5 Weight: 150

DL State: SC DL #: 101043735

DOB: 7/27/1974 Agency ORI #: SC0220100

Prosecuting Agency: Andrews Police Department

Prosecuting Officer: A. Dunmore - 1009

Offense: Assault / Assault & Battery 1st degree

Offense Code: 3412

Code/Ordinance Sec: 16-03-0600(C)(1)

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 Marissa Cohen

on 8-5-2015

Signature of Sheriff/Law Enforcement Officer

Signature of Sheriff/Law Enforcement Officer

Signature of Sheriff/Law Enforcement Officer

Signature of Sheriff/Law Enforcement Officer

Signature of Sheriff/Law Enforcement Officer

Signature of Sheriff/Law Enforcement Officer

Signature of Sheriff/Law Enforcement Officer

Signature of Sheriff/Law Enforcement Officer

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Signature of Sheriff/Law Enforcement Officer

Signature of Sheriff/Law Enforcement Officer

Signature of Sheriff/Law Enforcement Officer

ORIGINAL

ORIGINAL

AFFIDAVIT

County/ ☒ Municipality of

Georgetown

Personally appeared before me the affiant A. Dunmore

being duly sworn deposes and says that defendant Marissa Cohen

did within this county and state on or about 5/6/2015

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Georgetown)

In the following particulars:

DESCRIPTION OF OFFENSE: Assault / Assault & Battery 1st 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 May 6, 2015 officer tucker met with the defendant Juanita Marie McCollough at the Andrews Police Dept., in reference to verbal threats. Ms. McCollough stated that at approximately 0100 hrs she received a telephone call from Marissa Cohens. Ms. Cohens began asking questions about the shooting death of her brother, and how she felt about it. Ms. Cohen also stated to Ms. McCollough that when and wherever she saw her she was going to kill her. Then she hung the phone up. This being against the peace and dignity of the state of south Carolina and a violation of SC code of Laws. 16-03-0600(C)(1).

Officer A. Dunmore

Case # 15052030

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Georgetown

Affiant's Address

P O Box 378

Andrews, SC 29510-

Affiant's Telephone (843)264-5223

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 5/6/2015

defendant Marissa Cohen

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

County/ ☒ Municipality of Georgetown

) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Assault & Battery 1st 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 5/6/2015

Signature of Issuing Judge (L.S.)

Signature of Issuing Judge

Jac Lester Pyatt

Judge Code: 6681

Judge's Address

110 North Morgan Ave.

Andrews, SC 29510-1223

Judge's Telephone (843)264-8222

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

Code of Laws of South Carolina 1976 Annotated
Title 16. Crimes and Offenses
Chapter 3. Offenses Against the Person
Article 7. Assault and Criminal Sexual Conduct (Rele & Aunos)

Code 1976 § 16-3-600
§ 16-3-600. Assault and battery.

Effective: June 7, 2011

Corrections

(A) For purposes of this section:

(1) "Great bodily injury" means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(2) "Moderate bodily injury" means physical injury requiring treatment to an organ system of the body other than the skin, muscles, and connective tissues of the body, except when there is penetration of the skin, muscles, and connective tissues that require surgical repair of a complex nature or when treatment of the injuries requires the use of regional or general anesthesia.

(3) "Private parts" means the genital area or buttocks of a male or female or the breasts of a female.

(B)(1) A person commits the offense of assault and battery of a high and aggravated nature if the person unlawfully injures another person, and:

(a) great bodily injury to another person results; or

(b) the act is accomplished by means likely to produce death or great bodily injury.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than twenty years.

(3) Assault and battery of a high and aggravated nature is a lesser-included offense of attempted murder, as defined in Section 16-3-29.

(C)(1) A person commits the offense of assault and battery in the first degree if the person unlawfully:

(a) injures another person, and the act:

(i) involves nonconsensual touching of the private parts of a person, either under or above clothing, with lewd and lascivious intent; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft; or

(b) offers or attempts to injure another person with the present ability to do so, and the act:

(i) is accomplished by means likely to produce death or great bodily injury, or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than ten years.

(3) Assault and battery in the first degree is a lesser-included offense of assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16-3-29.

(D)(1) A person commits the offense of assault and battery in the second degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so, and:

(a) moderate bodily injury to another person results or moderate bodily injury to another person could have resulted; or

(b) the act involves the nonconsensual touching of the private parts of a person, either under or above clothing.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than two thousand five hundred dollars, or imprisoned for not more than three years, or both.

(3) Assault and battery in the second degree is a lesser-included offense of assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16-3-29

(B)(1) A person commits the offense of assault and battery in the third degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars, or imprisoned for not more than thirty days, or both.

(3) Assault and battery in the third degree is a lesser-included offense of assault and battery in the second degree, as defined in subsection (D)(1), assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16-3-29.

Credits

HISTORY: 2010 Act No. 273, § 6.B, eff. June 2, 2010; 2011 Act No. 39, §§ 1, 2, eff. June 7, 2011.

Notes of Decisions (11)

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Code 1976 § 16-3-600, SC ST § 16-3-600
Current through End of 2014 Reg. Sess.

End of Document

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Notes Of Decisions (11)

In general

First-degree assault and battery based on attempt to injure another person in manner likely to produce death or great bodily injury was lesser included offense of attempted murder with respect to one of two victims who suffered no injury. *State v. Middleton* (S.C. 2014) 407 S.C. 312, 755 S.E.2d 432, rehearing denied, petition for certiorari filed. 2014 WL 3107933. Indictment and Information 191(4)

Circumstances that give rise to assault and battery of a high and aggravated nature (ABHAN) may also give rise to an inference of malice, and a defendant may thus be convicted of ABHAN regardless of whether malice is present. *State v. Dennis* (S.C.App. 2013) 402 S.C. 827, 742 S.E.2d 21. Assault and Battery 54

Element that distinguishes assault and battery with intent to kill (ABWIK) from assault and battery of a high and aggravated nature (ABHAN) is not malice but an intent to kill. *State v. Dennis* (S.C.App. 2013) 402 S.C. 827, 742 S.E.2d 21. Assault and Battery 54 Homicide 727 Homicide 728

Assault and battery with intent to kill (ABWIK) is an unlawful act of a violent nature to the person of another with malice aforethought, either express or implied, and comprises all the elements of murder except the death of the victim. *State v. Dennis* (S.C.App. 2013) 402 S.C. 827, 742 S.E.2d 21. Homicide 728

Under the common law, assault and battery of a high and aggravated nature (ABHAN) requires an unlawful act of violent injury accompanied by circumstances of aggravation, which may include the use of a deadly weapon, the infliction of serious bodily injury, or the intent to commit a felony. *State v. Dennis* (S.C.App. 2013) 402 S.C. 827, 742 S.E.2d 21. Assault and Battery 54

Constitutional issues

Defendant was not prejudiced by counsel's failure to adequately investigate or present evidence regarding defendant's mental health issues at trial on charges of assault and battery with intent to kill and assault and battery of a high and aggravated nature, as required to support a claim of ineffective assistance of counsel, where such evidence was inadmissible under South Carolina law. *Goin v. Warden, Perry Correctional Inst.* (C.A.4 (S.C.) 2014) 2014 WL 2748471. Criminal Law 1861 Criminal Law 1922

Collateral consequences

South Carolina offense of common law assault and battery of a high and aggravated nature did not pose the serious potential risk of physical injury required to come within the residual clause of the Armed Career Criminal Act (ACCA), and thus was not categorically an ACCA "violent felony"; first element of the offense, a violent injury, could be satisfied in absence of actual bodily harm, and second element, the presence of aggravating circumstances, could be satisfied simply by showing, for example, a disparity in age. *U.S. v. Hemingway* (C.A.4 (S.C.) 2013) 734 F.3d 323. Sentencing and Punishment 1285

Under South Carolina law, defendant's prior conviction for assault and battery of a high and aggravated nature (ABHAN) qualified as a crime of violence under the modified categorical approach of the sentencing guidelines, and he was therefore a career offender for purposes of sentencing following his conviction for conspiracy to possess with intent to distribute and distribute heroin, and possession with intent to distribute and distribution of heroin. *U.S. v. Johnson* (C.A.4 (S.C.) 2013) 508 Fed.Appx. 277, 2013 WL 440989. Unreported. Sentencing and Punishment 1283

Admissibility of evidence

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Defendant waived his right to counsel following arraignment, at which he requested appointment of counsel, by signing Miranda waiver prior to giving statement during police-initiated interview, such that interview did not violate defendant's right to counsel and statement was admissible at trial for assault and battery of a high and aggravated nature, armed robbery, possessing a firearm during the commission of a violent crime, and criminal conspiracy, absent allegations that defendant requested that his counsel be present or that his waiver was otherwise not knowing and voluntary. State v. Reid (S.C. 2014) 408 S.C. 481, 758 S.E.2d 904, rehearing denied. Criminal Law 1752

Instructions

Trial court's error in refusing to instruct on first-degree assault and battery as lesser included offense of attempted murder as to victim who did not suffer any injury was harmless beyond reasonable doubt, in view of evidence that defendant drove his moped up to vehicle occupied by driver and passenger, pulled out gun, began shooting through passenger window, and fired his weapon at least five times, and passenger's testimony that only reason he was not killed was because he had wherewithal to jump into driver's seat and drive defendant off road. State v. Middleton (S.C. 2014) 407 S.C. 312, 755 S.E.2d 432, rehearing denied, petition for certiorari filed WL 3107833. Criminal Law 1173.2(4)

Sentence and punishment

The rule of lenity, under which a defendant is sentenced to the lesser of two offenses for which he was found guilty, did not apply to defendant convicted of simple assault of victim one, and assault of a high and aggravated nature of victim two, where the trial court was not construing a penal statute in sentencing defendant. State v. Samuels (S.C. 2013) 403 S.C. 551, 743 S.E.2d 773. Sentencing and Punishment 11



BURROUGHS LAW FIRM

Family-Criminal-Personal Injury

December 08, 2015

Post Office Box 4510

Pawleys Island, SC 29585

lmburroughs@aol.com

Tel: 843.235.8898 Fax: 843.235.8896

Marissa Cohen, INM 311
Georgetown County Detention Center
234 Brown's Ferry Road
Georgetown, SC 29440

Re: State v. Marissa Cohen

Dear Ms. Cohen:

I was informed on Friday that you would have a hearing on Monday, December 07, 2015 concerning the charge for which I am representing you. I traveled to the Jail to try to speak with you on Monday morning, before your hearing on Monday afternoon but they had already taken you to the Courthouse. They were informed that you were not able to walk up the steps to the courtroom and that the elevators were out of order. I asked them to bring you up a different set of elevators and was told that they could not do that. I had other clients in court yesterday and when I finished with them, I was told that you were taken back to the Detention Center.

The reason for your hearing yesterday was in response to my questioning the code that you were charged with violating. The Solicitor agreed that A&B was not the correct charge and then directly indicted you with Threatening a State Witness and the Grand Jury agreed and indicted you for this charge, also. I asked about the A&B Charge and told her that we wanted it dismissed and it is her intention to dismiss the A&B charge. The hearing yesterday was to serve you with the indictment of the new charge and to set the bond for this new charge. Because of your inability to maneuver the stairs, your hearing has been continued until after the first of the year. I was told by the Solicitor that there were no more court dates available for the year, for the personal service of the new charge.

I am in Court in Conway today, and Wednesday and Thursday. Due to all of these hearings, I will have very limited hours in my office this week but I am working to get your discovery. My office will close part Wednesday for a Christmas vacation and I have an Order from the Judge granting my vacation from December 10 through January 03, 2016. I will be out of town and will not be in the office at all. There are no court hearings during this time in Horry and Georgetown counties.

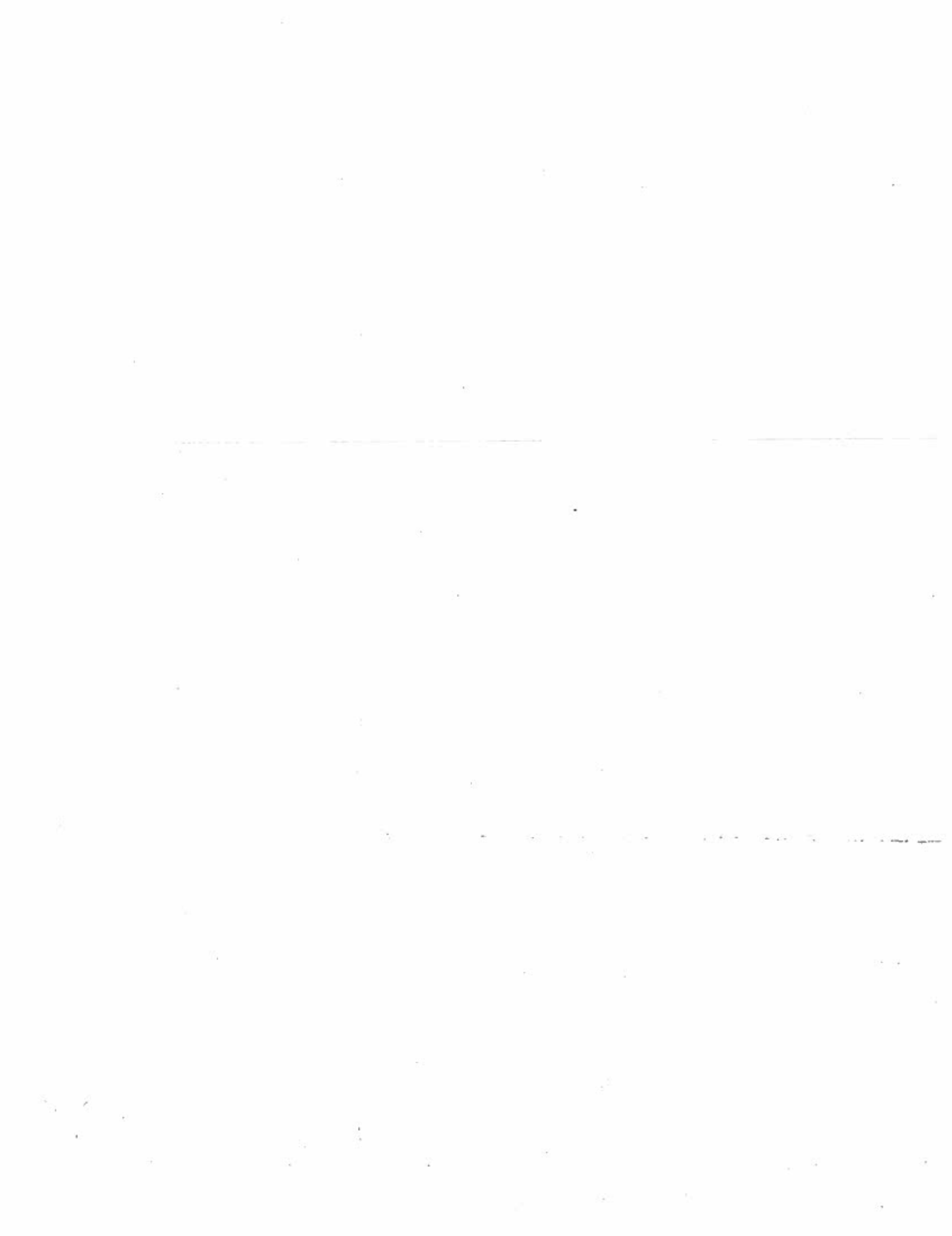
I did inquire again as to your discovery and I was told that I would have your discovery this week. I will forward the discovery to you as soon as possible. I hope that this answers some of your questions.

Sincerely,

Linda M. Burroughs, Esquire

LMB

THE DIRECT INDICTMENT DID NOT TAKE PLACE THIS WAY. THIS HAPPENED ON OCTOBER 14TH 2015 IS WHAT THE INDICTMENT READS.
December 14, 2015



November 18, 2015

Alicia:

This is a follow-up to my phone call yesterday on behalf of the above Defendant. I have reviewed the charge of A&B 1st that I am representing her on and I called yesterday to ask a couple of questions. Is it actually possible that a person can commit A&B 1st through a phone line? The arrest warrant goes into great detail about a alleged phone call with physical threats but I have never seen an A&B charge from a phone call. Can you please investigate this?

Because my client was already on bond for previous charges, the Judge set her bond for \$10,000 on this charge. My client has spent all of her money on the other charges and cannot afford this bond. But if the charges get reduced, could it be possible to have a PR Bond for a lesser charge of illegal use of a phone? If not, my client wants me to file for a bond reduction hearing.

I did inform my client that I was just appointed last week and that it would be a few weeks before we receive discovery. Thank you so much for all of your assistance. As always, I look forward to hearing from you.

Linda

Linda M. Burroughs, Esquire
BURROUGHS LAW FIRM
Post Office Box 4510
Pawleys Island, SC 29585

843-235-8898

BURROUGHS LAW FIRM

Family-Criminal-Personal Injury

November 03, 2015

Post Office Box 4510

Pawleys Island, SC 29585

lmburroughs@aol.com

Tel: 843.235.8898 Fax: 843.235.8896

Marissa Cohen, Inmate
Georgetown County Detention Center
2394 Brown's Ferry Road
Georgetown, SC 29440

State v. Marissa Cohen

Dear Ms. Cohen;

I was recently appointed to represent you in your charges against the State. Actually, I was appointed on October 15, 2015 and received the Order of Appointment yesterday, November 02, 2015.

Due to these facts, I certainly have not had time to receive your discovery. It usually takes about 3-4 weeks to receive it from the Solicitor. A motion was filed for the Solicitor to forward a copy as soon as possible. When I receive it, I will forward a copy to you at the detention center and then will come to the detention center to discuss it with you.

Per your request, I will file a for a motion hearing for a bond reduction. It usually takes 6-8 weeks for these type of hearings to be scheduled on the docket and with Thanksgiving and Christmas approaching, it may be January before this hearing is scheduled. However, I will do my best to get it scheduled as soon as possible. Please note that I have been handling these type cases for over 15 years and I have never had a bond reduction granted. Judges just do not like to go over another Judge's decision and change it unless there has been a significant change of circumstances since your bond amount was set.

I will be at the detention center next week on either Tuesday or Wednesday and we can discuss your case at that time. As I explained, I will probably not have your discovery by next week, but I will meet with you and let you tell me your side and we can discuss your bond reduction reasons.

I look forward to meeting you next week. I do not receive mail at my office but at my post office box only so if you would like to write to me, please mail it to:

Burroughs Law Firm
Post Office Box 4510
Pawleys Island, SC 29585

Sincerely,

Linda M. Burroughs, Esquire

LMB

LETTER 4

2/18/2016

Fwd: Marissa Cohen

F.V.L.
COHEN

From: Imburroughs <imburroughs@aol.com>
To: Imburroughs <imburroughs@aol.com>
Subject: Fwd: Marissa Cohen
Date: Thu, Feb 18, 2016 4:10 pm

—Original Message—

From: Imburroughs <imburroughs@aol.com>
To: arichardson <arichardson@gtcounty.org>
Cc: Imburroughs <imburroughs@aol.com>
Sent: Wed, Feb 17, 2016 4:27 pm
Subject: RE: Marissa Cohen

February 16, 2016

Alicia:

Please forward any other discovery for this charge and the copies of the phone call tapes/discs that are supposed to have been made and that I requested in December and at her last hearing in January. She is still in jail and sends letters and makes phone calls several times a week concerning these tapes and the discovery.

Also, we need to schedule a hearing to have me relieved as her counsel. She no longer wants me to represent her on this charge.

Thanks!

Linda

Linda M. Burroughs, Esquire
BURROUGHS LAW FIRM

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MARISSA COHEN
2394 BROWNSFERRY RD
GEORGETOWN S.C. 29440

2.13.16

TO WHOM THIS MAY CONCERN; GENERAL SESSIONS

REF TO: MOTION TO DISCHARGE COURT APPOINTED
ATTORNEY,

I'M REQUESTING FOR THE JUDGE TO SCHEDULE
A HEARING TO DETERMINE A CAUSE OF
ACTION IN MY ISSUE TO DISCHARGING MY
ATTORNEY.

RESPECTFULLY SUBMITTED

Marissa Cohen

me

⑦

MARISSA COHEN

2394 Brownsferry Rd.

Georgetown S.C. 29440

2-13-16

ATTN: LINDA BURROUGHS,

REF TO: MOTION TO DISCHARGE COURT
APPOINTED ATTORNEY;

I'M INFORMING YOU THAT I'M DISCHARGING
YOU AS MY ATTORNEY. I'VE INFORMED THE
PUBLIC DEFENDER'S OFFICE THAT I NO LONGER
WANT YOUR ASSISTANCE AS MY ATTORNEY
ON JAN 9TH 2016.

THANK YOU

MARISSA COHEN

MARISSA COHEN

me

MY
AMENDMENT RIGHTS
VIOLATED

LETTERS TO
LINDA AND THE
JUDGE DISCHARGING
LINDA AS MY
ATTORNEY, REQUEST-
ING A HEARING.

(3) COPY ...
(4) LETTER STATING
THAT THE STATE
AGREES IT'S THE
WRONG CHANGE
INTENTIONS ON DIS-
MISSING THE RE
BUT DECIDE BUT
JUDGE DID

