

U.S. Sup. Ct. No. _____

THE SUPREME COURT OF THE UNITED STATES

MARCO DANE ACOFF,
Petitioner,

vs

THE STATE OF ALABAMA,
et al.,
Respondents.

• APPENDIX •

ADDRESS OF COUNSEL

Marco Dane Acoff (Pro Se)

100 • Warrior Lane

Bessemer, Ala. 35023

PETITIONERS

EXHIBIT #1

EXHIBIT #1

IN THE SUPREME COURT OF ALABAMA



July 9, 2021

1200005

Ex parte Marco Dane Acoff. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Marco Dane Acoff v. State of Alabama) (Calhoun Circuit Court: CC-16-82; CC16-83; Criminal Appeals : CR-19-0281).

CERTIFICATE OF JUDGMENT

WHEREAS, the petition for writ of certiorari in the above referenced cause has been duly submitted and considered by the Supreme Court of Alabama and the judgment indicated below was entered in this cause on July 9, 2021:

Writ Denied. No Opinion. Shaw, J. - Parker, C.J., and Bryan, Mendheim, and Mitchell, JJ., concur.

NOW, THEREFORE, pursuant to Rule 41, Ala. R. App. P., IT IS HEREBY ORDERED that this Court's judgment in this cause is certified on this date. IT IS FURTHER ORDERED that, unless otherwise ordered by this Court or agreed upon by the parties, the costs of this cause are hereby taxed as provided by Rule 35, Ala. R. App. P.

I, Julia J. Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true, and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 9th day of July, 2021.

A handwritten signature in cursive script that reads "Julia Jordan Weller".

Clerk, Supreme Court of Alabama

*Retitraw's
Exhibit #2*

Exhibit #2

REL: September 4, 2020

Notice: This unpublished memorandum should not be cited as precedent. See Rule 54, Ala.R.App.P. Rule 54(d), states, in part, that this memorandum "shall have no precedential value and shall not be cited in arguments or briefs and shall not be used by any court within this state, except for the purpose of establishing the application of the doctrine of law of the case, res judicata, collateral estoppel, double jeopardy, or procedural bar."

Court of Criminal Appeals

State of Alabama
Heflin-Torbert Judicial Building
300 Dexter Avenue
Montgomery, Alabama 36104

MARY B. WINDOM
Presiding Judge
J. ELIZABETH KELLUM
J. CHRIS McCOOL
J. WILLIAM COLE
RICHARD J. MINOR
Judges

D. Scott Mitchell
Clerk
Gerri Robinson
Assistant Clerk
(334) 229-0751
Fax (334) 229-0521

MEMORANDUM

CR-19-0281

Calhoun Circuit Court CC-16-82;
CC-16-83

Marco Dane Acoff v. State of Alabama

WINDOM, Presiding Judge.

Marco Dane Acoff was convicted of one count of pharmacy robbery, a violation of § 13A-8-51, Ala. Code 1975, and of one count of first-degree robbery, a violation of § 13A-8-41, Ala. Code 1975. The circuit court sentenced Acoff as a habitual felony offender with six prior felony convictions to two concurrent terms of life in prison without the possibility of

Exhibit #2

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parole.

Shortly before closing at approximately 6:45 p.m. on October 5, 2015, Acoff along with Corey Curry went inside the Quick Meds Pharmacy in Oxford. Acoff had been in the pharmacy several times throughout that day under the pretense that he was seeking medicine for his daughter. This time, however, Acoff brandished a gun and pointed it at Savannah Cash, a pharmacy technician. Curry jumped over the counter and pulled pharmacist Leigh Gardner away from the panic button. Acoff and Curry took cash and medicine from the pharmacy. The men ordered Cash, Gardner, and two other employees, Brooke Rizzo and Leah Tarver, into a restroom and ordered the women to not come out. Before the men left the pharmacy, Curry took Rizzo's cellular telephone from her, and took a gun and cash from her purse. When the women thought that the men had left the pharmacy, they came out of the restroom and called the police. Surveillance video of the robbery was entered into evidence.

On appeal, Acoff argues 1) that the circuit court erred in denying his motion to dismiss the indictment; 2) that the circuit court erred in admitting witness statements over his hearsay objection; 3) that the circuit court erred when it excused a juror from service; 4) that the circuit court erred when it refused to give a jury instruction on first-degree robbery as a lesser-included offense to pharmacy robbery; and 5) that his sentences are illegal.

I.

Acoff argues that the circuit court erred in denying his motion to dismiss his indictment. Acoff claims that his indictment should have been dismissed because of a lengthy delay between the circuit court's granting of his motion for a mental evaluation and the resulting evaluation. According to Acoff, the delay violated his right to due process because the evaluation was "hopelessly tainted as to any possibility of an accurate assessment." (Acoff's brief, at p. 24-25).

Acoff was indicted in January 2016. He was released on bond in February 2016. On August 19, 2016, Acoff moved for a mental evaluation to determine his competency to stand trial and his competency at the time of his alleged offenses. The

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circuit court granted the motion on August 23, 2016. In August 2018, the State moved to revoke Acoff's bond, which the circuit court granted. Acoff was evaluated on June 29, 2019, and the report was issued on July 19, 2019. The report indicated that Acoff was sane at the time of the offenses and competent to stand trial. On November 4, 2019, the day of trial, Acoff moved to dismiss the indictment because his mental evaluation was not completed until three years after the circuit court granted his motion for a mental evaluation. The circuit court denied the motion.

*note, 'Didn't state
Motion for due process violation (language.)'*

In support of his argument that he is entitled to a dismissal, Acoff cites, as he did at trial, Hunter v. Beshear, No. CV 2:16CV798-MHT, 2018 WL 564856 (M.D. Ala. Jan. 25, 2018). Beshear involved a civil action under U.S.C. § 1983 in which the plaintiffs, a class of pretrial detainees, alleged that the Alabama Department of Mental Health ("ADMH") failed to provide timely mental-health competency evaluations and restoration treatments. The plaintiffs alleged that pretrial detainees remained incarcerated for months after a court order committing them to the ADMH for treatment and evaluation. The parties reached a settlement that created a procedure to ensure that the ADMH would provide competency evaluations or restoration treatments for pretrial detainees in its custody in a more reasonable time. The Beshear court ultimately found that the negotiated settlement was fair, adequate, and reasonable.

Acoff's reliance on Beshear is misplaced. Beshear did not involve the dismissal of an indictment in a criminal case. Additionally, Acoff was not a pretrial detainee in the custody of the ADMH. Furthermore, Acoff was free on bond until his bond was revoked for committing new offenses, and Acoff made no attempt to hasten the evaluation process. Therefore, other than the bare allegation that his evaluation may have been tainted by the delay, Acoff has failed to show any prejudice resulting from the delay. Accordingly, Acoff is not entitled to any relief on this claim.

II.

Acoff contends that the circuit court erred in admitting witness statements over his hearsay objection. Specifically, Acoff argues that the statements the pharmacy employees made

Exhibit #2

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to law-enforcement officers during the investigation were inadmissible hearsay and that the statements did not fit within the business-record exception to the exclusionary rule as the circuit court concluded.

During the direct examination of a law-enforcement officer at trial, the statement of pharmacy employee Rizzo was admitted into evidence without any objection. When the State subsequently moved to admit the other employees' statements as one exhibit during the testimony of another law-enforcement officer, Acoff objected, arguing that the statements were hearsay. The State argued that the statements were being admitted as part of the evidence the officer collected during the investigation. The circuit court admitted the statements into evidence, finding that they were admissible under the business-record exception.

On appeal, the State argues that the statements are not "hearsay at all" because they were not offered to prove the truth of the matter asserted. (State's brief, at p. 22.) According to the State, the statements were offered to show the course of the investigation into the robbery at the pharmacy.

"The admission or exclusion of evidence is a matter within the sound discretion of the trial court." Taylor v. State, 808 So. 2d 1148, 1191 (Ala. Crim. App. 2000), aff'd, 808 So. 2d 1215 (Ala. 2001). "The question of admissibility of evidence is generally left to the discretion of the trial court, and the trial court's determination on that question will not be reversed except upon a clear showing of abuse of discretion." Ex parte Loggins, 771 So. 2d 1093, 1103 (Ala. 2000). The admission of evidence under a hearsay exception is within the sound discretion of the trial court. See Lacy v. State, 673 So. 2d 820, 825 (Ala. Crim. App. 1995) (and cases cited therein).

Rule 801, Ala. R. Evid., defines hearsay as "a statement, other than one made by the declarant while testifying at a trial or hearing, offered in evidence to prove the truth of the matter asserted." This Court does not have to decide if the statements constitute hearsay or if they fall within an exception to the hearsay rule because the statements were merely cumulative of the witnesses' own testimony and,

therefore, any error in their admission was harmless. "It is well settled that 'testimony that may be inadmissible may be rendered harmless by prior or subsequent lawful testimony to the same effect or from which the same facts can be inferred.'" Jackson v. State, 791 So. 2d 979, 1013 (Ala. Crim. App. 2000) (quoting White v. State, 650 So. 2d 538, 541 (Ala. Crim. App. 1994), overruled on other grounds, Ex parte Rivers, 669 So. 2d 239 (Ala. Crim. App. 1995)). See also Dawson v. State, 675 So. 2d 897, 900 (Ala. Crim. App. 1995), aff'd, 675 So. 2d 905 (Ala. 1996) ("The erroneous admission of evidence that is merely cumulative is harmless error."); Thompson v. State, 527 So. 2d 777, 780 (Ala. Crim. App. 1988) ("Testimony which may be apparently illegal upon admission may be rendered prejudicially innocuous by subsequent or prior lawful testimony to the same effect or from which the same facts can be inferred."). Thus, Acoff is not entitled to any relief on this claim.

III.

Acoff argues that the circuit court erred in removing a juror from the petit jury and replacing him with an alternate juror. Acoff contends that there was no good cause to remove a juror who sent a social-media friend request to one of the pharmacy employees during trial because, he says, there was no evidence that the juror could not be fair and impartial.

"The trial court's decision as to how to proceed in response to allegations of juror misconduct or bias will not be reversed absent an abuse of discretion." United States v. Youts, 229 F.3d 1312, 1320 (10th Cir. 2000).

During trial, the State informed the defense and the circuit court that one of the pharmacy employees had told one of the prosecutors that a juror had sent her a friend request on social media during the trial. The pharmacy employee did not respond to the request. Acoff expressed his desire to keep the juror on the jury. The circuit court questioned the juror, who initially denied sending the friend request; however, when the circuit court showed the juror a picture of the friend request, the juror acknowledged that he had sent the request but stated that it was done "naively." (R. 401.) The circuit court informed the juror that the action was a violation of its instructions to the jury and excused the

Exhibit #2

Exhibit #2

juror, stating:

"[F]or the sake of not having any appearances that somebody had a communication, you know, on this side of the courtroom -- and I'm pointing at the State of Alabama's side -- or this side with a potential person who makes a decision in this case, you know, I just can't run the risk of -- it seems like an overdrawn thing to you, I'm sure. But to us, you know, it's just really, really important, you know, for there not to be any dialogue or any interaction."

(R. 402.)

Here, a juror reached out to a witness for the State and then lied to the circuit court when confronted about the matter. There is no indication from the record that the circuit court abused its discretion in removing the juror. See Carden v. State, 621 So. 2d 342 (Ala. Crim. App. 1992) (The trial court is vested with discretion in the conduct of a trial, and this Court will not interfere with the exercise of that discretion unless it clearly appears that there has been an abuse of that discretion.). Thus, Acoff is not entitled to any relief on this claim.

IV.

Acoff claims that the circuit court erred when it refused to give a jury instruction on first-degree robbery as a lesser-included offense to pharmacy robbery. Acoff argues that he was entitled to the instruction because, he says, "the jury could have believed that [he] was present during the robbery, but that his conduct otherwise did not meet the required elements of Ala. Code § 13A-8-51." (Acoff's brief, at p. 32.)

Acoff, however, did not present this argument at trial. Rather, during trial, Acoff argued that he was entitled to an instruction on first-degree robbery because his codefendant Curry had been allowed to plead guilty to first-degree robbery as a lesser-included offense of pharmacy robbery. Acoff stated that he was entitled to the instruction in the interest of equal protection and due process.

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"[T]o preserve an issue for appellate review, it must be presented to the trial court by a timely and specific motion setting out the specific grounds in support thereof." Merchant v. State, 724 So. 2d 65 (Ala. Crim. App. 1998). "The statement of specific grounds of objection waives all grounds not specified and the trial court will not be put in error on grounds not assigned at trial." May v. State, 710 So. 2d 1362 (Ala. Crim. App. 1997) (quoting Jackson v. State, 593 So. 2d 167 (Ala. Crim. App. 1991)). Because the ground now asserted by Acoff is not the ground stated to the circuit court, his claim is not preserved for appellate review. See Jolly v. State, 858 So. 2d 305, 309 (Ala. Crim. App. 2002) (recognizing the general principle that a "statement of specific grounds of objection to a jury instruction at trial waives all other grounds").

V.

Acoff claims that the circuit court erred by using four of his prior convictions to enhance his sentence under the Habitual Felony Offender Act ("HFOA"). See § 13A-5-9, Ala. Code 1975. Specifically, Acoff argues that the circuit court should not have used prior convictions that have since been reclassified to Class D felonies unusable under the HFOA.

This Court addressed a similar argument in Justo v. State, [Ms. CR-18-1058, Nov. 22, 2019] ___ So. 3d ___ (Ala. Crim. App. 2019), holding:

"Justo alleged that his sentences exceed the maximum authorized by law because, he argues, his prior conviction for second-degree theft of property (which was one of the offenses used to enhance his sentences) for stealing property valued at \$530, is now classified as a Class D felony offense, see 13A-8-4.1, Ala. Code 1975, and cannot be used to enhance a sentence under the HFOA, see § 13A-5-9, Ala. Code 1975. In other words, Justo claims that the legislature's decision in Act No. 2015-185 to change the classification of the substantive criminal offense of theft of property applies retroactively to the theft conviction that was used to enhance his first-degree-rape and first-degree-burglary sentences. We disagree.

Exhibit #2

Exhibit #2

"Although Justo correctly points out that Act No. 2015-185, in part, altered the definitions of the theft offenses to make the theft of property that exceeds \$500 in value but does not exceed \$1,499 in value a Class D felony offense, see § 13A-8-4.1, Ala. Code 1975, Justo incorrectly argues that the amended theft statute applies retroactively to him. In fact, the express language of Act No. 2015-185 shows that the change made to the theft statute does not apply retroactively.

"Section 19 of Act No. 2015-185 provides that '[t]he portions of this act relating to the substantive provisions of criminal offenses shall apply to offenses committed after the effective date of this act.' (Emphasis added). In other words, criminal offenses that were committed before the effective date of the act, like Justo's theft offense, are subject to the statutes in effect at the time those offenses were committed.

"Because Justo's theft offense was committed well before the legislature amended the theft statutes, his theft offense is still treated as a Class C felony and, thus, can be used to enhance a sentence under the HFOA. Accordingly, the circuit court did not err when it summarily dismissed this claim, finding that, 'although such statute was reclassified by the State Legislature subsequent to the time of such offense being used to enhance [Justo's] sentence under the provisions of the Alabama Habitual Felony Offender Act, such Act of the Legislature fails to provide that the same shall be applied retroactively, nor is such unmistakably implied.' (C. 31-32.)"

___ So. 3d at ___.

Likewise, in the present case, the offenses that are the basis of Acoff's prior felony convictions are subject to the statutes in effect at the time those offenses were committed. Because Acoff's prior offenses were committed before the legislature amended the applicable statutes, the offenses are Class C felonies and, thus, can be used to enhance a sentence

Exhibit #2

Exhibit #2

under the HFOA. Therefore, the circuit court properly enhanced Acoff's sentences, and Acoff is not entitled to any relief on this claim.

Accordingly, the judgment of the circuit court is affirmed.

AFFIRMED.

McCool and Cole, JJ., concur. Kellum and Minor, JJ., concur in the result.

PETITIONERS
Exhibit #3

Petitioner's
Exh. #3

UNITED STATES SUPREME COURT

CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT (CIP)

US Sup Ct. 11th Cir. R. 26.1-1(a) (enclosed) requires the appellant or petitioner to file a Certificate of Interested Persons and Corporate Disclosure Statement (CIP) with this court within 14 days after the date the case or appeal is docketed in this court, and to include a CIP within every motion, petition, brief, answer, response, and reply filed. Also, all appellees, intervenors, respondents, and all other parties to the case or appeal must file a CIP within 28 days after the date the case or appeal is docketed in this court. You may use this form to fulfill these requirements. In alphabetical order, with one name per line, please list all trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this case or appeal, including subsidiaries, conglomerates, affiliates, parent corporations, any publicly held corporation that owns 10% or more of the party's stock, and other identifiable legal entities related to a party.

(please type or print legibly):

Name	Position
1.) Marco Dane Acoff	Dependant/Petitioner
2.) David Alexander	Dependant's Atty.
3.) Tim Burgess	Ass't d.a.
4.) Sheila Field	Ass't d.a.
5.) Doug Ghee	Dependant's Atty.
6.) D. Scott Mitchell	App Ct. Clerk
7.) Laura Phillips	Ass't DA
8.) Bud Taylor	Cit. Ct. Judge
9.) Doug Ghee	Dependant's Atty.

Signed: Marco Acoff
Marco Acoff #210577
100 warrior lane
Bessemer Ala. 35203

Date: 10/6/2021

APPENDIX CHECKLIST

AGENCY CASES

Required Contents. In proceedings for review of orders of an agency, board, commission, or officer, the petitioner must file an Appendix containing:

- ☐ 1. Relevant docket entries in the proceeding below;
- ☐ 2. Relevant portions of the pleadings, charge, findings, or opinion;
- ☐ 3. Judgment, order, or decision filed by the agency, board, commission, or officer
- ☐ 4. Other parts of the record to which the petitioner wishes to direct the Court's attention.

Note: The respondent is not required to file an appendix in agency cases.

Form:

- ☐ Durable White Covers (front & back)
- ☐ Indexing Tabs (Tab numbers corresponding to agency document numbers)
- ☐ No more than 250 single-sided sheets of paper in each volume

Number Required:

- ☐ Prisoner Pro Se: None
- ☐ Pro Se IFP: 1 paper copy
- ☐ Other: 2 paper copies
- ☐ Counsel using the ECF system must also file electronically

Exhibit #4

Exhibit #11

Court of Alabama, or the Alabama Court of Criminal Appeals. Ala. R. App. P. 39(a)(1)(D). Petitioner also alleges as grounds for the issuance of the writ that, in Part V of the Court of Criminal Appeals' decision, Appellant/Petitioner presented a material question requiring decision that is one of first impression for this Court. Ala. R. App. P. 39(a)(1)(C). Each of these grounds is discussed in turn below.

• Part I of the Memorandum Opinion:

In Part I, the Court of Criminal Appeals concluded that the circuit court did not err in denying Acoff's motion to dismiss the indictment on the grounds that his fundamental constitutional due process right to a timely and meaningful competency and sanity evaluation was violated. (Mem. Op., at 2.) In reaching this conclusion, the Court of Criminal Appeals held that Hunter v. Beshear, No. CV 2:16CV798-MHT, 2018 WL 564856 (M.D. Ala. Jan. 25, 2018) has no application to this case because it was a civil case involving the failure of the Alabama Department of Mental Health to provide timely mental-health competency and restoration treatments and did not involve the dismissal of an indictment in a criminal case. (Mem. Op., at 3.) The Court of Criminal Appeals also concluded that (1) Acoff was not a pretrial detainee because he was free

Exhibit 4

Exhibit 11# 21

on bond until it was revoked; (2) Acoff made no attempt to "hasten" the mental evaluation process; and (3) Acoff failed to show prejudice from the delay. (Id.)¹

At the threshold, Acoff notes that his argument was not that Beshear in any way involved dismissal of a criminal case. Rather, Acoff's argument was that the very existence of the Beshear consent decree, and its time requirements for mental evaluations of pretrial detainees, implies that a timely competency evaluation is a due process right and that certain times are appropriate and reasonable. Of course, when there is a right to due process, the fundamental requirement is "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" Mathews v. Eldridge, 424 U.S. 319, 333 (1976) (quoting Armstrong v. Manzo, 380 U.S. 545, 552 (1965) (emphasis supplied)).

¹ Only the third of these conclusions implicates this Court's certiorari review because it is the legal issue that bears on Acoff's due process argument. However, respectfully, Acoff would note that the Court of Criminal Appeals' conclusion that Acoff was not a pretrial detainee, which formed part of the basis of its analysis, is contradicted by the record (C. 55, 60, 98; R. 12-13), and Acoff asks this Court to notice same to the extent it bears on the issue presented for certiorari review. (See C. 55, 60, 98; R. 12-13.) Furthermore, even if Acoff was free on bail for some period of time, there is no legal basis for the conclusion that this somehow vitiates the due process violation.

(iv) whether such symptoms as are determined to have been present contributed to the commission of the offenses, and if so, in what manner.

Further criminal proceedings against the Defendant are hereby suspended until such time as the Court receives a report from Taylor Hardin Secure Medical Facility.

DONE this 23rd day of August, 2016.

/s/ BRIAN P HOWELL
CIRCUIT JUDGE

note: mental health evaluation was not
done in timely manner S-2 case. ~~Hunter et al.~~
Hunter et al. v. Beshner 2:16-cv-798-MHT-CSC
* Consent Decree. - ^{Also} S-2 Motion filed by
Attorney to have case dismissed

Petitioner's
Exhibit (#5)

DOCUMENT 18

Petitioner's
Exhibit
#5

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8/23/2016 12:55 PM
11-CC-2016-000082.00
CIRCUIT COURT OF
CALHOUN COUNTY, ALABAMA
ELI HENDERSON, CLERK

IN THE CIRCUIT COURT OF CALHOUN COUNTY

STATE OF ALABAMA

V.

ACOFF MARCO DANE
Defendant.

Case No.: CC-2016-000082.00

ORDER FOR MENTAL EVALUATION

WHEREAS, the Defendant, Marco Acoff, is charged with Robbery 1st and Robbery-Pharmacy and, whereas, the Court has received information indicating that the Defendant may be Incompetent to Stand Trial, It is hereby ORDERED by the Court that:

Defendant shall undergo an examination by a licensed mental health professional or licensed psychiatrist appointed by the Alabama Department of Mental Health and Mental Retardation and certified to conduct clinical evaluations of competency to stand trial and mental state at the time of the offense.

Upon completion of such evaluation, should the examiner believe that a significant psychiatric disorder exists that may result in a finding by the Court that the Defendant is incompetent to stand trial, the Defendant by this order shall be committed to the custody of the Commissioner of the Alabama Department of Mental Health and Mental Retardation and admitted to Taylor Hardin Secure Medical Facility to receive such treatment as is appropriate until a determination as to his competency to stand trial is made by the Court.

The Court shall be given a verbal report if such treatment is initiated.

At the discretion of the Alabama Department of Mental Health and Mental Retardation, the Defendant may be admitted to Taylor Hardin Secure Medical Facility for inpatient evaluation, in which case the Director and all other proper officers of said hospital

(03)

Exhibit (#-5)Exhibit #5

are ordered and directed to keep the Defendant in safe custody and to provide the necessary and appropriate psychiatric and psychological examinations to inquire into the Defendant's competency to stand trial and mental state at the time of the offense. When said evaluation is completed, a report is to be made to this Court, and the Sheriff of Calhoun County is ordered to go to said hospital, take the Defendant into custody and remand him to confinement, without bond, in the County Jail of Calhoun County, Alabama, until further order of the Court. Said hospital and authorities are directed and enjoined to keep said Defendant in safe custody at all times and not to release him except to the Sheriff of Calhoun County, unless otherwise ordered by this Court.

The District Attorney shall make available to the examining clinician information concerning the nature and circumstances of the offenses charged, as well as the prior criminal history of the Defendant; the Defense Attorney shall provide such information as may be in his possession as may assist the clinician in the evaluation of the Defendant's mental condition; all information provided to the clinician pursuant to this order shall be protected according to RULE 16, DISCOVERY, of the Alabama Rules of Criminal Procedure.

Upon completion of the clinical examination, a written report shall be submitted advising the Court of the Defendant's mental condition as related to

- (i) his/her ability to understand the nature and object of the proceedings against him/her
- (ii) his/her ability to reasonably assist his/her attorney in his/her defense;
- (iii) whether at the time of the offenses the Defendant was suffering from symptoms of mental illness, mental retardation, or other psychiatric disorder;
- and

Exhibit (#-3)Exhibit #3

(iv) whether such symptoms as are determined to have been present contributed to the commission of the offenses, and if so, in what manner.

Further criminal proceedings against the Defendant are hereby suspended until such time as the Court receives a report from Taylor Hardin Secure Medical Facility.

DONE this 23rd day of August, 2016.

/s/ BRIAN P HOWELL
CIRCUIT JUDGE

note# mental health evaluation was not
done in timely manner S-9 case. ~~Hunter et al.~~
Hunter et al. v. Beshner 2:16-cv-798-MHT-CSC
* Consent Decree. - S-92 Motion filed by
Attorney to have case dismissed

"9D"

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EX #6

EX #6

ALABAMA SJIS CASE DETAIL

PREPARED FOR: AGG



County: 11 Case Number: CC-2016-000083.00
Style STATE OF ALABAMA V. ACOFF MARCO DANE

Court Action: CONVICTED



Case Action Summary					
Date	Time	Code	Comments	Officer	
1/21/2016	10:01 AM	JUDG	ASSIGNED TO: (BPH) BRIAN P HOWELL (AR01)	MIP	
1/21/2016	10:01 AM	STAT	INITIAL STATUS SET TO: "J" - JAIL (AR01)	MIP	
1/21/2016	10:01 AM	FILE	FILED ON: 01/21/2016 (AR01)	MIP	
1/21/2016	10:01 AM	ATY1	ATTORNEY FOR DEFENDANT: BROOME WILLIAM HERMAN JR.	MIP	
1/21/2016	10:01 AM	INDT	DEFENDANT INDICTED ON: 01/14/2016 (AR01) (CA)	MIP	
1/21/2016	10:01 AM	ARRS	DEFENDANT ARRESTED ON: 10/19/2015 (AR01)	MIP	
1/21/2016	10:01 AM	BOND	BOND SET AT: \$50000.00 (AR01)	MIP	
1/21/2016	10:01 AM	FILE	CHARGE 01: ROBBERY-PHARMACY#CNTS: 001 (AR01)	MIP	
1/21/2016	10:01 AM	SCAN	CASE SCANNED STATUS SET TO: N (AR18) Different fault #	MIP	
1/21/2016	10:01 AM	DAT1	SET FOR: ARRAIGNMENT ON 03/10/2016 AT 0900A (AR10)	MIP	
1/21/2016	10:01 AM	ESCAN	SCAN - FILED 1/21/2016 - INDICTMENT	MIP	
1/22/2016	11:46 AM	DOCK	NOTICE SENT: 01/22/2016 BROOME WILLIAM HERMAN JR.	MIP	
1/22/2016	11:47 AM	DOCK	NOTICE SENT: 01/22/2016 ACOFF MARCO DANE - Never Received	MIP	
1/27/2016	11:04 AM	EMOT	D001-PEA OF NOT GUILTY AND WAIVER OF ARRAIGNMENT FILED. (H) SEE p19a	BRO296	
1/27/2016	11:44 AM	EMOT	D001-PEA OF NOT GUILTY AND WAIVER OF ARRAIGNMENT /DOCKETED sheet attached	SHL	
1/27/2016	1:16 PM	JEMOT	D001-PEA OF NOT GUILTY AND WAIVER OF ARRAIGNMENT /NO ACTION not guilty b1	JA	
2/8/2016	4:03 PM	S001	SURETY ADDED: ABES ACE BAIL BONDING CO (AR01) mental disor	MIP	
2/8/2016	4:03 PM	REDT	DEFENDANT RELEASED FROM JAIL: 02/02/2016 (AR01) c/c defect.	MIP	
2/8/2016	4:03 PM	S001	ENFORCEMENT STATUS SET TO: "A" (FES2) 1/25/2016	MIP	
2/8/2016	4:03 PM	S001	ENF PLACEMENT STATUS SET TO: "H" (FES2) Different	MIP	
2/8/2016	4:03 PM	S001	PAYMENT FREQUENCY SET TO: "O" (FES2)	MIP	
2/8/2016	4:11 PM	ESCAN	SCAN - FILED 2/8/2016 - BAIL BOND FEE TRANSMITTAL FORM	MIP	
2/8/2016	4:12 PM	ESCAN	SCAN - FILED 2/8/2016 - BOND(S)	MIP	
2/19/2016	9:57 AM	EMOT	D001-DISCOVERY/PRODUCTION FILED.	BRO296	
2/19/2016	9:58 AM	EMOT	D001-NOTICE OF INTENT TO USE 404(B) EVIDENCE FILED -> LD)	BRO296	
2/19/2016	4:22 PM	EMOT	D001-NOTICE OF INTENT TO USE 404(B) EVIDENCE /DOCKETED - (E)	SHL	
2/19/2016	4:22 PM	EMOT	D001-DISCOVERY/PRODUCTION /DOCKETED	SHL	
2/19/2016	5:17 PM	JEORDE	ORDER GENERATED FOR NOTICE OF INTENT TO USE 404(B) EVIDENCE - RENDERED & ENTERED - (F)		
2/19/2016	5:17 PM	JEMOT	D001-DISCOVERY/PRODUCTION /NO ACTION		
2/19/2016	5:17 PM	JEMOT	D001-DISCOVERY/PRODUCTION /SET FOR 01/01/1900 No Discovery (B) Look at date 01/01/1900 (CC)		
2/19/2016	4:17 PM	EMOT	D001-OTHER - MOTION FOR COURT APPOINTED ATTORNEY FILED.	BRO296	
2/19/2016	4:18 PM	EMOT	D001-COURT-ORDERED MENTAL EXAMINATION OF DEFENDANT FILED.	BRO296	
2/22/2016	3:24 PM	EMOT	D001-OTHER /DOCKETED	MIP	
2/22/2016	3:24 PM	EMOT	D001-COURT-ORDERED MENTAL EXAMINATION OF DEFENDANT /DOCKETED	MIP	
2/23/2016	9:34 AM	JEORDE	ORDER GENERATED FOR OTHER - MOTION FOR COURT APPOINTED ATTORNEY - RENDERED & ENTERED: 2/23/2016 9:34:16 AM - ORDER	J	
2/23/2016	12:55 PM	JEORDE	ORDER GENERATED FOR COURT-ORDERED MENTAL EXAMINATION OF DEFENDANT - RENDERED & ENTERED: 2/23/2016 12:55:18 PM - ORDER	JA	
2/23/2016	2:45 PM	ADD1	AD001 CHANGED FROM: UNKNOWN (AR01)	SHL	
2/23/2016	2:45 PM	CITY	HOME CITY CHANGED FROM: ANNISTON (AR01)	SHL	
2/23/2016	2:45 PM	STAT	STATUS CHANGED TO: "B" - BOND (AR01)	SHL	
2/23/2016	2:46 PM	TEXT	CC: T.H.S.M.F., SHF (MENTAL EXAM) - (J)	SHL	

Indicted on 1/14/2016 not

as att criminal said in brief

(C)

Petitioner's
Exhibit #2

Petitioner's
Exhibit - (#1)

Petitioner's
Exhibit #3

2. Falsely Labeled

(A) -

no motion
what 2
lawyer
waited
791A.

8/14/2018	2:47 PM	EMOT	0001-REVOKE BOND FILED	BUR083
8/14/2018	4:04 PM	EMOT	0001-REVOKE BOND /DOCKETED	ACS
8/16/2018	9:53 AM	JEORDE	ORDER GENERATED FOR REVOKE BOND - RENDERED & ENTERED: 8/16/2018 9:53:10 AM - ORDER	J
8/17/2018	1:15 PM	AWAR	ALIAS WARRANT ISSUED: 08/17/2018 (AR09)	SHL
8/17/2018	1:23 PM	ESCAN	SCAN - FILED 8/17/2018 - WARRANTS	SHL
8/20/2018	3:35 PM	JEORDE	ORDER E-FILED - ORDER - CFWA ORDER - RENDERED & ENTERED: 9/20/2018 3:35:05 PM	JA
11/8/2018	9:45 AM	ENDP	BONDSMAN PROCESS ISSUED TO: ALL SURETIES (AR09)	SHL
11/8/2018	9:47 AM	ESCAN	SCAN - FILED 11/8/2018 - BONDSMAN'S PROCESS	SHL
11/8/2018	9:47 AM	S001	PAYMENT FREQUENCY SET TO: "L" (FE52)	SHL
11/8/2018	9:47 AM	S001	PAYMENT DUE DATE SET TO: 12/07/2018 (FE52)	SHL
11/8/2018	10:11 AM	WARR	"S" WARRANT SERVICE ON: 11/07/2018 (AR10)	ACS
11/8/2018	10:11 AM	WARR	WARRANT LOCATION IS: H ON: 11/08/2018 (AR10)	ACS
11/8/2018	10:11 AM	TEXT	NOTICE SENT TO JUDGE OF ARREST & NEED FOR A T2	ACS
11/8/2018	10:15 AM	ESCAN	SCAN - FILED 11/8/2018 - WARRANT SERVED	ACS
11/8/2018	10:16 AM	ESCAN	SCAN - FILED 11/8/2018 - NOTICE	ACS
11/8/2018	10:38 AM	JEORDE	ORDER E-FILED - ORDER - E-FILE ORDER - RENDERED & ENTERED: 11/8/2018 10:38:09 AM	JA
11/19/2018	11:33 AM	STAT	STATUS CHANGED TO: "J" - JAIL (AR10)	SHL
11/19/2018	11:33 AM	BNDR	BONDSMAN PROCESS RETURNED: 11/16/2018 (AR10)	SHL
11/19/2018	11:34 AM	ESCAN	SCAN - FILED 11/16/2018 - BONDSMAN'S PROCESS	SHL
1/9/2019	1:45 PM	EMOT	0001-OTHER - MOTION TO FIRE ATTORNEY FILED ON 1/9/2019 1:44 PM	ACS
1/10/2019	8:10 AM	JEORDE	ORDER GENERATED FOR OTHER - MOTION TO FIRE ATTORNEY - RENDERED & ENTERED: 1/10/2019 8:10:38 AM - ORDER	J
1/10/2019	8:14 AM	ADD1	ADDR1 CHANGED FROM: 357 1ST ST WEST (AR01)	SHL
1/10/2019	8:14 AM	CITY	HOME CITY CHANGED FROM: BIRMINGHAM (AR01)	SHL
1/10/2019	8:15 AM	TRAN	TRANSMITTAL NOTICE SENT TO: DEFENDANT (AR09)	SHL
1/11/2019	1:03 PM	EMOT	0001-OTHER - MOTION TO KNOW WHY BOND IS REVOKED FILED ON 1/11/2019 1:03 PM	SHL
1/11/2019	1:30 PM	JEORDE	ORDER GENERATED FOR OTHER - MOTION TO KNOW WHY BOND IS REVOKED - RENDERED & ENTERED: 1/11/2019 1:30:07 PM - ORDER	J
1/14/2019	9:44 AM	EMOT	0001-WITHDRAW FILED	BRO286
1/14/2019	8:50 AM	EMOT	0001-WITHDRAW /DOCKETED	SHL
1/14/2019	2:33 PM	JEORDE	ORDER GENERATED FOR WITHDRAW - RENDERED & ENTERED: 1/14/2019 2:33:00 PM - ORDER	J
1/15/2019	8:20 AM	TEXT	CC: SHF	SHL
1/15/2019	8:20 AM	DJJD	DISPOSITION JUDGE ID CHANGED FROM: TO: EPH	SHL
1/15/2019	8:20 AM	DISP	CHARGE 01: ROBBERY-PHARMACY#CNTS: 001 (AR10)	SHL
1/15/2019	8:20 AM	DISP	CHARGE 01 DISPOSED BY: NOL PRS'DA ON: 01/14/2019	SHL
1/15/2019	8:20 AM	SENT	SENTENCE RECORD CREATED FOR CHARGE: 00 (AR10)	SHL
1/15/2019	8:20 AM	D001	ENFORCEMENT STATUS SET TO: "U" (AR10)	SHL
1/24/2019	2:56 PM	EMOT	0001-OTHER - MOTION FOR DUE PROCESS ON BOND REVOCATION FILED ON 1/24/2019 2:56 PM	ACS
1/28/2019	3:35 PM	DISP	CHARGE 01: ROBBERY-PHARMACY#CNTS: 001 (AR10)	ACS
2/1/2019	9:22 AM	JEORDE	ORDER GENERATED FOR OTHER - MOTION FOR DUE PROCESS ON BOND REVOCATION - RENDERED & ENTERED: 2/1/2019 9:22:55 AM - ORDER	J
2/12/2019	11:22 AM	TRAN	TRANSMITTAL NOTICE SENT TO: DEFENDANT (AR09)	ACS
2/12/2019	1:12 PM	ATY1	ATTORNEY FOR DEFENDANT: DEAN ALEXANDER JONATHON	ACS
2/12/2019	1:13 PM	EMOT	0001-OTHER - MOTION TO REINSTATE BOND FILED ON 2/12/2019 1:13 PM	SHL
2/12/2019	1:27 PM	ESCAN	SCAN - FILED 2/12/2019 - CORRESPONDENCE	ACS
2/12/2019	3:40 PM	JEORDE	ORDER GENERATED FOR OTHER - MOTION TO REINSTATE BOND - RENDERED & ENTERED: 2/12/2019 3:40:11 PM - ORDER	JA
2/27/2019	9:23 AM	EMOT	0001-OTHER - BOND REINSTATEMENT FILED ON 2/27/2019 9:23 AM	SHL
3/5/2019	1:31 PM	JEORDE	ORDER E-FILED - ORDER - E-FILE ORDER - RENDERED & ENTERED: 3/5/2019 1:31:33 PM	SHL
3/6/2019	10:59 AM	JUDG	JUDGE ID CHANGED FROM: BPH TO: LHT (AR10)	ACS
3/6/2019	11:00 AM	TEXT	NOTICE SENT TO JUDGE TURNER OF RECUSAL	ACS
3/6/2019	11:07 AM	ESCAN	SCAN - FILED 3/5/2019 - NOTICE	ACS
3/11/2019	4:02 PM	JEORDE	ORDER GENERATED FOR OTHER - BOND REINSTATEMENT - RENDERED & ENTERED: 3/11/2019 4:02:42 PM - ORDER	JA
3/11/2019	4:20 PM	DAT2	SET FOR: HEARING ON 04/10/2019 AT 0900A (AR10)	ALS
4/17/2019	1:35 PM	EMOT	0001-ATTORNEY APPOINTMENT FILED ON 4/17/2019 1:35 PM	ALS

(11)
(12)

Petitioner's
Exhibit #8Petitioner's
Exhibit #8

CC16-83

Unified
Judicial
System**BAIL BOND FEE TRANSMITTAL
FORM** (Pursuant to Act 2012-535)

Case/Warrant No.

1510 059

dc 2015 3627

In the

DISTRICT
(Circuit/District/Municipal)

Court of

CALHOUN
(County/Municipality)

Alabama

☐ State of Alabama☐ Municipality

v.

MARCO DANE ACOFF

Defendant

Charge:

Robbery 1st

Date of Incident:

Type of Bond:

- ☒ Professional Bail/Surety
☐ Property
☐ Cash
☐ Judicial Public
☐ Signature/Personal Recognizance

Official Executing the Bond: ☒ Sheriff ☐ Chief of Police

Name: LARRY AMERSON

Bond Amount: 60,000.00

Name(s) of Surety:

 ABE'S ACE BAIL BONDS
 3646 Old DOWNING Mill RD
 ANNISTON, AL 36207

TO BE COMPLETED BY LAW ENFORCEMENT

WAS THE \$35 BAIL FEE PAID:

- ☐ The Bail Fee was paid and is attached hereto
☒ The Bail Fee has not been paid
☐ Recognizance/Signature Bond
☐ Multiple Charges/Same Incident (Fee paid on other charge)
☐ Release due to Documented Medical Reasons

Signature of Law Enforcement Office

Printed Name

FILED

FEB 08 2016

ELI HENDERSON, CLERK

2-2-16
Date

Received by:

TO BE COMPLETED BY THE CLERK'S OFFICE

Signature of Circuit/District/Municipal Clerk's Office

Date

Printed Name

Exhibit (N)

DOCUMENT 5

Exhibit N
Glencoe
NCIC Shelby

Andrange

188

Holds: NONE

Bond Conditions: N/A

State of Alabama Unified Judicial System	CONSOLIDATED APPEARANCE BOND (District Court, Grand Jury, Circuit Court)	Case Number 1510059 dc 2015 3627
---	--	--

IN THE _____ DISTRICT _____ COURT OF _____	CALHOUN	ALABAMA
(Circuit or District)	(Name of County)	

☐ STATE OF ALABAMA v. ACOFF, MARCO DANE
 Defendant

I, ACOFF, MARCO DANE (Defendant), as principal
 and I (we), Abes Ace Bail Bonds
 (Please print)

as surety(ies), agree to pay the State of Alabama the sum of \$ 60,000.00 and such costs as authorized by law unless the above-named defendant appears before the district court of the county on the scheduled (date) at the scheduled M.(time) (If date and time are unknown, the words "the scheduled" may be placed in the date blank and a time may be placed in the space for time) and from time to time thereafter until discharged by law or at the next session of circuit court of the county; there to await the action by the grand jury and from session to session thereafter until discharged by law to answer to the charge of Robbery 1st, or any other charge as authorized by law.

We hereby severally certify that we have property valued over and above all debts and liabilities that has a fair market value equal to or greater than the amount of the above bond, and we, and each of us, waive the benefit of all laws exempting property from levy and sale under execution or other process for the collection of debt by the constitution and laws of the State of Alabama, and we especially waive our rights to claim an exempt our wages or salary that we have under the laws of Alabama, and our rights to homestead exemption that we have under the Constitution of Alabama and the laws of the State of Alabama, as set out in a separate writing.

It is agreed and understood that this is a consolidated bond, eliminating the necessity for multiple bonds and that it shall continue in full force and effect, until the defendant appears before the district court or circuit court, whichever has jurisdiction, to answer the above charge, and from time to time thereafter until the defendant is discharged by law, or, until such time as the undersigned sureties are otherwise duly exonerated as provided by law.

Signed and sealed this date with notice that false statements are punishable as perjury.

Signature of Defendant <u>Marco Dane ACOFF</u> (L.S.)			
Address (print) 357 1ST ST W		City BIRMINGHAM	State AL
Zip 352001			
Signature of Surety/Agent of Professional Surety or Bail Company <u>Abes Ace</u> (L.S.)		Signature of Surety/Agent of Professional Surety or Bail Company (L.S.)	
Social Security Number <u>3046 00 DOWNING MILL RD ANDERSON</u>		Social Security Number Telephone Number	
Address (print) 256-831-0074		City State Zip	
Signature of Surety/Agent of Professional Surety or Bail Company (L.S.)		Signature of Surety/Agent of Professional Surety or Bail Company (L.S.)	
Social Security Number Telephone Number		Social Security Number Telephone Number	
Address (print) City State Zip		Address (print) City State Zip	

Bond Conditions:

FILED
 FEB 08 2016
 ELI HENDERSON, CLERK
 Approved by Judge/Magistrate/Sheriff
 By: Pr A2

Date 2/2/16

Defendant's Information				
Date of Birth 11/21/1980	Sex M	Height 5'7"	Weight 158	Employer UNEMPLOYED
Social Security Number 416-11-2599	Race B	Hair BLD	Eyes BRO	Employer's Address
Driver's License Number (state) F142918 AL	Telephone Number			Employer's Telephone Number

Petitioner's
Exhibit (#9)

DOCUMENT 13
Petitioner's
Exhibit
#9

204
ELECTRONICALLY FILED
8/19/2016 4:18 PM
11-CC-2016-000083.00
CIRCUIT COURT OF
CALHOUN COUNTY, ALABAMA
ELI HENDERSON, CLERK

SEVENTH JUDICIAL CIRCUIT OF ALABAMA
CIRCUIT COURT OF CALHOUN COUNTY

STATE OF ALABAMA

vs.

MARCO DANE ACOFF,

Defendant

CASE NOs. CC 2016-082
CC 2016-083

**MOTION FOR COURT ORDERED
MENTAL EXAMINATION OF DEFENDANT**

TO THE HONORABLE BRIAN P. HOWELL, CIRCUIT JUDGE:

Comes now William H. Broome, Jr., attorney of record for the Defendant in the above styled criminal cases, MARCO DANE ACOFF, and files this Motion For Court Ordered Mental Examination Of Defendant, and moves this Honorable Court, pursuant to Rule 11.2(a) of the Alabama Rules of Criminal Procedure, to order a mental examination of the Defendant, and as grounds for said Motion and the relief hereinafter prayed for, respectfully represents, avers, and alleges the following, to-wit:

1. That the Defendant is charged in the Indictment in these cases with robbery 1st degree and pharmacy robbery.
- ② That the Defendant is presently incarcerated and has been since his arrest on October 19, 2015.
3. That the undersigned attorney is of the opinion that the Defendant may be suffering from a mental impairment(s), disease, defect, injury or congenital deficiency and/or a combination of mental and physical impairments which could render him incapable of understanding the nature,

"8D"

(15)

Exhibit (#9)
 Motion For Mental Exam
 State v. Acoff
 Page 2 of 4

Ex #9

Exhibit #9

subject, and object of the criminal proceedings pending against him and/or which could render him incapable of assisting the undersigned attorney in preparing a defense and standing trial for capital murder as charged in the Indictment in the above styled criminal case and it is essential to the defense for a mental examination of the Defendant to be conducted in advance of trial.

4. That the undersigned attorney has serious questions, concerns, and/or reservations regarding the Defendant's mental condition at the time the alleged offenses were committed.

5. That the undersigned attorney has serious questions, concerns and/or reservations regarding the Defendant's mental condition, mental status, present ability to assist his attorney in his defense in a reasonable and rational manner and competency to stand trial for capital murder.

6. That this Honorable Court has the authority and duty, pursuant to Rule 11 of the Alabama Rules of Criminal Procedure, upon proper Motion, to order a mental examination of the Defendant by a qualified mental health professional.

7. That the prosecution of the above styled criminal cases should by stayed pending the outcome of the Defendant's mental examination(s).

WHEREFORE, PREMISES CONSIDERED, your Defendant prays for the
 following relief, to-wit:

1. That this Honorable Court will grant the Defendant's Motion For Court Ordered Mental Examination Of Defendant and order a mental examination of the Defendant to be conducted immediately by a qualified

"81"

(10)

mental health professional at such time or times as this Honorable Court may direct to determine and to report the following to this Honorable Court:

- a. The Defendant's present mental condition and competency to stand trial for these cases as charged in the Indictments.
 - b. The Defendant's present ability to assist his attorney in his defense in a reasonable and rational manner.
 - c. The Defendant's mental condition at the time the alleged offenses were committed.
2. Your Defendant prays for other, further, different, additional, and more general relief to which he may be entitled.

DONE this the 18th day of August, 2016.

s/William H. Broome, Jr.

WILLIAM H. BROOME, JR. - BRO296
Attorney for the Defendant
The Parks - Broome Building
Post Office Box 1952
Anniston, Alabama 36202
Telephone (256) 238-8744
Email: Will.H.Broome@gmail.com

CERTIFICATE OF SERVICE

I, William H. Broome, Jr., do hereby certify that I have on this the 18th day of August, 2016, electronically filed the foregoing with the Clerk of the Court using AlaFile which will send notification of such filing to the Honorable Timothy C. Burgess, Assistant District Attorney for the Seventh Judicial Circuit of Alabama.

WILLIAM H. BROOME, JR.
Attorney for the Defendant

Petitioner's Exhibit #10

Petitioner's Exhibit #10



KAY IVEY
Governor



ALABAMA DEPARTMENT OF CORRECTIONS
VENTRESS CORRECTIONAL FACILITY
379 HWY 239 N
Clayton, Alabama 36016



JEFFERSON S. DUNN
Commissioner

RELEASE PROCEDURES FOR ALL INMATES

Inmate Name: *Acoff, Marco Lane* AIS #: *210577B*

Information will be checked and provided to Wardens/Designee on the date of release if the release is Monday through Friday. Inmates being released on weekend or holidays will be checked as close as possible to the release date and time.

Initial and date each item as it is checked on the computer as well as information obtained from the file/daily action sheet.

EW (CDINC) verify location and check any changes to minimum release date

EW (CDDWD) to verify that no additional detainers/warrants have been lodged (Alacourt/Alacop)

EW How is inmate being released: *Parole* (File, DOC-find/Mainframe/Incident/Disc.-Module reviewed for pending/possessing disciplinary)

EW What is the release date: *5-7-18*

Comments (Agency picking up, etc...): No special instructions received to date via e-mail from CRO, etc.

I has pending CC116-82 + 83 (Rob I, Rob Pharmacy) in Calhoun County
Per Cin Clerk's Office I has made bonds on these cases

Lyle Hooks *4-30-18*
Classification Supervisor/Specialist Date

MSH
Warden/Deputy Warden Date

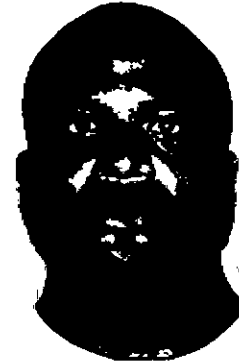
Alabama Department of Corrections

Inmate Summary

Detainer Warrant 00210577B ACOFF, MARCO DANE

For Transactions on 8/22/2018

Retention's
Exhibit #11
CREC052



AIS: 00210577B Prev/Next:

Inmate: ACOFF, MARCO DANE

Legal:

R/S: BM Dob: 11/21/1980 SSN: xxx-xx-2599

Inst: 000 - UNASSIGNED

Admit: 10/02/2012 10 - NEW COMIT FROM CRT W/REV OF PROB

Status: 41 - PAROLE DELINQUENT

Jail: 2Y 2M 16D

Retro CIT: NONE

Security: (4) Four

Custody: P/V-2 Custody Date: 08/07/2018 Parole Review Date: * NONE *

Alias: "GAMBINO", "TWIN", ACOFF, M DANE, ACOFF, MARCO, ACOFF, MARCO D, ACOFF, MARIO DEWAY, GAMBINO, TWIN

IMAS: No Current Status Entered in IMAS

Class Date: 08/09/2016

CLASS I - EARNS 75 DAYS FOR EACH 30 SERVED

Total Term	Min Rel Dt	GoodTime Bal	GoodTime Rev	Dead Time	Long Date
10Y 0M 0D	11/07/2018	001830 Days	000030 Days	0Y 0M 0D	05/21/2024

Inmate Literal: TWIN BROTHER TO #214449;CC12-581 CT1 TIME SERVED

Offenses for 00210577B

Seq	County	Sent Dt	Case Nbr	Total Fees	Hab Off	JL-CR	Term	CS
(A) 1	SHELBY	08/09/2016	CC2012000581	1271.00	N	808	10Y 0M 0D	CS
	307C - CRIM POSS FORGED INSTR II CT 2							
(B) 2	AUTAUGA	09/01/2016	CC2015000227	2566.00	N	138	4Y 0M 0D	CC
	830C - OBTAIN CTRL SUBS FRAUDULENTLY CONSPIRACY TO COMMIT							

Detainer Warrants for 00210577B

Seq: 2 DetWrt: 08/22/2018 Agency: Department of Corrections Cent
Type: PAROLE VIOLATION WARRANT Offense: PAROLE VIOLATION
Case: Comments:

Probations, Escapes and Paroles for 00210577B

Suf	Date	No Escape Sentences	No Escapes
A	09/01/2005	Released on Probation	
B	05/10/2013	Released on Probation	
(c) B	05/07/2018	Paroled from 43 VENTRESS CORRECTIONAL CENTER Rvk: 00/00/0000 Delq: 08/07/2018 Recap: 00/00/0000 to 0	

Petitioner's Ex #12 Petitioner's Exhibit #12
Ex #12

ALABAMA SJIS CASE DETAIL

PREPARED FOR: AGS



County: 11 Case Number: CC-2016-000083.00 Court Action: CONVICTED
 Style: STATE OF ALABAMA V. ACOFF MARCO DANE

Real Time

Case Action Summary					
Date	Time	Code	Comments		
1/21/2016	10:01 AM	JUDG	ASSIGNED TO: (BPH) BRIAN P HOWELL (AR01)		MIP
1/21/2016	10:01 AM	STAT	INITIAL STATUS SET TO: "J" - JAIL (AR01)		MIP
1/21/2016	10:01 AM	FILE	FILED ON: 01/21/2016 (AR01)		MIP
1/21/2016	10:01 AM	ATY1	ATTORNEY FOR DEFENDANT: BROOME WILLIAM HERMAN JR.		MIP
1/21/2016	10:01 AM	WOT	DEFENDANT INDICTED ON: 01/14/2016 (AR01) (CA)		MIP
1/21/2016	10:01 AM	ARRS	DEFENDANT ARRESTED ON: 10/19/2015 (AR01)		MIP
1/21/2016	10:01 AM	BOND	BOND SET AT: \$50000.00 (AR01)		MIP
1/21/2016	10:01 AM	FILE	CHARGE 01: ROBBERY PHARMACY#CNTS: 001 (AR01)		MIP
1/21/2016	10:01 AM	SCAN	CASE SCANNED STATUS SET TO: N (AR10)	Different fault	MIP
1/21/2016	10:01 AM	DAT1	SET FOR: ARRAIGNMENT ON 03/10/2016 AT 0900A (AR10)		MIP
1/21/2016	10:01 AM	ESCAN	SCAN - FILED 1/21/2016 - INDICTMENT		MIP
1/22/2016	11:46 AM	DOCK	NOTICE SENT: 01/22/2016 BROOME WILLIAM HERMAN JR.		MIP
1/22/2016	11:47 AM	DOCK	NOTICE SENT: 01/22/2016 ACOFF MARCO DANE	New & Received	MIP
1/27/2016	11:04 AM	EMOT	D001- PLEA OF NOT GUILTY AND WAIVER OF ARRAIGNMENT FILED. (K) SEE P159	not guilty b1	BRO296
1/27/2016	11:44 AM	EMOT	D001- PLEA OF NOT GUILTY AND WAIVER OF ARRAIGNMENT (DOCKETED)	not guilty b1	SHL
1/27/2016	1:16 PM	JEMOT	D001- PLEA OF NOT GUILTY AND WAIVER OF ARRAIGNMENT NO ACTION	mental exam	JA
2/3/2016	4:03 PM	S001	SURETY ADDED: ABES ACE BAIL BONDING CO. (AR01)	mental exam	MIP
2/3/2016	4:03 PM	REDT	DEFENDANT RELEASED FROM JAIL: 02/02/2016 (AR01)	child defect	MIP
2/3/2016	4:03 PM	S001	ENFORCEMENT STATUS SET TO: "A" (FES2)	1/05/2016	MIP
2/3/2016	4:03 PM	S001	ENF PLACEMENT STATUS SET TO: "H" (FES2)	Different	MIP
2/3/2016	4:03 PM	S001	PAYMENT FREQUENCY SET TO: "O" (FES2)		MIP
2/3/2016	4:11 PM	ESCAN	SCAN - FILED 2/3/2016 - BAIL BOND FEE TRANSMITTAL FORM		MIP
2/3/2016	4:12 PM	ESCAN	SCAN - FILED 2/3/2016 - BOND(S)		MIP
2/19/2016	9:57 AM	EMOT	D001-DISCOVERY/PRODUCTION FILED.		BRO296
2/19/2016	9:58 AM	EMOT	D001-NOTICE OF INTENT TO USE 404(B) EVIDENCE FILED - (LD)		BRO296
2/19/2016	4:22 PM	EMOT	D001-NOTICE OF INTENT TO USE 404(B) EVIDENCE (DOCKETED) - (E)		SHL
2/19/2016	4:22 PM	EMOT	D001-DISCOVERY/PRODUCTION (DOCKETED).		SHL
2/19/2016	5:17 PM	JEORDE	ORDER GENERATED FOR NOTICE OF INTENT TO USE 404(B) EVIDENCE - RENDERED & ENTERED: 2/19/2016 5:17:15 PM - ORDER (F)		
2/19/2016	5:17 PM	JEMOT	D001-DISCOVERY/PRODUCTION NO ACTION	Look at date 01/01/1990	
2/19/2016	5:17 PM	JEMOT	D001-DISCOVERY/PRODUCTION (SET FOR 01/01/1990)		
2/19/2016	4:17 PM	EMOT	D001-OTHER - MOTION FOR COURT APPOINTED ATTORNEY FILED		BRO296
2/19/2016	4:16 PM	EMOT	D001-COURT-ORDERED MENTAL EXAMINATION OF DEFENDANT FILED		BRO296
2/22/2016	3:24 PM	EMOT	D001-OTHER (DOCKETED)		MIP
2/22/2016	3:24 PM	EMOT	D001-COURT-ORDERED MENTAL EXAMINATION OF DEFENDANT (DOCKETED)		MIP
2/23/2016	9:34 AM	JEORDE	ORDER GENERATED FOR OTHER - MOTION FOR COURT APPOINTED ATTORNEY - RENDERED & ENTERED: 2/23/2016 9:34:10 AM - ORDER		J
2/23/2016	12:55 PM	JEORDE	ORDER GENERATED FOR COURT-ORDERED MENTAL EXAMINATION OF DEFENDANT - RENDERED & ENTERED: 2/23/2016 12:55:18 PM - ORDER		JA
2/23/2016	2:45 PM	ADD1	ADD01 CHARGES FROM: UNKNOWN (AR01)		SHL
2/23/2016	2:45 PM	CITY	HOME CITY CHANGED FROM: ANNISTON (AR01)		SHL
2/23/2016	2:45 PM	STAT	STATUS CHANGED TO: "B" - BOND (AR01)		SHL
2/23/2016	2:46 PM	TEXT	CC: T.H.S.M.F., SHF (MENTAL EXAM) - (J)		SHL

Indicted on 1/14/2016 not as att criminal said in Brief

C

Retention #13 Exhibit

Retention #13 Exhibit

3

8/23/2016	2:45 PM	CITY	HOME CITY CHANGED FROM: ANNISTON (AR01)	SHL
8/23/2016	2:45 PM	STAT	STATUS CHANGED TO: "B" - BOND (AR01)	SHL
8/23/2016	7:40 PM	TEXT	THREE SENTIMENTAL STAMP - (J)	SHL
8/14/2018	2:47 PM	EMOT	C001-REVOKE BOND FILED.	BUR083
8/14/2018	4:04 PM	EMOT	C001-REVOKE BOND /DOCKETED	ACS
8/16/2018	9:59 AM	JEORDE	ORDER GENERATED FOR REVOKE BOND - RENDERED & ENTERED: 8/16/2018 9:59:12 AM - ORDER	J
8/17/2018	1:15 PM	AWAR	ALIAS WARRANT ISSUED: 06/17/2018 (AR05)	SHL
8/17/2018	1:23 PM	ESCAN	SCAN - FILED 8/17/2018 - WARRANTS	SHL
8/20/2018	3:35 PM	JEORDE	ORDER E-FILED - ORDER - CFWA ORDER - RENDERED & ENTERED: 8/20/2018 3:35:05 PM	JA
11/8/2018	8:44 AM	BNOP	BONDSMAN PROCESS ISSUED TO: ALL SURETIES (AR09)	SHL
11/8/2018	5:45 AM	ESCAN	SCAN - FILED 11/8/2018 - BONDSMAN'S PROCESS	SHL
11/8/2018	10:11 AM	TEXT	NOTICE SENT TO JUDGE OF ARREST & NEED FOR A 72	ACS
11/8/2018	10:12 AM	WARR	"S" WARRANT SERVICE ON: 11/07/2018 (AR10)	ACS
11/8/2018	10:12 AM	WARR	WARRANT LOCATION IS: H ON: 11/08/2018 (AR10)	ACS
11/8/2018	10:15 AM	ESCAN	SCAN - FILED 11/8/2018 - WARRANT SERVED	ACS
11/8/2018	10:16 AM	ESCAN	SCAN - FILED 11/8/2018 - NOTICE	ACS
11/8/2018	10:38 AM	JEORDE	ORDER E-FILED - ORDER - E-FILE ORDER - RENDERED & ENTERED: 11/8/2018 10:38:07 AM	JA
11/13/2018	11:34 AM	STAT	STATUS CHANGED TO: "J" - JAIL (AR10)	SHL
11/19/2018	11:34 AM	BNDR	BONDSMAN PROCESS RETURNED: 11/16/2018 (AR10)	SHL
11/19/2018	11:38 AM	ESCAN	SCAN - FILED 11/16/2018 - BONDSMAN'S PROCESS	SHL
1/9/2019	1:45 PM	EMOT	D001-OTHER - MOTION TO FIRE ATTORNEY FILED ON 1/9/2019 1:44 PM	ACS
1/10/2019	8:10 AM	JEORDE	ORDER GENERATED FOR OTHER - MOTION TO FIRE ATTORNEY - RENDERED & ENTERED: 1/10/2019 8:10:59 AM - ORDER	J
1/10/2019	8:14 AM	ADD1	ADDR1 CHANGED FROM: 357 1ST ST WEST (AR01)	SHL
1/10/2019	8:14 AM	CITY	HOME CITY CHANGED FROM: BIRMINGHAM (AR01)	SHL
1/10/2019	8:15 AM	TRAN	TRANSMITTAL NOTICE SENT TO: DEFENDANT (AR09)	SHL
1/11/2019	1:03 PM	EMOT	D001-OTHER - MOTION TO KNOW WHY BOND IS REVOKED FILED ON 1/11/2019 1:03 PM	SHL
1/11/2019	1:30 PM	JEORDE	ORDER GENERATED FOR OTHER - MOTION TO KNOW WHY BOND IS REVOKED - RENDERED & ENTERED: 1/11/2019 1:30:08 PM - ORDER	J
1/14/2019	8:44 AM	EMOT	D001-WITHDRAW FILED.	BR0296
1/14/2019	8:50 AM	EMOT	D001-WITHDRAW /DOCKETED	SHL
1/14/2019	2:32 PM	JEORDE	ORDER GENERATED FOR WITHDRAW - RENDERED & ENTERED: 1/14/2019 2:32:58 PM - ORDER	J
1/15/2019	8:19 AM	ATY1	ATTORNEY FOR DEFENDANT: DEAN ALEXANDER JONATHON	SHL
1/15/2019	9:19 AM	TRAN	TRANSMITTAL NOTICE SENT TO: DEF ATTORNEY 1 (AR09)	SHL
1/24/2019	2:56 PM	EMOT	D001-OTHER - MOTION FOR DUE PROCESS ON BOND REVOCATION FILED ON 1/24/2019 2:56 PM	ACS
2/1/2019	9:22 AM	JEORDE	ORDER GENERATED FOR OTHER - MOTION FOR DUE PROCESS ON BOND REVOCATION - RENDERED & ENTERED: 2/1/2019 9:22:57 AM - ORDER	J
2/12/2019	1:13 PM	EMOT	D001-OTHER - MOTION TO REINSTATE BOND FILED ON 2/12/2019 1:13 PM	ALS
2/12/2019	1:23 PM	TRAN	TRANSMITTAL NOTICE SENT TO: DEFENDANT (AR09)	ACS
2/12/2019	1:27 PM	ESCAN	SCAN - FILED 2/12/2019 - CORRESPONDENCE	ACS
2/12/2019	3:40 PM	JEORDE	ORDER GENERATED FOR OTHER - MOTION TO REINSTATE BOND - RENDERED & ENTERED: 2/12/2019 3:40:13 PM - ORDER	JA
2/27/2019	9:23 AM	EMOT	D001-OTHER - BOND REINSTATEMENT FILED ON 2/27/2019 9:23 AM	ALS
3/1/2019	10:27 AM	JEORDE	ORDER E-FILED - ORDER - E-FILE ORDER - RENDERED & ENTERED: 3/1/2019 10:27:16 AM	JA
3/1/2019	11:36 AM	DAT1	SET FOR: FIRST CALL ON 02/02/2019 AT 0900A (AR10)	ALS
3/1/2019	11:36 AM	DAT2	SET FOR: JURY TRIAL ON 03/05/2019 AT 0200A (AR10)	ALS
3/5/2019	1:31 PM	JEORDE	ORDER E-FILED - ORDER - E-FILE ORDER - RENDERED & ENTERED: 3/5/2019 1:31:33 PM	J
3/6/2019	10:59 AM	JUDG	JUDGE ID CHANGED FROM: BPH TO: LHT (AR10)	ACS
3/6/2019	11:00 AM	TEXT	NOTICE SENT TO JUDGE TURNER OF RECUSAL	ACS
3/6/2019	11:07 AM	ESCAN	SCAN - FILED 3/6/2019 - NOTICE	ACS
3/11/2019	4:02 PM	JEORDE	ORDER GENERATED FOR OTHER - BOND REINSTATEMENT - RENDERED & ENTERED: 3/11/2019 4:02:39 PM - ORDER	JA
3/11/2019	4:23 PM	DAT3	SET FOR: HEARING ON 04/10/2019 AT 0930A (AR10)	ALS
3/20/2019	10:01 AM	JEORDE	ORDER E-FILED - ORDER - E-FILE ORDER - RENDERED & ENTERED: 3/20/2019 10:01:25 AM	JA
4/1/2019	3:44 PM	W006	ADDED: OFF TRENT RICKETTS (A) (AW21)	ACS
4/1/2019	3:44 PM	W006	WATNESS SUBPOENA ISSUED TO W006 OFF TRENT RICKETTS	ACS

Retention #13 Exhibit

Warr

Warr

Warr

Warr

1 and they've failed to do that.

2 THE COURT: All right. Anything else?

3 MS. FIELD: Yes.

4 MR. GHEE: Judge -- go ahead, Sheila.

5 MS. FIELD: I'm sorry, Your Honor.

6 THE COURT: Go ahead.

7 MS. FIELD: They filed their motion for a
8 mental eval in August of 2016, and you ordered it
9 in August of 2016. But he ain't been here. He
10 ain't been locked up. There's been no violation
11 of his due process rights because he ain't been
12 here. I filed a motion to revoke his bond
13 because he was out and committing new crimes in
14 2018. We didn't get him back here until November
15 2018, and he ain't filed nothing about a mental
16 eval since then. The only thing he's filed is
17 that continue -- continued twice and please
18 reinstate my bond. It said nothing about a
19 mental eval until David and them filed -- or
20 asked again in May of 2019. That's the first
21 time. So his due process rights ain't been
22 violated. He's been out running around
23 committing new crimes for two years. So it
24 should be denied.

25 THE COURT: Any rebuttal?

(30F5)

(30F5)

Exhibit (109D)

Due-Process Before Trial

10


Exm 109-D

1 violates their right under the due process clause
2 of the 14th Amendment. Couldn't have been said
3 any clearer and it was said by consent.

4 So we think because his constitutional
5 right of due process has been violated that these
6 two cases should be dismissed.

7 THE COURT: Any response from the state?

8 MS. PHILLIPS: Yes, Your Honor. If you'll
9 note from the -- this is, in fact, a civil case
10 and this consent decree was signed by the
11 Honorable Myron Thompson, United States District
12 Judge, in January of 2018. It states -- if
13 you'll look at provision number 6, it says that
14 by 12 months after the final approval of this
15 agreement, which I'm not sure when that is, and
16 it states what the State of Alabama will do to
17 actually start remedying the problem with the
18 backup for mental evaluations.

19 You know, they've argued that they have
20 violated a due process, but they've not given any
21  whatsoever prejudice. They've given no proof of
22 any kind of prejudice for the defendant today.
23 And just because you can stand up and argue that
24 you have a violation of something -- you have to
25 show that you've been prejudiced in some manner,

Retitioner's Exhibit #15

Retitioner's Exhibit #15

DOCUMENT 52

DOCUMENT 40

75



ELECTRONICALLY FILED

1/11/2019 1:30 PM

11-CC-2016-000082.00

CIRCUIT COURT OF

CALHOUN COUNTY, ALABAMA

KIM MCCARSON, CLERK

IN THE CIRCUIT COURT OF CALHOUN COUNTY

STATE OF ALABAMA

V.

ACOFF MARCO DANE
Defendant.

Case No.: CC-2016-000082.00

ORDER

MOTION TO KNOW WHY BOND IS REVOKED filed by ACOFF MARCO DANE is hereby DENIED.

DONE this 11th day of January, 2019.

/s/ BRIAN P HOWELL
CIRCUIT JUDGE

Prof. Had lawyer there should have told me why Bond was Revoked

110

(ps.)

1 this also falls upon the defendant.

2 THE COURT: Okay. Anything else?

3 MR. GHEE: I'm glad she used the word "some,"
4 Judge. Some might, but not all of it. And the
5 defendant -- our allegation is he has a mental
6 defect, but at the same time --

7 THE COURT: Have y'all got a report?

8 MS. FIELD: We do, Your Honor.

9 THE COURT: What does it say?

10 MS. FIELD: He's good to go.

11 MS. PHILLIPS: He's good.

12 MR. GHEE: The tainted report said he's good
13 to go, that's correct.

14 THE COURT: Okay. The report says he's --

15 MR. GHEE: The report that was finally done
16 this year, just a few months ago, said -- did not
17 show there was a problem as far as mental health.

18 THE COURT: All right. Anything else?

19 MS. FIELD: No, Your Honor.

20 THE COURT: All right. The Court has
21 considered the arguments of counsel, and although
22 I haven't had time to review and read the entire
23 case presented to support the arguments, I
24 recognize the different facts and being somewhat
25 familiar with the scheduling issues resulting --

1 * you know, this case being on the docket and
2 * recognizing he had some time to be out would deny
3 the motion.

4 So are y'all ready?

5 MS. FIELD: Yes, sir.

6 MR. GHEE: Yes, sir.

7 (Jury panel in at 10:22 a.m.)

8 VOIR DIRE

9 THE COURT: Okay. Court will come to order.
10 Ladies and gentlemen, I introduced myself a
11 minute ago across the hall. Y'all have been
12 placed on a panel upon which a jury will be
13 selected to try this case.

14 This is Circuit Court Case Number CC
15 2016-82 and 2016-83. The name or style of the
16 case is State of Alabama versus Marco Dane Acoff.
17 The State of Alabama is represented by the
18 Assistant District Attorneys in this case, the
19 Honorable Sheila Field -- Ms. Field if you'll
20 stand -- the Honorable Tim Burgess, and the
21 Honorable Laura Phillips, who are present at the
22 table.

23 Also with them is their state's
24 prosecuting representative witness, Investigator
25 Jason Webb. So, Jason, if you'll stand up so

PETITIONER'S
EXH #17

Petitioner's EXH #17 A3 #9

Ala.Code § 15-16-21

**Postponement of felony trial for determination
of sanity.**

If any person charged with any felony is held in confinement under indictment and the trial court shall have reasonable ground to doubt his sanity, the trial of such person for such offense shall be suspended until the jury shall inquire into the fact of such sanity, such jury to be impaneled from the regular jurors in attendance for the week or from a special venire, as the court may direct. If the jury shall find the accused sane at the time of its verdict, it shall make no other inquiry, and the trial in chief shall proceed. If it finds that he is insane at that time, the court shall make an order committing him to the Alabama state hospitals, where he must remain until he is restored to his right mind. When the superintendent of the hospitals shall be of opinion that such person is so restored, he shall forthwith, in writing, inform the judge and sheriff of such court of the fact, whereupon such person must be remanded to jail on an order of such judge and the criminal proceedings resumed. In no event shall such a person be set at large so long as such prosecution is pending or so long as he continues to be insane.

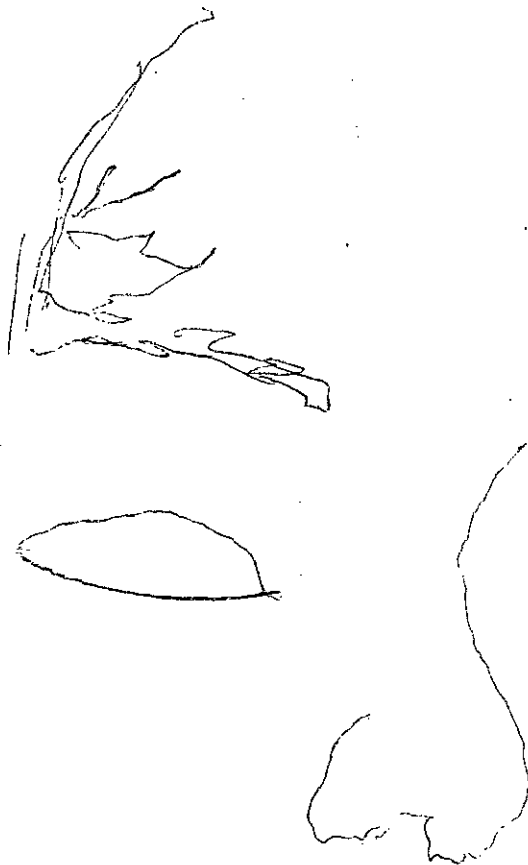
Read

Both
Sides →

Ala.Code § 15-16-2

Burden of proof.

Every person over 14 years of age charged with crime is presumed to be responsible for his acts, and the burden of proving that he is irresponsible is cast upon the accused. The defense of insanity in all criminal prosecutions shall be clearly proved to the reasonable satisfaction of the jury.



Retitioner's Exhibit #19

DOCUMENT

Retitioner's Exhibit #19

14

GRAND JURY DOCKET #
1601DA089

INDICTMENT

CIRCUIT COURT NO CC
CC16-082

STATE OF ALABAMA *
CALHOUN COUNTY *

IN THE CIRCUIT COURT OF CALHOUN COUNTY,
January Session, 2016

COUNT I

The Grand Jury of Calhoun County charge that, before the finding of this indictment,

Marco Dane Acoff,

whose true name to the Grand Jury is otherwise unknown, did, on or about October 5, 2015, in the course of committing a theft of a firearm, a better description of said property being unknown to the Grand Jury, the property of Heather Brooke Hamlin Rizzo, use force against the person of Heather Brooke Hamlin Rizzo with intent to overcome her physical resistance or physical power of resistance, or threaten the imminent use of force against the person of Heather Brooke Hamlin Rizzo with intent to compel acquiescence to the taking of or escaping with the property, while the said Marco Dane Acoff was armed with a deadly weapon or dangerous instrument, to-wit: a firearm, in violation of Section 13A-8-41 of the Code of Alabama,

AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.

SIGNED

[Signature]
District Attorney, Seventh Judicial Circuit of Alabama

A TRUE BILL

Signed *[Signature]*
FORELADY-FOREMAN

Indictment received in Open Court by Judge from Foreman
(Forelady) in presence of at least 1 other Grand Jurors.

Bond Set at \$50,000.00

Prosecutor

Signed *[Signature]*

JUDGE

INDICTMENT FILED;

Signed *[Signature]*

Clerk/Authorized Assistant
of Circuit Court

Date 1-16-19, 2016

Signed

Deputy Clerk

MARCO DANE ACOFF BM

11/21/1980

416-11-2599

Hair: Black

Eyes: Brown

Height: 5 ft

7 in

Weight: 180

Unknown,

" 67 "

(2)

1/13/2020	3:47 PM	ESCAN	SCAN - FILED 1/13/2020 - APPEAL	ACS
2/12/2020	10:19 AM	ESCAN	SCAN - FILED 2/12/2020 - APPEAL	ACS
3/4/2020	10:50 AM	JEORDE	ORDER GENERATED FOR OTHER - MOTION FOR INEFFECTIVE COUNSEL - RENDERED & ENTERED: 3/4/2020 10:50:13 AM - ORDER	JA
3/12/2020	4:44 PM	JEORDE	ORDER E-FILED - ATTORNEY'S FEE DECLARATION ORDER - RENDERED & ENTERED: 3/12/2020 4:44:45 PM	J
3/18/2020	8:50 AM	ESCAN	SCAN - FILED 3/18/2020 - APPEAL	ACS

END OF THE REPORT

Pl. Aironis Exhibit # 20

Pl. Aironis Exhibit # 20
DOCUMENT 1

GRAND JURY DOCKET #
1601DA090

INDICTMENT

CIRCUIT COURT NO CC
CC 16-083

STATE OF ALABAMA *
CALHOUN COUNTY *

IN THE CIRCUIT COURT OF CALHOUN COUNTY,
January Session, 2016

COUNT 1

The Grand Jury of Calhoun County charge that, before the finding of this indictment,

Marco Dane Acoff,

whose true name to the Grand Jury is otherwise unknown, did, on or about October 5, 2015, in the course of committing a theft of a controlled substance, as defined in Section 20-2-2 of the Code of Alabama, 1975, as amended, to-wit: miscellaneous controlled substances, the property of Quick Meds Express Pharmacy, from a pharmacy, to-wit: Quick Meds Express Pharmacy, use force or threaten the imminent use of force against the person of Diane Leigh Fordham, with the intent to overcome her physical resistance or physical power of resistance or to compel acquiescence to the taking of or escaping with the controlled substance, while the said Marco Dane Acoff was armed with a deadly weapon or dangerous instrument, to-wit: a firearm, in violation of Section 13A-8-51 of the Code of Alabama,

AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.

SIGNED

District Attorney, Seventh Judicial Circuit of Alabama

A TRUE BILL

Signed

Paul D. Harris Jr.
FORELADY-FOREMAN

Indictment received in Open Court by Judge from Foreman (Forelady) in presence of at least 11 other Grand Jurors.

Bond Set at \$60,000.00

Prosecutor

Signed

JUDGE

INDICTMENT FILED;

Date 1-16-16, 2016

Signed

El. H. Hadden

Clerk/Authorized Assistant of Circuit Court

Signed

Deputy Clerk

MARCO DANE ACOFF BM

11/21/1980

416-11-2599

Hair: Black

Eyes: Brown

Height: 5 ft 7 in

Weight: 180

Unknown, .

"65" → Flipover

(1) 2



ELECTRONICALLY FILED
1/27/2016 11:04 AM
11-CC-2016-000083.00
CIRCUIT COURT OF
CALHOUN COUNTY, ALABAMA
ELI HENDERSON, CLERK

State of Alabama Unified Judicial System Form JS-9 Rev. 3-95	PLEA OF NOT GUILTY AND WAIVER OF ARRAIGNMENT	Case Number 15-CC-83
--	---	-------------------------

IN THE Circuit COURT OF Calhoun County, ALABAMA
(Circuit, District, or Municipality) (Name of County or Municipality)

☒ STATE OF ALABAMA v. Marco Dane Acuff Defendant

Enter now the defendant in the above-stated matter, and to the offense charged enters a plea of

☐ Not Guilty
☐ Not Guilty by Reason of Mental Disease or Defect
☒ Not Guilty and Not Guilty by Reason of Mental Disease or Defect

Defendant acknowledges receipt of the copy of the charge against him/her, and further waives the right to have an arraignment at which the defendant is present in person, or at which the defendant is represented by an attorney.

But the defendant expressly and knowingly reserves the right upon the thing served to hereafter, but before trial or before such date as may be set by the court, to interpose any defenses, objections, or motions which the defendant has the right as a matter of law to interpose in the course prior to the thing hereof.

Defendant's date of birth is 1-21-1980 Defendant's age is 35 years old

The defendant is not eligible for consideration by the court for youthful offender status as provided by law.

Date January 25, 2016 Defendant Marco Dane Acuff
Date January 25, 2016 Attorney for Defendant William H. Broome, Jr.

It is to certify that I am the attorney for the defendant in this matter, and that I have fully explained this form and all matters set forth herein, and pertaining thereto, to the defendant. I further state to the court that I have explained to the defendant his right to be arraigned in person, and his right to have me represent him at arraignment. I further certify to the court that my client hereby knowingly and voluntarily waives these rights after a full and complete explanation of each and every one of them to him/her, by me, BOTH WRITTEN AND THE DEFENDANT UNDERSTAND THAT I AM RESPONSIBLE FOR ASCERTAINING WHAT DATE, IF ANY, HAS BEEN SET BY THE COURT FOR THE MAKING OR FILING OF ANY DEFENSES, OBJECTIONS, OR MOTIONS. I FURTHER UNDERSTAND THAT I AM RESPONSIBLE FOR NOTIFYING MY CLIENT OF THE DATE HIS/HER CASE IS SET FOR TRIAL, AND THAT I HAVE FULLY SET AND INFORMED HIM/HER THAT IN THE EVENT HIS/HER FAILS TO APPEAR ON THE DATE HIS/HER CASE IS SET FOR TRIAL, ALL APPROPRIATE LEGAL ACTION WILL BE TAKEN BY THE COURT AGAINST THE DEFENDANT AND HIS/HER BOND. I further certify to the court that I have advised my client that he/she is responsible for obtaining the date his/her case is set for trial in this matter and that in the event he/she fails to appear on the date his/her case is set for trial, all appropriate legal action will be taken by the court against the defendant and his/her bond, and I hereby certify that the defendant knows that he/she is personally responsible for obtaining the date his/her case is set for trial and for being present in court on that date.

Date January 25, 2016 Attorney for Defendant Signature William H. Broome, Jr.
Date January 25, 2016 Printed or Typed Attorney's Name William H. Broome, Jr. - BRO296
Address Post Office Box 1952, Anniston, Alabama 36202

I certify that I served a copy of the foregoing plea and waiver of arraignment on the Prosecutor by mail together with a copy of the same to him/her on January 25, 2016

The I do certify that my attorney has explained each and every matter and right set forth in this form and I have completely and fully read and do understand each and every matter set forth in this form. I further state to the court that I do not wish to be personally present at an arraignment in this case and that I do not want to have an attorney represent me at an arraignment and WITH FULL AWARENESS OF EACH OF THESE RIGHTS I HEREBY EXPRESSLY WAIVE SUCH RIGHTS. I further state to the court that I have been informed of the charge against me and have received a copy of the charge.

Date January 25, 2016 Defendant Signature Marco Dane Acuff
Filed in office this date _____ By _____
Clerk

(14)
TUKO

"606"

IN THE CIRCUIT COURT OF CALHOUN COUNTY, ALABAMA

STATE OF ALABAMA

Plaintiff,

vs.

MARCO DANE ACOFF,
Defendant.CASE NUMBER: CC-16-82
CC-16-83MOTION TO REVOKE BOND

Comes now the State of Alabama, by and through, Assistant District Attorney of the Seventh Judicial Circuit of Alabama, and would respectfully move that this Honorable Court revoke the bond against the above-named defendant, in the above-listed case. As grounds for said request, the State of Alabama would aver that while the defendant was on bond in the above-cited cases, he committed another criminal offense:

1. That the defendant Marco Dane Acoff was indicted on January 14, 2016 for two counts of Robbery in the First Degree and is currently on bond and awaiting final disposition.
2. That the Defendant obtained additional charge of Possession of a Controlled Substance, Possession of Drug Paraphernalia and Public Order Crimes by the Bessemer Police Department on July 3, 2018, all while on bond, in direct violation of the Rules of Criminal Procedure.
3. That the State requests the Defendant be arrested for violation of bond conditions in that he obtained these new charges while on bond, in violation of 7.3(a)(2) of the *Alabama Rules of Criminal Procedure* that "the defendant refrain from committing any criminal acts."

The State of Alabama would aver that the new offenses were committed while the defendant was on bond in the above-cited criminal case. Therefore, in the interest of justice for the purpose of insuring that the defendant does not commit any more crimes while he is on bond, being a danger to himself and to others, the defendant's bond should be revoked in the above captioned case.

Respectfully submitted this 14th of August, 2018.

/s/ Timothy Burgess
Timothy Burgess
Assistant District Attorney

CERTIFICATE OF SERVICE

I, hereby certify that I have served a copy of the foregoing Motion to Revoke Bond by Efile, on this 14th day of August, 2018.

/s/ Timothy Burgess
Timothy Burgess, Assistant District Attorney

new committed new
charges. See (Rec'd) illegally
arrested.

8/16/2018 9:59 AM

11-CC-2016-000082.00

CIRCUIT COURT OF

CALHOUN COUNTY, ALABAMA

KIM MCCARSON, CLERK

Exh. #22 #22
Petitioner's Exhibit
IN THE CIRCUIT COURT OF CALHOUN C

STATE OF ALABAMA)

V.)

Case No.: CC-2016-000082.00

ACOFF MARCO DANE)

Defendant.)

ORDER

The State's Motion to Revoke Bond being considered and understood, it is hereby **ORDERED** that the Sheriff of Calhoun County, Alabama shall

ARREST the Defendant immediately forthwith and serve said Defendant with a copy of the State's Motion, along with a copy of this arrest Order.

The Sheriff is further directed to advise the undersigned trial Judge immediately upon the Defendant's arrest. A hearing shall be set and held within seventy-two (72) hours of the arrest of the Defendant pursuant to

Alabama Rule of Criminal Procedure 7.5.

The Clerk/Register is directed to forward a copy of this Order to all attorneys of record and/or parties Pro Se.

#22

• Petitioner's Exhibit

Exh #22

Petitioner's
Exh #22

DONE this 16th day of August, 2018.

/s/ BRIAN P HOWELL
CIRCUIT JUDGE

Did not have 72 hr hearing
Due- Process issue.

Filed several motion on the
subject.

nor did I commit new
crimes.



Petitioner's Exh. #23

In the Circuit Court of Calhoun County
Anniston Alabama

FILED

APR 17 2019

KIM MCCARSON, CLERK

State of Alabama
Plaintiff

CASE NO. CC-16-82

vs.

CASE NO. CC-16-83

Marion Danz Acuff
Defendant

Motion to Fire Attorney
and Request Appointment
of new attorney

Comes; now the Defendant, Marion Danz Acuff prays,
moves this Honorable Court in the above styled motion to
Fire attorney Alexander J. Dean and appoint new counsel(s)
The defendant supports this motion with the following
grounds:

- 1) Counsel is ineffective counsel
- 2) Counsel Does not have Defendant's Best interest at stake
- 3) Counsel has lied to Defendant 3 times now and there
fore word is no longer with merit.
- 4) Counsel is not doing the Best he can and is undermining
defendant.

Exh. # J-2Exh. J-2Motion to Fire Attorney

(Wherefore these premises) Considered Defendant Respectfully Prays, that this Honorable Court Grant this motion terminating Alvin J. Davis as counsel and appoints 3rd two Counselor to Represent Counsel in this court styled case Being that its a life without the possibility of Parole; Being offered in this case. Defendant respectfully request the Court to appoint two of the Following attorneys

1. Doug Ghee
2. Lindsey Ghee
3. Fred Lawton

Alvin J. Davis

Defendant Further asserts that he is indigent incarcerated due to this case and prays that the Court honor his request.

Respectfully submitted, Marcel A. Hoff

Caldwell County Jail
Marcel A. Hoff
400 West 8th Street
Amarillo, Texas 79101

Done this 10th day of April 2019

Certificate of Service

I, Marcel A. Hoff, swear under the oath of penalty and perjury that I have this 10th day of April 2019 placed a copy of the following motion Fire Attorney and Request as well as counsel in the US and properly Addressed to Caldwell County Court House 400 West 8th Street Amarillo properly affixed.

Done this 10th day of April 2019
(C.E.A.)

Signed: Marcel A. Hoff
Marcel A. Hoff

()

Rebivons's Exhibit #24 *Rebivons's Exhibit #24*

DOCUMENT 36

59
ELECTRONICALLY FILED
1/10/2019 8:10 AM
11-CC-2016-000082.00
CIRCUIT COURT OF
CALHOUN COUNTY, ALABAMA
KIM MCCARSON, CLERK

IN THE CIRCUIT COURT OF CALHOUN COUNTY

STATE OF ALABAMA

V.

ACOFF MARCO DANE
Defendant.

)
)
) Case No.: CC-2016-000082.00
)
)
)

ORDER

The Defendant has retained his attorney according to court records. That is a contractual relationship between the Defendant and the attorney. The Court is not involved in that relationship. Therefore, the MOTION TO FIRE ATTORNEY filed by ACOFF MARCO DANE is given no ruling by the Court.

DONE this 10th day of January, 2019.

/s/ BRIAN P HOWELL
CIRCUIT JUDGE

FILED

FEB 27 2019

IN THE CIRCUIT COURT OF CALHOUN COUNTY, ALABAMA

KIM MCCARSON, CLERK

STATE OF ALABAMA

Plaintiff,

vs.

Case No.(s): 11-CC-2016-0082

11-CC-2016-0083

MARCO DANE ACOFF

Defendant,

MOTION TO REINSTATE BOND

Comes now the Defendant, MARCO DANE ACOFF, and requests this Honorable Court to reinstate his bond in the above-referenced matter(s). As grounds for said Motion, the Defendant would state as follows:

1. It would be in the interest of justice to reinstate the Defendant's bond;
2. Defendant is charged with robbery and pharmacy robbery in the above-styled causes;
3. Defendant was arrested on November 7, 2018 for failing to appear on September 18-19, 2018 for his scheduled pretrial docket call before this Honorable Court;
4. Defendant's "failure to appear" was not willful, intentional, or avoidable and due to circumstances beyond his control;
5. Defendant failed to appear because he did not receive prior notice from his attorney of the scheduled court date;
6. Defendant's retained attorney appears to have waived the Defendant's right to a 72-hour hearing, unbeknownst to the Defendant as indicated by Order of this Honorable Court on November 8, 2018.
7. Defendant requests a hearing on this Motion to Reinstate Bond.

Wherefore, premises considered, your Defendant would respectfully request that his bond be reinstated. Your Defendant prays for other, further, different, additional, and more general relief to which he may be entitled.

Respectfully submitted this the 27th day of February 2019.

/s/ Alexander J. Dean

Alexander J. Dean (DEA048)

Page 1 of 2

120

(1)

Petitioner's #26
Exhibit (1)

Petitioner's #26
Exhibit 7

DOCUMENT 58

258
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11-CC-2016-000083.00
CIRCUIT COURT OF
CALHOUN COUNTY, ALABAMA
KIM MCCARSON, CLERK

IN THE CIRCUIT COURT OF CALHOUN COUNTY

STATE OF ALABAMA

V.

ACOFF MARCO DANE
Defendant.

) Case No.: CC-2016-000083.00
)
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)
)

ORDER

MOTION TO REINSTATE BOND filed by ACOFF MARCO DANE is hereby SET FOR HEARING on APRIL 10, 2019, at 9:00 A.M

DONE this 11th day of March, 2019.

/s/ BUD TURNER
CIRCUIT JUDGE

Ex #27 Petitioner's # 27
Exhibit

DOCUMENT 51 Petitioner's
Exhibit # 27

253
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11-CC-2016-000083.00
CIRCUIT COURT OF
CALHOUN COUNTY, ALABAMA
KIM MCCARSON, CLERK

IN THE CIRCUIT COURT OF CALHOUN COUNTY

STATE OF ALABAMA

V

ACOFF MARCO DANE
Defendant.

)
)
) Case No.: CC-2016-000083.00
)
)
)

ORDER

MOTION TO REINSTATE BOND filed by ACOFF MARCO DANE is hereby DENIED. This motion will be forwarded to Defendant's attorney of record.

DONE this 12th day of February, 2019.

/s/ BRIAN P HOWELL
CIRCUIT JUDGE

was Pro Se

STATE OF ALABAMA)
) SS
COUNTY OF _____)

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENT, that I, _____ hereby
appoint, nominate, assign and designates _____

_____ to be my Attorney-in-Fact or Agent, and authorize such Attorney-in-Fact, to sign my name and
act in my stead, as fully as if I had signed it or performed it myself.

I further authorize my Attorney-in-Fact to buy, receive, lease, accept, or otherwise
acquire, to sell, convey, pledge to make, do and transact any and all of every kind of Business,
legal or otherwise.

To make endorse, accept, receive, sign, execute, acknowledge, and deliver deeds,
assignments, agreements, Certificates, writing of whatever kind and nature as maybe necessary,
convenient or proper.

To act as my Attorney-in-Fact or Proxy in respect to any policy, legal action or
otherwise.

I hereby grant and give unto said Attorney-in-Fact, full authority and Power to do and
perform any and all other acts necessary or incident to the performance and execution of the
powers herein granted, with power to do and perform all acts authorized herby as fully and to all
intents and purposes as the Grantor might could perform himself if physically present.

It is the Grantor's intention that this POWER OF ATTORNEY shall not be affected by
disability, incompetency or incapacity of the Grantor as required by Section 26-1-2 Code of
Alabama 1975.

This Power of Attorney shall Expire _____

Signature of Grantor

Sworn to and Subscribed before this _____ day of _____ 20____.

Notary Public

My Commission expires

(Month - day - year)

STATE OF ALABAMA)
) SS
COUNTY OF _____)

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENT, that I, _____ hereby
appoint, nominate, assign and designates _____

to be my Attorney-in-Fact or Agent, and authorize such Attorney-in-Fact, to sign my name and
act in my stead, as fully as if I had signed it or performed it myself.

I further authorize my Attorney-in-Fact to buy, receive, lease, accept, or otherwise
acquire, to sell, convey, pledge to make, do and transact any and all of every kind of Business,
legal or otherwise.

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It is the Grantor's intention that this POWER OF ATTORNEY shall not be affected by
disability, incompetency or incapacity of the Grantor as required by Section 26-1-2 Code of
Alabama 1975.

This Power of Attorney shall Expire _____

Signature of Grantor

Sworn to and Subscribed before this _____ day of _____ 20____

Notary Public

My Commission expires

(Month - day - year)