

IN THE SUPERIOR COURT OF DECATUR COUNTY

STATE OF GEORGIA

THE STATE OF GEORGIA

Case Number: 14CR00168

vs.

Bryan Lamar Harrell

ACCUSATION

Count 1

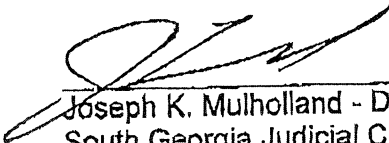
Joseph K. Mulholland, District Attorney, in the name and behalf of the citizens of Georgia, charges and accuses **BRYAN LAMAR HARRELL** with the offense of **Homicide by Vehicle in the First Degree** for that the said accused, on or about the 6th day of March, 2012, in Decatur County, Georgia, then and there while driving and operating a motor vehicle, to wit: a 1997 Dodge Dakota Truck, on Old Quincy Highway at Hubert Dollar Drive, did, without malice aforethought, cause the death of Remington Cole Waldon, a human being, through a violation of O.C.G.A. 40-6-390, Reckless Driving, as alleged in Count 2 herein, in that accused was driving too fast for conditions and following too close with his vehicle while exceeding the speed limit of the flow of traffic, in that accused's vehicle did hit the back of a 1999 Jeep Grand Cherokee, a moving vehicle in which Remington Cole Waldon was a passenger, causing said vehicle to crash contrary to the laws of said State, the good order, peace and dignity thereof.

Count 2

And Joseph K. Mulholland, District Attorney, in the name and behalf of the citizens of Georgia, further charges and accuses **BRYAN LAMAR HARRELL** with the offense of **Reckless Driving** for that the said accused, on or about the 6th day of March, 2012, in Decatur County, Georgia, then and there did unlawfully drive a 1997 Dodge Dakota Truck, a motor vehicle, in a reckless manner in reckless disregard of the safety of persons and property by accused driving said vehicle too fast for conditions and following too close while exceeding speed limit of the flow of traffic in that accused's vehicle did hit the back of a 1999 Jeep Grand Cherokee, a moving vehicle, causing said vehicle to crash contrary to the laws of said State, the good order, peace and dignity thereof.

Prepared by:

JOSEPH K. MULHOLLAND  
District Attorney  
PO Drawer 1870  
Bainbridge, GA 39818  
Telephone: 229-246-1823  
Bar# 527912  
Fax: 229-246-7518  
[jmulholland@pacga.org](mailto:jmulholland@pacga.org)

  
\_\_\_\_\_  
Joseph K. Mulholland - District Attorney  
South Georgia Judicial Court

Witnesses for the State

Keith Butterworth

PLEA

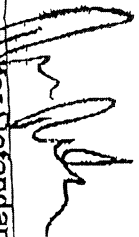
The Defendant Bryan Lamar Harrell waives indictment by Grand Jury, notice of arraignment, and agrees for the Judge to pass on all questions of law and fact and on being formally arraigned, pleads

guilty this 14th

day of October 20 14

*Bryan Harrell*  
Defendant

Attorney for Defendant



JOSEPH K. MULHOLLAND - District Attorney

No.

14C R02168

SUPERIOR COURT  
DECATUR COUNTY  
STATE OF GEORGIA  
ADJOURNED MAY TERM, 2014

vs.

Bryan Lamar Harrell  
Ct. 1 Homicide by Vehicle in the First Degree  
(O.C.G.A. 40-6-393(a))  
Ct. 2 Reckless Driving (O.C.G.A. 40-6-390)

Joseph K. Mulholland  
District Attorney

Keith Butterworth

Prosecutor

ACCUSATION

Filed in the office of the Clerk of Superior Court this

14 day of October, 2014

*Sue Morris*  
Clerk, Superior Court

ARRAIGNMENT

The Defendant Bryan Lamar Harrell

Waive \_\_\_\_\_ formal arraignment.

Plead not guilty.

This \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Defendant

Attorney for Defendant

JOSEPH K. MULHOLLAND - District Attorney

VERDICT

We, the Jury, find the Defendant Bryan Lamar Harrell

This \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Foreperson

IN THE SUPERIOR COURT OF DECATUR COUNTY, STATE OF GEORGIA

STATE OF GEORGIA versus  
HARRELL, BRYAN LAMAR

Clerk to complete if incomplete:

OTN(s):  
 DOB: 09/23/1985  
 Ga. ID#: 3109703X

CRIMINAL ACTION #:  
14CR00168  
ADJOURNED MAY Term of 2014

Final Disposition:  
**FELONY with PROBATION**

First Offender/Conditional Discharge entered under:

- O.C.G.A. § 42-8-60  O.C.G.A. § 16-13-2
- Repeat Offender as imposed below
- Repeat Offender waived

PLEA:

- Negotiated  Non-negotiated
- Negotiated as to Counts Only

VERDICT:

- Jury  Non-jury
- Guilty
- Not Guilty
- Nolo Contendere

The Court enters the following judgment:

Count	Charge (as indicted or accused)	Disposition (Guilty, Not Guilty, Guilty-Alford, Guilty-Lesser Incl, Nolo, Not Pros, Dead Docket)	Sentence	Fine	Concurrent/ Consecutive, Merged, Suspended
1	HOMICIDE BY VEHICLE IN THE FIRST DEGREE.	GUILTY PLEA	15 YEARS	1,000.00	CONCURRENT WITH ANY SENTENCE NOW SERVING.
2	RECKLESS DRIVING	MERGED			

(If designated by the Court): The Defendant is  adjudged guilty or  sentenced under First Offender for the above-stated offense(s); the Court sentences the Defendant to confinement in such institution as the Commissioner of the State Department of Corrections may direct, with the period of confinement to be computed as provided by law.

**Sentence Summary:** The Defendant is sentenced for a total of 15 YEARS,  with the first 8 YEARS to be served in confinement and the remainder to be served on probation; or  to be served on probation.

The Defendant is to receive credit for time served in custody:  from \_\_\_\_\_; or  as determined by the custodian.

1. The above sentence may be served on probation provided the Defendant shall comply with the Conditions of Probation imposed by the Court as part of this sentence.

2. Upon service of \_\_\_\_\_, the remainder of the sentence may be served on probation; PROVIDED, that the Defendant shall comply with the Conditions of Probation imposed by the Court as part of this sentence.

3. The Court sentences the Defendant as a recidivist under O.C.G.A.:

§ 17-10-7(a);  § 17-10-7(c);  § 16-7-1(b);  § 16-8-14(b); or  § \_\_\_\_\_.

### GENERAL CONDITIONS OF PROBATION

The Defendant is subject to arrest for any violation of probation. If probation is revoked, the Court may order incarceration. The Defendant shall comply with the following General Conditions of Probation: 1) Do not violate the criminal laws of any governmental unit and be of general good behavior. 2) Avoid injurious and vicious habits. 3) Avoid persons or places of disreputable or harmful character. 4) Report to the Probation Officer as directed and permit the Probation Officer to visit you at home or elsewhere. 5) Work faithfully at suitable employment insofar as may be possible. 6) Do not change your place of abode, move outside the jurisdiction of the Court, or leave Georgia without permission of the Probation Officer. If permitted to move or travel to another state, you agree to waive extradition from any jurisdiction where you may be found and not contest any effort by any jurisdiction to return you to this State. 7) Support your legal dependents to the best of your ability. 8) When directed, in the discretion of the Probation Officer: (a) submit to evaluations and testing relating to rehabilitation and participate in and successfully complete rehabilitative programming;

**FINE SURCHARGES or ADD-ONS:** The Court assesses all fine surcharges or add-ons as required by the laws of the State of Georgia and as are applicable to offense(s) for which the Defendant has been convicted.

- 1) The Court orders that:  the Defendant shall pay the probation supervision fee as required by law; or  the probation supervision fee is waived.
- 2) If counsel was provided under the Georgia Indigent Defense Act:  the Defendant shall pay the \$50 Public Defender Application Fee; or  the Public Defender Application Fee is waived.
- 3) If counsel was provided at public expense:  the Defendant shall pay attorney's fees of \$\_\_\_\_\_ to **DECATUR** County; or  attorney's fees are waived.
- 4) The Defendant shall pay the Crime Lab Fee as required by law.

### OTHER CONDITIONS OF PROBATION

The Defendant is advised that violation of any Special Condition of Probation may subject the Defendant to a revocation of probation and the Court may require the Defendant to serve up to the balance of the sentence in confinement. The Defendant shall comply with all Special Conditions of Probation:  as designated on the attached Inventory of Special Conditions of Probation; or  as follows: (*import conditions to be imposed from Inventory of Special Conditions of Probation*).

The Court finds that the Defendant shall pay restitution in the amount of \$\_\_\_\_\_ through the Probation Office for the benefit of the victim(s).

Defendant is jointly and severally liable with co-defendants for payment of restitution.

**Defendant shall pay fine, surcharge, and/or restitution:**

- In equal periodic increments of \$\_\_\_\_\_ per week beginning \_\_\_\_\_.
- In equal periodic increments of \$30.00 per week beginning 30 days after release from incarceration.

**Defendant is required to report, in person, to the local Probation Office of this Circuit once per month.**

**If probation is transferred, defendant shall report to the Probation Office of this circuit once per quarter between the 1<sup>st</sup> and 10<sup>th</sup> day of the first month of each quarter until monies are paid in full.**

**Defendant shall submit to drug and alcohol screening at any time at the discretion of any member of the Probation Department of this Circuit and bear the cost of the same.**

**Defendant shall voluntarily and cooperatively submit to drug and alcohol abuse treatment and counseling as directed by the Probation Department of this Circuit.**

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**FIRST OFFENDER OR CONDITIONAL DISCHARGE**

(ONLY if designated by the Court)

The Defendant consenting hereto, it is the judgment of the Court that no judgment of guilt be imposed at this time but that further proceedings are deferred and the Defendant is hereby sentenced to confinement at such institution as the Commissioner of the State Department of Corrections or the Court may direct, with the period of confinement to be computed as provided by law.

Upon violation of the terms of probation, upon conviction for another crime during the period of probation, or upon the Court's determination that the Defendant is or was not eligible for sentencing under the First Offender Act or for Conditional Discharge, the Court may enter an adjudication of guilt and proceed to sentence the Defendant to the maximum sentence as provided by law.

Upon fulfillment of the terms of this sentence, or upon release of the Defendant by the Court prior to the termination of this sentence, the Defendant shall stand discharged of said offense without court adjudication of guilt and shall be completely exonerated of guilt of said offense charged.

For Court's Use: DA JOSEPH MULHOLLAND CR PATRICIA BREWER

The Hon. ROBERT MCLENDON, IV, Attorney at Law, represented the Defendant by:  employment; or  appointment.

Pursuant to O.C.G.A. 9-14-42 you are hereby advised that the "Periods of Limitation" for the filing of Habeas Corpus Action are one year for misdemeanor convictions and four years for felony convictions.

SO ORDERED this 14TH day of OCTOBER, 2014.

A. Wallace Cato  
Judge of Superior Court  
South Georgia Judicial Circuit

IN THE SUPERIOR COURT OF DECATUR COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA,

CASE NUMBER: 14-CR-168

vs.

BRIAN LAMAR HARRELL,

Defendant.  
\_\_\_\_\_ /

GUILTY PLEA  
BEFORE THE HONORABLE A. WALLACE CATO, CHIEF JUDGE  
ON TUESDAY, OCTOBER 14, 2014  
AT THE DECATUR COUNTY JAIL

APPEARANCES

FOR THE STATE:

JOSEPH K. MULHOLLAND, DISTRICT ATTORNEY  
Post Office Box 1870  
Bainbridge, Georgia 39818-1870

FOR THE DEFENDANT:

ROBERT R. MCLENDON, IV, ATTORNEY AT LAW  
150 Court Square, Suite C  
Blakely, Georgia 39823

REPORTED BY:

PATRICIA MURPHY BREWER, CCR  
Certificate Number B-832

FILED IN OFFICE  
2014 Nov 03 08:33 AM

CECILIA WILLIS  
CLERK OF SUPERIOR COURT  
DECATUR COUNTY, GEORGIA  
2014-119

PATRICIA MURPHY BREWER, CCR  
POST OFFICE BOX 15171  
TALLAHASSEE, FLORIDA 32317-5171

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WITNESS:

BRIAN LAMAR HARRELL

Direct Examination By Mr. McLendon

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PROCEEDINGS

**MR. MULHOLLAND:** Your Honor, calling Decatur County Case Number 14-CR-168, the State of Georgia versus Brian Lamar Harrell, charged by way of accusation with two counts, one being County homicide by vehicle in the first degree based on the predicate offense of reckless driving alleged in Count 2.

We're here today for the purposes of entering a guilty plea to 14-CR-168. As a matter of law, Count 2 would merge with Count 1 for sentencing purposes. Mr. Harrell is present in the courtroom along with his -- Mr. Harrell is present in the courtroom with his attorney, Mr. Rob McLendon. As part of the negotiations, the State has agreed to nol pros Case Number 14-CR-068.

Mr. Harrell, I'm going to swear you in at this time so if you would, please, raise your right hand.

**THEREUPON,**

BRIAN LAMAR HARRELL

was called as a witness, and having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

**BY MR. McLENDON:**

**Q** You can put your hand down. Your name is Brian Lamar Harrell?

**A** Yes, sir.

1           Q     Mr. Harrell, you and I have previously discussed this  
2 case as well as Case Number 14-CR-068 on a number of previous  
3 occasions; is that correct?

4           A     Yes, sir.

5           Q     And the State has prepared this accusation and we  
6 reviewed it today in 14-CR-168; is that correct?

7           A     Yes, sir.

8           Q     And you and I have gone over it and I've read it to  
9 you; is that correct?

10          A     Yes, sir.

11          Q     You've advised me that you wish to dispose of this  
12 case, that is, 14-CR-168, by entering a plea of guilty to the  
13 two counts alleged in the accusation; is that correct?

14          A     Yes, sir.

15          Q     You may enter your plea of guilty to these two  
16 counts, Count 1 being a felony, Count 2 being a misdemeanor, by  
17 signing your name on the back of the accusation where I've  
18 marked.

19          A     (Complies.)

20          Q     I now show you a transcript form containing 31  
21 questions and answers on the front and back of a single sheet  
22 of paper. Do you see that form in front of you at this time?

23          A     Yes, sir.

24          Q     Did you and I go over this form today?

25          A     Yes, sir.

1 Q Did I ask you each of the 31 questions that appear on  
2 the front and back of this form?

3 A Yes, sir.

4 Q Did you understand each of those 31 questions?

5 A Yes, sir.

6 Q Did you give me truthful answers to each of those 31  
7 questions?

8 A Yes, sir.

9 Q And I wrote in at the bottom of page 10 regarding the  
10 merger, we're talking about the sentence range on Counts 1 and  
11 2, and we've discussed that those would merge for purposes of  
12 sentencing; is that correct?

13 A Yes, sir.

14 Q And I have written a yes there to indicate that you  
15 understand that; is that correct?

16 A Yes, sir.

17 Q You may further certify all those facts by signing  
18 your name on the back of this form where I've marked.

19 A (Complies.)

20 MR. McLENDON: The plea is entered, Your Honor.

21 THE COURT: Are you able to hear and understand my  
22 statements and questions?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Can you read and write?

25 THE DEFENDANT: Yes, sir.

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**THE COURT:** What's the highest grade that you completed in school?

**THE DEFENDANT:** Tenth.

**THE COURT:** Are you now under the influence of any alcohol, drugs, narcotics, or other pills?

**THE DEFENDANT:** No, sir.

**THE COURT:** Are you now under the care of a psychiatrist?

**THE DEFENDANT:** No, sir.

**THE COURT:** Do you understand that you're charged with the offenses of -- well, I was thinking he was charged in the indictment and also charged in this accusation --

(Discussion off the record.)

**THE COURT:** For purposes of these proceedings, do you understand that you're charged with the offenses of homicide by vehicle in the first degree and reckless driving?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Would you like for me to read the indictment or accusation to you?

**THE DEFENDANT:** No, sir.

**THE COURT:** Have you and your lawyer discussed it?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Do you have any questions about the

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nature of the charges or what they mean?

**THE DEFENDANT:** No, sir.

**THE COURT:** Do you understand that upon your plea of guilty to the offense of homicide by vehicle in the first degree that you could be in prison for as much as five years?

**MR. McLENDON:** Three to 15, Your Honor.

**THE COURT:** As much as 15 years and the minimum sentence is three years and a fine not to exceed \$100,000 and upon your plea of guilty to the offense of reckless driving, that you could be sentenced to 12 months and a fine not to exceed a thousand dollars; do you understand that?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Has the district attorney, your lawyer, any policeman, law enforcement officer, or anyone else made any promises to you to influence you to plead guilty in this case?

**THE DEFENDANT:** No, sir.

**MR. MULHOLLAND:** Your Honor, this a negotiated plea. After speaking with both, law enforcement and the victim's family in this case, I made the following recommendation: That the Defendant plead guilty to vehicular homicide in the first degree based on reckless driving, a sentence of 15 years, eight of that to be served in a penal

1 institution, the remainder will be on probation, a  
2 thousand dollar fine and surcharges, Special Condition G  
3 would apply.

4 The other terms, Your Honor, would be that the  
5 Defendant would testify and cooperate in any civil matters  
6 that are pending as a result of this accident. We would  
7 also nol pros 14-CR-068, and that sentence would be  
8 concurrent with any sentence he is now serving.

9 Count 2, Your Honor, I think as a matter of law would  
10 merge with Count 1, the reckless driving. I'm handing  
11 that recommendation and nol pros up to the Court.

12 **THE COURT:** Is that the way you understand it?

13 **MR. McLENDON:** Yes, sir.

14 **THE DEFENDANT:** Yes, sir.

15 **THE COURT:** Do you understand that any recommendation  
16 regarding sentence is not binding on this Court, including  
17 any recommendations made as a result of discussions  
18 between you, your attorney, the district attorney, any  
19 combination thereof, and it's left solely up to this Court  
20 to determine the sentence if you plead guilty?

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** Has the district attorney, your lawyer,  
23 any policeman, law enforcement officer, or anyone else  
24 made any threats upon you to influence you to plead guilty  
25 in this case or is anyone forcing you or compelling you to

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plead guilty?

**THE DEFENDANT:** No, sir.

**THE COURT:** Have you had enough time to confer with and have you in fact conferred with your lawyer about the facts of this case?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Have you had time to subpoena witnesses if you wanted them?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Do you understand that you don't have to plead guilty, that you have a right to plead not guilty?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Do you understand that if you plead not guilty, you'd have a right to a trial by jury; and that you'd have a right to be represented by counsel at the trial; if you couldn't afford to hire counsel, that the State would appoint counsel for you; that you'd have a right to remain silent at the trial and not incriminate yourself in any way; that you'd have a right to confront your accusers and cross-examine them at the trial if you see fit; and that you'd have a right to require the State of Georgia to prove your guilt of these offenses beyond a reasonable doubt; and that the entry of a plea would waive these rights and also waive all defenses, both known and unknown to you or to your attorney; do you understand

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that?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Are you satisfied with the counseling services of your attorney as rendered in your behalf?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Do you authorize and instruct him to enter a plea on your behalf here today?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** And to the offense of homicide by vehicle in the first degree, how do you plead?

**THE DEFENDANT:** Guilty.

**THE COURT:** And to the offense of reckless driving, how do you plead?

**THE DEFENDANT:** Guilty.

**THE COURT:** Is this your own decision?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Are you in fact guilty of those offenses?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** Is there anything else about these proceedings that you don't understand or that you wish for the Court to explain to you further?

**THE DEFENDANT:** No, sir.

**THE COURT:** Mr. McLendon, have you fully advised the Defendant of his rights and the consequences of the entry of a plea of guilty to the offenses of homicide by vehicle



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in the first degree and reckless driving?

**MR. McLENDON:** Yes, sir.

**THE COURT:** Are you satisfied that he understands them?

**MR. McLENDON:** Yes, sir.

**THE COURT:** Do you know of any reason why the Court should not accept the plea?

**MR. McLENDON:** No, sir.

**THE COURT:** The Court finds that the plea was freely, voluntarily, knowingly, and understandingly made and entered, that it was made and entered without any undue influence, compulsion, or duress, without the promise of leniency, and the Court accepts the plea.

**MR. MULHOLLAND:** Your Honor, we anticipate that had this case gone to trial, the facts would have been as follows: On or about the 6th day of March, 2012, in Decatur County, the Defendant while driving and operating a motor vehicle, to wit, a 1997 Dodge Dakota truck, on Old Quincy Highway at Hubert Dollar Drive where they intersect did without malice aforethought cause the death of Remington Cole Walden, a human being, through a violation of O.C.G.A. 40-6-390, reckless driving, as alleged in Count 2 herein in that accused was driving too fast for conditions and following too close with his vehicle while exceeding the speed limit of the flow of traffic, in that

1 accused's vehicle did hit the back of a 1999 Jeep Grand  
2 Cherokee, a moving vehicle, in which Remington Cole Walden  
3 was a passenger, causing said vehicle to crash, contrary  
4 to the laws of said state, the good order, peace, and  
5 dignity thereof.

6 And that he did on or about the 6th day of March,  
7 2012, in Decatur County, Georgia, then and there  
8 unlawfully drive a 1997 Dodge Dakota truck, a motor  
9 vehicle, in a reckless manner in reckless disregard of the  
10 safety of persons and property by accused driving said  
11 vehicle too fast for conditions and following too close  
12 while exceeding the speed limit of the flow of traffic in  
13 that accused's vehicle did hit the back of a 1999 Jeep  
14 Grand Cherokee, a moving vehicle, causing said vehicle to  
15 crash, contrary to the laws of said state, the good order,  
16 peace, and dignity thereof.

17 Judge, this case came about Thursday afternoon,  
18 March 6, 2012. Mr. Harrell was headed north on Old Quincy  
19 Highway right before the turnoff of Hubert Dollar Drive,  
20 just right there going towards the boat basin.

21 Emily Newsome, who was the aunt of the young man who was  
22 killed, I say man, I think he was four, was turning left  
23 onto Hubert Dollar Drive.

24 Mr. Harrell was, as I alleged, going too fast and  
25 following too close, hit the back of Ms. Newsome's

1 vehicle. There was a car coming the other way so she had  
2 to stop or get right to a stop, and he slammed into the  
3 back of the car.

4 Ms. Newsome's vehicle then careened off into the  
5 ditch on, as you're going northbound, onto the left,  
6 Mr. Harrell's vehicle went over to the right. Law  
7 enforcement arrived. Our office actually got called.  
8 Ms. Erwin in our office called and told me what was going  
9 on, and Walt Landrum, who was the state trooper, called  
10 me. I went out to the scene and at the scene Remy Cole  
11 Walden, like I said, I believe he was either three or  
12 four, was in the vehicle and burned to death.

13 It was probably one of the worst things I have ever  
14 seen in my life.

15 They later found some trace amounts of Xanax and  
16 something else, I believe, in Mr. Harrell's blood stream  
17 after preparing a search warrant. But I believe that  
18 would be a basis for the facts.

19 I have spoken about this case at length with the  
20 victim's family, Brian, and I believe her name is Lauren,  
21 but the mother and the father of the child about this  
22 recommendation. I have spoken with Mr. Butler, their  
23 attorney. He's satisfied with the recommendation of 15 to  
24 serve eight. I have also spoken to Walt Landrum, who was  
25 the trooper involved in this case, and he was satisfied

1 with that recommendation also.

2 **THE COURT:** Any questions?

3 **MR. McLENDON:** No questions of the State, Your Honor.

4 **THE COURT:** Anything further from the State?

5 **MR. MULHOLLAND:** No, sir.

6 **THE COURT:** Anything from the Defendant?

7 **MR. McLENDON:** Very briefly, Your Honor. The case  
8 was originally charged with the other case arising out of  
9 these facts was charged as a DUI and the homicide by  
10 vehicle based on DUI.

11 Based on the witnesses that we had -- the expert  
12 witnesses that we had, the Defense, had retained to  
13 investigate that, there was -- we just say that we  
14 vehemently disagree that there was ever any DUI in this  
15 case. And the plaintiff's lawyer as recently as today  
16 said even their expert said there is no -- non equivocally  
17 Mr. Harrell was not DUI in this case.

18 So it's still homicide by vehicle in the first degree  
19 with a reckless driving predicate misdemeanor, and that's  
20 why the -- well, I won't speak for the State, but that's  
21 why we've agreed or Mr. Harrell has agreed to enter this  
22 plea.

23 Nothing further.

24 **THE COURT:** Any concluding remarks?

25 **MR. MULHOLLAND:** No, sir.

1           **MR. McLENDON:** No, sir.

2           **THE COURT:** How old are you, sir?

3           **THE DEFENDANT:** Twenty-nine.

4           **THE COURT:** Twenty-nine?

5           **THE DEFENDANT:** Yes, sir.

6           **THE COURT:** Are you married?

7           **THE DEFENDANT:** No, sir.

8           **THE COURT:** Do you have children?

9           **THE DEFENDANT:** Yes, sir.

10          **THE COURT:** How many?

11          **THE DEFENDANT:** One.

12          **THE COURT:** Age?

13          **THE DEFENDANT:** Two this month.

14          **THE COURT:** Were you married?

15          **THE DEFENDANT:** I have been, yes, sir. I'm divorced.

16          **THE COURT:** This child is a product of that marriage?

17          **THE DEFENDANT:** No, sir. I'm engaged to his mother

18          now.

19          **THE COURT:** Are you employed?

20          **THE DEFENDANT:** Self-employed, yes, sir.

21          **THE COURT:** Doing what?

22          **THE DEFENDANT:** I run my own roofing business,

23          pressure washing business, handyman-type thing.

24          **THE COURT:** On this occasion -- well, you tell me

25          what happened.

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**THE DEFENDANT:** Word for word?

**THE COURT:** Well, I don't want you to leave anything out, if that's what you're asking.

**THE DEFENDANT:** I just got off work with my father and went to my house. I did not have registration on the truck at the time, so I was coming straight from my house, which was 208 Dollar Drive at the time. I was headed straight to the courthouse on Old Quincy Road. There was a fork right there, I'm sure your familiar.

At the fork by the buck barn, I believe it was, maybe a little before, I noticed that there was a Jeep already stopped in the highway with a blinker on, tail-- brake lights on also. I could see that she stopped. So I'm on my brake, foot on the brake. I was not speeding. On my brake, slowing down, just caution as anybody would be.

She let off her brake light and starts to turn. Well, once she lets off her brake, I'm still far enough away, I just let off my brake and I see her in motion going to make the turn. Once she goes in motion, I let off my brake and I'm getting closer as she is moving. In the last second, I don't know if there was a vehicle coming, I heard there was a man in a wheelchair crossing the road, but I don't know that.

And at the last second, it seemed like she slams on brakes with half of the back end of the car still in my

1 lane. By this time, I know I can't stop all the way  
2 without just slamming on brakes and maybe might stop so I  
3 snatched the wheel to try to avoid her completely. By the  
4 time I do that, it just barely clips the passenger side of  
5 the Jeep.

6 And once I clip it, I just know that both my airbags  
7 explode and my truck goes in the ditch. I run over a  
8 little tree and hit a big oak tree. My first instinct was  
9 to dive out the window. My door won't open so my first  
10 instinct, I dive out my window. I come to the top of the  
11 shoulder and I noticed that Jeep spun out and is facing  
12 back towards the way I was coming but it's in the ditch on  
13 the other side of the road.

14 This is maybe 20 second tops and I'm at the top of  
15 the shoulder and I see that the front windows are down in  
16 this vehicle and there is nobody in the vehicle that I can  
17 see because the back glasses are still up, and the driver  
18 is completely gone within like 20, 25 seconds tops.

19 So I'm sitting here for like maybe two or three  
20 seconds wondering where is the driver at. I don't see  
21 anything but I hear somebody screaming now that there is a  
22 baby in that car. (Defendant crying.) Excuse me.

23 Anyway, once I hear this, I take out in a sprint  
24 across the road to go to the vehicle to try to see if  
25 there is actually a baby in the car because I don't know

1 at this point, the back windows are up where he was at.

2 Once I get from here a little bit further in the back  
3 of the wall behind me, the truck explodes and pushes me,  
4 literally pushes me back at least into the highway. I'm  
5 not sure exactly how far it pushed me but I was -- a  
6 little bit closer and I would have been blown up also, a  
7 little bit sooner, maybe I could have saved his life.

8 After the explosion, it's just an inferno. It's too  
9 hot. So I walk around to the Hubert Dollar side of the  
10 road and I can see that that side, the passenger side I  
11 guess that he was on, and I'm not sure of that because,  
12 like I said, I couldn't see from my side. The passenger  
13 side back glass is down and his arm is out the window. I  
14 never hear him scream but I hear -- I mean, I see his arms  
15 on fire, like, help me. So I was trying to get closer but  
16 you can't get but so close because, like I say, it's an  
17 inferno.

18 And after that is when I noticed this black lady on  
19 the ground. She is the one that's hollering and I still  
20 ain't seen the lady that was driving the vehicle. I don't  
21 know who is driving the vehicle. At this point, there's  
22 nobody on that scene except for one guy, and I can't call  
23 his name, I don't know his name. He lived right there  
24 anyway and he seen it happen. I believe he would attest  
25 it happened like I said it did.



1           After that, this is when the ambulance and everybody  
2 starts showing up, the only woman I hear screaming or  
3 carrying on is a black lady, and I believe it was her that  
4 said that there was a baby in the car.

5           After that, I'm just, stuck and in shock. That's how  
6 it played out.

7           **THE COURT:** So you're telling me it was an accident,  
8 then?

9           **THE DEFENDANT:** Yes, sir, I sure am.

10          **THE COURT:** That it wasn't homicide by vehicle, it  
11 was just an accident?

12          **THE DEFENDANT:** Yes, sir.

13          **THE COURT:** Okay. It sounds like to me I can't  
14 accept this plea either if he is not guilty.

15          **THE DEFENDANT:** Sir?

16          (Discussion off the record between client and  
17 counsel.)

18          **THE DEFENDANT:** Yes, sir, I can attest to the  
19 reckless driving part because of the fact that I feel like  
20 where I was letting off my brake, I should have still been  
21 on my brake, and that to me would qualify as the reckless  
22 driving part on my behalf.

23          But in my heart, I feel like it was an accident. But  
24 I know that that had something to do with it, an  
25 interplay, so that's the reason for the plea today, Your

1 Honor.

2 **THE COURT:** Were you in fact drinking?

3 **THE DEFENDANT:** No, sir.

4 **THE COURT:** Did you in fact have drugs in your  
5 system?

6 **THE DEFENDANT:** Yes, sir. I believe it registered to  
7 the fact that it was wasn't even, I don't know how they  
8 worded it actually, but it wasn't enough even if you were  
9 taking it like you were supposed to.

10 **MR. McLENDON:** There was a tiny amount of Alprazolam,  
11 which is Xanax, a depressant, central nervous system  
12 depressant, and a tiny amount of Phentermine, a diet pill,  
13 prescription diet pill, a CNS stimulant, basically,  
14 probably offset each other and would have had little to no  
15 effect on his driving ability.

16 **MR. MULHOLLAND:** Well, that's --

17 **THE COURT:** You were dieting?

18 **THE DEFENDANT:** No, sir.

19 **MR. McLENDON:** Those were the two drugs.

20 **THE COURT:** Why would you have had diet medication in  
21 your system?

22 **THE DEFENDANT:** A couple of days before that, I  
23 hadn't had any sleep or anything and I was just tired and  
24 I had to go to work and I just had a half of one and I got  
25 it from actually out of my mother's bottle without her

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knowing.

**THE COURT:** A diet pill?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** That keeps you awake?

**THE DEFENDANT:** Well, no, sir, it gives you energy, kind of just like an energy supplement.

**THE COURT:** What were you taking the Xanax for?

**THE DEFENDANT:** I just -- I don't know. I wasn't even taking it like that, Your Honor. I had took it several days before, too. Like I say, it wasn't -- I don't know honestly. I can't remember to tell you what exactly I took it for.

**THE COURT:** Well, you've had a lot of time to think. You still can't come up with some explanation of why you had that stuff in your system?

**THE DEFENDANT:** No, sir, other than the fact that I just like to take them every now and then. Back then I was on the straight and narrow and as a habit, it's in the record that my medicine was in the truck with me at the time that I was on. It was actually keeping me pretty much on the straight and narrow. I mean, I'd take the Xanax a couple of times here and there just to relax. There's no excuse for it. It's just the truth.

But as far as, you know, drug history and all that at the time, I really wasn't doing drugs.

1           **THE COURT:** But you're telling me that you're not  
2 guilty of homicide by vehicle in the first degree; is that  
3 what you're telling me?

4           **THE DEFENDANT:** No, sir.

5           **THE COURT:** What are you telling me?

6           **THE DEFENDANT:** I wish to enter this plea with the  
7 Court and I ask that you accept it.

8           **THE COURT:** Well, I'm not talking about that. If you  
9 didn't commit the offense of homicide by vehicle in the  
10 first degree, I'm unwilling to accept your plea. I will  
11 let a jury decide what you are guilty of.

12           **THE DEFENDANT:** Yes, sir, I'm guilty.

13           **THE COURT:** Are you guilty?

14           **THE DEFENDANT:** Yes, sir.

15           **THE COURT:** Are you sure?

16           **THE DEFENDANT:** Yes, sir.

17           **THE COURT:** I don't want -- you know, I do habeas  
18 cases all the time. I hear, well, that big, old, bad  
19 judge intimidated me and frightened me and caused me to  
20 plead when I really didn't want to. And I hear that all  
21 the time.

22           **THE DEFENDANT:** I wish to enter this plea, Your  
23 Honor.

24           **THE COURT:** Well, am I intimidating you?

25           **THE DEFENDANT:** No, sir.

1           **THE COURT:** Am I causing you to do something that you  
2 don't want of your own free will to do?

3           **THE DEFENDANT:** No, sir.

4           **THE COURT:** Are you sure you want me to accept this  
5 plea?

6           **THE DEFENDANT:** Yes, sir.

7           **THE COURT:** Are you sure you're guilty of the offense  
8 of homicide by vehicle in the first degree?

9           **THE DEFENDANT:** Yes, sir.

10          **THE COURT:** Okay. Have you ever been in any sort of  
11 trouble before?

12          **THE DEFENDANT:** Yes, sir.

13          **THE COURT:** For what?

14          **THE DEFENDANT:** This sort of trouble?

15          **THE COURT:** Just trouble.

16          **THE DEFENDANT:** Yes, sir, I have had, I believe, two  
17 DUIs, one was got down to a misdemeanor, I'm not sure  
18 exactly what it was. I have had two providing contraband  
19 to inmate charges --

20          **THE COURT:** Do what?

21          **THE DEFENDANT:** Having tobacco behind the lines,  
22 behind the guard line, and just last month I was before  
23 you on a drug case.

24          **THE COURT:** What's your problem?

25          **THE DEFENDANT:** I don't know, sir. I just needed

1           some -- I just needed a lot, actually, growing up. And I  
2           made plenty of mistakes. I brought most of them to light  
3           and tried to deal with all of them. I think I'm doing  
4           pretty good at it, honestly. I'm just trying to deal with  
5           everything that's in the past.

6           **THE COURT:** Well, I wonder what Remington would think  
7           about that.

8           **THE DEFENDANT:** I don't know. I wish I could ask  
9           him.

10          **THE COURT:** See, you're asking me to sentence you to  
11          15, do eight, and you imposed a death sentence on  
12          Remington. Is that true or not?

13          **THE DEFENDANT:** I don't know how to answer that, Your  
14          Honor.

15          **THE COURT:** It's either yes or no.

16          **THE DEFENDANT:** I guess by my initial actions, it  
17          would be, yes; but in my heart, I don't know. I wish I  
18          could take it back but I can't.

19          **THE COURT:** Sure, you do. I wish you could, too.  
20          Anything else?

21          **MR. McLENDON:** No, sir.

22          **MR. MULHOLLAND:** No, sir.

23          **THE COURT:** All right. I'm going to follow the  
24          recommendation. Well, I'm -- let me start over.

25          I'm going to give you 15 years, eight to serve, the

1 balance to be served on probation on the payment of a fine  
2 in the amount of a thousand dollars, and the other  
3 conditions of your probation -- and I'll allow you to pay  
4 that money back in equal, periodic increments of \$30 a  
5 week beginning 30 days after your release from  
6 incarceration.

7 The other terms and conditions are that you submit  
8 yourself for screening for drugs and alcohol at the  
9 direction of the probation officers or as may otherwise be  
10 directed by them; that you not violate any of the criminal  
11 laws of any governmental unit; that you avoid persons and  
12 places of disreputable or harmful character, people who've  
13 been convicted of a felony, business establishments that  
14 serve or sell alcoholic beverages for on-premises  
15 consumption, beer joints, juke joints, pool halls, dives,  
16 I'm sure you know what I'm talking about; that you avoid  
17 injurious and vicious habits, especially the use of  
18 alcoholic beverages, narcotics, or other dangerous pills  
19 or drugs unless prescribed by a physician; that you report  
20 regularly to the Probation Supervisor and permit them to  
21 supervise you at your home, your place of employment or  
22 such other place as they see fit or deem proper; that you  
23 report regularly -- that you work faithfully at suitable  
24 employment insofar as may be possible; that you not change  
25 your place of abode, move outside the jurisdiction of this

1 court, or leave the State of Georgia for any period of  
2 time without the prior written permission of the probation  
3 officers of this circuit; that you support your legal  
4 dependents to the best of your ability; that you submit  
5 yourself for evaluation and testing relative to  
6 rehabilitation and that you participate in and  
7 successfully complete any program of rehabilitation that  
8 may be prescribed by the probation department of this  
9 circuit.

10 I advise you pursuant to O.C.G.A. 9-14-42 that the  
11 period of limitations for the filing of habeas corpus  
12 actions in felony convictions such as this is four years.

13 Additionally, you will be required to report to the  
14 probation department of this circuit once per month in  
15 person for the duration of your probation. Should your  
16 probation be transferred to some other jurisdiction for  
17 supervision, you will nonetheless be required to report to  
18 the probation department of this circuit at least once per  
19 quarter between the first and the tenth day of the first  
20 month of each quarter at least until all of your  
21 court-ordered monies are paid in full.

22 Do you have any question about any of that?

23 **THE DEFENDANT:** No, sir.

24 **THE COURT:** Now, if you are unhappy or dissatisfied  
25 with that sentence, I'll be pleased to let you withdraw



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your plea and you can have a jury trial.

**THE DEFENDANT:** No, sir.

**THE COURT:** Are you satisfied with that sentence?

**THE DEFENDANT:** Yes, sir.

**THE COURT:** You do not wish to withdraw your plea?

**THE DEFENDANT:** No, sir.

**THE COURT:** All right. That's the sentence of the Court.

**MR. McLENDON:** Judge, is it concurrent with any present sentence? You didn't say otherwise so I assume it is. That was part of the recommendation.

**THE COURT:** Well, I didn't hear that, but as a matter of law it would be.

**MR. McLENDON:** Thank you, Your Honor.

(THEREUPON, the hearing was concluded at 2:42 p.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA:  
COUNTY OF LEON :

I, PATRICIA MURPHY BREWER, Court Reporter, certify that the foregoing is a true and correct transcript of the proceedings taken down by me in the case aforesaid. The exhibits attached hereto, if any, are copies of documentary evidence only and the physical evidence remains in the custody of the Clerk. This certification is expressly withdrawn and denied upon the disassembly or photocopying of the foregoing transcript or any part thereof, including exhibits, unless said disassembly or photocopying is done by the official undersigned court reporter and original seal and signature attached hereto.

Dated this 29th day of October, 2014.

Patricia M. Brewer  
PATRICIA M. BREWER, CCR  
Certificate Number B-832

\*\*\*\*\*

GEORGIA, DECATUR COUNTY

I, CECILIA WILLIS, CLERK OF DECATUR COUNTY SUPERIOR COURT, do hereby certify that the within and foregoing TRANSCRIPT is the original copy filed in this office.

Given under my hand and official seal this 3 day of November, 2014.

Sue Morris Deputy Clerk  
CECILIA WILLIS, CLERK  
DECATUR COUNTY SUPERIOR COURT

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CECILIA WILLIS, CLERK OF COURT  
P.O. BOX 336  
BAINBRIDGE, GEORGIA 39818  
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