

IN THE CIRCUIT COURT OF COUNTY, ARKANSAS  
THIRTEENTH DISTRICT

STATE OF ARKANSAS

PLAINTIFF

V.

NO. CR-2014-47-5

JOHN W. POWELL

DEFENDANT

161 Axis Drive  
Star City, AR 71665

DOB 12/20/1966  
RACE W  
SEX Male  
SSN 429578908  
DL AR 914260676  
CID 402214  
ATN CLV000000532

FILED  
2014 OCT 17 PM 2 21  
CLEVELAND COUNTY  
CIRCUIT COURT  
SHARON K. GRAY  
BY: *Sharon K. Gray* D.C.

**INFORMATION**

Comes the Prosecuting Attorney for Cleveland County of the Thirteenth District of Arkansas, and in the name and by the authority of the State of Arkansas, charges **John W. Powell** with the crime(s) of **AGGRAVATED ASSAULT** as follows:

**COUNT 1: AGGRAVATED ASSAULT, ARK. CODE ANN. §5-13-204.** In Cleveland of the Thirteenth District, the said defendant did unlawfully and feloniously on or about April 18, 2014, under circumstances manifesting extreme indifference to the value of human life, purposely displayed and fired a pistol in such a manner that created a substantial danger of death or serious physical injury to Winnie Powell, against the peace and dignity of the State of Arkansas.

**ACA §5-13-204**  
**Class D Felony**  
**Not to exceed 6 years in ADC**  
**and/or up to a \$10,000 fine**

**COUNT 2: AGGRAVATED ASSAULT, ARK. CODE ANN. §5-13-204.** In Cleveland of the Thirteenth District, the said defendant did unlawfully and feloniously on or about April 18, 2014, under circumstances manifesting extreme indifference to the value of human life, purposely displayed and fired a pistol in such a manner that created a substantial danger of death or serious physical injury to Janice Copeland, against the peace and dignity of the State of Arkansas.

17-60

**ACA §5-13-204**  
**Class D Felony**  
**Not to exceed 6 years in ADC**  
**and/or up to a \$10,000 fine**

**COUNT 3: AGGRAVATED ASSAULT, ARK. CODE ANN. §5-13-204.** In Cleveland of the Thirteenth District, the said defendant did unlawfully and feloniously on or about September 17, 2014, under circumstances manifesting extreme indifference to the value of human life, purposely displayed and fired a pistol in such a manner that created a substantial danger of death or serious physical injury to Jeffery Lutrell, against the peace and dignity of the State of Arkansas.

**ACA §5-13-204**  
**Class D Felony**  
**Not to exceed 6 years in ADC**  
**and/or up to a \$10,000 fine**

IAN W. VICKERY  
PROSECUTING ATTORNEY

BY:   
\_\_\_\_\_  
Tom Wynne  
Deputy Prosecuting Attorney

Copies to TW  
+ MK

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS

FILED

STATE OF ARKANSAS

PLANTIFF

2014 SEP 22 AM 10 59

Johnny Powell

DEFENDANT

CLEVELAND COUNTY  
CIRCUIT COURT  
SHARON K. GRAY

BY: Sharon K. Gray D.C.

SS#: 429-57-8908

Date of Arrest: 09/19/2014

Date of Offense: On or around April 18, 2014 and 09/17/2014

RECORD OF FIRST JUDICIAL APPEARANCE

I, Michael Landers, Judge of the Cleveland County Circuit Court, do hereby certify that on the 22<sup>nd</sup> day of September, 2014, the above named defendant did appear before me in compliance with Rules 8 and 9 of the Arkansas Rules of Criminal Procedure. At said appearance, the following was done and completed.

(1) The defendant was questioned as to the following preliminary matters:

Residence Address: 161 Axis Drive Star City, Arkansas 71667

Age: 47

Date of Birth: 12/20/1966

Last Grade Completed: 12<sup>th</sup> Glendale High School

(2)  The defendant was advised that he or she was being detained on the following charges or that he or she had been charged in the Circuit Court of Cleveland County, Arkansas under an information filed by the Prosecuting Attorney's Office with the offense or offenses of:

Aggravated Assault ACA 5-13-204 Class D Felony (3 counts)

(3) The defendant was informed of the following rights:

That he or she was not required to say anything and that anything he or she said could be used against him or her as evidence in further hearings or trial.

That he or she had the right to counsel and that if he or she were indigent, counsel would be appointed to him or her and no cost to him or her.

That he or she had the right to communicate with counsel, family members, and friends and that reasonable steps would be taken to allow such to be done.

(4). Inquiry was made into the Defendant's desire and ability to retain counsel as follows:

\_\_\_\_\_ The Defendant appears at the time with his or her retained counsel.

Defendant stated that he or she would retain counsel of his or her choosing prior to his or her arraignment.

\_\_\_\_\_ Defendant requested on indigence determination for the purpose of determining the possibility of receiving a Court appointed attorney.

\_\_\_\_\_ Defendant was determined to be indigent and the Public Defender was appointed as his or her attorney.

(5) Prior to any probable cause determination, the following occurred.

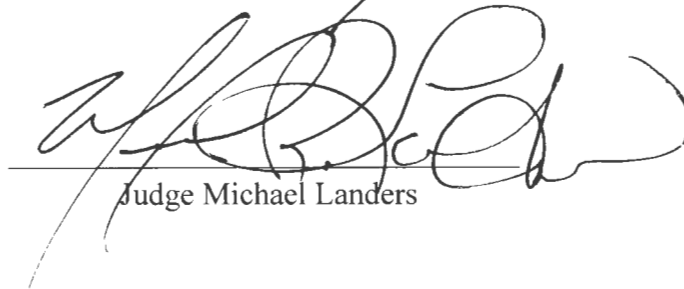
\_\_\_\_\_ Defendant requested the opportunity to discuss the case with his or her attorney and or family, and further proceedings were continued until a request by the Defendant, or his or her counsel if he or she is represented.

\_\_\_\_\_ Defendant appeared with his or her attorney, and admitted that probable cause existed for his or her detention, and requested that the Court proceed with pretrial release inquiry.

Defendant acknowledged that he or she understood the charge, and all other matters set forth above, and waived the right to communicate with counsel or family, and requested the Court to proceed with the probable cause determination and pretrial release inquiry, as evidenced by his or her signature.

  
\_\_\_\_\_ Witness

  
\_\_\_\_\_ Defendant

  
\_\_\_\_\_ Judge Michael Landers

(6).  That on the 22<sup>nd</sup> day of September, 2014, after the Defendant had the opportunity to communicate with counsel and or family, or after the defendant had waived said right to informal, non-adversary hearing was held pursuant to Rule 8.3 of the Arkansas Rules of Criminal Procedure, to determine whether probable cause existed to charge defendant with a fore-mentioned crime(s). After an explanation by the Court by the Prosecuting Attorney, including testimony of witnesses, the Court finds as follows:

Probable cause exist to detain defendant on the following charges:  
Aggravated Assault ACA 5-13-204 Class D Felony (3 counts)

\_\_\_\_\_ There was not sufficient facts and evidence presented to constitute probable cause as defined by Rule 8.3 of the Arkansas Rules of Criminal Procedure.

The defendant is bound over to the First Division of the Circuit Court of Cleveland County, Arkansas for further proceedings.

(7).  An inquiry was made into the relevant facts, which might effect a pre-trial release decision. The prosecuting Attorney (did) (did not) stipulates that the defendant may be released upon his or her own recognizance. In making pre-trial release decision, the following were considered:

- A. Defendant's employment status, history, financial condition;
- B. Nature and extent of defendant's family relationships;
- C. Defendant's past and present residence;
- D. Defendant's character and reputation;
- E. Persons who assist defendant in appearing in Court at proper times;
- F. Nature of current charge and mitigating factors that may bear on the likelihood of conviction and the possibility of penalty;
- G. Defendant's prior criminal record, if any, and if he or she previously had been released pending trial, whether he or she appeared as required;
- H. Any facts indicating the possibility of violation of the law if defendant is released without restrictions;
- I. Any other facts tending to indicate that the defendant has strong ties to the community and is not likely to flee prosecution;
- J. The prosecuting Attorney's Office advised the Court of it's recommendations concerning the advisability and appropriateness of pre-trial release, the amount and type of bail and the conditions, which should be imposed upon the defendant's release, or said Prosecuting Attorney made no recommendation concerning any of the above.

(8). The following release was made:

\_\_\_\_\_ Defendant was released upon his or her own personal recognizance.

\_\_\_\_\_ Defendant was placed under the care of the following qualified person or persons, or organization, which agrees to supervise the defendant and to assist him or her in appearing in Court.

\_\_\_\_\_ Defendant was placed under supervision of a Probation Officer or other appropriate Court Official: \_\_\_\_\_

\_\_\_\_\_ Defendant was ordered to report to the Circuit Clerk and Sheriff of Cleveland County, any changes of his or her mailing address.

\_\_\_\_\_ Defendant was to report to the Sheriff of Cleveland County in person, as follows:

\_\_\_\_\_ Once each week

\_\_\_\_\_ Once per month

\_\_\_\_\_ Once every \_\_\_ weeks.

\_\_\_\_\_ Other \_\_\_\_\_

The following restrictions were imposed upon defendant's release: \_\_\_\_\_

No contact w/ victim or witnesses. All conditions as imposed by Dist Ct. Judge Rennie Phillips.

Defendant was released upon a money bail upon the following requirements:

\_\_\_\_\_ The execution of an unsecured bond in the amount of \$ \_\_\_\_\_ signed by \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ The execution of an unsecured bond in the amount of \$ \_\_\_\_\_, accompanied by a deposit of cash or other securities, equal to ten percent of the face amount of the bond, ninety percent of which shall be returned at the conclusion of the proceedings provided the defendant has not defaulted in the performance of the conditions of said bond.

\_\_\_\_\_ The execution of a bond in the amount of \$ \_\_\_\_\_ secured by deposit of the full amount, in cash, or by other property, or by obligation of qualified sureties.

The execution of a bond in the amount of \$ 10,000.<sup>00</sup> in any form acceptable to the Sheriff of Cleveland County.

(9).  In cases where money bail is set, the Court took into consideration all facts relevant of the risk of willful non-appearance, including those factors contained in Rule 9.2 of the Arkansas Rules of Criminal Procedure.

(10).  The defendant was notified of the penalties for failure to comply with the conditions or terms of this order granting pre-trial relief.

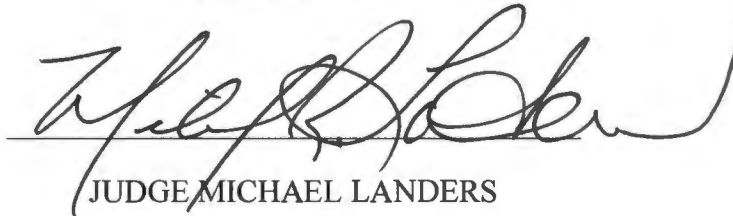
(11). \_\_\_\_\_ Other relevant proceedings \_\_\_\_\_

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YOU MUST APPEAR IN CIRCUIT COURT AT THE CLEVELAND COUNTY COURTHOUSE ON October 13<sup>th</sup>, 2014, AT 9:30 AM. IF YOU DO NOT REPORT AT THIS TIME A WARRANT WILL BE ISSUED FOR YOUR ARREST.

IT IS SO ORDERED

  
\_\_\_\_\_  
JUDGE MICHAEL LANDERS

09/22/2014

DATE

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS

State of Arkansas

Plaintiff

John W. Powell

Defendant

PETITION FOR APPOINTMENT OF COUNSEL FOR INDIGENT

Comes the above named defendant under oath and makes the following statement:

1. (Present) or (Past) Employer Name: Jefferson County Road Department  
 Address: \_\_\_\_\_ Rate of Pay: \_\_\_\_\_
- (2). State amount and source of income received in the past twelve months:
- (3). State amount of money in cash:  
 In checking account: \_\_\_\_\_  
 In saving account: \_\_\_\_\_
- (4). Generally describe any land, buildings, cars, trucks, other valuable property you own and state it's value:
- (5). List persons dependent upon you for support, relationship to you, and the amount that you contribute monthly to their support:

\_\_\_\_\_ I am unable to hire an Attorney and request that the Court appoint one to represent me.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

Date: \_\_\_\_\_

Witness: \_\_\_\_\_

IT IS SO ORDERED that \_\_\_\_\_ be and is hereby appointed to represent the above named defendant.

\_\_\_\_\_  
USER FEE.

\_\_\_\_\_  
Judge Michael Landers

## PROBABLE CAUSE AFFIDAVIT

Accused Party: John W. Powell

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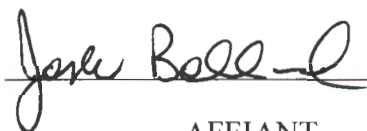
On September 18, 2014 this investigator was contacted by Winnie Powell in reference to her son Johnny Powell pointing a pistol at her and Jan Copeland on or around April 18, 2014. Winnie stated that she went to a mobile home located at 150 County Line Road that she claims she owns to get some of her tax papers and to speak with Johnny who was living in the trailer. Winnie stated that Johnny got mad at her when she told him she was going to have to file for bankruptcy. Johnny told Winnie to get out and Winnie refused because she didn't feel like she had to get out of a mobile home she owned. Winnie stated that Johnny told her she could either walk out or they could carry her out. Johnny went and got a pistol, and had it pointed towards the ceiling. Winnie was putting some stuff in the car and Johnny fired the pistol in the air. When Winnie got in the car Johnny pointed the pistol at her, and then shot the pistol into the ground close enough to the car that it threw dust on the car.

This investigator then spoke with Jan Copeland, who is the daughter of Winnie Powell and the sister to Johnny Powell. Jan stated she did take Winnie to the trailer on or around April 18, 2014, so Winnie could get some of her tax paperwork, and so she could speak to Johnny about the agreement they had about Johnny supposed to be paying for the mobile home. Jan stood outside by the back door until she heard Johnny get mad over the fact of Winnie having to file bankruptcy. Jan told Johnny not to lay his hands on Winnie. Jan stated that Johnny told them to get out, and Winnie told Johnny she didn't have to. Jan stated that Johnny told Winnie that she could either walk out or they could carry her out, and Johnny went and got a pistol. Jan and Winnie were getting in the car to leave and Johnny fired the pistol in the air. Jan stated that when Winnie got in the vehicle Johnny pointed the pistol at Winnie, and then fired the pistol into the ground right by the door of the car, close enough that it threw dirt and mud on the car.

On September 18, 2014 at approximately 2:50 P.M. this investigator was contacted by Jeffery Lutrell, who is a brother-in-law to Johnny Powell. Lutrell stated that on 09/17/2014 at approximately 5:30 P.M. or 6:00 P.M. he was sitting in his living room at his residence located at 130 County Line Road. Lutrell caught a glimpse of a vehicle, and looked outside to see Johnny Powell getting out of his vehicle with an axe in his hands. Lutrell stepped outside and asked Johnny what was going on? Johnny walked up to Lutrell with the axe, and asked him who was taking his stuff from 150 County Line Road, Lutrell told Johnny he didn't know. Lutrell couldn't hardly keep up with what Johnny was saying, but Johnny was cussing Lutrell, and accusing Lutrell of being involved with situation between him and his mother Winnie Powell. Johnny put the axe in Lutrell's face approximately two to three inches away from his face with the sharp edge towards his face, Johnny was shaking the axe at Lutrell. Johnny told Lutrell he had about thirty second to listen to him. Johnny laid the axe on Lutrell's chest while he was talking, and

was pushing on the axe putting pressure on the axe. Johnny had the axe against Lutrell's chest, and said he would be back. Johnny got back in his truck, and left.

On September 19, 2014 Johnny Powell was arrested in Jefferson County on the arrest warrant that was issued in Aggravated Assault case where Winnie Powell and Jan Copeland were the victims.

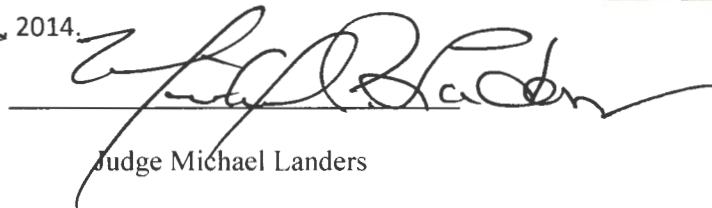
  
\_\_\_\_\_

AFFIANT

(Officer or other person having knowledge of recited facts)

9-22-14  
Date

Subscribed and sworn before me, an officer empowered to administer oath this 22<sup>nd</sup> day  
of September, 2014.

  
\_\_\_\_\_

Judge Michael Landers

## Minimum and Maximum Penalties

### Felonies:

Y----- 10 to 40 years to Life and a fine not to exceed \$25,000.00

A----- 6 to 30 years and a fine not to exceed \$15,000.00

B----- 5 to 20 years and a fine not to exceed \$15,000.00

C----- 3 to 10 years and a fine not to exceed \$10,000.00

D----- 0 to 6 years and a fine not to exceed \$10,000.00

### Misdemeanors:

A----- No more than a year in the county jail and a fine not to exceed \$2,500.00

B----- No more than ninety days in the county jail and a fine not to exceed \$1,000.00

C----- No more than thirty days in the county jail and a fine to exceed \$500.00

Unclassified- the sentence shall be in accordance with the limitations of the statute defining the misdemeanor and a fine not to exceed \$100.00.

IN THE DISTRICT COURT OF RISON, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS

John W. Powell

DEFENDANT

NO CONTACT ORDER

The defendant is hereby ordered to have no contact, either directly or indirectly, by person, telephone, mail, or by any other means with:

Jeffery Lutrell  
130 County Line Road  
Star City, Arkansas 71667


Or His or Her immediate family.

Violation of this order subjects the defendant to immediate arrest and detention; and any law enforcement officer having reasonable cause to believe that this order has been violated is ordered to immediately detain the defendant to be brought before the Court within forty-eight (48) hours.

This order is in addition to any order pursuant to Ark.Code Ann. Section 9-15-201 et. Seq.

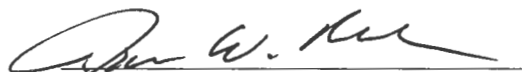
This order is issued pursuant to Arkansas Rules of Criminal Procedure No. 9.3 and if applicable Ark. Code Ann. Sections 5-71-209 or 5-71-229 or 5-13-301.

It is so ordered

  
\_\_\_\_\_  
Judge

Date issued

9/22/2014

  
\_\_\_\_\_  
Defendant

Date Received by Defendant

9-22-14

IN THE DISTRICT COURT OF RISON, ARKANSAS

STATE OF ARKANSAS  
VS  
John W. Powell

PLAINTIFF  
DEFENDANT

NO CONTACT ORDER

The defendant is hereby ordered to have no contact, either directly or indirectly, by person, telephone, mail, or by any other means with:

Winnie Powell  
3820 Autumn Hills Road  
Star City, Arkansas 71667

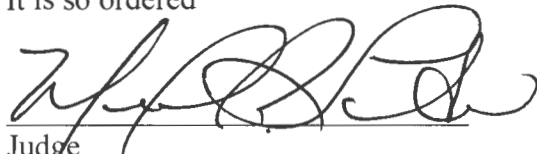
Or His or Her immediate family.

Violation of this order subjects the defendant to immediate arrest and detention; and any law enforcement officer having reasonable cause to believe that this order has been violated is ordered to immediately detain the defendant to be brought before the Court within forty-eight (48) hours.

This order is in addition to any order pursuant to Ark.Code Ann. Section 9-15-201 et. Seq.

This order is issued pursuant to Arkansas Rules of Criminal Procedure No. 9.3 and if applicable Ark. Code Ann. Sections 5-71-209 or 5-71-229 or 5-13-301.

It is so ordered

  
\_\_\_\_\_  
Judge

9/22/204  
Date issued

  
\_\_\_\_\_  
Defendant

9-22-18  
Date Received by Defendant

IN THE DISTRICT COURT OF RISON, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS

John W. Powell

DEFENDANT

NO CONTACT ORDER

The defendant is hereby ordered to have no contact, either directly or indirectly, by person, telephone, mail, or by any other means with:

Janice Copeland  
3820 Autumn Hills Road  
Star City, Arkansas 71667

Or His or Her immediate family.

Violation of this order subjects the defendant to immediate arrest and detention; and any law enforcement officer having reasonable cause to believe that this order has been violated is ordered to immediately detain the defendant to be brought before the Court within forty-eight (48) hours.

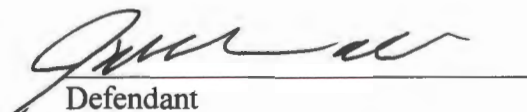
This order is in addition to any order pursuant to Ark.Code Ann. Section 9-15-201 et. Seq.

This order is issued pursuant to Arkansas Rules of Criminal Procedure No. 9.3 and if applicable Ark. Code Ann. Sections 5-71-209 or 5-71-229 or 5-13-301.

It is so ordered

  
\_\_\_\_\_  
Judge

9/22/2014  
\_\_\_\_\_  
Date issued

  
\_\_\_\_\_  
Defendant

9-22-14  
\_\_\_\_\_  
Date Received by Defendant

**BAIL BOND FINANCING, INC.**

STATE OF ARKANSAS  
COUNTY OF Cleveland  
CITY OF Rison  
CASE NUMBER \_\_\_\_\_

7000 Jefferson Pkwy., Suite D  
White Hall, AR 71602  
(877) 535-2245 FAX (870) 535-2690

**BAIL BOND**

**FILED**

2014 SEP 22 AM 10:58

Johnny Powell Defendant, hereinafter referred to as the Defendant, being in custody, charged with the offense(s) of Aggravated Assault (3-counts) and having been admitted to bail in the amount of \$ 10,000.00

CLEVELAND COUNTY  
CIRCUIT COURT  
SHARON K. GRAY  
BY: [Signature]

Now Bail Bond Financing, Inc. does hereby undertake that the Defendant will appear before the Court designated below at the time indicated and shall at all times render himself amenable to the orders and process of said court in prosecution of charges, and if convicted, shall render himself in execution thereof. If the Defendant fails to perform any of these conditions, we will pay and forfeit to the Circuit court of Cleveland County the sum of \$ 10,000.00 (County or District to be Inserted)

In Witness Whereof I have hereunto set my hand and seal this 22<sup>nd</sup> day of Sept., 2014.

Defendant to Appear In:  
District Court, City of \_\_\_\_\_  
District Court, County of \_\_\_\_\_  
Circuit Court, County of Cleveland  
At 9:30 (A.M./P.M.) on Oct. 13<sup>th</sup>, 2014  
Date/Time Arrest 9/19/2014 9:30 (A.M./P.M.)  
Date/Time Release 9/22/2014 10:50 (A.M./P.M.)

Defendant: Johnny Powell  
Address: 161 Axis Dr  
City, State, Zip: Star City, AR 71667  
Phone: 870-370-3606  
DOB: 12-20-1966  
Surety: Bail Bond Financing, Inc.  
Wayne Boren  
Attorney-in-Fact (agent)

Detach First Copy Before Continuing

**Power of Attorney**

Authority for:	Item 1	Item 2	Item 3	Item 4	Power Number
<u>Wayne Boren</u> To act as Attorney-In-Fact — State of Arkansas		Not valid for bond in excess of <u>\$200,000</u>	Not valid if used after <u>12/31/14</u>	Date Issued <u>9/22/14</u>	<b>BD 048 - 131646</b>
DEFENDANT: <u>Johnny Powell</u>					Insert Bond Amount Void if Not Completed
SOCIAL SECURITY #: _____ DATE OF BIRTH: <u>12-20-66</u>					\$ <u>10,000.00</u>

**Know All Men By These Presents:**

SECTION 1. Bail Bond Financing, Inc., A Corporation does hereby make, constitute and appoint the party as set forth in Item One (1) above as its true and lawful Attorney-in-Fact with full power and authority hereby confirmed to execute on behalf of the said Company, as sole surety only subject to the limitations as herein set forth, Bail Bonds, in Judicial Proceedings, whether criminal or civil; appeal bonds or any other kind of appearance bond in any State Court, or District Court and in all U.S. Federal Court on behalf of the above named defendant.

SECTION 2. That the authority of such Attorney-in-Fact to bind the company shall not in any event exceed the amount set forth in Item Two (2) above on any one bond and the said Attorney-in-Fact is hereby authorized to insert in Item Five (5) the name of the person on whose behalf this bond is given.

SECTION 3. This power is not valid unless used on or before the date set forth in Item Three (3) above and can only be used once.

SECTION 4. The authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee failure to provide payments, back alimony payments, child support payments, fines or wage law claims.

SECTION 5. Bail Bond Financing, Inc. does make, constitute and appoint the above named agent its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute, seal and deliver for an on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee failure to provide payments, fines or wage law claims on behalf of above named defendant.

SECTION 6. IN WITNESS WHEREOF Bail Bond Financing, Inc. has caused these presents to be signed by its Proprietor and its corporate seal to be hereunto affixed (if applicable) on the date set forth in Item Four (4) above.

SECTION 7. DO NOT ACCEPT A POWER OF ATTORNEY WHICH BEARS ANY ALTERATIONS, ERASURE OR INTERLINEATION.

(A) Bail Bond Form with Incorporated Power of Attorney should remain a permanent part of Court Records.

E. Marc Oudin, Jr.  
Controlling Agent/Owner  
E. Marc Oudin, Jr.

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS.

NO CR-2014-47-5

JOHNNY POWELL

DEFENDANT

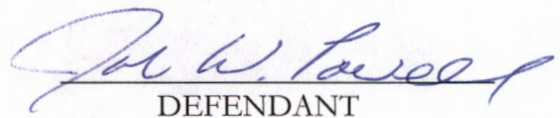
WAIVER OF ARRAIGNMENT

I, the undersigned Defendant in the above styled cause, do hereby voluntarily and with advise of counsel, waive formal arraignment.

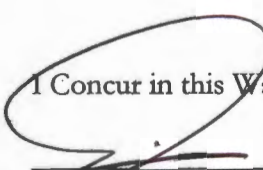
I state that I have been made aware of and understand my rights under the constitutions of the United States and the State of Arkansas, and that I have the right to remain silent and not give evidence against myself: That anything I say can and will be held against me: That I have the right to a speedy trial by a jury: That if I am unable to employ an attorney one will be appointed for me by the Court. I further state that I have been furnished a copy of the information charging me with the offense herein and that the nature of the offense and the penalty therefore has been explained to me by my attorney.

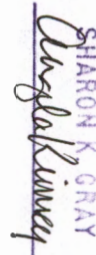
I request that the Court enter my plea of not guilty to the charges herein.

Dated this 18<sup>th</sup> day of November, 2014.

  
DEFENDANT

I Concur in this Waiver:

  
ROBINSON & ZAKRZEWSKI, P.A.  
Attorneys for Defendant

FILED  
2014 NOV 21 AM 8 50  
CLEVELAND COUNTY  
CIRCUIT COURT  
SHARON K GRAY  
BY:  D.C.

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS

STATE OF ARKANSAS

VS.

NO CR-2014-47-5

JOHNNY POWELL

FILED PLAINTIFF

2014 NOV 21 AM 8 52

CLEVELAND COUNTY  
CIRCUIT COURT  
SHARON K. GRAY

DEFENDANT

MOTION FOR DISCOVERY

BY: *Angela Kumsey* D.C.

Comes now the Defendant, Johnny Powell, by and through his attorneys, Robinson & Zakrzewski, P.A., and for his Motion for Discovery, states:

1. That the prosecuting attorney is obligated to disclose to defense counsel the following material and information which is within the possession, control or knowledge of the prosecuting attorney:

a. The names and addresses of persons whom the prosecuting attorney intends to call as witnesses at any hearing or at the trial.

b. Any written or recorded statements and the substance of any oral statements made by the Defendant.

c. Any reports or statements of experts, made in connection with the case, including results of physical or mental examinations, scientific tests, experiments or comparisons.

d. Any books, papers, documents, photographs or tangible objects, which the prosecuting attorney intends to use in any hearing or at trial or which were obtained from or belong to the Defendant.

e. Any record of prior criminal convictions of persons

whom the prosecuting attorney intends to call as witnesses at any hearing or at trial.

f. Whether in connection with this case, there has been any electronic surveillance of the Defendant's premises or of conversations to which the Defendant was a party.

g. The relationship to the prosecuting attorney of persons to whom the prosecuting attorney intends to call as witnesses.

2. That the prosecuting attorney should disclose and permit inspection, testing, copying and photocopying of any relevant information regarding:

a. Any searches and seizures resulting from a warrant to search the premises where the Defendant was residing issued in connection with these charges.

b. The acquisition of a statement from the Defendant on or about the date of his arrest.

3. That the prosecuting attorney should disclose to the defense counsel any material or information within his knowledge, possession or control, which tends to negate the guilt of the Defendant as to the offense charged or which would tend to reduce the punishment therefore.

4. That this Court in its discretion may require disclosure to defense counsel any following relevant material and information which is material to the preparation of the defense.

WHEREFORE, the Defendant prays that the Court grant his Motion for Discovery and order the prosecuting attorney to disclose the material and information described herein and for all other just and proper relief.

**RESPECTFULLY SUBMITTED,**

**ROBINSON & ZAKRZEWSKI, P.A.  
720 W. 6<sup>th</sup> Street  
Pine Bluff, AR 71601  
(870) 850-6000**

  
\_\_\_\_\_  
**GREG N. ROBINSON (78134)**

CERTIFICATE OF SERVICE

I, GREG N. ROBINSON, attorney herein, hereby certify that I have mailed a copy of the foregoing pleading to Tom Wynne, Deputy Prosecuting Attorney, P.O. Box 748, Fordyce, Arkansas 71742-0748 on this 17<sup>TH</sup> day of November, 2014.

  
\_\_\_\_\_  
GREG N. ROBINSON

**IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
CRIMINAL DIVISION**

**STATE OF ARKANSAS**

**PLAINTIFF**

**VS.**

**NO. CR-2014-47-5**

**JOHN W. POWELL**

**DEFENDANT**

**RESPONSE TO MOTION FOR DISCOVERY**

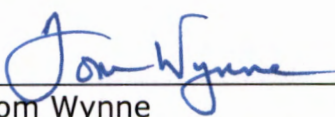
Comes the State of Arkansas, and for its Response To Motion For Discovery, states:

1. The State of Arkansas has an "open file" policy in all criminal matters.
2. Simultaneous to the filing of this Response To Motion For Discovery, the State of Arkansas is mailing Defendant's attorney a copy of the State's file in this matter.

WHEREFORE, the State of Arkansas prays for acknowledgment of its Response To Motion For Discovery deemed needed as appropriate, and for all other proper relief.

STATE OF ARKANSAS

BY: \_\_\_\_\_

  
Tom Wynne  
Deputy Prosecuting Attorney  
Cleveland County  
P.O. Box 748  
308 Main Street  
Fordyce, Arkansas 71742  
(870) 352-5101

FILED

2014 DEC 1 AM 9 58

CLEVELAND COUNTY  
CIRCUIT COURT

SHARON K. GRAY

BY:  D.C.

State of Arkansas vs. John W. Powell  
Response To Motion For Discovery  
Page 2

CERTIFICATE OF SERVICE

I, Tom Wynne, certify that a copy of the foregoing pleading was mailed to Defendant's attorney, Greg N. Robinson, 720 West Sixth Street, Pine Bluff, Arkansas 71601, on this 25th day of November, 2014.

  
\_\_\_\_\_  
Tom Wynne

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
FIFTH DIVISION

STATE OF ARKANSAS

PLAINTIFF

CR- 2014-47

John W. Powell

DEFENDANT

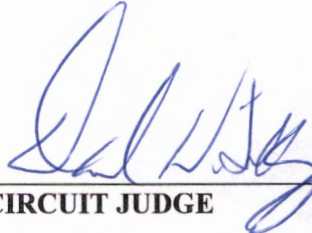
**ORDER FOR CONTINUANCE**


Upon the Motion of the Defendant, and for good cause shown therein, this matter is hereby  
Continued.

For speedy trial purposes and excludable period from 02/10/15 to 03/10/15

Is hereby granted, pursuant to Arkansas Rule of Criminal Procedure 28.3.3

**IT IS SO ORDERED.**

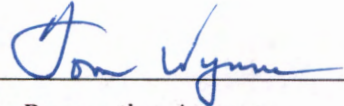
  
CIRCUIT JUDGE

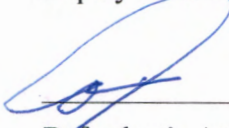
BY:   
JIMMY D. CUMMINGS  
D.C.

CLEVELAND COUNTY  
CIRCUIT COURT

2015 FEB 10 PM 1 19

FILED

  
Deputy Prosecuting Attorney

  
Defendant's Attorney

28217

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
FIFTH DIVISION

STATE OF ARKANSAS

PLAINTIFF

CR- 2014-47-5

John W. Powell

DEFENDANT

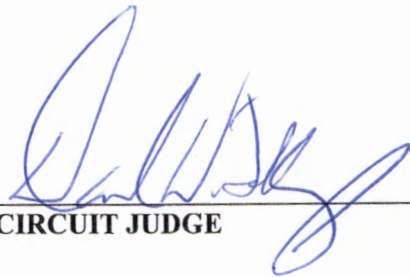
**ORDER FOR CONTINUANCE**

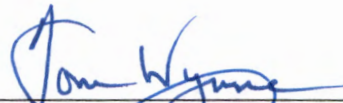
Upon the Motion of the Defendant, and for good cause shown therein, this matter is hereby  
Continued.

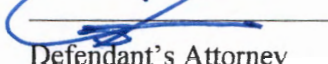
For speedy trial purposes and excludable period from 03-10-15 to 04-14-15

Is hereby granted, pursuant to Arkansas Rule of Criminal Procedure 28.3.3

**IT IS SO ORDERED.**

  
CIRCUIT JUDGE

  
Deputy Prosecuting Attorney

  
Defendant's Attorney

FILED  
2015 MAR 11 AM 10 44  
CLEVELAND COUNTY  
CIRCUIT COURT  
JIMMY D. CUMMINGS  
BY: Angela Cummins D.O.

28-756

FILED  
2015 MAR 17 PM 1 56  
CLEVELAND COUNTY  
CIRCUIT COURT  
JIMMY D. CUMMINGS  
BY: Brandi Remy D.C.  
PLAINTIFF

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
FIFTH DIVISION

STATE OF ARKANSAS

NO. CR-2014-47

JOHN W. POWELL

DEFENDANT

SCHEDULING ORDER

Now on this 16<sup>th</sup> day of March 2015 comes on for consideration the scheduling of the instant case for jury trial. This defendant is scheduled for jury trial that will begin April 30, 2015, to be tried to completion in an estimated one day.

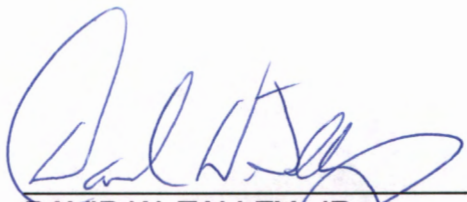
The dates that the parties shall observe are as follows, to wit:

April 1, 2015                      **Motions Deadline**

Hearing will be scheduled on Motions (if needed and requested) on April 14, 2015.

April 30, 2015                      **Jury Trial – Cleveland County Courthouse, Rison, Arkansas at 9:00 a.m.**

IT IS SO ORDERED.

  
\_\_\_\_\_  
DAVID W. TALLEY, JR.  
CIRCUIT JUDGE

cc: Tom Wynne, DPA  
Greg Robinson, Attorney for Defendant

*28 APR*

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
THIRTEENTH JUDICIAL CIRCUIT  
FIFTH DIVISION

STATE OF ARKANSAS

PLAINTIFF

v.

No. 13CR-2014-47-5

JOHN W. POWELL

DEFENDANT

MOTION FOR ACCESS TO PHYSICAL EVIDENCE

Defendant JOHN W. POWELL, through ROBINSON & ZAKRZEWSKI, P.A., states as follows for his motion for access to physical evidence:

1. The STATE OF ARKANSAS, through the OFFICE OF THE PROSECUTING ATTORNEY FOR THE THIRTEENTH JUDICIAL CIRCUIT (“prosecuting attorney”), has charged Defendant with three counts of aggravated assault, a violation of Arkansas Code Annotated § 5-13-204 and a Class D felony.

2. The prosecuting attorney may seek to present physical evidence at trial.

3. Defendant moves for the entry of an order directing the prosecuting attorney to permit the defense to view all physical evidence at a time mutually convenient for the prosecuting attorney and the defense.

WHEREFORE, Defendant prays for the entry of an order directing the prosecuting attorney to permit the defense to view all physical evidence and further prays for all other relief to which he may be entitled.

FILED  
2015 MAR 18 PM 1 01  
CLEVELAND COUNTY  
CIRCUIT COURT  
JIMMY D. CUMMINGS  
BY: *Mary Steen*  
D.C.

Respectfully submitted,

ROBINSON & ZAKRZEWSKI, P.A.

Attorneys at Law

720 West Sixth Street

Pine Bluff, Arkansas 71601

Telephone: (870) 850-6000

Facsimile: (870) 850-6002

E-Mail: [robinson.zakrzewski@yahoo.com](mailto:robinson.zakrzewski@yahoo.com)

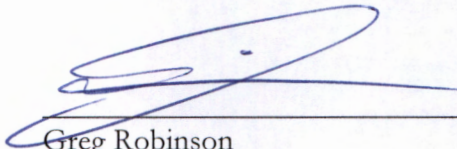
By:



Greg Robinson (78134)

CERTIFICATE OF SERVICE

I certify that on March 16, 2015 I sent a true and correct copy of the foregoing motion for access to physical evidence via e-mail to Mr. Tom Wynne, Deputy Prosecuting Attorney, THIRTEENTH JUDICIAL CIRCUIT, at [twynne@windstream.net](mailto:twynne@windstream.net).



Greg Robinson

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
THIRTEENTH JUDICIAL CIRCUIT  
FIFTH DIVISION

STATE OF ARKANSAS

v.

No. 13CR-2014-47-5

JOHN W. POWELL

FILED  
PLAINTIFF

2015 MAR 18 PM 1 03

DEFENDANT  
CLEVELAND COUNTY  
CIRCUIT COURT

JIMMY D. CUMMINGS  
BY: *[Signature]* D.C.

MOTION FOR DISCLOSURE OF EXCULPATORY EVIDENCE

Defendant JOHN W. POWELL, through ROBINSON & ZAKRZEWSKI, P.A., states as follows for his motion for disclosure of exculpatory evidence:

1. The STATE OF ARKANSAS, through the OFFICE OF THE PROSECUTING ATTORNEY FOR THE THIRTEENTH JUDICIAL CIRCUIT (“prosecuting attorney”), has charged Defendant with three counts of aggravated assault, a violation of Arkansas Code Annotated § 5-13-204 and a Class D felony.

2. Pursuant to all federal and state constitutional provisions and jurisprudence, including but not limited to the Fifth and Sixth Amendments to the United States Constitution, *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194 (1963), and Article 2, section 8 of the Arkansas Constitution, and pursuant to all applicable provisions of the Arkansas Rules of Criminal Procedure, Defendant moves for the entry of an order directing the prosecuting attorney to:

(a) provide the defense all discoverable material in the possession or control of the prosecuting attorney, including all exculpatory and mitigating evidence, that has yet to be furnished to the defense;

(b) provide the defense all discoverable material in the possession or control of any other governmental agency or agent, including all exculpatory and mitigating evidence, that has yet to be furnished to the defense;

(c) provide updated criminal histories for all prosecuting witnesses; and


(d) provide any other evidence that may impeach or affect the credibility of any prosecution witness.

WHEREFORE, Defendant prays for the entry of an order directing the prosecuting attorney to provide the foregoing to the defense and further prays for all other relief to which he may be entitled.

Respectfully submitted,


ROBINSON & ZAKRZEWSKI, P.A.  
Attorneys at Law  
720 West Sixth Street  
Pine Bluff, Arkansas 71601  
Telephone: (870) 850-6000  
Facsimile: (870) 850-6002  
E-Mail: [robinson.zakrzewski@yahoo.com](mailto:robinson.zakrzewski@yahoo.com)

By:

  
\_\_\_\_\_  
Greg Robinson (78134)

CERTIFICATE OF SERVICE

I certify that on March 16, 2015 I sent a true and correct copy of the foregoing motion for disclosure of exculpatory evidence via e-mail to Mr. Tom Wynne, Deputy Prosecuting Attorney, THIRTEENTH JUDICIAL CIRCUIT, at [twynne@windstream.net](mailto:twynne@windstream.net).

  
\_\_\_\_\_  
Greg Robinson

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
THIRTEENTH JUDICIAL CIRCUIT  
FIFTH DIVISION

STATE OF ARKANSAS

v.

No. 13CR-2014-47-5

JOHN W. POWELL

MOTION FOR SEVERANCE OF OFFENSES

Defendant JOHN W. POWELL, through ROBINSON & ZAKRZEWSKI, P.A., states as follows for his motion for severance of offenses:

1. The STATE OF ARKANSAS, through the OFFICE OF THE PROSECUTING ATTORNEY FOR THE THIRTEENTH JUDICIAL CIRCUIT (“prosecuting attorney”), has charged Defendant with three counts of aggravated assault, a violation of Arkansas Code Annotated § 5-13-204 and a Class D felony.

2. The conduct underlying two of the counts allegedly occurred on April 18, 2014, and the conduct underlying the third allegedly occurred on September 17, 2014.

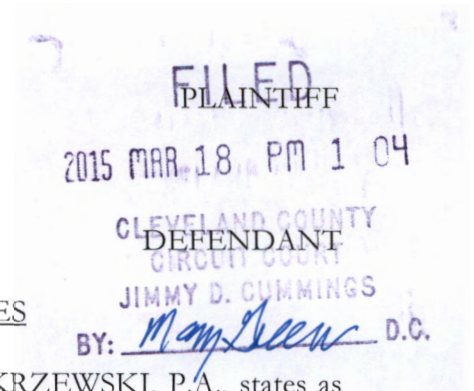
3. The prosecuting attorney has joined all three counts in a single information, and they are presumably joined for trial also.

4. Defendant seeks to sever the counts arising from the April incident from the count arising from the September incident for purposes of trial inasmuch as they were not part of a single scheme or plan.

5. To that end, this motion examines the circumstances associated with all three counts.

6. The circumstances associated with the first two counts developed as follows:

(a) on April 18, 2014, Defendant’s sister, Jan Copeland, drove their mother, Winnie Powell (“Winnie”), to a mobile home owned by Winnie at 150 County Line Road;



(b) they made the trip so that Winnie could retrieve some tax-related documents and speak to Defendant, who resided in the mobile home, about his payment of rent;

(c) shortly after arriving, Winnie told Defendant of her need to file for bankruptcy protection;

(d) Defendant became angry and ordered Winnie to leave, whereupon she refused;

(e) her refusal prompted Defendant to state “that she could either walk out or they could carry her out,” after which he retrieved a pistol;

(f) as Winnie loaded some items into the car, Johnny fired the pistol into the air; and

(g) when Winnie entered the vehicle, Defendant pointed the pistol at her and then fired it into the ground such that the shot threw dirt and mud on the car.

7. The circumstances associated with the third count developed as follows:

(a) on September 17, 2014, Defendant’s brother-in-law, Jeff Lutrell (“Lutrell”), was inside his residence at 130 County Line Road when he looked outside and saw Defendant exit his vehicle holding an ax;

(b) Lutrell then stepped outside to speak with Defendant, whereupon Defendant asked Lutrell who had been taking his property from 150 County Line Road;

(c) Lutrell, who could barely understand Defendant’s speech but knew that Defendant was directing profanities at him and accusing him of involvement in a situation between he and Winnie, denied knowledge of who perpetrated the thefts; and

(d) Defendant then engaged in threatening behavior, which included placing the sharp edge of the ax within inches of Lutrell’s face, shaking the ax at Lutrell, and placing the ax against Lutrell’s chest.

8. Although the September incident could possibly have stemmed from a scheme or plan, as opposed to simply a spontaneous onset of extreme frustration or rage, nothing in the discovery materials indicates that Defendant schemed or planned for Winnie to visit him at his residence, inform him of her need to file for bankruptcy protection, and then refuse his orders to leave, thereby provoking him to threaten her at gunpoint.

9. Stated differently, Defendant's conduct during the April and September incidents could not have stemmed from a single scheme or plan because the former incident did not arise from scheming or planning on Defendant's part.

10. At best, Defendant's displays of anger and weapons during those incidents constitute conduct of the same or similar character.

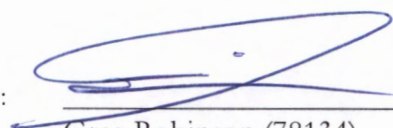
11. Because the counts associated with the April incident and the count associated with the September incident are joined solely because they are of the same or similar character and they are not part of a single scheme or plan, Defendant has a right to severance pursuant to Arkansas Rule of Criminal Procedure 22.2(a).

WHEREFORE, Defendant prays for severance of the counts associated with the April incident, namely Counts 1 and 2, from the count associated with the September incident, namely Count 3, and further prays for all other relief to which he may be entitled.

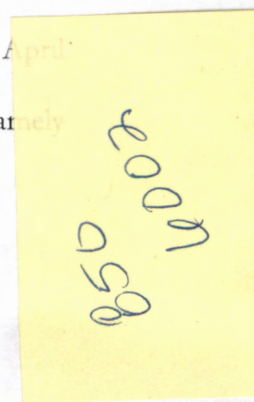
Respectfully submitted,

ROBINSON & ZAKRZEWSKI, P.A.  
Attorneys at Law  
720 West Sixth Street  
Pine Bluff, Arkansas 71601  
Telephone: (870) 850-6000  
Facsimile: (870) 850-6002  
E-Mail: [robinson.zakrzewski@yahoo.com](mailto:robinson.zakrzewski@yahoo.com)

By:

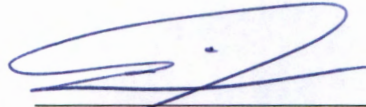


Greg Robinson (78134)



CERTIFICATE OF SERVICE

I certify that on March 16, 2015 I sent a true and correct copy of the foregoing motion for severance of offenses via e-mail to Mr. Tom Wynne, Deputy Prosecuting Attorney, THIRTEENTH JUDICIAL CIRCUIT, at [twynne@windstream.net](mailto:twynne@windstream.net).



---

Greg Robinson

**IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
CRIMINAL DIVISION**

**STATE OF ARKANSAS**

**VS.**

**NO. CR-2014-47-5**

**JOHN W. POWELL**

FILED  
2015 MAR 30 PM 2 56  
PLAINTIFF  
CLEVELAND COUNTY  
CIRCUIT COURT  
JIMMY D. CUMMINGS  
BY: *Angela Ramsey, DC*  
DEFENDANT D.C.

**RESPONSE TO MOTION FOR  
ACCESS TO PHYSICAL EVIDENCE**

Comes the State of Arkansas, and for its Response To Motion For Access To Physical Evidence, states:

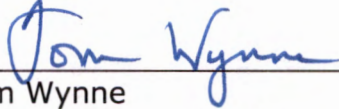
1. The State admits the allegations in Paragraph (1) of Defendant's Motion.

2. The State admits the allegations in Paragraph (2) of the Defendant's Motion.

3. The State has no objection to the entry of an Order as requested in Paragraph (3) of Defendant's Motion. However, the State states that it has previously provided Defendant with a copy of the State's file in this matter. Further, Defendant may view any physical evidence which the State may seek to present at trial simply by Defendant contacting the Deputy Prosecuting Attorney and/or the Sheriff's Department to schedule a time for viewing of said evidence.

WHEREFORE, the State of Arkansas prays for an Order of the Court finding that the State has complied with any and all matters included in Defendant's Motion For Access To Physical Evidence and for all other proper relief.

STATE OF ARKANSAS

BY:   
Tom Wynne  
Deputy Prosecuting Attorney  
Cleveland County  
P.O. Box 748  
308 Main Street  
Fordyce, Arkansas 71742  
(870) 352-5101

CERTIFICATE OF SERVICE

I, Tom Wynne, certify that a copy of the foregoing pleading was mailed to Defendant's attorney, Greg Robinson, 720 West Sixth Street, Pine Bluff, Arkansas 71601, on this 27th day of March, 2015.

  
Tom Wynne

**IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
CRIMINAL DIVISION**

**STATE OF ARKANSAS**

**PLAINTIFF**

**VS.**

**NO. CR-2014-47-5**

**JOHN W. POWELL**

**DEFENDANT**

**RESPONSE TO MOTION FOR DISCLOSURE  
OF EXCULPATORY EVIDENCE**

Comes the State of Arkansas, and for its Response To Motion For Disclosure Of Exculpatory Evidence, states:

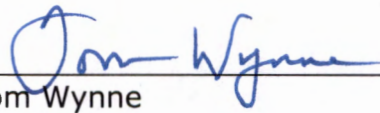
1. The State admits the allegations in Paragraph (1) of Defendant's Motion.

2. The State has no objection to the Court's entry of an Order directing the State to provide the items requested in Paragraph (2)(a)(b)(c) & (d) of Defendant's Motion. However, the State states that Defendant has previously been provided a copy of everything in the State's file. Should other items or information as requested in paragraph (2)(a)(b)(c) & (d) be or come into the State's possession, the State will provide Defendant with same forthwith.

WHEREFORE, the State of Arkansas prays for an Order of the Court finding that the State has complied with any and all matters included in Defendant's Motion For Disclosure Of Exculpatory Evidence and for all other proper relief.

**FILED**  
2015 MAR 30 PM 2 58  
CLEVELAND COUNTY  
CIRCUIT COURT  
JIMMY D. CUMMINGS  
BY: *Angela Kinney* D.C.

STATE OF ARKANSAS

BY:   
Tom Wynne  
Deputy Prosecuting Attorney  
Cleveland County  
P.O. Box 748  
308 Main Street  
Fordyce, Arkansas 71742  
(870) 352-5101

CERTIFICATE OF SERVICE

I, Tom Wynne, certify that a copy of the foregoing pleading was mailed to Defendant's attorney, Greg Robinson, 720 West Sixth Street, Pine Bluff, Arkansas 71601, on this 27th day of March, 2015.

  
Tom Wynne

**IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
CRIMINAL DIVISION**

**STATE OF ARKANSAS**

**PLAINTIFF**

**VS.**

**NO. CR-2014-47-5**

**JOHN W. POWELL**

**DEFENDANT**

**RESPONSE TO MOTION FOR  
SEVERANCE OF OFFENSES**

Comes the State of Arkansas, and for its Response To Motion For Severance Of Offenses, states:

1. The generally agrees with the allegations included in Defendant's Motion For Severance Of Offenses.

2. The State does not object to the severance of Counts #1 and #2 from Count #3 in this matter.

WHEREFORE, the State of Arkansas prays for an Order of the Court consistent with Defendant's Motion and the State's Response, and for all other proper relief.

STATE OF ARKANSAS

BY: \_\_\_\_\_

*Tom Wynne*  
Tom Wynne  
Deputy Prosecuting Attorney  
Cleveland County  
P.O. Box 748  
308 Main Street  
Fordyce, Arkansas 71742  
(870) 352-5101

FILED

2015 MAR 30 PM 2 58

CLEVELAND COUNTY  
CIRCUIT COURT

JIMMY D. CUMMINGS

BY: *Angela Kainey* D.C.

State of Arkansas vs. John W. Powell  
Response To Motion For Severance Of Offenses  
Page 2

CERTIFICATE OF SERVICE

I, Tom Wynne, certify that a copy of the foregoing pleading was mailed to Defendant's attorney, Greg Robinson, 720 West Sixth Street, Pine Bluff, Arkansas 71601, on this 27th day of March, 2015.

  
\_\_\_\_\_  
Tom Wynne

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS.

NO. CR-20 14-47-5

John Powell

DEFENDANT

Filed on this 9  
day of June 2006  
at P.O. o'clock A. M.  
Jimmy D. Cummins Clerk  
Dr. Annsala Kemper DC

13<sup>th</sup> JUDICIAL DISTRICT  
PLEA OF GUILTY STATEMENT

1. I understand that my plea agreement is an agreement between me and the State of Arkansas; the Court is not bound by the agreement and the Judge did not sign it.

JP (Please initial)

2. I understand that by entering a plea of guilty I will give up my right to remain silent, my right to confront the witnesses that the State of Arkansas has against me, and my right to a jury trial or court trial/hearing.

JP (Please initial)

3. I understand I cannot appeal a plea of guilty. (Please initial)

JP

4. I state to the Court that my attorney has been effective, has done a good job, and that I have no complaints against him/her.

JP (Please initial)

5. I state to the Court that I have had no drugs or alcohol within the last eight hours which would cloud my mind or memory; I fully understand the nature of the proceedings against me.

JP (Please initial)

6. I state that no one has promised me anything, abused me, or threatened me to get me to enter into a plea agreement with the State of Arkansas or to enter a plea of guilty.

JP (Please initial)

7. I state that I understand a plea of guilty could have consequences outside of this case proceeding (for example, employment). I state that I am not relying on the advice or representation of my attorney or any other person concerning those potential consequences.

JP (Please initial)

8. I state that I understand a plea of guilty could affect my status to remain in this country if I am not a citizen. I state that I am not relying on the advice or representation of my attorney or any other person concerning this potential consequence.

JP (Please initial)

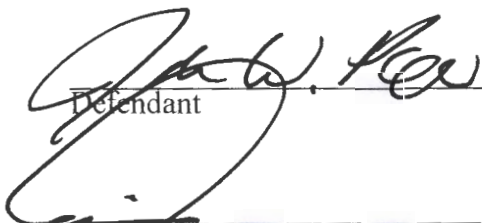
9. If I am being sentenced to a period of incarceration:


a. I hereby claim that I am entitled to \_\_\_\_\_ days of pretrial incarceration credit; I further understand that if I do not now make claim for said pretrial incarceration credit; my right to such credit is waived. \_\_\_\_\_ (Please initial)

b. My attorney has fully explained to me the meaning of the phrase "suspended imposition of sentence". I fully understand that the Court is not suspending any portion of my prison sentence. \_\_\_\_\_ (Please initial)

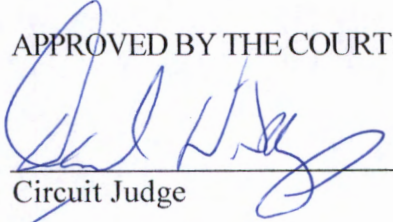
c. I state that I understand that neither my attorney nor the Court can say how much time I will serve on my sentence before being released. I state I am not relying on any discussion or conjecture about potential parole eligibility in my decision to enter a plea of guilty or no contest. \_\_\_\_\_ (Please initial)

10. IN ALTERNATIVE SENTENCING CASES: I understand that if I fail to complete the 13<sup>th</sup> Judicial District Alternative Sentencing Program or I am terminated from the program for any reason other than successful completion of the program, the Court may, after hearing recommendations by the Prosecuting Attorney and my attorney, accept my guilty plea and sentence me to any punishment allowed by law for the charges to which I pled guilty. The possible penalties include probation, probation plus (for other than Class Y felonies), Community Correction Center time, jail time, penitentiary time and/or fines.  
\_\_\_\_\_ (Please initial)

  
\_\_\_\_\_  
Defendant

  
\_\_\_\_\_  
Counsel for Defendant

\_\_\_\_\_  
Date

APPROVED BY THE COURT:  
  
\_\_\_\_\_  
Circuit Judge

June 9 2015  
\_\_\_\_\_  
Date:

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS

STATE OF ARKANSAS

PLAINTIFF

VS.

NO. CR-2014-47-5

John W. Powell

DEFENDANT(S)

Filed on this 9 day of June, 2015 at 10:10 o'clock A. M.  
Jimmie D. Cummings Clerk  
Mrs. Pamela Kinross

ORDER FOR NOLLE PROSEQUI

On this 9 day of June, 2015, upon the State's Motion to Nolle Prosequi, it is ordered and adjudged that the above styled criminal action for the charge of Count 2 - Agg. Assault Count 3 - Agg. Assault against John W. Powell, be and hereby is Nolle Prosequi subject to the right of the State of Arkansas to refile said charges within one year.

[Signature]  
CIRCUIT JUDGE

28-425

Filed on this 9  
 day of June, 2015  
 at 10:30 o'clock A.M.

CASE # CR-2014-47-5      DOB: 12-20-66      TOTAL DUE \$ 451.00  
 DATE: 6-9-15      SENTENCE: Probation 1 yr.

Jimmy D. Cummins Clerk  
By: Angela Kinney

DATE	Court Cost \$ <u>181.00</u>	Attorney Fee \$	Fine \$ <u>250.00</u>	Restitution \$	\$5.00 Per Mo Adm Fee \$	DNA Fee \$	Jail Fee \$ <u>20.00</u>	Drug Assessment Fee \$	Other \$	Comments
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	
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	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	

Payment Plan: \$ \_\_\_\_\_ Due Today \$ \_\_\_\_\_ per mo. 1st Payment due \_\_\_\_\_

Victim Name : \_\_\_\_\_

Address: \_\_\_\_\_

The above amounts have been paid in full this date and the Judgment Recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ is Released:

\_\_\_\_\_

Signature

CLEVELAND COUNTY

NAME John W. Powell

Filed on this 9  
day of June, 2015  
at 10:30 o'clock A.M.  
Jimmy D. Cummings Clerk  
Prj. Angela Kinsey

CASE # CR-2014-47-5      DOB: 12-20-66      TOTAL DUE \$ 451.00  
DATE: 6-9-15      SENTENCE: Probation 1 yr.

DATE	Court Cost \$ <u>181.00</u>	Attorney Fee \$	Fine \$ <u>250.00</u>	Restitution \$	\$5.00 Per Mo Adm Fee \$	DNA Fee \$	Jail Fee \$ <u>20.00</u>	Drug Assessment Fee \$	Other \$	Comments
<u>6-9-15</u> <u>Rec# 5000</u>	PD <u>181.00</u>	PD	PD <u>250.00</u>	PD	PD	PD	PD <u>20.00</u>	PD	PD	
	Bal <u>0</u>	Bal	Bal <u>0</u>	Bal	Bal	Bal	Bal <u>0</u>	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal <u>pd</u>	Bal	Bal	Bal	Bal	Bal	Bal	
	PD	PD	PD <u>6-9-15</u>	PD	PD	PD	PD <u>pd</u>	PD	PD	
	Bal	Bal	Bal <u>Rec#-</u>	Bal	Bal	Bal	Bal <u>6-9-15</u>	Bal	Bal	
	PD	PD	PD <u>5000</u>	PD	PD	PD	PD <u>Rec#-</u>	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal <u>5000</u>	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	
	PD	PD	PD	PD	PD	PD	PD	PD	PD	
	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	Bal	

Payment Plan: \$ \_\_\_\_\_ Due Today \$ \_\_\_\_\_ per mo. 1st Payment due \_\_\_\_\_

Victim Name : \_\_\_\_\_

Address: \_\_\_\_\_

The above amounts have been paid in full this date and the Judgment Recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ is Released:

Erica Rogers

Signature

CLEVELAND COUNTY

NAME John W. Powell

# SENTENCING ORDER

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS,

13TH JUDICIAL DISTRICT 5TH DIVISION

On JUNE 9, 2015 the Defendant appeared before the Court, was advised of the nature of the charge(s), of Constitutional and legal rights, of the effect of a guilty plea upon those rights, and of the right to make a statement before sentencing.

Offender	Defendant [Last, First, MI] <b>POWELL, JOHN W</b>		DOB <b>12/20/1966</b>	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Total Number of Counts <b>THREE (3)</b>	
	SID #	Race & Ethnicity <input checked="" type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Unknown <input type="checkbox"/> Other <input type="checkbox"/> Hispanic				
Court Info	Supervision Status at Time of Offense					
	Judge <b>DAVID W. TALLEY JR</b>			File Filed on this <u>22</u> day of <u>July</u> , 2015 at <u>1:11</u> o'clock <u>P</u> . M. <i>Jimmy D. Cummings</i> Clerk <i>Br. Angela Kimsey</i>		
	Prosecuting Attorney/Deputy <b>TOM WYNNE</b>			Defendant's Attorney <b>GREG ROBINSON</b> <input checked="" type="checkbox"/> Private <input type="checkbox"/> Public Defender <input type="checkbox"/> Pro Se <input type="checkbox"/> Appointed		
	Change of Venue <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, from:					
Legal Statement	<input type="checkbox"/> Pursuant to A.C.A. §§16-93-301 et seq., or §§ this Court, without making a finding of guilt or entering a judgment of guilt and with the consent of the Defendant defers further proceedings and places the Defendant on probation. There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment: <input checked="" type="checkbox"/> is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. Defendant was advised of the conditions of the sentence and/or placement on probation and understands the consequences of violating those conditions. The Court retains jurisdiction during the period of probation/suspension and may change or set aside the conditions of probation/suspension for violations or failure to satisfy Department of Community Correction (D.C.C) rules and regulations. <input type="checkbox"/> of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C.) for the term specified on each offense shown below.					
	Defendant made a voluntary, knowing, and intelligent waiver of the right to counsel. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
	A.C.A. # of Offense / Name of Offense+ <b>5-13-204 AGGRAVATED ASSAULT 1ST DEGREE</b> Case # <b>CR-2014-47-5</b>					
Offense #1	A.C.A. # of Original Charged Offense		ATN <b>CLV000000532</b>	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted		
	Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
	Offense Date <b>04/18/2014</b>		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input checked="" type="checkbox"/> D <input type="checkbox"/> U		
	Number of Counts: <b>1</b>	Criminal History Score <b>0</b>	Seriousness Level <b>3</b>	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense		
	Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ months <input checked="" type="checkbox"/> Community Corrections Center <input checked="" type="checkbox"/> Alternative Sanction					
	Defendant Sentence* (see Page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.			
	Probation <b>12</b> months		Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____			
	SIS _____ months		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.			
	Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)			
	Victim Info# (See page 2) <input type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No		Age _____	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic	
Defendant voluntarily, intelligently, and knowingly entered a <input checked="" type="checkbox"/> negotiated plea of <input checked="" type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.			Defendant: <input type="checkbox"/> was sentenced pursuant to §§16-93-301 et seq., or other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input checked="" type="checkbox"/> was found guilty by the court & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.			
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:				
Departure Reason (See page 2 for a list of reasons)			Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # _____ or Case # _____			
Aggravating # _____ or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____						

28-496

A.C.A. # of Offense/ Name of Offense+ 5-13-204 AGGRAVATED ASSAULT		Case # CR-2014-47-5	
A.C.A. # of Original Charged Offense		ATN CLV00000532	Offense was <input checked="" type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted
Offense Date 04/18/2014		Appeal from District Court <input type="checkbox"/> Yes <input type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input type="checkbox"/> No
Offense is <input type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: 1	Criminal History Score	Seriousness Level	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense
Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction			
Defendant Sentence* (see Page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.	
Probation _____ months		Sentence was enhanced _____ months, pursuant to	
SIS _____ months		A.C.A. §§ _____	
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.	
Victim Info# (See page 2) <input type="checkbox"/> N/A		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection	
[Multiple Victims <input type="checkbox"/> Yes <input type="checkbox"/> No]	Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.	
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:		
Departure Reason (See page 2 for a list of reasons)		Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent	
Aggravating # _____ or Mitigating # _____		to Offense # _____ or	
or if departing from guidelines, please explain: _____		Case # _____	

Offense #: 1

A.C.A. # of Offense/ Name of Offense+ 5-13-204 AGGRAVATED ASSAULT		Case # CR-2014-47-5	
A.C.A. # of Original Charged Offense		ATN CLV00000532	Offense was <input checked="" type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted
Offense Date 09/17/2014		Appeal from District Court <input type="checkbox"/> Yes <input type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input type="checkbox"/> No
Offense is <input type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: 1	Criminal History Score	Seriousness Level	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense
Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction			
Defendant Sentence* (see Page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.	
Probation _____ months		Sentence was enhanced _____ months, pursuant to	
SIS _____ months		A.C.A. §§ _____	
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.	
Victim Info# (See page 2) <input type="checkbox"/> N/A		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection	
[Multiple Victims <input type="checkbox"/> Yes <input type="checkbox"/> No]	Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.	
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:		
Departure Reason (See page 2 for a list of reasons)		Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent	
Aggravating # _____ or Mitigating # _____		to Offense # _____ or	
or if departing from guidelines, please explain: _____		Case # _____	

Offense #: 2

Defendant's Full Name: POWELL, JOHN W

Special Conditions

**Sex Offenses**  
 Defendant has been adjudicated guilty of an offense requiring sex offender registration and must complete the Sex Offender Registration Form.  Yes  No  
 Defendant has committed an aggravated sex offense as defined in A.C.A. §12-12-903.  Yes  No  
 Defendant is alleged to be a sexually violent predator and is ordered to undergo an evaluation at a facility designated by A.D.C. pursuant to A.C.A. §12-12-918.  Yes  No  
 Defendant, who has been adjudicated guilty of an offense requiring registration, has been adjudicated guilty of a prior sex offense under a separate case number.  Yes  No  
 If yes, list prior case numbers:

**Domestic Violence Offenses**  
 Defendant has been adjudicated guilty of a domestic-violence related offense.  Yes  No  
 If no, was defendant originally charged with a domestic-violence related offense?  Yes  No  
 If yes, state the A.C.A. # of the offense:  
 If yes to either question, identify the relationship of the victim to the defendant.

**DNA Sample/Qualifying Offense**  
 Defendant has been adjudicated guilty of a qualifying offense or repeat offense (as defined in A.C.A. §12-12-1103).  Yes  No  
 Defendant is ordered to have a DNA sample drawn at  a A.C.C. facility  the A.D.C. or  other PROBATION

**Drug Crime**  
 Defendant has been convicted of a drug crime, as defined in §12-17-101.  Yes  No

Fines, Fees, Restitution

Court Costs	\$ 181.00
Fines	\$ 250.00
Booking/Admin Fees (\$20)	\$ 20.00
Drug Crime Assessment Fee (\$125)	\$
DNA Sample Fee (\$250)	\$ 250.00
Mandatory Sex Offender Fee (\$250)	\$
Public Defender User Fee	\$
Public Defender Attorney Fee	\$
Other (explain)	\$

Restitution \$ \_\_\_\_\_ Payable to [If multiple beneficiaries, give names and payment priority] \_\_\_\_\_  
**Terms**  
 Due Immediately  
 Installments of: \_\_\_\_\_  
 Payments must be made within \_\_\_\_\_ days of release from A.D.C.  
 Upon release from confinement, Defendant must return to court to establish payment of restitution  
 Restitution is joint and several with co-defendant(s) who was found guilty - List name(s) and case number(s) \_\_\_\_\_

Sentence Options

Defendant was convicted of a target offense(s) and is sentenced pursuant to provisions of the Community Punishment Act.  Yes  No  
 The Court hereby orders a judicial transfer to the Department of Community Correction.  Yes  No  
 Pursuant to the Community Punishment Act, the Defendant shall be eligible to have his/her records sealed.  Yes  No  
**Extended Juvenile Jurisdiction Applied**  Yes  No  
**JAIL TIME CREDIT** **TOTAL TIME TO BE SERVED FOR ALL OFFENSES** **Death Penalty** **If Yes, State Execution Date:**  
 In months: 12  Life  LWOP  Yes  No  
**DEFENDANT IS ASSIGNED TO:**  ADC  CCC  COUNTY JAIL  PROBATION  SIS  SPECIAL CONDITIONS  
 Conditions of disposition or probation are attached.  Yes  No  
 A copy of the pre-sentence investigation on sentencing information is attached  Yes  No  Defendant has previously failed a drug court program.  
 A copy of the Prosecutor's Short Report is attached  Yes  No  
**DEFENDANT WAS INFORMED OF APPELLATE RIGHTS**  Yes  No **Appeal Bond \$**  
 The County Sheriff is hereby ordered to:  transport the defendant to county jail  take custody for referral to CCC  transport to ADC  
 Defendant shall report to ACC probation officer for report date to CCC  Yes  No

Signature

**Prosecuting Attorney/Deputy (Print Name):** TOM WYNNE  
 Signature: *Tom Wynne* Date: 7/13/15  
**Circuit Judge (Print Name):** DAVID W. TALLEY, JF  
 Signature: *David W. Talley* Date: 7/13/2015

Additional Info

**Additional Info:** DEFENDANT TO SUBMIT TO DRUG TESTING THE NEXT DAY. IF FAIL, THE DEFENDANT WILL BE SENT TO NEW BEGINNINGS REHAB.

<b>Reasons for Departure</b> (Please see complete list of departure criteria found at A.C.A. §16-90-804)	
<b>Aggravating</b>	<b>Mitigating</b>
1. Offender's conduct manifested extreme cruelty during commission of current offense.	1. Victim played an aggressive role or provoked the incident or was a willing participant.
2. Offender knew victim vulnerable due to extreme youth, advanced age, disability or ill health.	2. Offender lacked capacity of judgment due to mental or physical impairment.
3. Offense was major economic offense established by one of the following criteria: (a) multiple victims/incidents, (b) monetary loss substantially greater than typical, (c) degree of sophistication or time, (d) misuse of fiduciary duty, or (e) other similar conduct.	3. Offender played a minor or passive role in crime.
4. Offense was major controlled substance offense if two or more of the following are present: (a) Three or more separate transactions involve sale, transfer or possession with intent; (b) Amounts substantially larger than the statutory minimums which define the offense; (c) Offense involved a high degree of planning or lengthy period or broad geographic area; (d) Offender occupied a high position in the drug distribution hierarchy; (e) Offender misused position of trust or status or fiduciary duty to facilitate commission; (f) Offender has received substantial income or resources from drug trafficking.	4. Offender compensated/made effort to compensate for damage or injury before detection.
5. Offender employed firearm in furtherance or flight unless such use is element of offense	5. Offender was lesser participant showing caution/concern for safety or well-being of victim.
6. Offense was sexual offense and part of pattern with the same or different victims under eighteen	6. Offender acted in response to continuing physical/sexual abuse by victim.
7. Policy on multiple offenses in a single course of conduct in offender's prior criminal history results in a sentence that is clearly too lenient.	7. Policy on multiple offenses in single course of conduct in offender's prior criminal history results in sentence which is excessive for this offense.
8. Offense was committed in manner that exposed risk of injury to others.	8. Offender voluntarily admitted sexual offense and sought treatment before detection.
9. Offense was a violent or sexual offense committed in victim's zone of privacy.	9. Offender made effort to provide assistance in investigation or prosecution of another as indicated by motion of state (can weigh timeliness of assistance, nature and extent of assistance, and truthfulness, completeness, and demonstrable reliability of info or testimony).
10. Offender attempted to cover offense by intimidation of witnesses, tampering of evidence, or misleading authorities.	10. Other
11. Offense committed to avoid arrest or effect escape.	
12. Offender lacks minimum insurance in a vehicular homicide.	
13. Statutory minimum sentence overrides the presumptive sentence.	
14. Multiple concurrent sentences being entered at this time require a higher sentence.	
15. Sentence is higher as a result of other charges being dropped or merged.	
16. Other	

**NOTE:**

\* **Defendant Sentence.** "Imposed ADC" means incarceration in an Arkansas Department of Correction facility. "Imposed Judicial Transfer" means incarceration in a Department of Community Correction Center. "Imposed County Jail" means incarceration in a county jail facility. Indicate in months the total time the Defendant was sentenced to a term of incarceration. **DO NOT INCLUDE TIME FOR SIS.**

# **Victim Info.** For more than one victim, please use the "Additional Victim Information" page to disclose additional victim demographics. If there is no victim, check not applicable.

+ **A.C.A. # of Offense/Name of Offense & Probation/SIS Revocation.** If an offender is being sentenced as a result of a revocation of probation or SIS, check the box indicating this is a "Probation/SIS Revocation", and enter the A.C.A. number and name of the offense for which the defendant was originally convicted. Do not enter the code provision for revocation or the cause of the revocation.

# SENTENCING ORDER

AMENDED

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS,

13TH JUDICIAL DISTRICT 5TH DIVISION

On JUNE 9, 2015 the Defendant appeared before the Court, was advised of the nature of the charge(s), of Constitutional and legal rights, of the effect of a guilty plea upon those rights, and of the right to make a statement before sentencing.

Offender	Defendant [Last, First, MI] POWELL, JOHN W	DOB 12/20/1966	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Total Number of Counts THREE (3)	
	SID #	Race & Ethnicity <input checked="" type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Unknown <input type="checkbox"/> Other <input type="checkbox"/> Hispanic	Supervision Status at Time of Offense		
Court Info	Judge DAVID W. TALLEY JR	Prosecuting Attorney/Deputy TOM WYNNE	Defendant's Attorney GREG ROBINSON <input checked="" type="checkbox"/> Private <input type="checkbox"/> Public Defender <input type="checkbox"/> Pro Se <input type="checkbox"/> Appointed	Filed on this <u>13</u> day of <u>August</u> at <u>1:37</u> o'clock <u>P</u> . M. <u>2015</u> by: <u>Jimmy D. Cummins</u> Clerk <u>Angela Kinney, DC</u>	
	Change of Venue <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, from:			
	Pursuant to A.C.A. §§16-93-301 et seq., or §§ this Court, without making a finding of guilt or entering a judgment of guilt and with the consent of the Defendant defers further proceedings and places the Defendant on probation.				
	There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment: <input checked="" type="checkbox"/> is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. Defendant was advised of the conditions of the sentence and/or placement on probation and understands the consequences of violating those conditions. The Court retains jurisdiction during the period of probation/suspension and may change or set aside the conditions of probation/suspension for violations or failure to satisfy Department of Community Correction (D.C.C) rules and regulations.				
Legal Statement	<input type="checkbox"/> of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C.) for the term specified on each offense shown below.				
	Defendant made a voluntary, knowing, and intelligent waiver of the right to counsel. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Offense #1	A.C.A. # of Offense/ Name of Offense+ 5-13-205 ASSAULT IN FIRST DEGREE	Case # CR-2014-47-5	A.C.A. # of Original Charged Offense 5-13-204 AGGRAVATED ASSAU		
	ATN CLV000000532	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	Offense Date 04/18/2014	Offense is <input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misd. <input type="checkbox"/> Viol.	Offense Classification <input type="checkbox"/> Y <input checked="" type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U		
	Number of Counts: 1	Criminal History Score 0	Seriousness Level 3	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense	
	Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ months <input checked="" type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction				
	Defendant Sentence* (see Page 2)	If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.			
	Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months	Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____			
	Probation 12 months	Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.			
	SIS _____ months	Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)			
	Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	Defendant voluntarily, intelligently, and knowingly entered a <input checked="" type="checkbox"/> negotiated plea of <input checked="" type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.			
Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input type="checkbox"/> No]	Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic		
Defendant: <input type="checkbox"/> was sentenced pursuant to §§16-93-301 et seq., or other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input checked="" type="checkbox"/> was found guilty by the court & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.					
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:				
Departure Reason (See page 2 for a list of reasons)			Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # _____ or Case # _____		
Aggravating # _____ or Mitigating # _____. For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____					

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Offense #: 1

A.C.A. # of Offense/ Name of Offense+ 5-13-204 AGGRAVATED ASSAULT		Case # CR-2014-47-5	
A.C.A. # of Original Charged Offense		ATN CLV000000532	Offense was <input checked="" type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted
		Appeal from District Court <input type="checkbox"/> Yes <input type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input type="checkbox"/> No
Offense Date 04/18/2014	Offense is <input type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: 1	Criminal History Score	Seriousness Level	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense
Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction			
Defendant Sentence* (see Page 2)		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.	
Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months		Sentence was enhanced _____ months, pursuant to	
Probation _____ months		A.C.A. §§ _____	
SIS _____ months		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.	
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)	
Victim Info# (See page 2) <input type="checkbox"/> N/A <input type="checkbox"/> Multiple Victims <input type="checkbox"/> Yes <input type="checkbox"/> No	Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.	
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:		
Departure Reason (See page 2 for a list of reasons)		Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent	
Aggravating # _____ or Mitigating # _____. For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____		to Offense # _____ or Case # _____	

Offense #: 2

A.C.A. # of Offense/ Name of Offense+ 5-13-204 AGGRAVATED ASSAULT		Case # CR-2014-47-5	
A.C.A. # of Original Charged Offense		ATN CLV000000532	Offense was <input checked="" type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted
		Appeal from District Court <input type="checkbox"/> Yes <input type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input type="checkbox"/> No
Offense Date 09/17/2014	Offense is <input type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: 1	Criminal History Score	Seriousness Level	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense
Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction			
Defendant Sentence* (see Page 2)		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.	
Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months		Sentence was enhanced _____ months, pursuant to	
Probation _____ months		A.C.A. §§ _____	
SIS _____ months		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.	
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)	
Victim Info# (See page 2) <input type="checkbox"/> N/A <input type="checkbox"/> Multiple Victims <input type="checkbox"/> Yes <input type="checkbox"/> No	Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.	
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:		
Departure Reason (See page 2 for a list of reasons)		Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent	
Aggravating # _____ or Mitigating # _____. For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____		to Offense # _____ or Case # _____	

Defendant's Full Name: POWELL, JOHN W

Special Conditions

**Sex Offenses**

Defendant has been adjudicated guilty of an offense requiring sex offender registration and must complete the Sex Offender Registration Form.  Yes  No

Defendant has committed an aggravated sex offense as defined in A.C.A. §12-12-903.  Yes  No

Defendant is alleged to be a sexually violent predator and is ordered to undergo an evaluation at a facility designated by A.D.C. pursuant to A.C.A. §12-12-918.  Yes  No

Defendant, who has been adjudicated guilty of an offense requiring registration, has been adjudicated guilty of a prior sex offense under a separate case number.  Yes  No  
If yes, list prior case numbers:

**Domestic Violence Offenses**

Defendant has been adjudicated guilty of a domestic-violence related offense.  Yes  No

If no, was defendant originally charged with a domestic-violence related offense?  Yes  No  
If yes, state the A.C.A. # of the offense:

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If yes to either question, identify the relationship of the victim to the defendant.

**DNA Sample/Qualifying Offense**

Defendant has been adjudicated guilty of a qualifying offense or repeat offense (as defined in A.C.A. §12-12-1103).  Yes  No

Defendant is ordered to have a DNA sample drawn at  a A.C.C. facility  the A.D.C. or  other PROBATION

**Drug Crime**

Defendant has been convicted of a drug crime, as defined in §12-17-101.  Yes  No

Fines, Fees, Restitution

<b>Court Costs</b>	\$ 181.00	<b>Restitution \$</b> _____ <b>Payable to</b> [If multiple beneficiaries, give names and payment priority] _____
<b>Fines</b>	\$ 250.00	
<b>Booking/Admin Fees (\$20)</b>	\$ 20.00	
<b>Drug Crime Assessment Fee (\$125)</b>	\$	
<b>DNA Sample Fee (\$250)</b>	\$ 250.00	
<b>Mandatory Sex Offender Fee (\$250)</b>	\$	
<b>Public Defender User Fee</b>	\$	
<b>Public Defender Attorney Fee</b>	\$	
<b>Other (explain)</b>	\$	
		<b>Terms</b> <input checked="" type="checkbox"/> Due Immediately <input type="checkbox"/> Installments of: _____ <input type="checkbox"/> Payments must be made within _____ days of release from A.D.C. <input type="checkbox"/> Upon release from confinement, Defendant must return to court to establish payment of restitution <input type="checkbox"/> Restitution is joint and several with co-defendant(s) who was found guilty - List name(s) and case number(s) _____

Sentence Options

Defendant was convicted of a target offense(s) and is sentenced pursuant to provisions of the Community Punishment Act.  Yes  No

The Court hereby orders a judicial transfer to the Department of Community Correction.  Yes  No

Pursuant to the Community Punishment Act, the Defendant shall be eligible to have his/her records sealed.  Yes  No

<b>JAIL TIME CREDIT</b>	<b>TOTAL TIME TO BE SERVED FOR ALL OFFENSES</b> In months: <u>12</u> <input type="checkbox"/> Life <input type="checkbox"/> LWOP	<b>Death Penalty</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Extended Juvenile Jurisdiction Applied</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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**DEFENDANT IS ASSIGNED TO:**  ADC  CCC  COUNTY JAIL  PROBATION  SIS  SPECIAL CONDITIONS

Conditions of disposition or probation are attached.  Yes  No

A copy of the pre-sentence investigation on sentencing information is attached  Yes  No  Defendant has previously failed a drug court program.

A copy of the Prosecutor's Short Report is attached  Yes  No

**DEFENDANT WAS INFORMED OF APPELLATE RIGHTS**  Yes  No **Appeal Bond \$** \_\_\_\_\_

The County Sheriff is hereby ordered to:  transport the defendant to county jail  take custody for referral to CCC  transport to ADC

Defendant shall report to ACC probation officer for report date to CCC  Yes  No

Signature

**Prosecuting Attorney/Deputy (Print Name):** TOM WYNNE

Signature: *Tom Wynne* Date: 8/11/15

**Circuit Judge (Print Name):** DAVID W. TALLEY, JR

Signature: *David W. Talley, Jr* Date: 8/11/2015

Additional Info

**Additional Info:** DEFENDANT TO SUBMIT TO DRUG TESTING THE NEXT DAY. IF FAIL, THE DEFENDANT WILL BE SENT TO NEW BEGINNINGS REHAB.

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<b>Reasons for Departure</b> (Please see complete list of departure criteria found at A.C.A. §16-90-804)	
<b>Aggravating</b>	<b>Mitigating</b>
1. Offender's conduct manifested extreme cruelty during commission of current offense.	1. Victim played an aggressive role or provoked the incident or was a willing participant.
2. Offender knew victim vulnerable due to extreme youth, advanced age, disability or ill health.	2. Offender lacked capacity of judgment due to mental or physical impairment.
3. Offense was major economic offense established by one of the following criteria: (a) multiple victims/incidents, (b) monetary loss substantially greater than typical, (c) degree of sophistication or time, (d) misuse of fiduciary duty, or (e) other similar conduct.	3. Offender played a minor or passive role in crime.
4. Offense was major controlled substance offense if two or more of the following are present: (a) Three or more separate transactions involve sale, transfer or possession with intent; (b) Amounts substantially larger than the statutory minimums which define the offense; (c) Offense involved a high degree of planning or lengthy period or broad geographic area; (d) Offender occupied a high position in the drug distribution hierarchy; (e) Offender misused position of trust or status or fiduciary duty to facilitate commission; (f) Offender has received substantial income or resources from drug trafficking.	4. Offender compensated/made effort to compensate for damage or injury before detection.
5. Offender employed firearm in furtherance or flight unless such use is element of offense	5. Offender was lesser participant showing caution/concern for safety or well-being of victim.
6. Offense was sexual offense and part of pattern with the same or different victims under eighteen	6. Offender acted in response to continuing physical/sexual abuse by victim.
7. Policy on multiple offenses in a single course of conduct in offender's prior criminal history results in a sentence that is clearly too lenient.	7. Policy on multiple offenses in single course of conduct in offender's prior criminal history results in sentence which is excessive for this offense.
8. Offense was committed in manner that exposed risk of injury to others.	8. Offender voluntarily admitted sexual offense and sought treatment before detection.
9. Offense was a violent or sexual offense committed in victim's zone of privacy.	9. Offender made effort to provide assistance in investigation or prosecution of another as indicated by motion of state (can weigh timeliness of assistance, nature and extent of assistance, and truthfulness, completeness, and demonstrable reliability of info or testimony).
10. Offender attempted to cover offense by intimidation of witnesses, tampering of evidence, or misleading authorities.	10. Other
11. Offense committed to avoid arrest or effect escape.	
12. Offender lacks minimum insurance in a vehicular homicide.	
13. Statutory minimum sentence overrides the presumptive sentence.	
14. Multiple concurrent sentences being entered at this time require a higher sentence.	
15. Sentence is higher as a result of other charges being dropped or merged.	
16. Other	

**NOTE:**

\* **Defendant Sentence.** "Imposed ADC" means incarceration in an Arkansas Department of Correction facility. "Imposed Judicial Transfer" means incarceration in a Department of Community Correction Center. "Imposed County Jail" means incarceration in a county jail facility. Indicate in months the total time the Defendant was sentenced to a term of incarceration. DO NOT INCLUDE TIME FOR SIS.

# **Victim Info.** For more than one victim, please use the "Additional Victim Information" page to disclose additional victim demographics. If there is no victim, check not applicable.

+ **A.C.A. # of Offense/Name of Offense & Probation/SIS Revocation.** If an offender is being sentenced as a result of a revocation of probation or SIS, check the box indicating this is a "Probation/SIS Revocation", and enter the A.C.A. number and name of the offense for which the defendant was originally convicted. Do not enter the code provision for revocation or the cause of the revocation.

IN THE CIRCUIT COURT OF CLEVELAND COUNTY, ARKANSAS  
CRIMINAL DIVISION

PLEA AGREEMENT

STATE OF ARKANSAS

PLAINTIFF

Vs.

CASE CR-20 A-475

John Powell

DEFENDANT

Filed on this 9  
day of June, 2005  
at 10:00 o'clock A.M.  
James D. Cummins Clerk  
By: Angela Kinsey, DC

COMES the State of Arkansas, and the Defendant, John Powell, represented by OKB PROCTOR, and for their mutual agreement for entry of a plea of guilt OR no contest in the above styled cause, states:

1. The above named Defendant is charged by the State of Arkansas with:

COUNT I — AGGRAVATED ASSAULT

COUNT II — AGGRAVATED ASSAULT

COUNT III — AGGRAVATED ASSAULT

COUNT IV —

COUNT V —

COUNT VI —

COUNT VII —

2. The Defendant has 0 prior felonies.

3. The parties hereto have engaged in plea discussions to the end that the administration of justice will best be served.

4. MOTIONS BY THE STATE:

COUNT I — DISMISS

COUNT II — DISMISS

COUNT III — DISMISS

COUNT IV —

COUNT V —

COUNT VI —

COUNT VII —

5 As a result of plea negotiations, the Defendant will enter a plea of guilty to:

COUNT I — ASSAULT 1<sup>ST</sup> DEGREE

COUNT II —

COUNT III — ~~ASSAULT 1<sup>ST</sup> DEGREE~~

COUNT IV —

COUNT V —

COUNT VI —

COUNT VII —

RECOMMENDED SENTENCE:

✓ Court Costs \$150.00 <sup>3/12/15</sup> Attorney's Fees \$250.00 Jail Booking Fee \$20.00

DNA Assessment Fee \$250.00 Drug Crime Fee \$125.00 Dom. Violence Fee \$25.00

Restitution \$ \_\_\_\_\_ Fine <sup>250.00</sup> \_\_\_\_\_

Probation 1 Years Suspended Imposition of Sentence \_\_\_\_\_ Years

\_\_\_ Enter and Complete the Drug Court Program \_\_\_ Enter and Complete the Alternative Sentencing Program

Arkansas Dept. Of Correction \_\_\_\_\_ Years Dept. of Community Corrections \_\_\_\_\_ Years

County jail \_\_\_\_\_ Days/Months Jail Credit \_\_\_\_\_ Days

Forfeiture: \_\_\_\_\_

Other Conditions A to take drug test upon plea, if fail, return to Newburg, Warren, Ark for 30 days

WHEREFORE, the parties hereto pray that the Court concur in this agreement:

Jon Wynn

Deputy Prosecuting Attorney

Date 4/9/15

[Signature]

Defendant's Attorney

Date \_\_\_\_\_

[Signature]

Defendant

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date of Birth

Date \_\_\_\_\_