DISTRICT COURT OF RILEY COUNTY, KANSAS

Twenty-first Judicial District of Kansas (Criminal Division)
100 Courthouse Plaza, Manhattan, KS 66502

THE STATE OF KANSAS, Plaintiff,

vs.

ANDREW CHAPIN BARNARD, Defendant

FILED
2005 SEP 30 AM 10:57
DISTRICT COURT
RILEY CO. KS.

204 Brookmont Dr
Manhattan KS 66502
RCPD#: 05-007160

DL: KS, K00805620 **Race/Sex:** White / male
Height: 505 **Weight:** 140 **Eye Color:** Blue **Hair Color:** Blonde
KDR Transaction Number: 308110502045

COMPLAINT/INFORMATION

No. 05-CR-798
RILEY COUNTY

Bethany C Fields, the undersigned, Assistant Riley Co. Attorney, of lawful age, being first duly sworn on oath, for complaint against the above shown defendant, in the name and by the authority on behalf of the State of Kansas, gives the Court to understand and be informed:

COUNT I: That on or about the 18th day of September, 2005, the Defendant, within Riley County, Kansas, did then and there unlawfully, feloniously, and intentionally place another person, to-wit: [redacted] in reasonable apprehension of immediate bodily harm with a deadly weapon, to-wit: Knife, by threatening the victim with the knife. (Contrary to K.S.A. 21-3410(a)) **(Aggravated Assault) (Severity Level VII Person Felony)**

COUNT II: That on or about the 18th day of September, 2005, the Defendant, within Riley County, Kansas, did then and there unlawfully, feloniously, and intentionally place another person, to-wit: [redacted] in reasonable apprehension of immediate bodily harm with a deadly weapon, to-wit: Knife, by threatening the victim with the knife. (Contrary to K.S.A. 21-3410(a)) **(Aggravated Assault) (Severity Level VII Person Felony)**

COUNT III: That on or about the 18th day of September, 2005, the Defendant, within Riley County, Kansas, did then and there unlawfully, feloniously, and intentionally place another person, to-wit: [redacted] in reasonable apprehension of immediate bodily harm with a deadly weapon, to-wit: Knife, by threatening the victim with the knife. (Contrary to K.S.A. 21-3410(a)) **(Aggravated Assault) (Severity Level VII Person Felony)**

COUNT IV: That on or about the 18th day of September, 2005, the Defendant, within Riley County, Kansas, did then and there knowingly and without legal authority restrained another person, to wit: [redacted] by not letting the victim leave the bedroom, so as to interfere substantially with such person's liberty. (Contrary to K.S.A. 21-3424) **(Criminal Restraint) (Class A Person Misdemeanor)**

COUNT V: That on or about the 18th day of September, 2005, the Defendant, within Riley County,

RILEY COUNTY
ATTORNEY'S OFFICE
105 COURTHOUSE PLAZA
MANHATTAN, KS 66502
PHONE: 785-537-6390

Kansas, did then and there knowingly and without legal authority restrained another person, to wit: L.K. by pinning the victim on the bed, so as to interfere substantially with such person's liberty. (Contrary to K.S.A. 21-3424) **(Criminal Restraint) (Class A Person Misdemeanor)**

COUNT VI: That on or about the 18th day of September, 2005, the Defendant, in the County of Riley and State of Kansas, did then and there intentionally and/or recklessly cause physical contact in a rude, insulting or angry manner, to another person, to-wit: L.K. by grabbing the victim around the nect and throwing her against the wall.(Contrary to K.S.A. 21-3412(a)(2)) **(Battery) (Class B Person Misdemeanor)**

COUNT VII: That on or about the 18th day of September, 2005, the Defendant, in the County of Riley and State of Kansas, did then and there intentionally and/or recklessly cause physical contact in a rude, insulting or angry manner, to another person, to-wit: L.K. by carring the victim back into the house. (Contrary to K.S.A. 21-3412(a)(2)) **(Battery) (Class B Person Misdemeanor)**

COUNT VIII: That on or about the 18th day of September, 2005, the Defendant, in the County of Riley and State of Kansas, did then and there intentionally and/or recklessly cause physical contact in a rude, insulting or angry manner, to another person, to-wit: C.T. by grabbing the victim's wrists. (Contrary to K.S.A. 21-3412(a)(2)) **(Battery) (Class B Person Misdemeanor)**

COUNT IX: That on or about the 18th day of September, 2005, the Defendant, within Riley County, Kansas, did then and there unlawfully and intentionally, by means other than fire or explosive, injure, damage, mutilate, deface, destroy or substantially impair the use of any property, to-wit: bracelet, in which another, to-wit: C.T. has an interest, without the consent of said other person, said damage being less than Five Hundred Dollars ($500.00). (Contrary to K.S.A. 21-3720(a)) **(Criminal Damage to Property) (Class B Nonperson Misdemeanor)**

WITNESSES: Evidence Custodian, KBI Laboratory Representative, Officer Fritzson, Officer Brek C Jager, Officer Kyle, Officer Wright, Rachel Brandt , Joseph D Brillhart, Courtney M Cox , Stephanie L Moore, Carrie Stiens, C.T. K.R. D.M. Elijah Rumler, L.K.

Bethany C Fields, #18190
Assistant Riley Co. Attorney

Sworn to before me on 9-30-05

Kathie Spillman
Judge – Notary Public

Term expires KATHIE R. SPILLMAN Notary Public - State of Kansas My Appt. Expires 8-10-07

RILEY COUNTY
ATTORNEY'S OFFICE
105 COURTHOUSE PLAZA
MANHATTAN, KS 66502
PHONE: 785-537-6390

IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS
TWENTY-FIRST JUDICIAL DISTRICT

☐ TRAFFIC APPEARANCE
☐ MISDEMEANOR APPEARANCE
☒ FELONY APPEARANCE

STATE OF KANSAS, PLAINTIFF
Vs.
ANDREW C. BARNARD, DEFENDANT
(Please Print Name)

CASE NO. _____

RECOGNIZANCE FOR APPEARANCE AT DISTRICT COURT FOR CONTINUANCE ON BOND

Now on this 18 day of SEPT, 2005, WE, THE UNDERSIGNED, Residents of the State of Kansas or a Corporate Surety, authorized to do business in Kansas, DO HEREBY BIND OURSELVES TO THE STATE OF KANSAS in the sum of TEN THOUSAND Dollars ($10,000 —), for the appearance of the above named Defendant before the District Court of Riley County, Kansas, for 3 day of OCTOBER, 2005, at 1:00 o'clock P m. for further hearings and continuances or postponements as ordered by the court.

The undersigned residents or Corporate Surety will be bound to the State of Kansas for the further appearance of said Defendant before the District Court. (If the amount of the recognizance required for the Defendant's appearance is changed from the above set forth pecuniary amount by a Judge of the District Court, then and in that event, this bond is Null and Void, and a new bond in the required amount must be posted at that time.)

WHEREFORE, THE UNDERSIGNED SURETIES STATE THAT THIS BOND IS CONTINUING IN NATURE, AND WE DO BIND OURSELVED TO THE STATE OF KANSAS in the aforesaid pecuniary amount that the said Defendant, ANDREW BARNARD shall appear at such appearance time as heretofore set out herein to answer the Complaint / Information in said cause alleged against him / her and to appear at such hearing or disposition, and not depart the same without leave.

SPECIAL CONDITIONS: CONTACT BAIL AGENT EACH THURSDAY.

FILED
2005 SEP 22 PM 3:53
DISTRICT COURT
RILEY CO. KS

It is a further condition of this bond that the principal (defendant) will not intimidate a witness or alleged victim(s) in violation of KSA 21-3806. Any attempt, direct or indirect, to intimidate a witness or the alleged victim(s) or knowingly permitting any attempt to be made to intimidate & witness or the alleged victim(s) i.e. grounds for revocation of the pre-trial release and/or forfeiture of your bail, pursuant to KSA 21-3806 as amended.

X [signature]
Defendant

[signature] - HOWSER BONDS
Surety Address 6106 ANDERSON MANHATTAN, KS

AFFIDAVIT OF SURETIES

STATE OF KANSAS, RILEY COUNTY, SS:
We, the undersigned, sureties on the within Undertaking, do solemnly swear that we are a Corporate Surety, authorized to do business in Kansas, or are residents of Kansas, and that we are each worth $15000 Dollars, ($15,000 —), over and above all exemptions, debts and liabilities, So help us God.

[signature] HOWSER BONDS
Surety

Subscribed and sworn to before me on _____ day of _____, 20__.

☐ Deputy Clerk ☐ Notary Public

THE ABOVE BOND approved by me this _____ day of _____, 20__.

[signature]
District Judge

District Magistrate

21-3424 Criminal Restraint
21-3832(a)(2) Intimidation of Witness
21-3412(a)(1)x4 Battery
21-3410 x3 Agg. Asl+.

M:\Common\RCPD DEPARTMENT FORMS\Corrections Forms\Appearance Bond Form.doc

New 04-08-2005 sh

COURT INSTRUCTIONS: Upon Exoneration detach certificate of discharge and return to Roche Surety & Casualty COMPANY, Inc.

Original: Court Copy 2nd: Certificate of Discharge Yellow: Insurance Co. Copy Pink: Agent Copy

ROCHE SURETY & CASUALTY COMPANY, INC.
1910 Orient Road • Tampa, Florida 33619
(813) 623-5042 • (800) 789-3899 • Fax (813) 623-5939

POWER OF ATTORNEY

THIS POWER VOID IF NOT USED BY: 12/22/05 POWER NO. AB05-024263

KNOW ALL MEN BY THESE PRESENTS THAT **ROCHE SURETY & CASUALTY CO., INC.**, a corporation duly organized and existing under the laws of the State of Florida, and by the authority of the Resolution adopted by the Board of Directors at a meeting duly called and held on November 25, 1996, for said Resolution has not been amended or rescinded, does constitute and appoint and by these presents does make, constitute and appoint

HOUSE BONDS by R. HOSKINS

its true and lawful Attorney-in-Fact or Agent for it and in its name, place and stead to execute, seal and deliver for and 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 defendant's future lawful conduct, adherence to travel limitation, fines restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Federal Immigration Bonds. This Power void if altered or erased, void if used with other powers of this company or any other surety company power, void if used to furnish bail in excess of the stated face amount of this Power, and can only be used once. Return Power only to **ROCHE SURETY & CASUALTY COMPANY, INC.** Provided that the authority of such Attorney-in-Fact to bind the Company shall not exceed the sum of:

*** NOT TO EXCEED FIFTEEN THOUSAND DOLLARS ***

and provided this Power of Attorney is filed with the bond and retained as a part of the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power of Attorney the name of the person on whose behalf this bond was given. IT IS UNLAWFUL TO PRINT THIS FORM WITHOUT WRITTEN CONSENT OF ROCHE SURETY & CASUALTY COMPANY, INC. HOME OFFICE.

IN WITNESS WHEREOF, **ROCHE SURETY & CASUALTY CO., INC.** has caused these presents to be signed by its duly authorized Attorney-in-Fact, proper for the purpose and its corporate seal to be hereunto affixed this date: SEPT 18, 2005 (Date Executed) State Executed: KANSAS

Defendant BARNARD (Last Name) ANDREW (First) C. (Middle) Race W Sex M D.O.B. 9/13/84

Appearance Date OCT 3, 05 Court DISTRICT City MANHATTAN County RILEY

Case No. 05-007160 Charges CRIM RESTRAINT, AGG ASSAULT, INTIM WITNESS

Bond Amount $ 10,000 Coll. Code _____ Auth. Code _____

Premium $ 1,000 Re-Write No. _____ By: _____ (Attorney-In-Fact)

ROCHE SURETY & CASUALTY COMPANY INCORPORATED MARCH 1981 SEAL FLORIDA

IN T[redacted] DISTRICT COURT OF RILEY COUNT[redacted], KANSAS

COURTHOUSE — 100 Courthouse Plaza, P.O. Box 158
Manhattan, KS 66505–0158 (785) 537–6364

NAME Andrew Chapin Barnard

CASE NO. 05CR798

☐ Now, on this _____ day of _____, 20___, the Court finds you are indigent. Court appoints _____ as counsel. His / her office is located at _____.

IT IS YOUR RESPONSIBILITY TO CONTACT THE ATTORNEY IMMEDIATELY REGARDING THIS MATTER.

☐ Now, on this _____ day of _____, 20___, the Court finds you to be partially indigent. You are ordered by the Court to pay $_____ to be applied towards the fees of the Court appointed counsel. The payments are to be paid to the Court. Court appoints _____ as counsel. His / her office is located at _____.

IT IS YOUR RESPONSIBILITY TO CONTACT THE ATTORNEY IMMEDIATELY REGARDING THIS MATTER.

☐ Not Indigent — Retained counsel to file entry of appearance by _____.

You are to appear for trial setting / arraignment / trial / sentencing on October 11, 20 05, at 1:00 p.M., before Division Mag. ~~Room 206~~. Your preliminary hearing is scheduled for _____, 20___, at _____ to be continued.

Please keep in touch with your attorney for the hearing date.

Defendant's signature [signature]

Defendant's address 204 Brookmont Drive
Manhattan, KS 66502
316-253-8535

IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS

STATE OF KANSAS

v. Case No. 05 CR 798

ANDREW CHAPIN BARNARD

ARRAIGNMENT/FIRST APPEARANCE--FELONY

NOW, on this 3rd day of Oct, 2005, this case comes before the court. The State appears by Barry Wilkerson. Defendant appears in person, ☒ pro se, ☐ with counsel, .

FILED
2005 OCT -4 PM 2:43
DISTRICT COURT
RILEY CO. KS.

☐ Defendant fails to appear, bench warrant ordered with bond set at .
☐ Clerk directed to send 30 day notice to Defendant regarding failure to appear.
☐ Defendant appears; bench warrant outstanding. Warrant is recalled.

☒ The court informs the Defendant of the charges in the Complaint.
☐ The Defendant appears on bench warrant for failure to appear.
☐ The Defendant appears on warrant for probation violation and is informed of the alleged violations.
☐ The court finds probable cause for the charges against the Defendant.

☐ The Defendant asks the court to appoint an attorney because of indigency.
☐ The court reviews and approves the Defendant's application for appointed counsel.
- ☐ The court appoints the Public Defender and orders payment of the $100 application fee.
- ☐ The court appoints a member of the misdemeanor defense panel.
- ☐ Defendant found to be partially indigent and is ordered to pay $ toward defense costs.

☐ The court directs the Defendant to appear on the day of , 2005, in Division _ at a.m.
☒ The court directs the Defendant to appear on the 11th day of Oct, 2005, before the District Magistrate in the Magistrate Courtroom, Room 206, at 1:00 p.m.. (Case is assigned to Division 2).

Misdemeanor charges: The Defendant enters the following pleas:

Count 1	:	None	Sentence:
Count 2	:	None	Sentence:
Count 3	:	None	Sentence:
Count 4	:	None	Sentence:

☒ Misdemeanor pleas deferred pending arraignment on felony counts.
☐ Defendant waives right to counsel for pleas of guilty or no contest.

☐ Probation granted for , to be supervised by Court Services.
☐ Sentencing set for , N/A
☐ Pre-sentence investigation ordered. ☐ Drug and alcohol evaluation ordered.

☐ Payment arrangements authorized. Defendant to pay the sum of by or appear N/A on at .

☐ Court enters order and directs Defendant to have no contact with until further order.

☒ Bond continued.
☐ Bond modified to .

Other: Defendant states he will hire his own counsel.

David L. Stutzman
District Judge/District Magistrate

BARRY A. CLARK, #13083
Clark & Kellstrom, Chtd.
417 Poyntz Avenue
Manhattan, KS 66502
(785) 539-6634

IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS

STATE OF KANSAS, Plaintiff,	)	
vs.	)	**Case No. 05 CR 798** **Division**
ANDREW BARNARD, Defendant.	)	

FILED
2005 OCT -6 PM 3:52
DISTRICT COURT
RILEY CO. KS.

ENTRY OF APPEARANCE

COMES NOW **Barry A. Clark**, of the law firm Clark & Kellstrom, Chtd., Manhattan, Kansas, and enters his appearance on behalf of the Defendant in the above-referenced matter.

Respectfully submitted,

BARRY A. CLARK, #13083

CERTIFICATE OF SERVICE

I, Barry A. Clark, do hereby certify that I served the foregoing **Entry of Appearance** upon counsel by hand delivering a copy of the same on the 6th day of October, 2005, to the following:

Mr. Barry Wilkerson
Riley County Attorney
105 Courthouse Plaza
Manhattan, Kansas 66502

BARRY A. CLARK, #13083

BARRY A. CLARK, #13083
Clark & Kellstrom, Chtd.
417 Poyntz Avenue
Manhattan, KS 66502
(785) 539-6634

IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS

STATE OF KANSAS, Plaintiff,	)	
vs.	)	**Case No. 05 CR 798** **Division**
ANDREW BARNARD, Defendant.	)	

FILED
2005 OCT -6 PM 3:52
DISTRICT COURT
RILEY CO. KS.

MOTION FOR DISCOVERY AND PRODUCTION

COMES NOW the Defendant, Andrew Barnard, by and through his attorney, **Barry A. Clark** of the law firm Clark & Kellstrom, Chtd., Manhattan, Kansas, and moves the Court for an order directing the County Attorney to furnish any and all evidence favorable to the accused by delivering the same to the attorney for Defendant and further for an order allowing Defendant's Attorney to inspect, copy, photograph and possess certain evidence which is in the County Attorney's possession or through the use of due diligence may be procured by the County Attorney. This motion is interposed pursuant to K.S.A. 22-3212, K.S.A. 22-3213, and the 5th, 6th, and 14th amendments to the United States Constitution, granting Defendant discovery of certain items and information held by the State of Kansas and its agents. Such discovery and production shall include but not be limited to the following:

1. Any and all written or recorded statements or confessions made by the Defendant, or copies thereof, and notes pertaining to the same which are in the custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the Prosecuting Attorney;

2. The result of any and all physical, scientific or chemical tests, or experiments made in connection with the particular case, or copies thereof, the existence of which is known, or by the exercise of due diligence maybe come known to the Prosecuting Attorney;

3. Memoranda of any oral confessions or statements made by the Defendant whether written, oral, summarized in writing, recorded, video taped, or otherwise transcribed and whether such confessions or such statements be of any inculpatory or an exculpatory nature along with a list of the witnesses to such confession or statement, the existence of which is known, or by the exercise of due diligence may become known to the Prosecuting Attorney;

4. Any books, papers, documents, tangible objects, buildings or places, or copies or portions thereof, which are or have been within the possession, custody, or control of the prosecution;

5. A list of all witnesses whom the prosecution will call at the trial of this matter together with any record of prior felony or misdemeanor conviction for the crimes of dishonesty or false statement of witnesses for the state;

6. Any material or information which would tend to negate the guilt or reduce the punishment of the accused as to the offenses charged herein;

7. An order that the Plaintiff provide the Defendant with the specifics, nature and entire context of any and all agreements of prosecutorial leniency afforded to any witness or witnesses who will testify for the Plaintiff in the trial or hearing of the above matter, or any individual who provided information of any type or variety in relation to the charges herein. Any and all statements or reports in the possession of the prosecution of any state witness or any prospective state witness in this regard;

8. A statement of any prior convictions or juvenile adjudications which the state intends to use for scoring the defendant's criminal history for sentencing purposes.

Defendant further prays that if the prosecution discovers additional materials or information encompassed within the scope of this motion subsequent to a ruling on the motion, then the prosecution shall be held under the continuing duty to notify defense counsel of the existence of such materials and make such materials available to defendant's counsel for inspection, copying, or independent testing;

As grounds for this motion, Defendant states that without pretrial discovery of material listed herein he will be denied the following statutorily authorized and constitutionally mandated rights;

A. The right to affective assistance of counsel;

B. The right to confront and cross-examine the witnesses against him/her;

C. The right to not be deprived of his life and liberty without due process of law;

D. The right to obtain and use in his defense evidence favorable to him/her or exculpatory in nature on both the issue of guilt as well as punishment;

WHEREFORE, Defendant requests that the above Motion for Discovery be granted without delay.

Respectfully submitted,

BARRY A. CLARK, #13083

CERTIFICATE OF MAILING

I, Barry A. Clark, do hereby certify that I served the above **Motion for Discovery and Production** upon counsel by depositing a true and accurate copy of the same in the U.S. Mail, Postage Prepaid, on 10th day of October, 2005, addressed to the following:

Mr. Barry Wilkerson
Riley County Attorney
105 Courthouse Plaza
Manhattan, Kansas 66502

BARRY A. CLARK, #13083

BARRY A. CLARK, #13083
Clark & Kellstrom, Chtd.
417 Poyntz Avenue
Manhattan, KS 66502
(785) 539-6634

IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS

STATE OF KANSAS, Plaintiff,	)	
vs.	)	Case No. 05 CR 798
ANDREW BARNARD, Defendant.	)	

FILED
2005 OCT 11 PM 4:46
DISTRICT COURT
RILEY CO. KS.

AGREED ORDER OF CONTINUANCE

Now on this 11th day of October, 2005, IT IS BY THE COURT ORDERED that the above matter is continued for hearing to the 25th day of October, 2005 at 1:00 p.m. or as soon thereafter as the case may be heard.

IT IS SO ORDERED.

HONORABLE PAUL WRIGHT
District Magistrate Judge

Submitted By:

BARRY A. CLARK, #13083
Attorney for Defendant

Approved by:

BETHANY FIELDS
Assistant Riley County Attorney

IN THE DISTRICT COURT OF RILEY COUNTY
TWENTY-FIRST JUDICIAL DISTRICT OF KANSAS
(CRIMINAL DIVISION)

STATE OF KANSAS,	)	Plaintiff,
	)	
v.	)	Case No. 2005-CR-0798
	)	
ANDREW CHAPIN BARNARD,	)	Defendant.

FILED
2005 DEC -9 PM 4:14
DISTRICT COURT
RILEY CO. KS.

DIVERSION ORDER

NOW on this 9 day of **December, 2005**, the above matter comes on for hearing. The State of Kansas appears by the undersigned County Attorney or Assistant County Attorney. Defendant appears in person and with the undersigned attorney.

The Court is advised that the parties have entered into a Diversion Agreement and moves the Court for an Order staying these criminal proceedings for the period said Diversion Agreement remains in effect.

The Court, after examining the papers and pleadings filed herein, hearing statements of counsel, and being fully advised in the premises, finds that the said motion should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the proceedings in this matter shall be stayed for the term of said Diversion Agreement or until further order of the Court.

District Judge

SUBMITTED BY: THE OFFICE OF
THE RILEY COUNTY ATTORNEY

Bethany C Fields #18190
Assistant Riley Co. Attorney

APPROVED BY:

Barry A. Clark #13083
Attorney for Defendant

RILEY COUNTY
ATTORNEY'S OFFICE
105 COURTHOUSE PLAZA
MANHATTAN, KS 66502
PHONE: 785-537-6390

IN THE DISTRICT COURT OF RILEY COUNTY
TWENTY-FIRST JUDICIAL DISTRICT OF KANSAS
(CRIMINAL DIVISION)

STATE OF KANSAS,	)	Plaintiff,
	)	
v.	)	Case No. 2005-CR-0798
	)	
ANDREW CHAPIN BARNARD,	)	Defendant.

FILED
2005 DEC -9 PM 4:14
DISTRICT CT. CLERK
RILEY CO. KS.

DOB: 09/13/1984
DL: K00805620
Wt: 140

Race: White
Sex: male
Ht: 505

DIVERSION AGREEMENT

This Agreement is made and entered into this _____ day of **December, 2005**, by and between the State of Kansas, hereinafter called State, and the above-named Defendant.

On **10-3-05**, the State filed a criminal Complaint in the District Court of Riley County, Kansas, wherein Defendant is charged with the crime(s) of 3 Cts Aggravated Assault, 2 Cts Criminal Restraint, 3 Cts Battery and Criminal Damage To Property.

The Defendant, by this Diversion Agreement, acknowledges that Defendant is so charged, and acknowledges that the Riley County Attorney's Office feels due to the evidence collected that Defendant committed said crime(s);

The Riley County Attorney's Office believes that it is in the best interest of all parties concerned, and of the community, that prosecution of this matter not now proceed, and that Defendant be diverted from the criminal justice system on the terms and conditions contained in this Diversion Agreement.

I. RECITALS

The Riley County Attorney's Office agrees that if Defendant performs the obligations under this Diversion Agreement, the Riley County Attorney's Office will dismiss the above-mentioned charges against the Defendant with prejudice.

Defendant fully understands that the prosecution of this matter is now being deferred under the provisions of K.S.A. 22-2906 et seq. Defendant specifically waives all rights under the law or the constitution of Kansas or of the United States to a speedy arraignment, preliminary examinations and hearings, and a speedy trial.

Defendant acknowledges that his/her participation in this plan is voluntary and is not part of

RILEY COUNTY
ATTORNEY'S OFFICE
105 COURTHOUSE PLAZA
MANHATTAN, KS 66502
PHONE: 785-537-6390

the judgment of the District Court.

No Statements made by the Defendant or counsel in any diversion conference or in any other discussion of a proposed diversion agreement shall be admitted as evidence in criminal proceedings on crimes charged or facts alleged in the Complaint.

Except for sentencing proceedings, none of the following activities shall be admissible as evidence in criminal proceedings which are resumed under K.S.A. 22-2911:

A. Participation in a diversion program;
B. The facts of such participation; or
C. The diversion agreement entered into.

A copy of this Diversion Agreement shall be forwarded and kept by the Kansas Bureau of Investigation. It shall be made available upon request to any county, district or city attorney or Court.

II. TERMINATION UPON DEFENDANT'S FAILURE TO COMPLETE AGREEMENT

1. Defendant understands that if the County Attorney finds at the termination of the diversionary period, or any time prior thereto, that Defendant has failed to fulfill the terms of this Diversion Agreement, the Court shall conduct a hearing to determine whether such failure has in fact occurred. If the Court does so find, criminal proceedings on the Complaint will resume.

2. Defendant understands that if criminal proceedings on the Complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted solely on the facts contained in the attached Stipulation of Facts. Defendant will not be entitled to present any additional evidence at that trial.

III. REQUIREMENTS

Defendant acknowledges and agrees to the following terms and conditions of this Diversion Agreement:

1. Defendant will not violate the laws of the State of Kansas, of any other city, county or state, or of the United States, while this Diversion Agreement is in effect.

2. Defendant will not associate with individuals known to be involved in criminal activity.

3. Defendant shall meet with the Diversion Officer as directed, and shall comply with all requirements of the Diversion Officer.

4. Defendant shall notify the Diversion Officer in writing within seven (7) days of any change in address, telephone number or employment. Notification shall be sent to:

Kathie Spillman, Diversion Officer
Riley County Attorney's Office
Carnegie Building/105 Courthouse Plaza
Manhattan, KS 66502
785/537-6390

RILEY COUNTY
ATTORNEY'S OFFICE
105 COURTHOUSE PLAZA
MANHATTAN, KS 66502
PHONE: 785-537-6390

Defendant's present address, telephone number and place of employment are:

Address: 204 Brookmont Dr, Manhattan, KS, 66502
Telephone: (316) 253-8535
Employment:

5. Defendant will maintain full-time employment or full-time student status. Defendant may maintain a combination of the two if approved by the Diversion Officer.

6. Defendant will make monetary payments to the Riley County Attorney's Office as follows:

A. $117.00 for court costs to be paid in a schedule set up by the Diversion Officer.

B. Defendant will pay diversion fees in the amount of $1000.00 to be paid in a schedule set up by the Diversion Officer.

C. Defendant will pay restitution in an amount to be determined (if any) at a later date to be paid in a schedule set up by the Diversion Officer.

7. Defendant will spend 50 hours in a community service program as designated by the Diversion Officer. Defendant will work all hours scheduled for him by the community service program supervisor. The first 25 hours will be done within the first year of his Diversion and the remaining 25 hours will be done within the second year of his Diversion.

8. Defendant shall continue counseling at DR. EDELMAN **. Defendant will cooperate with and follow any recommendations of the counselors in said program. Defendant will provide proof of attending all appointments to the Riley County Attorney's Office. Defendant will pay all charges for treatment ordered.**

RILEY COUNTY
ATTORNEY'S OFFICE
105 COURTHOUSE PLAZA
MANHATTAN, KS 66502
PHONE: 785-537-6390

9. Defendant specifically verifies that all of the information contained in Defendant's Application for Diversion is complete and accurate. Defendant is aware that this Diversion Agreement may be terminated by the County Attorney if said information is found to be false or incomplete.

10. Defendant's term of diversion period extends for a period of **24** months from the date of this Diversion Agreement.

FAILURE TO FULLY COMPLY WITH ANY OF THE ABOVE REQUIREMENTS SHALL BE GROUNDS FOR TERMINATION OF THIS DIVERSION AGREEMENT.

THE STATE OF KANSAS,
THE OFFICE OF
THE RILEY COUNTY ATTORNEY

Bethany C Fields, #18190
Assistant Riley Co. Attorney

APPROVED BY:

Barry A. Clark #13083
Attorney for Defendant

Andrew Chapin Barnard
Defendant

RILEY COUNTY
ATTORNEY'S OFFICE
105 COURTHOUSE PLAZA
MANHATTAN, KS 66502
PHONE: 785-537-6390

IN THE DISTRICT COURT OF RILEY COUNTY
TWENTY-FIRST JUDICIAL DISTRICT OF KANSAS
(CRIMINAL DIVISION)

STATE OF KANSAS,	)	Plaintiff,
	)	
v.	)	Case No. 2005-CR-0798
	)	
ANDREW CHAPIN BARNARD,	)	Defendant.

FILED
2005 DEC -9 PM 4:14
DISTRICT COURT
RILEY CO. KS.

STIPULATION OF FACTS

Defendant and the Riley County Attorney agree that the following facts are correct. If criminal prosecution of Defendant resumes, it is agreed that the case shall be submitted to the Court on the following facts:

1. On **10-3-05**, the State filed a criminal Complaint wherein Defendant is charged with the crime(s) of 3 Cts Aggravated Assault, 2 Cts Criminal Restraint, 3 Cts Battery and Criminal Damage To Property.

2. Defendant admits there is sufficient evidence to support a conviction on these charges.

3. Defendant offers no defense to these charges.

4. Any and all Uniform Complaints and Notices to Appear and police reports shall be marked collectively as Exhibit No. 1, and shall be admitted into evidence as proof of all facts alleged therein.

5. All law enforcement officers or investigators mentioned in the above exhibits are duly authorized and qualified as law enforcement agents, and each has the well-founded belief that Defendant has committed all offenses mentioned above.

6. All acts relevant hereto occurred in Riley County, Kansas.

7. Defendant is the individual arrested and charged with the offenses mentioned above.

SUBMITTED BY: THE OFFICE OF
THE RILEY COUNTY ATTORNEY

Bethany C Fields, #18190
Assistant Riley Co. Attorney

APPROVED BY:

Barry A. Clark #13083
Attorney for Defendant

Andrew Chapin Barnard
Defendant

RILEY COUNTY
ATTORNEY'S OFFICE
105 COURTHOUSE PLAZA
MANHATTAN, KS 66502
PHONE: 785-537-6390

Date: 07/25/2006
Time: 10:39 AM

Riley County District Court
Receipt

NO. 0039778

Received of: Barnard, Andrew Chapin/RCA $ 117.00

One Hundred Seventeen and 00/100 Dollars

Case: 2005-CR-000798

Defendant: Barnard, Andrew Chapin
Current balance due court: $.00

Fine:
Fees: 117.00
Restitution:

Next due date: 00/00/0000

FILED
2006 JUL 25 AM 11:41
DISTRICT COURT
RILEY CO. KS.

Check: 5708
Payment Method: Check
Amount Tendered: 117.00

By: _____
Clerk / Deputy Clerk

IN THE DISTRICT COURT OF RILEY COUNTY
TWENTY-FIRST JUDICIAL DISTRICT OF KANSAS
(CRIMINAL DIVISION)

STATE OF KANSAS,	)	Plaintiff,
	)	
v.	)	Case No. 2005-CR-0798
	)	
ANDREW CHAPIN BARNARD,	)	Defendant.

MOTION TO DISMISS

COMES NOW the State of Kansas by Bethany C Fields, 18190, Assistant Riley Co. Attorney, and moves the Court for an order dismissing the above-entitled matter with prejudice for the reason that the terms of Diversion have been completed. The Court is shown that court costs have been paid by the Defendant through the Riley County Attorney's Office.

FILED
DISTRICT COURT
RILEY CO. KS.
2007 AUG 23 P 3:16

Further, the Riley County Attorney's Office finds that the following statement is true: Kathie Spillman, Diversion Officer, hereby certifies that the Defendant, ANDREW CHAPIN BARNARD, has completed all conditions of diversion.

Kathie Spillman, Diversion Officer

Bethany C Fields, 18190
Assistant Riley Co. Attorney

**** Defendant is advised of his right to expungement per K.S.A. 21-4619 and K.S.A. 22-2911.**

ORDER OF DISMISSAL

NOW on this 23 day of Aug, 2007, the above-entitled matter comes on for hearing on the State's Motion To Dismiss.

The Court, after being duly advised in the premises, finds that the above-entitled matter should be dismissed.

IT IS SO ORDERED.

District Judge

SUBMITTED BY:

Bethany C Fields, #18190
Assistant Riley Co. Attorney

APPROVED BY:

Barry A. Clark #13083
Attorney for Defendant

RILEY COUNTY
ATTORNEY'S OFFICE
105 COURTHOUSE PLAZA
MANHATTAN, KS 66502
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