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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Abbeville County

Honorable J. Mark Hayes, Circuit Court Judge

GREER ASHLEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-001222

APPENDIX

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STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
PLAINTIFF,) 2017-GS-01-0063
)
)
-VS-) TRANSCRIPT OF RECORD
GREER HAYNIE ASHLEY, JR.)
DEFENDANT.)
)

OCTOBER 23, 2017
ABBEVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

A P P E A R A N C E S:

ATTORNEY FOR PLAINTIFF:
MICAH BLACK, ASSISTANT SOLICITOR

ATTORNEYS FOR DEFENDANT:
BRUCE BYRHOLDT, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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(NO EXHIBITS INTRODUCED DURING PLEA)

THE COURT: Mr. Black, happy to hear from you, sir.

MR. BLACK: Thank you, Your Honor. Your Honor, standing before you is Mr. Greer Ashley. He is pleading on a trafficking indictment number 17-63. He's actually pleading to a lesser included of trafficking second between 28 and 100 grams. This is a negotiated 15-year-sentence, Your Honor. He is represented by Mr. Bruce Byrholdt out of Anderson. Like I stated earlier, Judge, this case was I guess technically the second one up on the docket. The first one up on the docket -- the first one and the second one were sort of flip flopped, but they both ended up pleading, Your Honor.

THE COURT: Mr. BYRHOLDT, you are representing Mr. Ashley on these charges. If I am not mistaken, trafficking in meth or crack 28 to 100 grams carries a minimum of seven years and a maximum of 30 years. I think it is an 85 percent offense.

MR. BYRHOLDT: It is.

THE COURT: And it is also, of course, classified as a violent and a serious offense. You have reviewed all that with Mr. Ashley?

MR. BYRHOLDT: We've gone over all of the evidence. I have informed him that this is an 85 percent crime. There is no probation or parole eligible, and that the 15-year-sentence he would serve at the minimum of 85 percent of

that, Your Honor. Based on my review of the facts in evidence, we were able to negotiate this out. I think it is a fair sentence for the State and the Defendant, Your Honor.

THE COURT: Mr. Ashley, you raised your hand there a few seconds ago. Is there something that you needed to tell me?

DEFENDANT: Yes, sir. I was just really wanting to wait until this evening so I could talk with my other attorney, Mr. Billy Garrett.

MR. BYRHOLDT: There's going to be a probation violation, Your Honor, but as I told him the State -- he needs to take this offer now or the State is withdrawing all of it and he would be looking at a mandatory 25. Mr. Garrett has not called me and Mr. Garrett was supposed to be here at 12:30. I told everybody to be here by noon. I had federal sentencing --

MR. BLACK: Judge, just to clear, kind of -- I did speak to Mr. Garrett last week. Mr. Garrett represents him on a probation violation. Mr. Byrholdt represents him on these charges. I think on the probation case there's like 9 years, eight and a half years hanging over his head on it. We're going forward. Mr. Garrett threw out some options for me and that's just -- we're not doing that.

MR. BYRHOLDT: We've explored the same options. We've talked about Drug Court and a lot of things, and the State just will not consider those, Your Honor.

THE COURT: Here's how we can handle this, Mr. Ashley. When Mr. Garrett gets over here or if he's able to send me a consent order, I'm more than happy to run the eight or nine years concurrent with the 15 years that you're getting today. I'm assuming there's no big objection from the State on that. They're shaking their heads no. So if you want to accept the 15-year-deal and go forward with your plea today, you won't lose anything. Is that acceptable to you, sir?

DEFENDANT: Yes, sir. I guess.

THE COURT: Mr. Ashley, if you could just raise your right hand so I can put you under oath, please.

GREER H. ASHLEY, having first been duly sworn, testified as follows:

EXAMINATION BY THE COURT

Q You are Greer Haynie Ashley, Jr.?

A Yes, sir.

Q Mr. Ashley, I'm told that you want to plead guilty to trafficking in methamphetamine or crack in an amount between 28 grams and 100 grams. I'm told that under this section that carries a minimum of seven years and a maximum of 30 years. Is that your understanding?

A Yes, sir.

Q In this case, Mr. Ashley, you understand you, your attorney, and the Solicitor have apparently agreed on a 15-year-sentence. Is that accurate?

A Yes, sir.
Q You understand that if I accept your plea I'll have to impose a sentence of 15 years. I can't go above it. I can't go below it. Because it's negotiated, I've got to give you 15 years if I take your plea. Do you understand, sir?
A In other words, you can't -
Q I can't do less than 15 years if I end up accepting your plea.
MR. BYRHOLDT: And it can't be more than that either.
Q Do you understand that, Mr. Ashley?
A Well -- I ain't -- I'd like to talk to the other attorney.
(Whereupon, the Defendant spoke with his attorney briefly off the record.)
A All right.
Q Mr. Ashley, I'm really not in a position to rush you, and I really don't want to rush you, and I hear that you would like to talk to Mr. Garrett about your probation violation, but realize I can't force the Solicitor to keep any deal on the table. We've got a jury that's going to be here in an hour. That's kind of where we are. That might put you between a rock and a hard place, but I've got no control over that. Do you understand that, sir?
A Yes, sir.

(Whereupon, the Defendant spoke with his attorney briefly off the record.)

Q Mr. Ashley, do you understand that it's 15? I have to impose that sentence if I take your plea. Do you understand that, sir?

A Yes, sir.

Q I cannot deviate from that. I can't give you 16. I can't give you 14 or anything less. Do you understand that, sir?

A Yes, sir.

Q Additionally, Mr. Ashley, you understand that you'll have to serve 85 percent of that 15-year-sentence before you could ever hope to be released from the Department of Corrections? Do you understand that, sir?

A Yes, sir.

Q I haven't done the math on that, but it's probably around 12 and a half or 13 years, ballpark. Do you understand that, sir?

A Yes, sir.

Q So when you get out of prison, you're probably going to be somewhere around 60 or 61 years of age. Do you understand that, sir?

A Yes, sir.

Q This is also classified as a violent offense and a most serious offense. The violent nature of the offense means

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that you're prohibited from possessing a firearm from here on out and that you would be prevented from doing certain programs in the Department of Corrections. Mr. Ashley, within the last 24 hours have you taken any medication or any substance that affects your thinking?

A No, sir.

Q Have you ever been treated for any mental health issues or problems understanding what's taking place?

A Well, I'm seeing a counselor.

Q Okay. What is your diagnosis, sir?

A I don't really know.

Q Are you taking any medication for it?

A No, sir.

Q What are you talking to your counselor about? Is it --

A About my drug problem and all. Sherry at Uptown Counseling in Greenwood.

Q I got you. It's not a situation where you're hearing voices or anything like that? It's one of those things where you're struggling to try and overcome your additions. Is that correct?

MR. BYRHOLDT: He's never had drug addiction treatment.

A I've never had no treatment, that's why I was really wanting to talk to my other attorney and see what -- you know? But they're pushing me here I reckon.

Q Well, that seems to be the case here, Mr. Ashley. I

can't make you plead guilty and I'm certainly not inclined to if you don't want to. It's your choice on whether or not you want to go forward. It's your choice on whether or not you want to go forward and take this plea or we can pick a jury an hour from now. That's just where we are. What do you want to do?

A They can't wait an hour?

(Whereupon, the Defendant spoke with his attorney off the record.)

MR. BYRHOLDT: Could I have one minute with him, Your Honor?

THE COURT: By all means, please.

(Whereupon, there was a pause in the proceedings.)

THE COURT: We'll be going back on the record in Mr. Ashley's case. Mr. Ashley, you've had some time to talk with your attorney here while we took a brief break. Are you ready to proceed? Do you want to proceed with the guilty plea?

DEFENDANT: Yes, sir.

THE COURT: Again, you understand that if I take your plea I've got to give you 15 years. Do you understand?

DEFENDANT: Yes, sir.

THE COURT: Mr. Ashley, are you, in fact, guilty of trafficking in methamphetamine in an amount between 28 and 100 grams?

DEFENDANT: Yes, sir.

THE COURT: Mr. Black is going to give me the facts. I want you to listen very closely to what he says happened. When he's done talking I'll ask if that's what you did wrong.

MR. BLACK: Your Honor, this happened at [redacted] Keowee Road, kind of in the Honea Path area of Abbeville County. It happened on November 21, 2016. It was about 11 o'clock in the morning. What actually happened, Judge, Honea Path had some active arrest warrants on two individuals. They were Donnie Brock and Desiree Young. They contacted Abbeville County about them. They had information that they were staying at this particular address on Keowee Road. Abbeville County Deputy Gladden and Deputy McCurry went with Honea Path to the residence. They kind of led the way since they know the area. They were looking for these two individuals that had these active arrest warrants.

When they pulled onto this piece of property, they immediately saw the individual that is the Defendant in this case, Mr. Ashley, he kind of took off. They ended up following him. At first I don't think they realized who he was, but they ultimately figured out kind of during the pursuit that it was Greer Ashley. There was another -- there was a vehicle that was kind of in the same area. He went right. They all went left. They chased Mr. Ashley.

Mr. Ashley -- I think he fell a couple of times, but ultimately they were able to catch up with him after about 30 seconds or so. He kind of was carrying in his hand a -- like a detergent container. Kind of carrying it like a football, like a running back would, and he wouldn't let loose of it -- kind of when they were about to catch up with him he chucked it.

When they got him they realized who he was. Mr. Ashley is actually on probation. He kept saying, "My life is over. My life is over." The officers -- they said, "What are you talking about?" Went over, looked at this container, the top was cut open and inside was a large quantity of methamphetamine. I think they ended up weighing it out, Judge. They obviously sent it down to SLED. It was about 971 grams, which is two pounds and -- two and one fourth pounds I think is what the total weight is.

They called the investigators for Abbeville County. They called Mr. Hines and Lieutenant Graham who is at the Sheriff's Department. Lieutenant Graham actually spoke with the Defendant. The Defendant was up front with him. He admitted that it was meth. It field tested positive for meth. He actually gave a statement after Miranda was read. It was read a couple of times, but he told Officer Graham that he had just purchased the meth from a guy out of Williamston named, Paco. Mr. Ashley said he paid him up

front $4,000 and was fronted the other $16,000, so that was $20 grand that he paid up front for two and a quarter pounds of meth. Obviously, he was arrested, Judge. The drugs were tested by SLED and they did confirm that they were indeed methamphetamine. Your Honor, he does have two prior drug offenses. The State was planning on introducing that after securing a conviction, but obviously we're here pleading guilty today.

THE COURT: Just so that the record is clear, we're talking about the finished product of meth and not the sludge or the --

MR. BLACK: It was pure ice.

EXAMINATION BY THE COURT

Q Mr. Ashley, you heard what the State alleges happened on November 21 of last year. Is it true that you were in possession of roughly two and a quarter pounds of methamphetamine?

A Yes, sir.

Q So you are guilty of this charge?

A Yes. Since then I've been trying to get help and trying to straighten up.

Q Well, that's to your credit. Mr. Ashley, I need to briefly review with you rights that you're giving up by pleading guilty. If you don't understand something, stop me. I'll let you talk to your attorney as long as you need

to. Okay, sir?
A Yes, sir.
Q You realize, of course, you don't have to plead guilty. You could have a jury trial in this case. Do you understand that, sir?
A Yes, sir. They would give me the thirty then.
Q They would give you what?
A They'd give me the thirty then.
Q Yeah, that sometimes -- all I can say, Mr. Ashley, sometimes you find yourself between a rock and a hard place. Your lawyer's job -- maybe he can't get you out of it. Maybe the only thing he can do is hopefully get you through it so you've got a little bit of daylight left at the end of the tunnel. Do you understand what I'm saying to you?
A Yes, sir.
Q The jury should be here in about 50 minutes. If you wanted, we could go ahead and pick a jury on this. Do you understand that, sir?
A Yes, sir.
Q We'd pick 12 people from Abbeville who would be the jury and the State would have the burden of proving your guilt beyond a reasonable doubt to the unanimous satisfaction of all twelve members of that jury. Do you understand that, sir?
A Yes, sir.

Q The way the State would try to meet that burden is that they would call witnesses. You and your attorney would be able to see, confront, and cross examine all of those witnesses. Do you understand, sir?

A Yes, sir.

Q So you could ask them any question relevant to any issue involved in this case. At trial, Mr. Ashley, you have no burden of proof. The burden is always on the State. If you wanted to, you could call your own witnesses to testify. Any witnesses that were reluctant to come to court you could subpoena them. Do you understand, sir?

A Yes, sir.

Q You could force them to come to court. At trial you could also take the stand in your own defense. Mr. Ashley, you would be treated pretty much the same way as any other witness, so if you decided that you didn't want to take the stand or you were afraid to take the stand I would instruct the jury that they couldn't use that against you or use it as evidence of guilt. Do you understand, sir?

A Yes, sir.

Q That's your Fifth Amendment right against self incrimination. By pleading guilty you waive that in that you admit to me that you are, in fact, guilty of trafficking in these drugs. Do you understand, sir?

A Yes, sir.

Q Now, at trial, Mr. Ashley, understand you would be presumed innocent. I would describe the presumption of innocence as being like a robe of righteousness. It's placed about your shoulders. It stays with you. Only the jury can strip it from you. Do you understand that, sir?

A Yes, sir.

Q If you plead guilty, though, you waive that presumption of innocence. By pleading guilty you also waive your right to challenge any of the State's evidence. I've been given a brief overview of the evidence they have against you. Apparently you did give a statement to the police. Do you understand you could challenge the statement and any evidence that was seized. You could challenge all of that at trial. If the Court were to conclude that it was illegally gathered, then they wouldn't hear about your confession. If the search of the drugs was improper, the drugs would probably be suppressed. Do you understand that, Mr. Ashley?

A Yes, sir. Can I speak to my lawyer a minute?

THE COURT: Go right ahead, please.

(Whereupon, the Defendant spoke with his attorney off the record.)

DEFENDANT: I'm ready, Your Honor.

Q You're ready to proceed, Mr. Ashley?

A Yes, sir.

Q So you understand that you could challenge any evidence the State has against you at trial?
A Yes, sir.
Q If you plead guilty, you waive your right to mount any such challenge. Do you understand?
A Yes, sir.
Q Finally, Mr. Ashley, I don't know if you have any defense to this charge or not. I'm sure that's something that you've discussed with your attorney; correct?
A Yeah.
Q You realize that by pleading guilty you're waiving your right to present any defense to the Court or to this jury. Do you understand that, sir?
A Yes, sir.
Q Mr. Ashley, all of these are very important rights. Are you certain you want to give them up and plead guilty?
A Yes, sir.
THE COURT: Mr. Byrholdt, you're satisfied with the Discovery response in this case and you've reviewed it to the extent Mr. Ashley has wanted to see it or needed to see it?
MR. BYRHOLDT: I have, Your Honor. We filed a suppression motion, but I told him after my review of the case law from the South Carolina Supreme Court, the recent decisions on search dealing with flight and the recent

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decision of the U.S. Supreme Court. I told him that I doubted the evidence would be suppressed in this case, based on the current case law.

Q Mr. Ashley, are you happy with the way that Mr. Byrholdt has represented you on these charges?

A Yes, sir.

Q Any complaints to make against him?

A No, sir.

Q He's done everything you've wanted him to do?

A Yes, sir.

Q You are totally satisfied with his help?

A Yes, sir.

Q And you've understood all of your conversations with him?

A Yes, sir.

Q Mr. Ashley, do you have any complaints to make against the Solicitor's Office, law enforcement, court personnel, or anybody associated with this prosecution?

A No, sir.

Q Aside from the 15-year-sentence, has anyone promised you anything or held out any other hope of reward?

A No, sir.

Q Mr. Ashley, are you pleading guilty of your own free will because you did, in fact, traffic in this methamphetamine?

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A Yes, sir. I did possess it and all.
Q Have you understood all of the questions I've asked you?
A Yes, sir.
Q Anything you want to ask me about anything we've gone over?
A I was just wanting to see if I could kind of get some help or something. Maybe a non-violent charge.
Q I don't know that that's -- clearly, this is violent. I've got no control over that. Do you understand that? I can asked that you be screened for the Addictions Treatment Unit while in the Department of Corrections. Some people feel it's a good program. Some people don't find it that beneficial, but I think like anything else you get out what you put into it.
A I can file for it whenever I get there or whatever.
Q All right. I find there is a basis for this plea. It is freely, knowingly, voluntarily, and intelligently made. Mr. Ashley has consulted with his attorney. He is totally satisfied with Mr. Byrholdt's assistance. This plea is, in the opinion of the Court, in Mr. Ashley's best interest and in the interest of the State of South Carolina, so I will accept it. You understand, Mr. Ashley, once I sentence you if you want to appeal any aspect of this guilty plea here today you need to tell Mr. Byerholdt to do it immediately

after, because you've only got ten days to appeal. I don't think an appeal is going to do you much good, but you do have one year to file any action for post-conviction relief. Do you understand that, sir?

A Yes, sir.

THE COURT: Mr. Byrholdt, happy to hear from you, sir.

MR. BYRHOLDT: Your Honor, the Court has no choice following a negotiated sentence. I would ask you to recommend if there's any addiction programs that he can try to get some help. I firmly believe this was in Greer's best interest. I think he would've gotten hammered at trial and would've gotten either 25 or 30 years. He'll come out a relatively young man. Compared to my age, a lot younger than I am. He'll hopefully have a long and healthy life. He's going to be able to handle his addiction problem and hopefully get a handle on it, Your Honor.

THE COURT: Very good. Mr. Ashley, anything that you would like to say, sir?

DEFENDANT: No, sir.

THE COURT: I assume he's been in jail continuously since November 21?

MR. BLACK: No, he's not, Judge.

MR. BYRHOLDT: Sixty days.

MR. BLACK: He did 8 on the charge. I know he bonded out pretty quick thereafter, and then I think on the

probation stuff he's been -- the probation case he's been in for a little bit longer, but he only did 8 days on the original charge.

THE COURT: Okay.

MR. BLACK: Looks like he was picked up on 9/8/17 for a probation violation, but he did 8 days originally before he bonded out, Judge.

THE COURT: Well, he's accepting responsibility. I'm going to give him credit for the 60 days.

MR. BYRHOLDT: Thank you, Your Honor.

THE COURT: Mr. Ashley, I've followed the negotiated plea in this case. I know that this is going to be hard for you to do, but I've gone ahead and sentenced you per your agreement to 15 years. I've given you credit for 60 days that you've previously served on this, and I've asked that you be screened for the Addictions Treatment Unit while in the Department of Corrections. Okay, sir?

DEFENDANT: Yes, sir.

THE COURT: So you've got 15 years to do. Mr. Ashley, I do wish you luck. Please take care of yourself.

DEFENDANT: Thank you.

(END OF REQUESTED TRANSCRIPT OF RECORD)

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Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for McCormick County, South Carolina, on the 23rd day of October, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Tara T. Scott

Tara T. Scott, CVR

Circuit Court Reporter

August 10, 2018

FORM 5

STATE OF SOUTH CAROLINA)
County of ABBEVILLE)
Greer H. Ashley, Jr, #338842)
Full name and prison number (if any) of Applicant)
v.)
State of South Carolina)

2018-CP-01-168
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
FILED
2018 SEP -4 AM 10:11

INSTRUCTIONS – READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Inst

2. Name and location of Court which imposed sentence Abbeville General Sessions Court

3. Name(s) of co-defendant(s) (if any) N/A

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

   (a) 17-GS-01-0063) 15 year for Traff Meth

   (b)

TRUE COPY
BY
ABBEVILLE COUNTY CLERK OF COURT

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 10/23/17) 15 years

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty x

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

No

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. N/A

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. N/A

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) I told counsel to appeal but he didn't file an appeal

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) My plea was not knowingly and intelligently made to

(b) the Court)(2.My plea of guilty was the result of

(c) ineffective assistance of counsel) See attach sheet

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) See attached sheets

(b) Preserved the right to amend upon receiveing transcript

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? no

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. N/A

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. N/A

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

_____

_____

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. No

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. No

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Counsel did not appeal

(b)

(c)

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Bruce Byrholdt

117 W. Benson St.

ii. Anderson, S.C. 29624

iii.

(b) the proceedings at which each such attorney represented you:

i. t my guilty plea

ii.

iii.

19. State clearly the relief you seek in filing this application:

New Trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of McCormick)

I, Greer H. Ashley Jr., being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Greer H. Ashley Jr.

SWORN to and subscribed before me this 22 day of May, 2018.

[illegible] (L.S.)
Notary Public

My Commission Expires: 12.16.2019

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Greer H. Ashley Jr., hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Greer H. Ashley Jr.
Applicant

SWORN or affirmed to and subscribed before me this 22 day of May, 2018.

Notary Public

My Commission Expires: 12-16-2019

Attached Sheet

1. Applicant plea of guilty was not knowing and intelligently made to the court.

2. My guilty plea was the result of ineffective assistance of counsel giving me bad advise and not filing suppression motion as he said he was going to do.

3. Counsel was ineffective before my guilty pleas by failing to file suppression motion for evidence that was **seized** without a search warrant or arrest warrant in violation of S.C. Const. Art. 1 section 10 and the **4th Amendment of the U.S. Constitution.**

4. Counsel was ineffective because my guilty plea did not comply with rule 11 Fed Rule of Civil Procedure.

5. Applicant reserve that right to amend PCR application upon receiving transcript and discovery.

Dated

May 25 2018

Shea H. Ashley Jr.

CERTIFICATE OF SERVICE

The undersigned hereby certify that he mail a post conviction relief application to Emily Y. McMahan, P.O. Box 99, Abbeville, S.C. 29620 this 29 day of May 2018 by depositing same in the U.S. mail at McCormick mail-room.

Grover H. Ashley, Jr.

STATE OF SOUTH CAROLINA,)
) IN THE COURT OF COMMON PLEAS.
COUNTY OF ABBEVILLE.)

Greer H. Ashley, Jr. #338842,)
)
Applicant,)
)
v.) CERTIFICATE OF SERVICE BY MAIL
)
State of South Carolina,) 18-CP-01-00-168
Respondent.)
)

The undersigned, an employee of the Abbeville County Clerk of Court's Office, does hereby certify that a copy of Application for Post-Conviction Relief in the above-referenced matter was made upon the following persons by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 4th day of June, 2018, addressed as follows:

Megan Harrigan Jameson
Office of the Attorney General
Post Conviction Relief
Post Office Box 11549
Columbia, SC 29211-1549

Solicitor's Office (hand delivered)
ATTN: Yates Brown/Micah Black
P.O. Box 516
Greenwood, SC 29648

Greer H. Ashley, Jr. #338842
F-1 Room 175
386 Redemption Way
McCormick, SC 29899

Melinda Kennedy, Common Pleas Clerk

STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE	)	IN THE COURT OF COMMON PLEAS FOR THE EIGHTH JUDICIAL CIRCUIT
Greer H. Ashley, Jr., #338842	)	Case No.: 2018-CP-01-168
Applicant,	)	**RETURN**
v.	)	
State of South Carolina,	)	
Respondent.	)	

The State (Respondent), making its Return to the application for post-conviction relief filed on June 4, 2018, would respectfully show this Court:

I. Procedural History

Greer H. Ashley, Jr. (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Abbeville County Clerk of Court. During the March 31, 2017 term, the Abbeville County Grand Jury indicted Applicant for trafficking methamphetamine 400 grams or more (2017-GS-01-0063). Bruce Byrholdt, Esquire, represented Applicant. Assistant Solicitor Micah Black of the Eighth Circuit Solicitor's Office prosecuted the case.

On October 23, 2017, Applicant pleaded guilty to the lesser included offense of trafficking methamphetamine 28-100 grams, second offense, before the Honorable Frank Addy, Jr. Pursuant to a negotiated sentence between the State and the Applicant, Judge Addy sentenced Applicant to imprisonment for fifteen years, along with credit for time served of sixty days. Applicant did not appeal his guilty plea or sentence.

II. Factual History

On November 21, 2016, officers were attempting to serve active warrants on two subjects

in Abbeville County. (GP Tr. 10.) According to information law enforcement received, the two wanted subjects were in the Honea Path area of Abbeville County. (GP Tr. 10.) As officers pulled onto a piece of property where the subjects were believed to be located, officers saw Applicant, who fled the area on foot. (GP Tr. 10) Law enforcement pursued Applicant and was able to apprehend Applicant about thirty seconds after he fled the property. (GP Tr. 11.) When Applicant fled he was carrying a detergent bottle like "a running back would" hold a football. (GP Tr. 11.) Just prior to being caught by law enforcement, Applicant "chucked" the detergent bottle. (GP Tr. 11.) Applicant was on probation at the time and repeatedly stated, "My life is over" after law enforcement caught up to him. (GP Tr. 11.) The detergent bottle was recovered and a large quantity of methamphetamine was found inside. (GP Tr. 11.) The substance field tested positive for methamphetamine and that was later confirmed by SLED. (GP Tr. 11.) The total weight of methamphetamine in Applicant's possession was nine-hundred and seventy-one grams (i.e. two and one fourth pounds). (GP Tr. 11.) The State told the Court the product tested was "pure ice" and not an unfinished form of methamphetamine. (GP Tr. 12.)

After being advised of his rights pursuant to Miranda[1], Applicant gave a statement to law enforcement. (GP Tr. 11.) Applicant stated he had just purchased the methamphetamine from a guy out of Williamston named Paco. (GP Tr. 11.) Applicant stated he paid Paco a total of twenty-thousand dollars for the drugs. (GP Tr. 11-12.) Applicant had two prior drug convictions that the State indicated to the Court they would have introduced after securing a conviction had Applicant not pled guilty. (GP Tr. 12.)

II. Allegations Raised and Relief Sought

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully for the following reasons:

[1] Miranda v. Arizona, 384 U.S. 436 (1966).

1. Ineffective Assistance of Counsel
    a. Counsel did not file a suppression motion for evidence that as seized without a search warrant or arrest warrant in violation of Applicant's Fourth Amendment right.
    b. Counsel was ineffective because his guilty plea did not comply with Rule 11 of the Federal Rules of Civil Procedure.
    c. Counsel provided "bad advice" that led Applicant to plead guilty.

2. Involuntary Guilty Plea
    a. Applicant's guilty plea was not knowing and intelligently "made to the court."

In requested relief, Applicant asks for the Court for a new trial.

Attached to this Return and incorporated by reference are the records of the Abbeville County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III. Response to Allegation of Ineffective Assistance of Counsel

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its

"reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test. First, Applicant's claim that his guilty plea did not comply with Rule 11 of the Federal Rules of Civil Procedure is baseless. Applicant's guilty plea is not governed by the Federal Rules of Civil Procedure. Additionally, Applicant claims his plea counsel was ineffective because he did not file a suppression motion for evidence that was seized "without a search warrant or arrest warrant." Again, this claim is baseless. Plea counsel stated on the record at the plea hearing that he filed a suppression motion, however, after evaluating recent South Carolina case law, he believed the motion would be unsuccessful. (GP Tr. 16.) Lastly, Applicant claims plea counsel provided him "bad advice," which led him to plead guilty. Based on the record from the guilty plea and the presumption provided to plea counsel under Butler, Applicant would not be able to

satisfy the burden set forth in Strickland.

However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. Responses to Allegations of Involuntary Guilty Plea

Applicant also asserts his plea was not "knowing and intelligently made to the court." In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874

(Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). "In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing." Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant's plea. The Court went through an extensive colloquy with Applicant prior to accepting his guilty plea. Specifically, Applicant was told by the Court he could choose to have a jury trial in this case and Applicant responded, "Yes, sir. They would give me thirty then." (GP Tr. 13.) Applicant was aware he was facing a substantial sentence if he was found guilty at trial and made it clear to the court he wanted to plead guilty. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the

record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Any Future Amendments

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

V. Response to All Other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VI. Request for an Evidentiary Hearing

WHEREFORE, Respondent requests that an evidentiary hearing be held solely on the claim of ineffective assistance of plea counsel for failing to file an appeal on Applicant's behalf. As to all other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. §17-27-45 for failing to timely file.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JANELL H. GREGORY
Assistant Attorney General

By: Janell H. Gregory
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

August 16, 2018

STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE GREER H. ASHLEY, Jr., 338842 Applicant, vs STATE OF SOUTH CAROLINA, Respondent,	IN THE COURT OF COMMON PLEAS **2018-CP-01-168** AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Carson McCurry Henderson, Esquire
The Henderson Law Firm, PC
109-B Oak Avenue
Greenwood, South Carolina 29646

DATED this the 16th day of August, 2018.

Carlotta L. Weaver

Carlotta L. Weaver, Legal Assistant
For Respondent

State of South Carolina	)	
	)	Court of Common Pleas
County of Abbeville	)	
		2018-CP-01-00168
Greer H. Ashley, Jr.	)	
	)	
vs.	)	Transcript of Record
	)	
Applicant	)	
	)	
	)	
State of South Carolina	)	POST CONVICTION RELIEF
Respondent	)	

January 28th and 29th, 2021
Virtual Courtroom

B E F O R E:

Honorable J. Mark Hayes, II, Judge

A P P E A R A N C E S:

Michael J. Neubauer, Assistant Attorney General
Attorney for the State

Carson Henderson, Esq.
Attorney for the Applicant

Joy E. Holston
Official Court Reporter

INDEX OF WITNESSES

(IC) - Denotes In Camera
(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

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Cross-examination by Mr. Neubauer: 29

(AW) Kevin Elder

Direct examination by Mr. Henderson: 37

Cross-examination by Mr. Neubauer: 41

(AW) Andrew Lunz

Direct examination by Mr. Henderson: 44

Cross-examination by Mr. Neubauer: 57

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(AW) Timothy Wright

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Certificate of Reporter 147

E X H I B I T S

Applicant's

NO.	DESCRIPTION	ID	EV	PAGE#
1	Deed/Map		X	7
2	Map		X	7
3	Incident Report-Honea Path		X	7
4	Case Disposition History		X	7
5	Sentence Sheet-B. Young		X	7
6	Incident Report		X	7
7	Deed		X	7
8	Map		X	7
9	Photo Gate		X	17
10	Photo		X	7
11	Photo		X	7
12	Photo		X	7
13	Photo		X	7
14	Photo No Trespassing		X	20
15	Photo White Trailer No Trespassing		X	20
16	Photo		X	7
17	Photo Dirt Road		X	7
18	Photo Dirt Road		X	7
19	Photo Dirt Road		X	7
20	Photo Trailer-Dirt Drive		X	7
21	Photo Trailer		X	7
22	Photo-Dirt Road/Yard		X	7

E X H I B I T S

Applicant's

NO.	DESCRIPTION	ID	EV	PAGE#
23	Video (Already filed with Clerk)		X	23
24	Incident Report		X	7
25	Photos (3) Trailer, Vehicle		X	7
26	Photos (4) Trailer, Vehicles		X	7
27	Photos (2) Camper		X	7
28	Consent to Search		X	7
29	Motion for Discovery		X	7
30	Notice of Motions/Suppress		X	7
31	Email-Micah Black		X	7
32	Transcript 10-23-2017		X	7
33	Letter 5-6-2019		X	7
34	Emails-Carson Henderson 16 pages		X	7
35	Byrholdt Retainer Agreement			
36	Byrholdt Intake Sheet			
37	Plea Offer		X	7

E X H I B I T S

Court's NO.	DESCRIPTION	ID	EV	PAGE#
1	Proof of Service	X		7

(Whereupon, Exhibits 1 through 37, (with the exception of 9, 14, 15, 23, 35, 36) were entered into evidence by agreement.)

(Whereupon, Court's number 1 was marked for identification by agreement.)

THE COURT: Just for my edification, did the lawyers make any progress on agreements with the exhibits?

MR. NEUBAUER: Yes, Your Honor. I believe we have agreed to stipulated that photo Exhibits 9 through 22 and the video Exhibit 23 were all produced on October 5th, 2018. And I have stipulated to the admission of Exhibits 1 through 8; 10 through 13; and 16 through 22. We have previously stipulated that Exhibit 24 through 34 would be admissible. And I have relevance issues regarding Exhibit 35 and 36. Is that an accurate representation, Carson?

MR. HENDERSON: Correct, Your Honor. Again, the Government has stipulated to the introduction of all Exhibits except 9, 14, 15, 23, 35 and 36; and the Attorney General was correct on those that were created on October the 5th of '18.

THE COURT: Thank you for talking and working through that. Let me ask you a question, you used the word, produce. All of those were produced on 10/5/2018. The word, produce, I know from my conversation you were talking about the way the photographs, were they presented

at what took place at a certain time, or produce --

MR. NEUBAUER: I apologize, they were created. The photos and the video themselves were created on October 5, 2018. And just for the record's purposes, Applicant was indicted in March of 2017 and plead guilty in 2017. So these photos were created after the initial arrest and his plea.

THE COURT: Okay. Thank you for the clarification. I think that is helpful to speed it along. For planning purposes, given the witnesses. We will conclude some time today prior to 5:00 o'clock. We will probably sometime after lunch have a brief discussion, if it looks like we are not going to finish today, we will have a brief discussion to reconvene. Just tell you that in advance so nobody gets upset. Y'all are going to have enough time to do whatever you want. It is just, I am not going to overstress Court Reporters, me, y'all; all the witnesses to say we are going to break legs and arms to get this thing done today because I think having a substantive presentation is more important than having a quick presentation. With that being said, everybody else and are we ready to start?

MR. NEUBAUER: Yes, Your Honor.

THE COURT: We will go on the record on the matter of Greer Ashley versus the State of South Carolina. Now, you

are Greer Ashley?

MR. ASHLEY: Yes, sir.

THE COURT: Mr. Ashley, you are muted, so whenever you get ready to speak, unmute yourself when you get ready to speak because we are dealing with technology issues where we have echos coming back and forth. I do want to let you know, Mr. Greer, that it is a pleasure to meet you. I am sorry that it is not possible for us to appear in person or be face to face but during the time of COVID this is the way that Court Administration is allowing us to take care of some court matters. I need to let you know that we are making a recording of everything that happens. We do have a Court Reporter who is appearing with us. I tell you that because whenever you speak today, I am going to ask that you please speak slowly so we all can understand you but also speak loud enough so that we all can hear you. But with that being said --

Okay, Mr. Ashley, can you hear me. Just shake your head yes or no.

MR. ASHLEY: (Mr. Ashley shakes his head in the affirmative.)

THE COURT: Okay. You can hear me, that is fine. Okay, he is waiving his hand. Okay. Let's figure out what is going on. Mr. Ashley, what happened?

MR. ASHLEY: It just blacked out. I can hear you

though. I will get the lady to see if she can get it back on.

THE COURT: Okay. Well, thank you very much.

MR. ASHLEY: Can you hear now?

THE COURT: Yes, sir. You are fine. So, Mr. Ashley, again, we are making a recording of everything that happens here. I tell you that because whenever you speak today please speak slowly so that the Court Reporter and everybody else can understand you but also speak loud enough so the Court Reporter and everybody else can hear you. But ever during this process you cannot hear me or anybody else when we are speaking immediately let us know and we will speak up as well. Now, Mr. Ashley, I will also ask that you, during today's hearing, if you are speaking or being asked questions or responding to questions I would ask that you not speak over the other person who is speaking and they all know that they are not to speak over you as well because the Court Reporter can only take one person at a time when you are speaking. So if you are being asked questions let the questioner finish and then give your answer and the questioner will let you answer completely before they begin again. But, Mr. Ashley, again, it is a pleasure to meet you. I tell you what, at some point you will be testifying so I am going to start this process by administering an oath to you.

Please raise your right hand.

Ashley Greer, being first duly sworn, testified as follows:

THE COURT: At this time I am going to turn the matter over to the Attorney General. And he is going to announce the case. Yes sir, Mr. Neubauer.

MR. NEUBAUER: We are here today on the case of Greer Ashley, Jr. versus the State of South Carolina. Case number 2018-CP-01-168. Applicant is currently confined in the South Carolina Department of Corrections. During the March 31st, 2017 term Abbeville County Grand Jury indicted Applicant for trafficking in methamphetamine, 400 grams or more. Bruce Byrholdt represented the Applicant and Assistant Solicitor Micah Black prosecuted the case. On October 23rd of 2017 Applicant plead guilty to the lessor included offense of trafficking methamphetamine between 28 and 100 grams, second offense before the Honorable Frank Addy, Jr. Pursuant to a negotiated sentence between the State and the Applicant Judge Addy sentenced Applicant to imprisonment for 15 years along with credit for time served of 60 days. Applicant did not appeal his guilty plea or sentence. Applicant then filed a Post Conviction Relief application alleging ineffective assistance of Counsel. Counsel did not file a suppression motion for evidence that was seized without a warrant or arrest

warrant in violation of Applicant's Fourth Amendment Rights. Counsel was ineffective because its guilty plea did not comply with Rule 11 of the Federal Rules of Civil Procedure. Counsel provided bad evidence that led to Applicant's guilty plea. And an involuntary guilty plea allegation, stated that Applicant's guilty plea was not knowingly and intelligently made to the Court. On January 14th of 2021 Applicant, through his attorney, Carson Henderson filed an amended application for Post Conviction Relief, that his trial attorney was ineffective because he failed to properly advise the Petitioner regarding the Federal and State institutional issues related to law enforcement's entry onto real estate owned by Larry Ashley. Additionally there was an allegation that trial attorney was ineffective because he failed to conduct a meaningful independent investigation. And I would turn it over to Carson Henderson at this point to clarify which allegations Applicant intends to go forward on today.

MR. HENDERSON: Your Honor, the allegations are contained in my amended petition. They basically supercede and clarify the allegation to the pro se petition other than the, regarding the Federal Rules of Procedure, which I would tell the Court has no bearing and no relevance to why we are here today.

THE COURT: Mr. Neubauer, does that satisfy you for

knowledge, notice to what he intends to go forward on?

MR. NEUBAUER: Yes. For clarify sake, and Mr. Carson -- to state that the two allegations from the amended application supercede to -- the ineffective assistance of counsel allegations; the ineffective assistance of counsel allegation regarding Rule 11 of the Federal Rules of Civil Procedure, he is not going to go forward on; and that he intends to also go forward on the involuntary guilty plea allegation. Is that correct understanding?

MR. HENDERSON: Right. I think my amended petition incorporates and goes into further detail, the ineffective assistance of counsel claims in the pro se proceeding other than this Rule of Evidence of Federal Rules which is not relevant, any reason why we are here. Your Honor, I am not going forward on that.

THE COURT: Okay. Is the Applicant ready to call their first witness.

MR. HENDERSON: Yes, sir.

THE COURT: Yes sir, who would that be.

MR. HENDERSON: Your Honor, before I do that let me clarify for the record because I don't think our prior conversation was on the record, that the State and I have agreed to the --

THE COURT: We had a, we froze.

COURT REPORTER: All exhibits are in except for 9,

14, 15, 23, 35 and 36.

MR. HENDERSON: Okay.

THE COURT: And I, because I was taking it down.

MR. NEUBAUER: Just for clarity sake, have we stated on the record that the photos Exhibit 9 through 22, video exhibit 23 were created after the plea was entered?

COURT REPORTER: Yes, we got that earlier but I got it again too so we are good.

MR. NEUBAUER: Thank you, I appreciate. Sorry for the redundancy.

MR. HENDERSON: And then, Your Honor, I also emailed the Court and the Court Reporter and Mr. Neubauer by trial subpoena, the proof of service and I just want to make sure those are marked as Court's exhibit 1.

COURT REPORTER: Yes sir, I have got that as Court's 1.

THE COURT: Okay.

MR. HENDERSON: Your Honor, I would call as my first witness, Larry Ashley.

THE COURT: Are you Mr. Larry Ashley?

MR. LARRY ASHELY: Yes, sir.

THE COURT: Mr. Ashley, it is a pleasure meeting you. If you would, sir, please raise your right hand.

Larry Ashley, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Henderson:

Q Now, Larry, do you live at [redacted] Keowee Road in Honea Path?

A Yes, sir.

Q And does that tract of land contain your home?

A Yes, sir.

Q And I believe the total acreage on that property is 56 acres, correct?

A Yes, sir.

Q And does Greer Ashley live next door to you?

A Yes, sir.

Q And his address is [redacted] Keowee Road in Honea Path, correct?

A Yes, sir.

Q And I believe that is a three acre tract of land?

A Yes, sir.

Q Now, Larry, and I am calling you Larry and I am going to call Greer, Greer just to keep from the two Ashley's separated so the record is clear about who I am talking to or talking about. I mean no disrespect to you, sir, okay.

A Yes, sir.

Q I am going to have Ms. Lumley who is behind me to show you some exhibits.

A Yes, sir.

Q I am going to ask Ms. Lumley to show you what has been, what I am proposing to be marked as Exhibit number 9 which has not been admitted into evidence yet. Do you recognize that document?

A Yes, sir.

Q Can you tell the Court what that document shows?

A That's a gate across Mr. Ashley's land and got a no trespassing on it.

Q Let me ask you to clarify. Whose property is that gate and sign on?

A Greer Ashley's.

Q Okay. Is this photo a accurate representation of how this gate and sign would have looked on November 21 of 2016?

A I would say the same way it looks now.

Q Okay. Is this property next door to you?

A Yes, sir.

Q Is it fair to say you see it on a regular basis?

A Yes, sir.

Q And again, it is your testimony that this photograph is an accurate depiction of how this gate and sign looked on November 21st of '16?

A Yes, sir.

MR. HENDERSON: Your Honor, at this time I would move Exhibit 9 into evidence.

MR. NEUBAUER: Your Honor, my only objections would be; one, the photo itself does not clearly demonstrate what the sign on the gate states. And two, this photo shows a closed gate but there is no, I just don't understand the indication of this closed gate if this is, he is stating that this gate is between his property and Greer Ashley's property. However, I have a question for, I guess, Larry Ashley regarding whether this gate would lead to the location where Donnie Brock and, I believe it is Desiree Young were found on November 21st, 2016.

THE COURT: Okay. I will allow the document as offered to be an exhibit. You may cross-examine the witness as to the weight that the Court needs to give to the evidence as well as the, as well as the value that the Court needs to give to the importance of the evidence. But it will be admitted.

MR. NEUBAUER: All right, yes sir.

(Whereupon, Applicant's Exhibit 9 was admitted into evidence.)

Q And, Larry, I am going to ask Ms. Lumley to show you what has already been marked as Exhibit number 11. Okay.

A Yes, sir.

Q So this photo shows a driveway on your property or the beginning of the property on your property?

A Yes, sir.

Q I will have Ms. Lumley show you what has been marked as Exhibit 12 that is already into evidence. Is this driveway on your property?

A Yes, sir.

Q Is this driveway leading to your house?

A Yes, sir.

Q I will have Ms. Lumley show you exhibit 13. It is already into evidence.

A Yes sir, that is my house.

Q That is your house, okay. I am going to have Ms. Lumley show you Exhibit 14 and 15 at the same time. Do you recognize these photographs?

A Yes, sir. That is right by my house.

Q Okay. If you were looking at these photographs would it be fair to say that your house was to the left?

A Yes, sir.

Q Okay. And both of these photographs contain no trespassing signs, correct?

A Yes, sir.

Q Let me ask you. Do these photographs, Exhibits 14 and 15, offer an accurate description of these no trespassing signs, as they existed on November the 21st of 2016?

A Yes, sir.

Q So it is your testimony that these no trespassing

signs were on this tree on November 21st of 2016?

A Yes, sir.

MR. HENDERSON: Your Honor, I would move Exhibits 14 and 15 into evidence at this time.

MR. NEUBAUER: Your Honor, I would object to the introduction of those two photos at this time. The only visual evidence at this point regarding these photos were taken in October of 2018. Additionally, as I will later speak with, Investigator Hines, there are conflicting reports where he states that he has not seen these signs on the property. And he has stated that he has made numerous trips out to the site. So my objection in, this is how the scene looked on the day in question.

THE COURT: Okay. And you definitely get to ask the witness, this witness or any witness those questions that would establish those things you just argued. But I think through this witness, he has established a sufficient foundation for the admissibility of this evidence. So you are protected on the record of your objection and I am only saying these things because I don't want you to think, because you have made the arguments you have established what you just -- so ask the witness those questions that you want me to hear. But I think he has established a sufficient foundation for the admissibility of the evidence. Okay.

MR. NEUBAUER: Yes, Your Honor.

(Whereupon, Applicant's Exhibits 14 and 15 were admitted into evidence.)

Q I will also have Ms. Lumley show you Exhibit 16 which is already into evidence. Is that where the portion of your concrete driveway meets your dirt driveway?

A Yes, sir. It goes over to that building a little bit, where my wife painted out of before she died.

Q Okay.

THE COURT: Mr. Larry, you are wearing a mask which is a good thing. But really speak up because you were mumbling through that answer. Okay. So remember we have got to hear you. Okay.

A Yes, sir.

Q Larry, let me repeat my question, yes or no. Does this photo, 16, does that show where the portion of your concrete driveway meets the dirt portion of your driveway?

A Yes, sir.

Q Okay. Yes or no. If I am looking at Exhibit 16 the tree with the no trespassing sign would be to the left. Is that correct?

A Yes, sir.

Q I am going to have Ms. Lumley show you Exhibit 17, 18, 19 which are already into evidence. These three exhibits, do they show pictures of your property, is this

on your property?
A Yes, sir.
Q I am going to have Ms. Lumley show you a photograph, Exhibits 20, 21 and 22 which are already into evidence. Larry, did you own the property that is shown in these Exhibits, 20, 21 and 22?
A Yes, sir.
Q It is on your property?
A Yes, sir.
Q Okay. Larry, I am going to have Ms. Lumley show you what I am proposing to be Exhibit number 23 which is a video which we stipulated was filmed on October the 5th of 2018. I have produced this video to His Honor, I have produced to the Attorney General, I have produced to the Clerk of Court. And I am asking Ms. Lumley to show you this video on her cell phone.
(Whereupon, a video was shown to Mr. Larry Ashley lasting three minutes.)
Q Larry, do you recognize that property that is shown on that video?
A Yes, sir.
Q Who owns the property shown on that video?
A I do.
Q Do you own all the property shown on that video?
A Yes, sir.

Q Is that video an accurate description of what your property, your driveway, the no trespassing signs, the dirt road; is that an accurate description of what this property would have looked like on November the 21st of '16?

A Yes, sir.

MR. HENDERSON: At this point in time, Your Honor, I would make the motion for the video, Exhibit number 23 to be into evidence.

MR. NEUBAUER: Again, I would object on the basis of the accuracy of the scene at the time of the arrest. On the basis that we have conflicting reports surrounding the existence of the no trespassing sign on the date of the arrest in November of 2016.

THE COURT: Okay. I think he has established a sufficient foundation for the admissibility of the evidence. Again, say that, you are making evidentiary arguments. I mean you are making arguments that go to the weight of the evidence, not to the admissibility of the evidence. So do not, I encourage you, don't think because you made the argument that you have established those things, you assert it in your objection as the appropriate questions. At some point in the future, Mr. Henderson and Mr. Neubauer, we will have a discussion that is off the record. Just pin that on a note and remind me to ask you

about this discussion we are going to have. But you may continue, Mr. Henderson.

(Whereupon, Applicant's Exhibit 23 was admitted into evidence.)

Q Larry, back on November 21st of 2016, at that point in time, was it usual for Greer to, was it usual for Greer to keep his fence closed?

A Pretty much.

Q Okay. Let me turn back to November 21st of 2016. Larry, on that day did law enforcement stop by your house and ask you whether or not they could have consent to search your property?

A No, sir.

Q Are you sure that on November 21st of '16 that no trespassing sign was on that tree next to your house?

A Yes, sir.

Q To the best of your knowledge did Mr. Byrholdt, did he call you wanting permission to walk your property?

A No, sir.

Q To the best of your knowledge did Mr. Byrholdt ever come down and inspect your property?

A No, sir.

Q Yes or no, to the best of your knowledge did he send anybody down to inspect your property?

A No, sir.

Q I want Ms. Lumley to show you Exhibit 25, 26 and 27, these have already been introduced into evidence. Larry, do you recognize the property that is depicted in Exhibits 25, 26 and 27?

A Yes, sir.

Q Who owns that property?

A I do.

Q Did you own all of that property on November the 21st of 2016?

A Yes, sir.

Q I want you to listen real carefully to this question. I want you to keep the pictures depicted in Exhibits 25, 26 and 27 in your mind. Okay. If you are standing where your driveway meets Keowee Road, do you see the property that is depicted in Exhibit 25, 26 and 27?

A You can't see it from my driveway, no sir.

Q Okay. Let me ask you. If you are standing where the no trespassing sign on your property, on November 21st of '16, could you have seen the property that is depicted in Exhibits 25, 26 and 27?

A No, sir.

Q If you were standing at Greer's driveway where it met Keowee Road on November 21st of '16, could you have seen the property depicted in Exhibits 25, 26 and 27?

A No, sir.

Q On November 21st of 2016, if you were standing at the gate with the no trespassing sign on Greer's property, could you have seen what is depicted in Exhibits 25, 26 and 27?

A No, sir.

Q Is it fair to say that the only way you could see what is exhibited on Exhibits 25, 26 and 27, is that you have got to drive deep into property?

A Yes, sir.

Q And, again, did you give law enforcement on November 21st of '16 any consent or authority to drive all over your property?

A No, sir.

Q I want Ms. Lumley to show you what is marked and is now into evidence as Exhibit number 28.

A Yes, sir. Wait a minute, I gave them consent three or four hours after --

Q Let me ask you a question, Mr. Ashley, Larry. Do you recognize these documents, they are into evidence. Yes or no?

A Yes, sir.

Q You would agree with me, this first document is signed by Greer Ashley, correct? Yes or no?

A Yes, sir.

Q The second page of this document is signed by you.

Yes or no?

A Yes, sir.

Q Were these documents signed after Greer had been arrested?

A Yes, sir.

Q Okay. I want to turn back to the first page of this document. It sounds like the location is [redacted] Keowee Road. Is that correct?

A Yes, sir.

Q Greer Ashley owns [redacted] Keowee Road, doesn't he?

A Yes, sir.

Q Now the property that was searched was actually located at [redacted] Keowee Road, correct?

A Yes, sir.

Q And you own that property, correct?

A Yes, sir.

Q And you did not give law enforcement the consent to search that property prior to them searching the property?

A Not earlier that day, yes sir. Not before everything went down.

Q Okay. I want to turn to the second page of Exhibit 28 which is signed by you, correct?

A Yes, sir.

Q And, again, it shows that the property location is [redacted] Keowee Road, correct?

A Yes, sir.
Q And Greer Ashley owns that property, doesn't he?
A Yes, sir.
Q So it sounds like law enforcement, after the fact, asked you for permission to search Greer Ashley's property, correct?
A They searched mine.
Q Okay. But you didn't give them any authority to search Greer Ashley's property, did you?
A No, sir.
Q Okay. Law enforcement wrote this document, not you?
A No, sir.
Q And, again, is it fair to say that all the law enforcement conduct on November the 21st of '16 happened on your property?
A Yes, sir.
Q And not Greer Ashley's property?
A Yes, sir.
Q Your 56 acres out there, Larry, it has a lot of twigs, (phonetic), doesn't it?
A Yes sir, it used to have a lot of cars but most of them are big trucks now.
Q I mean it has got a lot of junk, a lot of scrap?
A A lot of scrap and junk.
Q And back on November the 21st of '16 it probably had

more scrap and junk?
A Most likely.
Q And that property has a lot of undergrowth and overgrowth on it, doesn't it?
A Yes, sir.
Q A lot of shrubs?
A Yes, sir.
Q I mean, this isn't a planted field, I mean this isn't a planted piece of property, everything is kind of growing wild, is that fair to say?
A Yes, sir.
Q Again, you can't stand on the roadway and see back through the stuff that is depicted in Exhibits 25, 26 and 27, can you?
A No, sir.
Q You can't stand at either of those no trespassing signs and see what is depicted in Exhibits 25, 26 and 27, can you?
A No, sir.
Q And, again, just to be clear, you didn't give law enforcement consent to search your property prior to them searching your property?
A No, sir.
MR. HENDERSON: Your Honor, I don't have anything further for this witness.

THE COURT: Mr., I mean Larry, answer any questions that the Attorney General might have for you.

MR. LARRY ASHELY: Yes, sir.

MR. NEUBAUER: Thank you, Your Honor.

CROSS-EXAMINATION

By Mr. Neubauer:

Q First, Mr. Larry Ashley, would you mind me referring to you as Larry for record's sake?

A Yes sir, be fine, sir.

Q Thank you. Larry, have you had police enter your property before?

MR. HENDERSON: I object, what is the relevance?

THE COURT: He is on cross-examination and on cross-examination he is allowed a lot of leeway. So I am going to let him ask it, for you are noted for your objection. Go ahead. Mr. Larry, answer the question if you can.

Q Larry, have you had police enter your property before?

A Yes, sir.

Q And are there other houses or trailers or campers located on your property, located on your property other than the house that you reside in?

A Sir, say that again.

Q Sorry. For clarity sake, may I direct you to Exhibit

number 20. Is this mobile home located on your property?
A Yes, sir.
Q And are there, additionally I see a camper located or an RV located behind that?
A Yes, sir.
Q Is that correct?
A Yes, sir.
Q And have you ever had individuals reside or stay in these additional houses or trailers?
A Had an old man that lived there for 12 years, they found him dead back in the trailer.
Q Yes, sir.
COURT REPORTER: Wait, Judge, I am sorry. I did not get his answer.
THE COURT: Larry Ashley, you are wearing a mask. So when you respond so slowly and speak up loud enough so that we all can hear you. Can you give that answer one more time, Mr. Larry Ashley.
A Yes, sir. There was an old man that lived there for 12 years in that old trailer that died here a while back. They never told me what he died from.
Q Yes, sir. Now, would you need to drive down the dirt road on your land to get to the other trailers or campers located on your property?
A Yeah. Yes, sir.

Q If there was a medical issue or if the police were called to assist with something or respond to a call from those back campers would they have to drive down that dirt road?
A Sometimes, sir. If the gate is locked they would.
Q Now when police enter your land or when first responders enter do they normally ask permission before they enter the property?
A Yes, sir.
Q And have you given them permission in the past?
A Yes, sir.
Q Now, can I refer you to Exhibit number 9, the gate. Where exactly is that gate located?
A You mean can you open it?
Q No. I guess my question would be, is that gate blocking the dirt road or preventing you from accessing that dirt road?
A If it is shut it is. Most of the time it is shut, sometimes it ain't.
Q All right. Now, regarding the no trespassing sign, where exactly on your property was it located?
A Sir?
Q The no trespassing sign in Exhibit 14 and 15. Where on your property is that located?
A Which one are you talking about. That is on my

property.

Q And roughly how long has it been there?

A It has been there for years. I put that up when I built a swimming pool years ago.

MR. NEUBAUER: At this point I have no other questions for Larry Ashley. Thank you for your time, sir.

MR. LARRY ASHELY: Yes, sir.

THE COURT: Mr. Henderson, any redirect limited to what Mr. Neubauer went into?

MR. HENDERSON: No sir, Your Honor.

THE COURT: Any reason why Mr. Larry Ashley cannot be excused?

MR. HENDERSON: Your Honor, he might stick around to watch but we will mute him out. He won't be testifying any further.

THE COURT: Okay. Is that all right, Mr. Neubauer?

MR. NEUBAUER: Yes sir, that is fine.

THE COURT: Thank you, Mr. Larry Ashley, it is good to see you.

MR. HENDERSON: Your Honor, my next witness would be Timothy Wright. He recently tried to sign into the lobby. And Ms. Lumley may be able to contact Mr. Wright to get him back in.

THE COURT: It is W-R-I-G-H-T?

MR. HENDERSON: Yes, sir.

THE COURT: I will let y'all know, Mr. Byrholdt has appeared twice and we have kicked him out, politely, but we kicked him out.

MR. NEUBAUER: Your Honor, I believe we discussed earlier that Bruce Byrholdt would be, would not need to be sequestered seeing as he is the one whom the allegations are made against. I believe Mr. Henderson had agreed to that.

THE COURT: Okay. So you want me to let him in if he shows back up again, Mr. Henderson?

MR. HENDERSON: Right. That doesn't offend me because Mr. Ashley and Mr. Byrholdt have a right --

THE COURT: Okay. If he shows back up again we will let him in.

MR. HENDERSON: Your Honor, my next witness would be Timothy Wright. I know he tried to join in.

THE COURT: Mr. Ashley, for informational purposes, because it comes up frequently. If ever you feel like you want to talk to Mr. Henderson don't just speak out during this video proceeding we are doing. Because anything that you do say is not protected by the attorney/client privilege. So if you need to speak to Mr. Henderson about something privately just let us know and we will stop. Just don't yell it out during this process.

MR. ASHLEY: Yes, sir. Thank you.

THE COURT: We are looking for Mr. Wright but not seeing him.

MR. NEUBAUER: Your Honor, I have one request if you would not mind. We are trying to reach out to Mr. Byrholdt for me to have him attempt to enter the hearing again. Would you mind pausing on the hearing momentarily until he could be present?

THE COURT: If it is not too long.

MR. NEUBAUER: Yes, Your Honor. I understand and I do feel like it should not be a long delay hopefully. Just a few moments but understandably if it runs any longer than that for, you know, the sake of needing to try to proceed with this hearing I would not object. But if we can give him a chance to enter the hearing and be present.

THE COURT: If he shows up we will let him in.

MR. NEUBAUER: Yes sir, thank you.

THE COURT: Mr. Byrholdt, unfortunately you don't participate yet. You have to sit aside. Thank you for showing up and sorry we kicked you out. I was told that that was my fault because they wanted everybody sequestered but they did have exceptions and you were one of the exceptions. So thank you for showing back up. We will get to you just as soon as we can.

Do we have somebody else we can call as a witness?

MR. HENDERSON: I don't want to forego my opportunity to call Officer --

THE COURT: I am not suggesting that. You call the witnesses as you wish to call them. But as a matter of moving along, if you can call somebody else that would be greatly appreciated.

MR. HENDERSON: Your Honor, I would call Officer Kevin Elder.

THE COURT: Is Officer Elder in with somebody.

MR. NEUBAUER: Your Honor, to the best of my knowledge, what Micah Black told us earlier was that Investigator Hines and I believe it is Deputy McCurry are currently in the office with him. I know that we had Officer Elder and Officer Wright attempt to join us individually earlier. But I believe the only one in the office with him are Mr. McCurry and Mr. Hines.

THE COURT: Mr. Henderson, do you have any of those people you can call?

MR. HENDERSON: Your Honor, again, I am going to call them all but it just makes sense to have sequential order. But if I need to go out of sequence I guess I can. But it looks like Ms. Lumley is trying to get Mr. Elder back on the line.

MS. LUMLEY: I have Kevin Elder on the phone and he is having the same issues of being kicked out.

THE COURT: Okay. That is because y'all wanted the witnesses sequestered so we removed them. So they need to come back in. For future as we live and learn at this new age of virtual hearings, make note of when you are going to ask a Judge to sequester the witnesses know that they cannot show up and come in. They have got to make arrangements so that the technology and the practicality of having sequestration works a lot better than it is now. So that you know you have got to reach out to your witnesses to actually show up at a particular time, so that we don't have these types of issues. I am sure it is, the lawyers are frustrated as I am, and Mr. Byrholdt having to sit here and watch us track down witnesses.

All right, we have got Kevin Elder. Now, is he a witness or is he the person who other people are with?

MR. HENDERSON: Your Honor, he would be my next witness since we could not get Timothy Wright logged in, not skipping Mr. Wright, just moved to Officer Elder.

THE COURT: We will let you do Mr. Wright. Don't worry but we will let you do it.

Mr. Elder, good to see you. If you would I need to administer the oath to you. Please raise your right hand.

Kevin Elder, being
first duly sworn, testified as follows:

THE COURT: Now, Mr. Elder, just letting you know,

have you testified remotely before?

MR. ELDER: No, Your Honor.

THE COURT: Okay. We are making a recording of everything that happens here so we have a Court Reporter with us. When you speak, speak slowly because sometimes the technology has to catch up with your voice. But speaking slowly we can all hear you. But also be sure that you listen to the questioner, let the questioner finish and then answer. That way you are not going to jump over the questioner's question and he won't be jumping over yours. Sometimes technology makes that a little bit more difficult. Sorry you had to wait and at this time I will turn it over to Mr. Henderson.

DIRECT EXAMINATION

By Mr. Henderson:

Q Officer, thank you for being with us today.

A Thank you, sir.

Q And, again, I apologize, I know it is an inconvenience, we are doing WebEx videos in court now. I am going to show you what has been marked as Exhibit 6, you probably don't have a copy of it but I will represent to you it is an incident report that you prepared back on November 21 of 2016. I am going to ask, kind of refresh your memory, do you happen to have a copy of this document with you?

A I do.
Q Okay. Is it fair to say that it says, you wrote this report, I guess, with Officer Lunz?
A That is correct.
Q And it says that you received information on November 21st of 2016 from a residence on Keowee Road, correct?
A Yes, sir.

COURT REPORTER: Judge, I am not getting what Carson is asking. I don't know, maybe he can turn his volume down, maybe that would help. I don't know. But I am not getting his question.

THE COURT: Mr. Henderson, you are echoing a lot. I don't know if it is coming from Mr. Elder's end or your end. But we are having a lot of technology issues hearing both of you.

MR. HENDERSON: Let me repeat my question, and I will turn down, hopefully that is going to help.

THE COURT: And, maybe, Mr. Elder, if you can turn your volume down a little bit, it might be picking up Mr. Henderson's.

MR. ELDER: How about that, Judge, is that good.

Q Officer Elder, I will repeat my question. According to this report, on November the 21st of 2016 you got word, information that Donnie Brock and Barbara Young were at a residence on Keowee Road, is that correct?

A Yes sir, that is correct.
Q Did you get a specific address as to where Mr. Brock and Ms. Young were?
A We did. They were located in a trailer, from what I can remember. We met with the Abbeville County Sheriffs Office to go to that trailer.
Q Before we get there, did your informant give you an address other than Keowee Road?
A I don't have that information. I can't testify to that.
Q Is it fair to say that either Mr. Brock or Ms. Young was your informant?
A No, neither one of those would be an informant of ours, no sir.
Q Okay. And is it fair to say, that based upon this information you did not seek a search warrant from Abbeville County to go seek these people on this road on Keowee, on this property for Keowee Road. Is that fair to say?
A We did not have a search warrant, that is correct.
Q Okay. And, again, you didn't ask -- and, again, y'all had warrants -- I mean the warrants for Mr. Brock and Ms. Young came out, I know the Town of Honea Path, but they were Anderson County warrants. Correct?
A That is correct, sir.

Q And you understand that you, as a Honea Path Police Officer in Anderson County, can't serve an arrest warrant in Abbeville County?
A That is correct.
Q Okay. When you were going -- did you actually go to the Keowee Road property?
A I did not, no sir.
Q You did not. Okay. The incident report is kind of confusing. But you didn't -- you didn't get a search warrant, is that correct?
A That is correct.
Q Do you have any information that your arrest warrants were countersigned by an Abbeville County Magistrate?
A We did not. We ask the Sheriffs Office to go out there and see if they were there.
Q Okay. And you understand Abbeville County can't arrest people based on Anderson County/Honea Path warrants, can they?
A They can detain them for us while we go get them.
Q Okay. But you didn't ask for a Magistrate to countersign these arrest warrants in Abbeville County?
A I don't believe they were countersigned, no sir.
Q Okay. And you said that you didn't go to the Keowee Road Property, correct?
A That is correct, sir.

Q Okay. So other than basically the first two lines of the incident report, everything else after that would be written by Officer Lunz?

A Yes, Officer Lunz, yes sir.

Q Okay, Lunz, I am sorry. And I guess he is going to be signing on with us next?

A As soon as you tell me to get him I will go out in the hallway and bring him in.

Q Okay. Right now, Officer Elder, I have no more direct examination but the Attorney General may have some cross. But my next witness after you would be Officer Lunz.

THE COURT: All right, Officer Elder, please answer any questions that the Attorney General may have.

MR. ELDER: Yes, Your Honor.

CROSS-EXAMINATION

By Mr. Neubauer:

Q Hello, Mr. Elder.

A Good morning.

Q So again, why did you contact Abbeville County Sheriffs Department on November 21st, 2016?

A We had active warrants on the Brock and Young subjects and we had information that they were in an address in Abbeville County.

Q And Keowee Road is located in Abbeville County,

correct?

A That is correct, sir.

Q And that would be outside the jurisdiction of Honea Path Police?

A That is, yes.

Q And as you stated, I wanted to make sure this is correct, Abbeville County Police are able to detain suspects for you until you can come serve a warrant yourself. Is that correct or did I misinterpret that?

A The Sheriffs Office can detain those subjects that we have warrants on and then we can go get those subjects from Abbeville County with the Deputy that has detained them.

Q Yes, sir. Thank you very much, I have no further questions.

THE COURT: Any redirect limited to what the Attorney General went into, Mr. Henderson?

MR. HENDERSON: No sir, Your Honor.

THE COURT: Any reason why the officer cannot be excused?

MR. HENDERSON: He can be excused.

THE COURT: You are excused and you want him to send in which one, Mr. Henderson?

MR. HENDERSON: Officer Lunz, L-U-N-Z.

THE COURT: If you will send in Officer Lunz we will

greatly appreciate that.

MR. ELDER: Yes sir, stand by.

THE COURT: Thank you.

THE COURT: You are Officer Lunz?

MR. LUNZ: Yes, Andrew Lunz. First name, A-N-D-R-E-W; last name, L-U-N-Z.

THE COURT: Thank you, sir, for giving that to us. Officer, it is a pleasure meeting you. I am sorry it has to be like this where we are not together face to face. Let me ask you this, have you ever testified remotely like this before?

MR. LUNZ: I have not.

THE COURT: Just let me let you know, we are making a recording of everything that happens. We do have a Court Reporter who is with us. I tell you that because whenever you speak today I ask you to please speak slowly so that we all can understand you. But also sort of speak up so we all can hear you. If ever during this process you cannot hear the person that is asking the question, you can't hear them, let us know and they will speak up. But I would ask that when you are responding to the questions let the questioner finish their question, you will pause and then your answer. Due to the technology sometimes your voice can cross over so allow us, as best we can, to understand everything that is taking place.

Now, Officer, again, it is a pleasure meeting you. I have to administer an oath to you. So, if you would, please raise your right hand.

Officer Andrew Lunz, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Henderson:

Q Officer Lunz, thank you for being with us today.

A Yes, sir.

Q I am going to call your attention to what has been marked as Plaintiff's Exhibit number 6 which is an incident report from November 21 of 2016. And I believe you have a copy of that?

A Yes, I do.

Q And I believe you were the primary -- of this police report, incident report, correct?

A The primary writer?

Q Writer, right.

A I believe it was written by -- I can tell by the all capitals, it was written by Mr. Elder. I don't write in capitals but it was actually written by Mr. Elder.

Q Mr. Elder said he didn't go down to the Keowee Road address that day so I am assuming it is based on information you gave him?

A It would have been based on information I gave him.

He -- I believe he got information and called me and asked me to go meet with Abbeville County. But he had already orchestrated with Abbeville County to meet with us in reference to try to serve these bench warrants that we had.

Q Okay. It looks like you and Officer Hinton actually went to the Abbeville County Sheriffs Office. Is that correct?

A We didn't go to the Sheriffs Office, we met with them. I don't recall exactly where but it was somewhere near the incident location.

Q Let me ask you. I am looking at the incident location, it says Keowee Road. There is no address. How do you know where to go on Keowee Road?

A I believe the information they were giving, I am not -- I didn't get the information. I was just told to go meet with Abbeville as far as checking an address on Keowee Road.

Q But you didn't know which address?

A I am not the one that got that information. I was just told to go meet with Abbeville. They knew which address we were going to, I am assuming Elder and Abbeville. And they just told us to go meet with Abbeville to go check this address.

Q And you don't recall exactly where you met Deputy

McCurry at?
A I can't say for one-hundred percent, this was five years ago. There is a couple of different churches we meet at in that area.
Q Did you have a search warrant with you to go on this property?
A We didn't have a search warrant. We had two Municipal bench warrants, both parties, Donnie Brock and for the Barbara Desiree Young.
Q And those warrants were out of Anderson County, I believe?
A They were out of Honea Path Municipal court.
Q Right. And I think they were Anderson warrants, correct?
A Yes, we were in Anderson County.
Q To the best of your knowledge, did you go in front of a Magistrate in Abbeville to get those arrest warrants countersigned. Do you remember that?
A We did not which is usually why we go with the agency down there so that they can actually take the person into custody and then we will take them in.
Q Okay. And prior to going to this property, do you know Larry Ashley?
A I don't. I have been here five years now, I was only here probably less than a year at this time prior to that

date.
Q Well, speaking back to that date, do you remember you or anybody else calling Larry Ashley and asking him, hey, can we come on your property to serve some arrest warrants?
A Not that I am aware of.
Q Okay. Did you happen -- did you or any of your other law enforcement that was with you, did y'all get out of your car and knock on Larry Ashley's door and say, hey, can we walk around your property and serve some of these arrest warrants?
A Negative.
Q Okay. Did you see anybody else?
A Not that I observed, no.
Q Okay. I want you to describe, I assume you and Officer Hinton were in one car?
A He was actually a trainee at the time so he was actually riding with me.
Q Okay. So y'all were in the same car?
A Yes.
Q Y'all meet Deputy McCurry, who all is with Deputy McCurry, to the best of your recollection?
A I remember Officer Gladden being there as well.
Q Were they in the same car?
A I don't recall.

Q Okay. So there were at least two cars. There is your car --

A At least two.

Q Possibly more?

A Possibly more than two but I know there was at least two.

Q Had to be at least two?

A Yes.

THE COURT: Let me interrupt for just one second. Okay. I am not trying to interfere with the questions but y'all are starting to have a very conversational back and forth and doing so you are beginning to step on each other's words. So be careful.

MR. HENDERSON: I understand, Your Honor. And I think I have lost Ms. Lumley.

Q I want to show you a couple of pictures, Officer Lunz, that have been photographed that have been entered into evidence. I would have had Ms. Lumley hold them up but it looks like she signed out.

THE COURT: So we put her in the other room, she is still with us because we were having technology issues. But if you want her back in we will try to get her back in. All right, she is back in with us.

MR. HENDERSON: Okay.

THE COURT: Okay, there she is. Ask her what she

wants to hold up.

MR. HENDERSON: Kristie, will you hold up Exhibit 12 for Officer Lunz.

Q Can you see that, Officer Lunz?

A I can make out a driveway but I can't really make out anything else.

Q Right. I will represent to you that is a driveway on Keowee Road. And to the best of your recollection is it fair to say that is how you entered Keowee Road that day?

A To be honest, I don't recall. I know there was -- I remember there was several like trails and lanes back through there, through the woods. I don't recall exactly which trail we used going in. I was probably, at least the second or third vehicle back because I wasn't familiar with that area because I don't work that area on a normal basis.

Q I want Ms. Lumley to show you what has been marked as Exhibit 13. Do you recall passing that house on your way down the driveway?

A Not that I can recall, I don't know whether we did or not. This is five years ago.

Q Okay. You don't have a clue how you got onto the property, is that fair to say?

A I remember taking a trail that went through the woods, I remember it being a very windy type trail, you

know, that is what I recall about getting back into the property.

Q You had to travel a little bit to get back there, correct?

A Yes.

Q Okay. I am going to have Ms. Lumley to hold up what has been marked as Exhibit 14. Do you remember seeing that no trespassing sign that day?

A I do not recall.

Q I am going to have Ms. Lumley hold up Exhibit 17. Were you talking about like a road for the woods. Does this look familiar to you?

A I mean, it looks like a road through the woods. But in that picture I can't say it looks familiar or, you know, for one-hundred percent.

Q I will represent to you this is on Larry Ashley's property. Okay.

A Okay.

Q I am going to have Ms. Lumley show you what's been marked as Exhibit 18. Does that look familiar to you?

A Yes, I mean, it looks like a road through the woods. I don't recall exactly what all of these lanes and stuff look like. I mean honestly, I think that is the only time in the five years that I have been here that I have been on that property because it is not in my jurisdiction.

Q But going back, you said you drive a little while before you got to the crime scene, so to speak?
A Yes, I remember there being a long lane through the woods, I do recall that.
Q Okay. I am going to have Ms. Lumley show you what has been marked as Exhibit 19. And, again, do you recognize this portion of the road through the woods?
A Not on the picture, I don't recall exactly what the lane looked like. I just remember there being a long windy type lane through the woods.
Q Right. And y'all went down that road or driveway or back -- or whatever you want to call it. You went down that a good ways before Greer Ashley was ever seen, correct?
A I would say we went down a decent ways before he was seen. I don't believe I was, like I said, I was the third car behind. I was probably the last person to see Mr. Ashley and that was after, you know, whatever had transpired. I think they were in the process of trying to detain Mr. Ashley by the time I realized what all was going on because I was several cars back.
Q Again, either being several cars back, you still had to go fairly deep into the woods before these events started happening?
A I recall going a little ways into the woods, yes.

Q Okay. I am going to have Ms. Lumley show you Exhibit 20. Does that look familiar to you as the scene of the crime, so to speak?

A That -- that, actually I do recall that trailer but that -- it would have been the incident, to get that trailer into my eyesight until after the, part of the incident where we located a camper, whatever in the woods, whatever happened in the woods there. That was next to the camper where we arrested Ms. Young.

Q Okay. Is it fair to say that, from when you first saw Greer Ashley, when you were standing on Keowee Road, you couldn't have seen that far into the woods with the naked eye, is that fair to say?

A I can't say that for one-hundred percent. I would say, I mean it's a little ways off the road and there are trees.

Q A lot of overgrowth, undergrowth, scrap metal?

A I don't recall scrap metal, I just recall, you know, a lot of woods.

Q I am going to have Ms. Lumley show you Exhibit 21. Does that look familiar to you?

A Again, that looks like the trailer that I saw while I was on the property.

Q Okay. I am going to have Ms. Lumley show you Exhibit 22. Does that look familiar to you?

A I can't really make that out. I can't really tell what I am looking at.
Q Okay. It is not clear, I don't want you to speculate because you can't see it, so don't speculate. Now, Officer Lunz, I am going to have Ms. Lumley show you a video as best as we can. She is going to have to hold it up to the camera for you to watch it. Okay.
A Okay.
Q I want you to watch it one time and then I have got a question for you.
A Okay.
(Whereupon, a video was shown to Officer Lunz.)
Q Now, Officer Lunz, does the route depicted on that video look familiar to you?
A I can't say one-hundred percent if that is the route. Like I said, all I remember are the trails, there being a lot of trails because I was unfamiliar and I was just making sure I was following whoever was in front of me because I didn't know where we were going.
Q Let me ask you. Based on that video that you just watched, Exhibit 23, would you be able to pinpoint on that video where you first saw Mr. Greer Ashley?
A I didn't see him until after the, there was already a, I guess, foot pursuit or whatever was going on because I was so far back on the trail. By the time I saw him

there were already officers around him. I remember it being on a trail.

Q Is it fair to say that the other three cars were a good bit in front of you?

A I mean, I definitely wasn't right on their tail but I believe there was at least a couple in front of me. So I was a little width behind. And also not being familiar, I was trying to pay attention, I didn't want to drive off into the woods.

Q You said you had a trainee with you?

A I did.

Q I want to show you what has been marked as Exhibit 9. Does this photograph look familiar to you?

A Not that I recall.

Q Okay. Again, correct me, I think I asked you this but I just want to clarify. You didn't get Larry Ashley's consent to go on his property that day, did you?

A I didn't speak with a Larry Ashley.

Q Okay. Did you get anybody's consent to be on that property that day?

A I didn't speak with anybody on the property. I was just following Abbeville, who was more familiar with the property.

Q And you agree with me, you weren't in any type of hot pursuit after anybody?

A As far as -- not -- as far as entering the property you mean?
Q Right.
A I mean, when we entered the property, no, we weren't in hot pursuit of anybody.
Q Right. When you entered the property Mr. Ashley wasn't in plain view of you, was he?
A Not me, no, I didn't see him.
Q Okay. And you said you didn't have any consent to be on the property, at least you didn't?
A I didn't speak with anybody on the property.
Q Okay. And I want to turn back, look back at the incident report that, Exhibit number 6. Up near the top of it, it says on this date, 11/21/16, you arrived on this property at 10:45 a.m. Is that correct?
A What time was it?
Q 10:45 a.m.
A Yeah, that sounds about right, yes.
Q I mean you would have called into dispatch and told them where you were going, I suppose?
A I at least, I would have told them probably that I was at an address on Keowee Road with Abbeville County. I don't recall what I told.
Q I understand it has been a long time. But in your law enforcement career it would make sense that at 10:45

call dispatch and tell them, I am out on Keowee Road or at Keowee Road?

A I would have told them, yes, I was out attempting to serve with Abbeville County.

Q And it looks like, were you on the scene for a good while that day?

A Well, we actually, when all of that initially happened, we located, I guess next to that trailer, Barbara Desiree Young who is the one that we had the bench warrants on. I forget which Deputy was with me. We took her into custody and she was taken to Anderson County. And then I believe later in the --

THE COURT: Let me interrupt you for one second, we have got two officers that have entered the room, we need to remove them. So give us just a second, Officer.

(Whereupon, a short break was taken.)

THE COURT: Okay, they are gone, you may continue, I am sorry.

A But I wasn't actually there for a long period of time. Once I had her in custody, I believe we transported her to Anderson County. And then I believe later in the day is when Abbeville located the other subject we were looking for. And I believe we went back and met with them to pick him up to take him to Anderson County.

Q Okay. Were you involved in getting Larry Ashley or

Greer Ashley to sign any consent to search?
A I was not.
Q Okay.
MR. HENDERSON: Your Honor, I don't have anything further.
THE COURT: And, Officer, if you would, just answer any questions that the Attorney General may have.

CROSS-EXAMINATION

By Mr. Neubauer:
Q Hello, Officer Lunz, I have a few questions for you today. So what was the reason for Honea Path Police Department going to Keowee Road on November 21st of 2016?
A The Department had received information that we had a recent bench warrant, two municipal bench warrants, one on Barbara Desiree Young and one on Donnie Brock. And that they actually, suppose to be staying at a camper on that property in Abbeville County.
Q And Honea Path Police Department contacted Abbeville County Sheriffs Office to assist in executing these warrants?
A I believe Elder, Kevin Elder -- and I met with Abbeville.
Q And do you know why Honea Path Police Department wouldn't meet to have Abbeville County Sheriffs Office assist them in executing these warrants?

A Because it is in their jurisdiction, it is not in the Municipal Town limits of Honea Path.

Q Yes, sir. And what happened when you arrived at the scene that day?

A I remember going down a trail, following, I wasn't familiar with the property. About the time I saw the vehicles in front of me speed up slightly and then stop, by the time I got stopped I observed Officers of Abbeville attempting to detain the subject --

Q -- yes, sir.

A -- Ashley. And after that I went with the Deputy to check the camper that we were originally there to check with that was on the property, at which time we located one of the subject's we were looking for.

Q Yes, sir. Now, when you were on the scene that day did you see a no trespass sign visible anywhere?

A I don't recall.

Q And do you remember there being a gate blocking entry onto that dirt road as you would be going back towards the camper?

A I don't recall that either.

Q Yes, sir. And you said you eventually proceeded to the camper and came in contact with Ms. Barbara Young, is that correct?

A Yes.

Q And then she was, I guess, taken to Anderson County?
A Yes.
Q Thank you, sir. I have no other questions for you at this time.
THE COURT: Any redirect, Mr. Henderson, of this witness limited to what the Attorney General went into?
MR. HENDERSON: No sir, Your Honor.
THE COURT: Any reason why the Officer cannot be excused?
MR. NEUBAUER: No sir, Your Honor.
MR. HENDERSON: I don't think so, Your Honor. The only other Honea Path officer would be Officer Wright and I don't believe he is from Honea Path anymore. So I don't think we need to hold this video link open but let's confirm that with Officer Lunz.

REDIRECT EXAMINATION

By Mr. Henderson:
A Yes.
Q Is Officer Wright still with you guys?
A He starts back with us in about four days. Right now he is still employed with Abbeville County.
Q Okay. I guess I am saying, he is not in the Department with you today, is he?
A No, he is not.
MR. HENDERSON: Your Honor, I think we are done with

Officer Lunz and I think he can sign off.

THE COURT: Officer Lunz, thank you very much and you may, y'all may go about your day. Thank you very much for showing up today.

MR. LUNZ: Thank you.

THE COURT: Yes, sir. Mr. Henderson, your next witness is relatively short?

MR. HENDERSON: I would like Mr. Wright to be my next witness. I don't think he would be that terribly long of a witness.

THE COURT: Tell Mr. Wright to try to sign back on, if you would and then we will try to take a lunch break. Does the Attorney General want Mr. Byrholdt to sit through all of this?

MR. NEUBAUER: Your Honor, I am not so much trying to subject him to the entirety of his testimony. I was not certain when he would be needed. And for his own sake, he would want to know what was being said or if he would, or if the testimony that he hears would be beneficial to his later testimony.

THE COURT: Mr. Henderson, do you intend to call Mr. Byrholdt as part of your case?

MR. HENDERSON: Yes, Your Honor, I do.

THE COURT: Do you know when you are going to call him or any idea?

MR. HENDERSON: Your Honor, I would like to do Officer Wright; then Deputy Gladden; Deputy McCurry; Solicitor Black and then Bruce.

THE COURT: And we are still waiting on an Officer Wright, correct. So let me pick back up on the conversation with scheduling, Mr. Henderson. You went through a litany of witnesses. Let's say we do Officer Wright, we take a lunch break; we go through those witnesses. Would we, within a reasonable expectation, reach Mr. Byrholdt today?

MR. HENDERSON: Your Honor, knowing that you want to be out by 4:45, we might not, Your Honor. I will just be frank with you.

THE COURT: Okay. I mean, I do not, okay. Well, Mr. Byrholdt, you may discuss that with the Attorney General, outside of my presence or whatever y'all want to do.

MR. BYRHOLDT: I don't think that is necessary. I really don't need to hear these witness' testimony. It is not going to change what my testimony is going to be. So I mean, I will be happy. They have got my number and they can contact me by my cell phone.

THE COURT: I am not trying to pull the plug out from Mr. Neubauer. I am just saying, if he is not needed --

MR. NEUBAUER: Mr. Byrholdt, if your testimony will not be needed today, if we won't get to you today I don't

want to waste any more of your time. I apologize for the time that we have wasted. We will contact you when your testimony will be needed, whether it is this afternoon or later this week or at a future date.

MR. BYRHOLDT: Just give me a call to let me know.

MR. NEUBAUER: Thank you.

THE COURT: Mr. Wright, you are unmuted, you have to do something on your end so we can see you. Officer Wright, we have got to be able to hear you as well.

Officer Wright, can you hear me okay?

MR. WRIGHT: Yes sir, I can, Judge. Can you hear me?

THE COURT: I can. Let's try it this way and if one of the lawyers's have an objection during the process we will take care of that. Officer, are you able to hear me okay?

MR. WRIGHT: Yes sir.

THE COURT: Thank you for your patience while we got you into this hearing. We are making a recording of everything that happens here. I ask you, when you respond to the questions to allow the questions, the questioner to finish their question before you answer. Give a little pause to it and then answer. Speak slowly so that we can understand what you are saying. If ever during this process you cannot hear the questioner please let us know and the questioner will try to speak up. But to begin

this process, Officer, I have to administer an oath to you. Please raise your right hand.

Timothy Wright, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Henderson:

MR. HENDERSON: Mr. Wright, just to make sure the record is clear. Officer Wright is testifying by telephone from his cell phone coming through my Investigator's cell phone but we are actually looking at Officer Wright's video. Just so the record is clear about that.

Q Officer Wright, do you remember getting an arrest warrant for Barbara Young and Donnie Brock back in November of '16?

A Yes sir, I do.

Q And those warrants were for unlawful neglect of a child?

A Yes, sir.

Q And I believe the allegations were that Ms. Young was using methamphetamine during her pregnancy, correct?

A Yes, sir.

Q And that Mr. Brock was either giving her meth or helping her or conspiring with her. Is that correct?

A I am not quite sure exactly as far as he was

providing it or not. They were just together.
Q Right. And you thought there was probable cause to believe that he was the father, correct?
A Yes, sir. No sir, no sir. Not the father of the child, he was her boyfriend at the time during the pregnancy.
Q Okay. But you thought there was probable cause to go to a Judge to get an arrest warrant?
A Yes, sir.
Q And a Judge agreed and gave you an arrest warrant?
A That is correct.
Q Were you involved in any way when the arrest of Greer Ashley on November 21st of '16?
A No sir, I was not.
Q You weren't at Mr. Ashley's house?
A No sir, I was not.
Q Okay. And you were the Officer that got the arrest warrant for Ms. Young and Mr. Brock, correct?
A Yes, sir.
Q And you were the lead investigating officer, correct?
A Yes, sir.
Q And I am going to call your attention to a document that is in evidence, Plaintiff's Exhibit number 4. I know you don't have it in front of you. But you would agree that Mr. Brock's charge was dismissed on December the 16th

of '16?
A That is correct, I do believe so.
Q And it was dismissed at a preliminary hearing, correct?
A Yes, sir. Yes sir, it was.
Q Did you consent for that charge to be dismissed at the preliminary hearing or you just didn't show up?
A No, sir. I went to the preliminary hearing but I didn't consent to it being dismissed.
Q Okay. And you understand that somebody charged with unlawful neglect, that carries up to ten years in prison?
A Yes, sir.
Q And you didn't seek any type of direct indictment against Mr. Brock, did you?
A No sir, I did not.
Q Okay. And I am going to call your attention to what has been marked as Plaintiff's Exhibit 5 and I know you don't have it with you. But I will represent to you that Barbara Young plead guilty to cruelty to children on December the 7th of 2017. Do you remember that?
A I was contacted and said she had plead guilty but I did not know the date that she plead guilty.
Q And I will represent to you it was December the 7th of 2017.
A Yes, sir.

Q And you are aware too, that cruelty to children carries 30 days in jail?
A Yes, sir.
Q And she was originally charged with unlawful neglect of a child which carries up ten years?
A Yes, sir.
Q And, again, you didn't go out on the property that day?
A No sir, I did not.
Q Did Mr. Brock, reading your incident report, it bears that Mr. Brock gave you a signed written statement and it was recorded on body camera. Did Mr. Brock tell you or make any allegations to you about Greer Ashley?
A No sir, not that I recall.

MR. HENDERSON: I don't have anything further, Your Honor.

THE COURT: Officer, answer any questions that the Attorney General may have for you.

CROSS-EXAMINATION

By Mr. Neubauer:

Q Mr. Wright, thank you for your time today. And just a few brief questions. You, in fact, got the arrest warrants for Barbara Young and Donnie Brock, correct?
A Yes sir, I did.
Q And those are the warrants that were executed on

November 21st?

A Yes sir, those was the two warrants.

MR. NEUBAUER: Thank you, I don't have any more questions at this time.

THE COURT: Mr. Henderson, anything on redirect limited to what the Attorney General went into?

MR. HENDERSON: No sir, Your Honor. And I am fine with Officer Wright being released.

THE COURT: Mr. Attorney General, the Officer can go?

MR. NEUBAUER: Yes, Your Honor, he is free to go at this point.

THE COURT: Officer Wright, thank you again for all the effort, for showing up today. The lawyers tell me they are through with you for purposes of this matter. So thank you, have a wonderful day and thank you, again, for your efforts.

MR. WRIGHT: Yes sir, and I apologize for all the inconveniences.

THE COURT: Not your fault, totally not your fault. Thank you.

Let's take a lunch break. Maybe, I have got it is ten minutes to 1:00. We will get together at 2:15.

MR. HENDERSON: That is fine with me, Your Honor.

THE COURT: Attorney General?

MR. NEUBAUER: That's fine with me as well, Your

Honor. You said 2:15, correct?

THE COURT: I did.

MR. NEUBAUER: Fine with me.

THE COURT: Mr. Greer Ashley, I don't know who you need to talk to but tell them we need you back, say by 2:10 or so.

MR. ASHLEY: Yes, sir.

THE COURT: Thank you very much. Mr. Neubauer, Mr. Henderson, can we get together ahead of time?

MR. HENDERSON: Yes, Your Honor.

MR. NEUBAUER: When would you like to speak with us?

THE COURT: Why don't we try to get together about 2:00.

MR. NEUBAUER: That is fine with me, sir.

THE COURT: We will appear this way remotely and be off the record conversations.

MR. HENDERSON: I am going to just leave this screen open in my office but muted so I won't have to sign back on.

THE COURT: Okay, but don't do anything we can see. You just be careful back there.

MR. HENDERSON: Nobody will come in my office.

THE COURT: Thank y'all very much.

(Whereupon, a lunch break was taken.)

MR. HENDERSON: We call Officer McCurry to the stand.

THE COURT: Officer McCurry.

MR. MCCURRY: Yes, sir.

THE COURT: It is a pleasure meeting you, sorry it has to be like this but we are not together in person. Have you ever testified virtually before?

MR. MCCURRY: Not virtually.

THE COURT: Okay, sir, we have a Court Reporter who is with us, she is taking down everything that is said. I tell you that because working this way, virtually, you need to try to speak a little bit slower than normal so that your voice will carry fine and we can understand you. But also try to speak loudly enough so what we all can hear you. It might require you to scoot your chair up to the, up to the computer or whatever you are speaking into. During this process, when the questioner is asking you questions, if ever you can't hear them let us know and we will have them start back over. But I would ask you to please let the questioner's question to finish, pause and then give your answer. That way you are not going to be speaking over each other and that we can make a good record of everything that is going on. But, again, nice to meet you, hopefully next time we get together it will be in person. But in order to start this process I have got to administer an oath to you. So if you would, please raise your right hand.

Evan McCurry, being
first duly sworn, testified as follows:

THE COURT: You can put your hand down. I am going to turn this matter over to Mr. Henderson, he will be asking you questions first.

DIRECT EXAMINATION

By Mr. Henderson:

Q Deputy McCurry, how are you today?

A Doing good.

Q I want to turn your attention to November 21st of 2016, that was the day that Greer Ashley was arrested. Do you remember that day?

A Briefly, it has been some time, yes.

Q I am looking at a document, I am sure you don't have it in front of you. It is an incident report from Honea Path Police Department.

A Yes.

Q And it is into evidence and you may have a copy of it.

A I don't have a copy of that.

Q Okay. But I will represent to you that Officer Lunz with the Honea Path Police Department, do you know him?

A I know of him, I don't know him personally.

Q Okay. He testified that he arrived at the site at 10:45 that morning. Does that sound about right?

A Yes, sir.
Q Okay. Let me ask you. Officer Lunz said that he and a trainee were in one vehicle. And I am assuming that you were in your squad car or unmarked vehicle?
A I was in a marked patrol unit, yes.
Q Did you have another officer with you?
A I didn't have anybody with me but there was another, my Lieutenant was there as well in his patrol vehicle.
Q And who was that, Lieutenant Gladden?
A Yes, sir.
Q And when you say marked car vehicle, that is just like a normal squad car?
A Typical Abbeville County Sheriffs vehicle, it was a Dodge Charger.
Q Okay. And those vehicles have in-car video cameras?
A They do.
Q Okay.
A It's when the blue lights are activated.
Q Okay. Did you ever turn on the blue lights when you pulled on the property?
A No, sir. I had no reason to.
Q You aren't chasing anybody?
A Not actively when we pulled into the driveway.
Q Right. Let me ask you, before you arrived on this Keowee Road property, and you agree, you were on property

on Keowee Road?
A Yes.
Q Before you arrived on that property, had you participated in getting a search warrant to be on that property?
A No, sir. I was accompanying a out-of-jurisdiction agency with arrest warrants.
Q Did the out-of-jurisdiction agency ask an appropriate court for a search warrant?
A I am unaware.
Q Were you present when those arrest warrants were countersigned by an Abbeville County Magistrate?
A I was not.
Q Do you know if they were countersigned by an Abbeville County Magistrate?
A I am unaware. I do know that the warrants were in NCIC.
Q Okay. Prior to going on this property, had you gotten consent from Larry Ashley to cruise around his property to look for Mr. Brock and Ms. Young?
A No, sir.
Q Okay. Had you gotten permission from Greer Ashley to be on any of his property prior to, having served warrants on Mr. Young -- Ms. Young and Mr. Brock?
A To the best of my knowledge the two subjects we were

looking for were living with or on Greer Ashley's property. And we were in route to make contact with the owner or representation of the property that we were looking for Mr. Brock and Ms. -- what was her name, Young?

Q Ms. Young, correct. And I will represent to you that Greer Ashley lived at [redacted] Keowee Road. Does that sound right?

A That sounds familiar, yeah.

Q Okay. I am going to have Ms. Lumley hold up Exhibit 10 which is already into evidence. You see that mailbox that says [redacted]?

A I do.

Q And I will represent to you that is Larry Ashley's property. And do you see Greer Ashley's house there in the background? Can you see a house there in the background of that photo?

A I can.

Q And I will represent to you that is Greer Ashley's house.

A Okay.

Q And when you are talking about going to Greer Ashley's house, is that the house you went to?

A No. To the best of my knowledge, I know that others that I was working with, Greer lived in a trailer on further back in the property.

Q On property located at [redacted] Keowee Road?
A It is a connecting driveway. We were using a second driveway to that property that we were familiar with from previous dealings.
Q And you went down the driveway past Larry Ashley's house?
A Yes.
Q Okay. And you would agree with me and I am going to have Ms. Lumley hold up Exhibit 11. And I will represent to you this is the driveway at [redacted] Keowee Road. Is that the driveway you entered?
A I can't tell by the picture and it has been four years since I have been over there. I no longer work for Abbeville County. And I work for Abbeville City now and it's been probably since, around 2016 since the last time I have been on Keowee Road.
Q Okay. But if there has been testimony that this is the driveway associated with Larry Ashley's house, you wouldn't object to that, would you?
A I wouldn't have any grounds to object.
Q Okay. I want Ms. Lumley to hold up Exhibit 13 which is already into evidence. You remember riding by Larry Ashley's house?
A I do remember that. I remember riding by that garage there.

Q Okay. And did you stop and get out and knock on his door and say, hey, Larry Ashley, can we go search your property, we believe some arrestee's are living on your property?
A I don't believe there was anybody at home at that point, no.
Q I guess you got out and knocked and nobody answered the door?
A No, we didn't get out because we weren't -- we weren't trying to find Larry Ashley and all of the property is connected.
Q Okay. You would agree with me, this house is on Larry Ashley's property?
A That house is.
Q Right. And I am going to have Ms. Lumley hold up Exhibit 14 which is already into evidence. And if you pass Mr. Larry Ashley's house, you have to go by his no trespassing sign. Do you remember seeing that sign?
A It wasn't there.
Q You were talking that y'all's car had cameras there, were you doing any filming going down the driveway?
A We weren't. As I mentioned earlier, we were on a very lax routine attempt to serve arrest warrants. We had no reason to have blue lights activated.
Q Okay. You had your cell phone that could be taking

pictures but y'all took a lot of pictures later on, is that correct?

A Yes, I believe we did.

Q We are going to show the pictures in a little bit. But you just don't recollect seeing a sign or are you saying it wasn't there?

A I don't recall seeing a sign, no sir.

Q Okay. Now, I am going to have Ms. Lumley show a video which is Exhibit 43. It is into evidence and she is going to hold up to the camera for you to watch it. But after you watch it I am going to have a question or two for you.

(Whereupon, a video was shown to the witness.)

Q Deputy, does that look like the route you took to get through to where you found Mr. Ashley, Greer Ashley?

A I believe so, that goes back to four years ago. I have done a lot and seen a lot in four years.

Q I understand that, I appreciate your -- but watching that video, in your mind's eye, is there a point on that video where you can go in and say, hey, this is the first time I saw Greer Ashley that day?

A As far as on that route?

Q Right. If Ms. Lumley would play that video again, would you be able to say, tell her to stop the video. That is the point and time where I first saw Mr. Ashley?

A No, sir.
Q Okay.
A I was the second car in line and all I recollect is Mr. Ashley running on foot and at that time we began pursuit of Mr. Ashley.
Q I guess you got out of your car?
A Yes.
Q Okay. So is it fair to say that you can't pinpoint a location on Exhibit 23, that video, which would be the first point that you saw Mr. Ashley?
A Not at this point, no.
Q Well, would it be at any point?
A I mean, due to the clarity of the video and formulating of my memory, no.
Q Okay. Let me have, I am going to have Ms. Lumley show you Exhibit 18. Do you think Exhibit 18 here includes the spot where you first saw Mr. Ashley?
A I am not sure, that is just a dirt road, I can't --
Q You don't know?
A No, I couldn't tell you.
Q I am going to have Ms. Lumley show you Exhibit 19. Is there a location in this photograph where you first saw Mr. Ashley at?
A Like I said, I couldn't tell you.
Q Is it fair to say, y'all were pretty deep in the

woods before you saw Mr. Ashley?

A I remember it was very briefly after we passed that house that we saw Mr. Ashley. We saw a white male running, it wasn't ID'd as Mr. Ashley until we caught him.

Q Okay. I want to show you Exhibit 20, I will have Ms. Lumley show you Exhibit 20.

A Um-mm.

Q Does this picture show or depict the location where you first saw Mr. Ashley?

A No, sir. Mr. Ashley, what we knew at that point and time, where Mr. Ashley was staying. That is where we -- that was our destination.

Q Okay.

A With the search -- excuse me, with the arrest warrants from Honea Path PD.

Q And your position is, that you thought Mr. Ashley lives here?

A Yes.

Q Okay. And you understand on Exhibit 20, that property belongs to Larry Ashley?

A I mean, I may be wrong but I thought all belonged to Larry Ashley.

Q No, you recall, I showed you an Exhibit a while ago that belongs to Greer Ashley, Greer Ashley's house?

A Um-mm.

Q Do you remember seeing that?
A Yes.
Q Okay. And I will represent to you there are two tracts of land, that Larry Ashley owns 56 acres and Greer Ashley owns three acres?
A Um-mm.
Q And I will represent to you that there has been testimony that this Exhibit 20 you just looked at is all owned by Larry Ashley?
A Okay.
Q And I am going to have Ms. Lumley show you Exhibit 21. And, again, do you think -- does this include the location where you first saw Greer Ashley at?
A No, sir. We weren't near a dwelling.
Q You weren't near a dwelling. You think you were out on this road through the woods?
A We was somewhere in that driveway.
Q You got on after you passed Larry Ashley's house?
A Yes.
Q Okay. And were you involved in getting Larry Ashley's consent to search after Greer Ashley had been arrested?
A I was not, I remained on -- on the scene.
Q But that wasn't you who did that?
A No, I didn't get the consent from Larry.

Q Okay. Did you get the consent from Greer?
A For?
Q To search his property?
A No.
Q Okay. Do you happen to know what law enforcement officer was involved in that?
A I don't recall.
Q Okay. And, again, you had your cell phone with you that day?
A Yeah.
Q I mean, were you the one that was taking all of these pictures out there. Let me have Ms. Lumley show you Exhibit 25. And I will represent to you, Deputy, that there is -- Exhibit 25 and Exhibit 26 and Exhibit 27, they are all time stamped.
A Um-mm.
Q Did you take those photos or do you know who did?
A I don't recall.
Q But somebody took them.
A Of course.
Q I assume it was law enforcement that took those?
A That is normal procedure of taking pictures of the scene. I don't know why there is, the reference to cell phone. But typically we don't take scene photos of evidence with a cell phone.

Q Did somebody have a camera with them that day?
A Typically we all have cameras but I am not sure whose camera was used.
Q You just don't believe it was your camera?
A I don't recall me taking the pictures, no.
Q Okay. And, again, you just don't remember whether or not there was a no trespassing sign up on Larry Ashley's tree?
A I didn't see one.
Q You are not saying it wasn't there, you just didn't see it. Is that fair to say?
A I don't remember seeing one, I don't -- I can't say one-hundred percent whether it was there or not. I didn't see it.
Q You just didn't see it, okay. And you said Lieutenant Gladden, was he in the first car?
A Yes, sir.
Q Okay. And you were in the second car?
A Yes.
Q And Officer Lunz from Honea Path would have been in the third car?
A Yes.
Q Was there any other cars out there?
A No.
Q Okay.

A We led Officer Lunz in because we were familiar with the property.

Q Okay.

MR. HENDERSON: Your Honor, I don't have anything further.

THE COURT: Officer, if you would, just answer any questions the Attorney General might have for you.

MR. MCCURRY: Okay.

CROSS-EXAMINATION

By Mr. Neubauer:

Q Hello, Officer McCurry, thank you for your time. I have a few questions for you. You assisted in the arrest of Greer Ashley, correct?

A Yes.

Q And do you remember the incident that led to his arrest?

A In terms of?

Q So as you entered the property you located or you entered the property and you proceeded back to the trailer and the camper where Barbara Young and Donnie Brock were suppose to be located. Is that correct?

A Right.

Q And then at some point on that dirt road through the woods you encountered Greer Ashley, correct?

A Yes.

Q Can you describe to the Court what happened when you spotted Greer Ashley?
A We approached a black, I believe, Ford truck. And when the mere presence of law enforcement was observed a white male -- the car left towards a wooded area. And he was noted to be toting something as he ran. And after we, we then realized who he was and went on from there.
Q Yes, sir. Was Greer Ashley arrested on Larry Ashley's property?
A I am not sure.
Q Yes, sir. So then you, did you, after arresting Greer Ashley proceed to serve any warrant on Barbara Young?
A After we were done with the procedures that followed arresting Greer Ashley, we then proceeded to attempt to serve the warrants, yes.
Q And at that time did Donnie Brock and Barbara Young live on the property owned by Larry Ashley back in that trailer?
A They weren't located in the trailer, we located Ms. Young in a camper there.
Q Yes, sir.
A Near that trailer.
Q Yes, sir.
A Mr. Brock was located on the property at a later

time.

Q Yes, sir. Those were located on Larry Ashley's property, you said that is correct?

A Yes.

Q And just to clarify, you stated that when you entered the property you did not see a no trespassing sign?

A I wasn't aware that I needed to be looking for a trespassing sign due to the fact that we had warrants.

Q Yes sir, I understand. Were there any gates that were closed that would have prevented you from getting back to the camper where you eventually found Ms. Young?

A Yes. We were going to use the initial driveway to go straight to the camper, the trailer in that small piece of property back in the woods but the gate was closed and we were familiar with the second entrance that wound back to that place.

Q So you did not manipulate a gate or anything to get back onto the property?

A We used an alternate route that goes, same place, different route that where the gate was --

Q And during your questioning from Mr. Henderson, you said that Greer Ashley was not found near a dwelling, is that correct?

A No, sir.

Q So you kind of found him in the middle of the woods?

A He was on that driveway that we were on, the driveway that was seen in that video that was shown earlier.
Q Yes sir, thank you. That's all the questions that I have for you. Thank you for your time.
MR. MCCURRY: Thank you.
THE COURT: Any redirect limited to what the Attorney General went into, Mr. Henderson?
MR. HENDERSON: Very briefly.

REDIRECT EXAMINATION

By Mr. Henderson:
Q If I can get Ms. Lumley to hold up Exhibit number 9 which is into evidence already. Deputy McCurry, is this the gate y'all came up to that was closed?
A Yes, sir.
Q And you know that this gate is on Greer Ashley's property?
A Yes.
Q And you see the no trespassing sign on it, don't you?
A I see it now, yes.
Q And you knew you couldn't go in the back gate that day?
A We just chose not to go that route, yes.
Q Okay. Because you didn't have a search warrant?
A I didn't have access through the gate.
Q But you didn't have consent?

A I didn't have access through the gate.
Q Okay. Was the gate locked that day?
A We assumed so, yes.
Q So nobody got out and went -- you just thought it was closed and hey, we can't go down this road?
A Correct.
Q Okay.
MR. HENDERSON: I don't have anything further, Your Honor.
MR. NEUBAUER: I have a few brief questions for you.
THE COURT: He opened the door a little bit so keep it based on what he just asked. Yes, sir.
MR. NEUBAUER: Yes, Your Honor.

RECROSS-EXAMINATION

By Mr. Neubauer:
Q So as Mr. Henderson just stated, that gate is located on Greer Ashley's property. You did not enter Greer Ashley's property on that day, correct?
A Correct.
Q And you went to the trailer on the back of Larry Ashley's property through an alternate route that did not cross into Greer Ashley's property?
A To the best of my knowledge, yes.
Q Thank you, sir, no further questions.
THE COURT: Mr. Henderson, anything?

MR. HENDERSON: No sir, Your Honor.

THE COURT: Officer, thank you very much, do not touch any buttons. Just take any papers you have and leave, no, thank you very much for your time. Any reason why he can't be excused?

MR. HENDERSON: He can be excused, Your Honor.

MR. NEUBAUER: No objection from the State, Your Honor.

THE COURT: Thank you, sir, you may enjoy your day as well. Thank you. Who do you want next, Mr. Henderson:

MR. HENDERSON: Deputy Gladden.

THE COURT: You are Officer Gladden?

MR. GLADDEN: Yes, sir.

THE COURT: It is a pleasure meeting you. Sorry it has to be like this where we are not together in person or face to face. Have you ever testified virtually before?

MR. GLADDEN: No, sir.

THE COURT: Let me tell you a couple of things. We do have a Court Reporter who is with us. She is taking down everything that is said. I would ask today that when you testify and you respond to the questions please talk slowly so that we can understand what you are saying. The virtual testimony sometimes, it is the slowness of it or the speed of it causes difficulty so just take your time when you are testifying. I would ask if you would be sure

you speak up loud enough so that we can hear you. It might be that you would have to slide closer to your microphone or to the computer that you are testifying from. I would ask, given the fact that we have some echos and some things going on electronically, allow the person to ask you questions, wait a little pause in your answer. That way your voice and the questioner's voices are not going on top of each other and we are able to make a good recording of everything. But with that being said, again, it is a pleasure meeting you. I have got to start this process by administering an oath to you so if you would raise your right hand.

Mack Gladden, being first duly sworn, testified as follows:

THE COURT: I will turn this over to Mr. Henderson and he is going to be asking you some questions.

DIRECT EXAMINATION

By Mr. Henderson:

Q Deputy, how are you today?

A Doing pretty good, how about yourself.

Q I am trying to. I hope this rain goes away, we are about to get flooded out around here.

A I understand.

Q You recall November 21st of '16 when Greer Ashley was arrested?

A Yes, sir.
Q Okay. And we have heard some prior testimony that you and your patrol car, Deputy McCurry and his patrol car and Officer Lunz from Honea Path Police Department all go up on Keowee Road. Is that correct?
A Yes, sir.
Q And it is my understanding that you were the lead car, that Deputy McCurry was the second car and Officer Lunz was the third car. Is that correct?
A As far as I recall, yes sir.
Q Okay. And I think that you entered Keowee Road going down Larry Ashley's driveway, is that correct?
A No, sir. I entered Keowee Road at the driveway just beside Larry's driveway which I think is the address of [redacted] initially, there is where I entered initially.
Q Okay. And that is Greer Ashley's property, correct?
A That is the way that was used more times than not to get to Little Greer's at that point and time, yes sir.
Q Okay. But it is my understanding that if you came up that day in Greer Ashley's driveway, that the gate behind his house was closed with no trespassing signs. Is that correct?
A No, sir.
Q It wasn't?
A No, sir. As far as the trespassing, I don't recall

ever seeing any trespassing. And the gate, I don't recall that gate being closed. We took the other driveway for another reason.

Q So it is your testimony that the driveway on Greer Ashley's property was not closed?

A To my recollection, no sir, it was not closed.

Q Okay. And you didn't see the no trespassing sign?

A No, sir.

Q Did you ever get out of the vehicle to go up to the gate to see if it was locked?

A I don't recall getting out of the vehicle right there at this point, sir.

Q You said the gate wasn't closed?

A No, sir. We didn't take that driveway in particular, after realized from previous times being down there, that driveway is like a ravine. And given the fact that Deputy McCurry was driving a Dodge Charger, I don't want to risk, as a Supervisor at that point, having to explain why I allowed my Deputies to drive a Dodge Charger down the driveway that is pretty deep, steep and beat up, to be honest with you. And sometimes you can even get stuck down in there.

Q And you understand there are two tracts of land, that Greer Ashley owns three acres and his Uncle Larry owns 56 acres next to him?

A That's correct.
Q And when you decided, is it fair to say when you couldn't go down Greer Ashley's driveway, we are going to go over and go down Larry Ashley's driveway. Is that correct?
A Not necessarily. Greer's property, where he was living at the time, is actually on the backside of Larry's driveway as well as on the same property, the [redacted] Keowee Road. And I have known that from previous times of being down there on both properties. And in the process of not taking that driveway, Larry hadn't seen the person that was wanted that day. But this person has been known to frequent that entire area, whether it is Larry's, Greer's, immediate area and his house on the backside of [redacted]. And that is the reason I was going over towards Larry's property at that time to speak to Larry.
Q Okay. Let me ask you, stop you right there. Okay. I respect that. Did you get out and knock on Larry's door?
A No, sir.
Q Okay. Larry Ashley is well known in the community, isn't he?
A Yes, sir.
Q Did you radio into dispatch to say, hey, can you get Larry Ashley on the line, tell them there is law

enforcement outside. Did you make that call?
A No, sir. I didn't get a chance to knock or call and I can explain to you why.
Q And, again, you didn't have a search warrant when you went on Larry Ashley's property, did you?
A No, sir. I wasn't going to Larry's property to search.
Q But you were searching for fugitives on his property?
A I was going to try to speak to Greer at first but I knew I had to pass Larry's property first. That is the reason I was going to speak to Larry to see had he seen this wanted person.
Q Did you stop at Larry's house?
A No sir, I didn't get a chance to.
Q Were your brakes not working. I mean, --
A No, sir. In the process of going to Larry's house, turning where I was at on the property that joins [redacted] and [redacted] which is commonly used to get across each driveway, in the process of turning to get onto Larry's driveway I could see down the straight away, just an open trees, and was down beside Larry's property that leads back to -- by Greer's residence. And in the process of looking that way I could see a white male and a truck down on that opening, the first den right there, before I even made it to Larry's property or Larry's residence per se.

Q So your testimony is that you could see from Keowee Road or where Larry's driveway meets Keowee Road, you could see all the way back into the woods to the point where Ashley was arrested?
A No, sir. All the way back, is where you are putting it at this point -- all the way back would be where I could see, was approximately yards, give or take, maybe in the Fall season, November, early morning hours. I mean the sun was pretty high in the sky at this point so it wasn't hard to see down through this opening at that point and time.
Q And were you -- do you see this -- I am just trying to figure out where you were at. Were you on the road, on Keowee or were you already on Larry's Ashley's property when you saw him?
A I would have to say at that point and time I just made it to Larry's driveway, going down to Larry's house. It is a bend, it is right there at the driveway where the dirt meets the driveway at.
Q And you said that you saw a truck in the woods?
A Yes, sir.
Q Did you see a human being or only a truck?
A I saw a human being and a truck.
Q Okay. I am going to have Ms. Lumley show you a video.

A Okay.

Q And then after -- and it has been marked as Exhibit 23. And once you watch it, once it is over I am going to have some questions for you.

A Okay.

(Whereupon, a video was played for the witness.)

Q Deputy, does that driveway look familiar to you?

A Yes, sir. That's the driveway that Greer, your client was on at the very beginning of the first fork, right there, that is the area he was in right there. Yes, sir.

Q In your mind's eye, watching that video did it dawn on you, at any point of that video, where you first saw that truck, where you were at and also where the truck was at when you saw it?

A Yes, sir. To my recollection that truck was right there at the first, at the first bend, the first opening, the first opening right there, the first fork, whatever you want to call it. The process of turning down through there, the truck was right there in that area and could be seen from where I was at on the pavement, on Larry's residence and I could see down in there just enough to see -- at the time I didn't know it was your client, but it was your client in that truck.

Q I want us to do an experiment, Deputy.

A Okay.
Q I am going to have Ms. Lumley play this video again, and I want you to tell us to stop when you get to the point where you were at when you saw Greer Ashley's truck or saw a truck.
A Okay.
(Whereupon, a video was played for the witness.)
A It is coming in within the area right here. It is a little bit over further as far as my view, was more so to the right passenger side of this vehicle. I think when she was recording video, on the recording you can see the phone turn to the left. It doesn't give the best view that I actually had that day. It was right there at the curve of the driveway, right before you get to the curve of the paved part of Mr. Larry Ashley's driveway. You can see, in the process of this first fork right here, just before where Ms. Lumley is right now.
Q And you understand that is not what I asked. I wanted you to say, I wanted you to say stop at the position where you were at when you first saw this vehicle.
A Mr. Henderson, with all due respect, that's kind of hard to tell her exactly where to stop because, again, Ms. Lumley's phone turns at a certain point and it takes the field of view away. So I can't really tell you exactly

where I was in relation to when I saw your client.
Q But you can get close, can't you?
A It is in this area right here, stop, I guess that would be good enough. I am not sure.
Q And I would ask Ms. Lumley to hold that up and see how far we are into the video.
(Whereupon, a video was played for the witness.)
MS. LUMLEY: 22 seconds.
Q And then I would ask Ms. Lumley to continue with the video. And, again, I want you to say stop, Deputy, when the video gets to the point where you say you saw that vehicle. Does that make sense to you?
A Yes, sir. I will attempt to locate that.
(Whereupon, a video was played for the witness.)
A All right, the vehicle right before, maybe two seconds before, possibly, where she is at right now. The phone was facing more towards the right side. And in that area, I would have to say that is about the closest I can give you, to be honest with you, because I am not there at this point to tell you exactly where it was in relation to the video.
Q I would ask Ms. Lumley to tell us the time right there.
MS. LUMLEY: 31 seconds.
Q Deputy, at 31 seconds into the video, is that where

you were when you saw the truck or is that where the truck was?
A Again, I am not there right now to tell you exactly where I was at at that point and time. It is, I can't answer that question, Mr. Henderson, unfortunately.
Q Okay. But I think your testimony was, you saw a truck down the road, so to speak.
A Yes, sir.
Q Do you recognize the truck?
A I did, yes sir.
Q Did you recognize the human being there with the truck?
A I did not recognize the human being at the time, no sir.
Q Okay. And, again, at this point, you know, you had passed Larry Ashley's no trespassing sign, correct?
A I don't recall a no trespassing sign, Mr. Henderson.
Q Are you saying it wasn't there or you just don't recall it?
A I can't answer that, I don't recall a no trespassing sign.
Q And, again, you didn't ask Larry Ashley for consent to search prior to doing this searching, did you?
A It wasn't a search and I didn't get a chance to ask Mr. Larry Ashley, can I go or who was back here or who was

on his property. I didn't get a chance to. It was bang, bang, bang, as far as seeing the vehicle, the vehicle takes off, the person takes off. And at that point, it was -- in reference to the truck, I can even tell you whose truck it was because I have seen, at least driving it, it was your client. I didn't pursue the vehicle because I didn't think that I had a reason to pursue your client because I wasn't -- I figured he was in his truck. That is the reason I pursued the unknown white male in the opposite direction.

Q So, again, being on the property, you weren't there in any kind of hot pursuit getting onto the property, were you?

A It is just a driveway, you turn in and you knock or if you see somebody and you -- there is no hot pursuit beforehand. It is a hot pursuit in the incident. I can't slow this down anymore for you or articulate it any better than that, Mr. Henderson.

Q And I understand that. And, again, you didn't see any criminal activity looking down that road, did you?

A No, sir. I just saw a white male at that point and time that was possibly my suspect because the information I had been given.

Q And, again, you are looking for Dottie Brock, correct?

A That is what I was told at the time, yes sir.
Q And you are on Larry Ashley's property without Larry Ashley's permission to look for somebody with an arrest warrant from out of your jurisdiction?
A I wasn't looking on Larry Ashley's property before this happened. Once again, I was in the process to make contact with Mr. Ashley, as I have done before and meetings at times since then. And Mr. Ashley can attest to that, we have always spoken to Mr. Ashley if we had to -- if we have to ask him if somebody lives there or somebody has been there. And he has been very cooperative in the past. So that was my intention, Mr. Henderson. I didn't get a chance to do that.
Q You didn't do it this time?
A I didn't get a chance to.
Q And was it you that had Larry Ashley sign the consent to search after Greer had been arrested?
A No, sir. I don't recall. As far as I can recall, I don't recall having Larry to sign a consent to search.
Q Do you know what Deputy would have?
A Just one second, Mr. Henderson. Let me look here. I am sorry, I can't answer that, Mr. Henderson. I don't have that document right here.
Q Have you ever seen that consent to search?
A Yes sir, I remember it being in the case log, yes

sir.

Q Right. And it was signed after, Larry Ashley signed it after Greer was arrested, I will represent to you. Does that sound familiar?

A I wasn't, at that point present when Larry signed whatever he signed. I just saw the document --

Q Okay.

A -- as to that.

MR. HENDERSON: I don't have anything further for this witness, Your Honor.

THE COURT: Officer, please answer any questions that the Attorney General may have for you.

MR. GLADDEN: Yes, sir.

MR. NEUBAUER: Thank you, Your Honor.

CROSS-EXAMINATION

By Mr. Neubauer:

Q Good afternoon, Officer, sorry, Gladden. I apologize about that.

A That's fine.

Q I have a few questions for you. Did you assist Honea Path Police Department with serving arrest warrants for Donnie Brock and Barbara Young on November 21st, 2016?

A Yes sir, I did.

Q And you stated when you arrived on the scene you did not see a no trespass sign. Is that correct?

A No sir, I did not see one, that's correct.
Q Do you know here or did you know where Donnie Brock and Barbara Young were located on the property that day?
A I had received information from the Honea Path Police Department that Mr. Brock and Ms. Young had been seen on the property that Mr. Greer Ashley was on. Yes, sir.
Q Yes, sir. And can you briefly describe the layout of the property?
A It is a very muddy terrain. Most of the outside of what you see from the road is muddy on that one drive, the first driveway. [redacted], I think, borders that. [redacted] is Mr. Ashley's property, it is wooded, got a lot of vehicles and buildings and things like that. I think even a body shop to the left of Mr. Ashley's property as well.
Q Thank you. And you have been on this property before, correct?
A Yes, sir. Yes sir, several times.
Q And when you entered the property that day was the gate leading to the property, was that closed?
A I don't recall it being closed at that time, no sir.
Q Yes, sir. Now, you stated you saw a truck and a white male in that first opening. Is that correct?
A That's correct.
Q And when you saw that white male, can you explain to the Court what happened?

A I guess they saw me quicker than I saw them. Because at that point, when I was coming out through there, I saw a vehicle --

THE COURT: You are moving around a lot and you are blacking out back and forth from the microphone. We are getting sloppy. So if you would, just stay focused on the microphone and if you could, go back to the start of your answer.

A Okay. At that point I observed a white male to my left, to the direction of a left turn. And the truck was, at the time, along with Mr. Ashley, I assume, I had seen him drive it before, he came right towards the residence, Mr. Greer Ashley.

Q Yes, sir.

A Can you hear me?

Q Yes, sir.

A Okay.

Q Now, when you saw the suspect and a white male outside of the truck, did he flee at that time?

A Yes, sir.

Q And you were not the one who chased the suspect, were you?

A Yes, sir.

Q You did or you did not?

A I did, yes sir, I was the first.

Q And when you eventually caught up to him did you identify the suspect?

A Yes, sir. Once I caught up with him, I can't think of how close up I was, once I caught up with him I was able to identify him from having known him and seen him before.

Q Yes, sir. And did you find anything on him or near him when you caught him?

A Yes sir, I did. He was --

MR. HENDERSON: Your Honor, he is going outside of what we are alleging.

THE COURT: Okay. Well, he is on cross-examination, I don't know where he is going but he is allowed some leeway on cross-examination more so than direct. Go ahead, sir.

A Yes, sir. I did find a substance that was in Mr. Greer Ashley's possession during and after, you know, my attempt to catch up with him at the time. As I explained, I didn't know it was him but once I made contact, saw him tossing the jug right before I made contact with him, the jug was a green container, it contained what to be crystal methamphetamine. And at that point Mr. Ashley stated to me, I am done, I am going to jail for life.

Q Yes, sir. Thank you. So he voluntarily made that statement to you?

A Yes, sir.

Q You did not question him to pull that statement out of him?

A No, sir. I wasn't looking for Mr. Greer Ashley, I wasn't there for Mr. Greer Ashley for any capacity.

Q Yes, sir. And just one more question. Regarding the video that you saw. With -- you said that there was some issues regarding the camera angles that were viewed or that were portrayed. You said the camera kind of turned at points. Would you say that that did not properly demonstrate the field of view that you would have had that day driving down that driveway, that you would have been able to see a bit more than what the video portrayed?

A That is exactly what I am saying. It wasn't a clear depiction of being, the layout, the landscape at that time of the year. I mean, it was way more clear in the Fall season morning hours. And clearly the phone video turns to the left more times than it does, the driveway is a normal view. But, you know, it is hard to see to the right of this phone like it was. So that is not a clear depiction of the layout of that time of the year.

Q Yes, sir. Thank you so much. That is all the questions that I have at this point.

THE COURT: Any redirect limited to what he went into, Mr. Henderson?

MR. HENDERSON: Give me one minute. I don't think I have anything further, Your Honor.

THE COURT: Thank you, sir. Tell Mr. Black we are going to do next. We are going to take a short break.

(Whereupon, a short break was taken.)

THE COURT: We are going to do Solicitor Black next?

MR. HENDERSON: Yes, sir.

THE COURT: Solicitor, have you ever given testimony remotely before?

SOLICITOR BLACK: I have never given testimony remotely, I have been a part of hearings but as a Prosecutor.

THE COURT: Then let me just review a couple of things. We are recording everything that happens here so I would ask, that given the fact that there is issues with the internet and virtual testimony, whenever you are responding to questions try to speak a little bit slower than normal and so that we all can understand you. Also try to keep focused on the microphone as to where that is. The last witness got a little bit excited towards the end. He started moving around and his voice started going off, so focus on the microphone. Let the questioner, when they are asking questions, let them finish and maybe pause just for a moment before you give your answer. That way voices are not going to be echoing over each other. If ever

during the process you cannot hear what the questioner is saying, just let us know and we will have them repeat the question. But thank you for your patience while we got to you and thank you for letting us borrow your video machine, as some people would call it. And if you would, I am going to need for you to unmute, raise your right hand and I will swear you.

Micah Black, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Henderson:

Q Solicitor, how are you?

A Pretty good.

Q I just want to run through some documents that has been, that are already into evidence in this case. Exhibit 29, under the discovery request, that Mr. Byrholdt served on your office. Are you familiar with those?

A I don't have them in front of me but I am familiar with, that he sent a Rule 5 and we responded. Yes sir.

Q And it was clocked in, the request was clocked in on December the 16th of 2016, I will represent to you.

A Okay.

Q And I will represent to you that the documents were served on your office on December the 29th of '16.

A Okay.

Q At least that is what the Clerk's filing are showing. And I guess you just answered the standard discovery requests, correct?
A Yes sir, we did.
Q And what has been marked as exhibit 30 into evidence, on October the 10th, Mr. Byrholdt filed a motion to suppress. Are you familiar with that motion?
A I am.
Q And I believe Ms. Lumley and you and I have actually discussed it, as well, I believe that your office received it on October the 10th of 2017?
A That's correct.
Q And at that point when had you noticed Mr. Ashley's jury trial. I know it was scheduled to begin Monday, October 23, but when had you notified Mr. Byrholdt, you are first up, you are second up?
A I am not sure when the trial docket was sent out. Usually I send them out at least one month prior to the court date and I don't have exactly when I sent this out. But I would say it would be standard, at least within a month. I do know that in terms of talking about Mr. Ashley's case, it was one of those things that just didn't appear on the trial docket. Mr. Byrholdt and myself had discussed, kind at length, different plea offers and whatnot. And so he was or he knew that this was coming

down the pipeline. Again, it wasn't something that was, you know, thrown on the month before without him having any kind of knowledge that it would be on the trial docket. He was aware because we were in discussions about possible plea offers and whatnot on this case.

Q And this trial docket, would you have emailed it, mailed it to him by snail mail, how would it be sent to him?

A I send out the trial docket via email. I send it to all of the attorneys.

Q And as far as you know he got it?

A As far as I know he did.

Q I think what has been marked as exhibit 31 was a email from you to Mr. Byrholdt dated October the 18th, 2017.

A Okay.

Q Are you familiar with that email?

A I am not sure, what is the email, I don't have it in front of me.

Q It is, I will read some of it to you. This is to Bruce. I met with two of the officers this afternoon, Gladden and McCurry, who initially chased Greer Ashley and arrested him. And you go on about some stuff that you think you need to produce pursuant to Rule 5 and Brady. And then later on in the email you asked him or you write,

I am assuming that you want a Jackson v. Denno hearing regrading the statement he gave to Lieutenant Graham. Do you recall sending that email?
A I did, yes sir.
Q And, again, that is five days before trial.
A Okay.
Q You would agree with that, I want to make sure my math is right.
A What was the trial date again, I am sorry.
Q Monday, October 23 of 2017.
A Okay. And the email was on the 18th?
Q On the 18th.
A Yes, sir.
Q And I will represent to you, there is no mention in this email on the suppression hearing.
A That's correct.
Q Had Mr. Byrholdt got with you about wanting to schedule the suppression hearing?
A Well, he set the motions, I mean, it was going -- my assumption was that we would do that as a pretrial matter. So the email that I sent was obviously giving him additional material that he did not have that I thought was necessary for him to have regarding statements Mr. Ashley had made. So we had not talked about a Jackson v. Denno hearing. He did have a motion asking for that but I

sent him an email basically responding to him, under the assumption that, you know, we were going to have this suppression hearing. But asking, hey, also do you want a Jackson v. Denno hearing. Just to cover if we indeed go forward with trial. So that was the purpose of that email.

Q Okay. I got you. But at that point in time, other than you receiving the motion to suppress, you and trial Counsel had not talked about scheduling a motion to suppress?

A We had not scheduled it but it was understood that it would be done pretrial, before the jury would, you know, come in and start hearing testimony.

Q Okay. Was that your understanding or you and Byrholdt reached that mutual understanding?

A Well, it was, I would say that's typically done. And since he had filed a motion to suppress, I knew that that was an issue that he would be raising.

Q But the hearing wasn't ever officially scheduled, so to speak?

A No because I had basically told him, hey, the offer is, I think it was -- I basically told him, hey, if we go forward with this suppression --

THE COURT: Excuse me, Mr. Solicitor, could you back up just a little bit. You said the offer was basically,

and then it went. Can you back up to that point. You were saying the offer was basically something.

A Yes.

THE COURT: And we missed that.

A Okay. I am sorry. So we had been discussing a plea option. And the offer had been communicated that I would do a, it would be a 15 year offer at eighty-five percent. And I don't remember exactly what he pled to, I think it was a second offense, so that would put him in the eighty-five percent range. But I had talked to Bruce and I had indicated to him that if, if we move forward with a suppression hearing then that offer of 15 years would not be on the table.

Q How did you communicate that to Bruce. I mean, was that by email, by telephone call, that if he went forward with the suppression motion that the offer is off the table?

A We had communicated via telephone.

Q And, again, you and I have talked about this on the telephone, correct?

A I am sorry?

Q You and I have talked about this situation on the telephone, correct?

A Yes sir, I called you last week and just kind of was picking your brain about what was going on. And we had a

conversation, yes sir.

Q Right. And, again, and you just told His Honor, this was kind of a take it or leave it deal? I mean, you offered 15 years, either he takes it or we go to trial?

A That's correct.

Q And you told him if he doesn't take it, have the suppression hearing, the offer is off the table?

A Essentially, yes sir.

Q Let me ask you. On the day of court, when the trial jury was scheduled to come in, on that Monday, October 23, do you and Bruce have a pretrial meeting with Judge Addy to discuss anything?

A I don't think that we did. I don't have any notice about that but I do not think that we did meet with Judge Addy. But, I am not sure --

Q You kind of broke up there a couple of words. Can you repeat that last sentence?

A I don't, I do not believe that we did meet with Judge Addy, I do not think we did.

Q And it would make sense, that if this was take it or leave it, there was nothing to meet with him about?

A Yes sir, that is typically how that works.

Q Right. And as far as you know, that Bruce hadn't got with Judge Addy about scheduling a motion to suppress?

A No sir, as far as I know.

Q If he did it would have been ex parte, it sounds like?
A Yes, sir.
Q Okay. And have you gone back through and read the plea transcript?
A I have not.
Q Okay.
MR. HENDERSON: Your Honor, I don't think I have anything further for the Solicitor.
THE COURT: Mr. Solicitor, if you would, just answer any questions the Attorney General may have, please.
SOLICITOR BLACK: Yes, sir.

CROSS-EXAMINATION

By Mr. Neubauer:
Q Solicitor Black, thank you for your time. I have just a few questions for you. So you prosecuted the case on or against Greer Ashley, correct?
A I did.
Q And you said there was a 15 year plea offer, serving eighty-five percent. Were there ever any other plea offers extended to Mr. Ashley?
A I do not believe so.
Q And you stated that the deadline to accept this plea offer was prior to any motion to suppression hearing. Is that correct?

A Yes sir, that is correct. I extended the plea offer to be open until the Monday of court and Abbeville court is rather sporadic because of other counties in the circuit and other counties around the State. So we don't have court that often, I guess is what I am getting at. So I left an offer open up until the Monday of trial. And if he wanted to have a trial we would go forward with the trial or if he wanted to accept that 15 year offer then we could do that. But that offer was ending on that Monday, that 15 year offer.

Q Yes sir, thank you. And you remember the evidence the State had against Greer Ashley in this case?

A I do, yes sir.

Q And you stated that you emailed Mr. Byrholdt regarding statements that Greer made to the police when he was arrested, correct?

A I did, yes sir. Those were --

Q -- I apologize for --

A Those were additional statements that were in the report, there were some statements that were in the report but those were in addition to what was -- and I felt that Mr. Byrholdt needed to know and be aware of those.

Q And did you provide Mr. Byrholdt with all relevant information that would have been required under Brady?

A Yes, sir.

Q And you did intend to use the statements that Greer made to police at trial, correct?
A I did. Yeah, I had planned on doing that. You know, those were additional statements that were basically made, you know, a week beforehand. I am not sure if Mr. Byrholdt planned on objecting to those, you know, relatively new statements that the State had found out about. But the plan was to go forward with those and I wanted to get those to him as quickly as possibly so that it possibly wouldn't interfere with the State trying to -- some additional statements to the ones that were also, he was already made aware of.
Q And you remember that in addition to the request for evidence, there was a motion to suppress the physical evidence from this case, correct?
A Yes sir, I think we received that on October the 10th.
Q Yes. And an email to Mr. Byrholdt, when you stated that you assume Mr. Byrholdt would want to go forward with a Jackson v. Denno hearing. This wasn't to indicate that you didn't think there would be a hearing regarding the motion to suppress. So, I guess what I am stating is that you, at that point, you did believe that he planned to go forward with the motion to suppress, correct?
A If we were going to trial I was, he sent a motion to

suppress, that's pretty -- in these types of cases. So I knew that there would be a motion to suppress pretrial.

THE COURT: Let me ask you a question, interrupt. You said these types of motions are pretty, something for these kind of trials. I missed that word.

A I think I said, common. And he had filed an actual motion. Public Defender's typically don't file a motion to suppress, it is kind of done on the record before the trial. Of course, we anticipate them and we are aware that they are going to happen. Bruce had actually filed a motion to suppress so I knew that we were going to hear that motion if Mr. Ashley had elected to proceed to trial.

Q Yes, sir. Thank you so much. At this point I don't have any further questions.

THE COURT: Mr. Henderson, do you have any questions limited to what the Attorney General went into?

MR. HENDERSON: No sir, Your Honor.

THE COURT: Mr. Solicitor, thank you very much. Let me verify with the lawyers they do not need your presence anymore and that you are free to go to enjoy your day. Mr. Henderson?

MR. HENDERSON: We still want the Solicitor's computer, Your Honor, don't turn your computer off.

THE COURT: Is the next witness in Mr. Black's office?

SOLICITOR BLACK: I will go grab him, he is in the next office.

THE COURT: Who is it?

SOLICITOR BLACK: Hines, Jeffrey Hines. I will go grab him.

THE COURT: Okay. Mr. Hines, have you ever testified remotely before?

MR. HINES: I have in Family Court hearings. Yes, sir.

THE COURT: Let me just review a couple of things that you might are already familiar with. We are making a recording of everything that happens here. We do have a Court Reporter who is with us. I say that because we are doing this remotely so the technology is not perfect. So sometimes your testimony, I would ask, if you would, please when you answer questions do so slowly so that we can be sure that we understand you as to what you are saying. I would ask, if you would, to get close to the microphone so that the technology can pick up your voice. I will also ask that you speak up loud enough, so I can hear you. If ever during this process you cannot hear the questioner or me or anybody else immediately let us know and we will speak up for you. When asking questions, let the question finish, let a pause occur and then give your answer, that way the voices are not going to be taken down

and speaking over each over. Officer, it is a pleasure meeting you. I am sorry we can't be face to face but this is the way life is right now during this period of COVID. Now, in order to begin this process I have to administer an oath to you. So, if you would, please raise your right hand.

Jeffrey Hines, being
first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Neubauer:

Q Hello, Investigator Hines, thank you for your time today. I have a few questions for you. Starting off, how long have you worked with Abbeville County Sheriffs Office?

A I have worked with the Abbeville County Sheriffs Office for approximately, over seven years.

Q And did you assist with the arrest of Greer Ashley on November 21st, 2016?

A I did assist in the process of the arrest, that is correct.

Q And do you remember the events of that day as far as you were involved?

A Yes, sir.

Q Would you be willing to share that with the Court?

A Yes, sir.

MR. HINES: Your Honor, can I review my report?

THE COURT: Yes, go ahead.

A Okay. You want me to go ahead and start?

Q Yes, sir.

A Okay. It was on 11/21/2016. At the time, he is now Captain Graham, but Lieutenant Graham and I were doing something and we were contacted by Lieutenant Gladden. Lieutenant Gladden stated that a Brock subject along with someone else had warrants and were suppose to be at Little Greer Ashley's residence. He asked us if we would come and help. And we actually told Lieutenant Gladden that we were busy at the time. So we did not go to the initial contact with Mr. Greer, I was not there. I did, we were called and told that there was a large quantity of methamphetamine seized from Mr. Greer Ashley. At that time my mere job at the sheriffs office was narcotics. I, myself, and Lieutenant Graham at the time, we both worked narcotics. So with that amount of methamphetamine we did go to the residence of Mr. Greer Ashley. Once at the residence of Mr. Greer Ashley we drove down into what they call the Hole. I don't remember which driveway that we drove down. I know one of them is very, like rutted out where vehicles has gone in and out so many times and it is really muddy. So I am not sure if we went down that driveway. And there is another one at Mr. Larry Ashley's,

which is Mr. Greer Ashley's uncle. There is another driveway that is commonly used to go around the ruts. You can go around the ruts and go down but I am not sure which driveway we used but we did go down there. So once we walked down there I spoke to, spoke to Mr. Greer Ashley and then we went and I observed an older white male sitting on the steps of the residence. He was identified as Barry Morgan. Mr. Morgan and Greer Ashley lived at the residence with him, he stated that he did not live inside the trailer. And on that property there is, and this is hard to do, Your Honor, I apologize, I am trying to do hand motions here but you of course can't see my hands. But there is a driveway and then there is Mr. Ashley's, Mr. Ashley's house is to the right and that is Mr. Greer Ashley's father. And then there is a driveway in between his and his brother, Mr. Larry Ashley's house which is Mr. Greer Ashley's uncle. There is a driveway that goes down there but on the edge of Mr. Larry Ashley's property, there is another driveway. Well, down that driveway there was another residence, there is a single wide mobile home which Mr. Morgan, at the time, lived in. There are several people that have lived in that single wide three but Mr. Morgan was residing at that residence at the time. And then there was a camper off to the side. I think there was two campers to be exact and then there is a body

shop, like a shop where Mr. Larry Ashley used to work on cars and I think they still do including, I think Mr. Greer Ashley actually assisted in working on vehicles and stuff like that as well down there. I ask Mr. Morgan if Greer Ashley lived at his residence and he stated that no, he in fact lived in the camper behind the residence. But he did come inside his house to shower and eat. I asked him, I asked Mr. Morgan, due to the large amount of methamphetamines seized if there was anything illegal inside of his residence. And he stated that he had a little bit of marijuana inside. He then stated that, not to his knowledge, Mr. Greer had put anything illegal inside of his residence. I then asked Mr. Morgan if he would be willing to sign a consent to search form and he stated that he would. That residence was searched and then after he completed the consent to search form. And then, like I said, with that I just followed my protocol. And usually I tell people when they give me the consent that they can stop my consent at any time. So Mr. Morgan was told that as well, once I was inside. And there was some drug paraphernalia and things like that located inside of Mr. Morgan's house but no other contraband was located. Lieutenant Graham and I think spoke with Mr. Ashley after he was read his Miranda by Lieutenant Gladden. We asked Mr. Ashley, is there anything else

illegal on the property. He stated that he did have a set of digital scales and sandwich bags. At that time we had Mr. Ashley complete a consent to search form. He stated that we could search his camper and the property. He then took, he personally took us inside of a chicken coop and pointed at a chicken box and stated that he had a set of digital scales inside the box. We did locate the scales and they were in working order and had a large amount of crystalized substance on the scales. I observed a large amount of, I also observed a large amount of crystal like substance inside of a container. I collected that evidence. We then searched Mr. Ashley's camper and had negative results. He was then transported to the Abbeville County Detention Center by Lieutenant Gladden. Lieutenant Graham, Sergeant Ashley and I then went to the residence of Mr. Larry Ashley who is the property owner. We explained to him what was going on and then asked if we could have his consent to search the entire property due to the property having several buildings and abandoned vehicles on it. At that time he did complete a consent to search form, Mr. Larry Ashley did. We then searched the entire property and had no more, didn't find any other contraband or any other evidence. The reason that we asked Mr. Larry Ashley for consent to search the entire property is Mr. Greer Ashley was, the driveway we were

talking about earlier, that was his residence. And he controlled what was around his residence so we did search around his residence off that consent from Mr. Greer Ashley. But Mr. Larry Ashley owns a big parcel of the property. So we asked him to search because there is also a body shop down there and there are cars scattered in the woods. And there is all kinds of things where something can be hidden in. So, Mr. Ashley, that's why he was asked to sign the consent form which he did. Lieutenant Gladden did transfer the evidence over to us, to myself and Lieutenant Graham by a property sheet, evidence sheet from Abbeville County. We did take it back to the office and field tested each individual bag, field tested positive for methamphetamine. We did weigh the substance and it weighed approximately 971 grams. That is what I remember of that day.

Q Yes, sir. Thank you very much. I have a few more questions. When you arrived on the property was there a gate shut preventing you from getting back to the area that you referred to as the Hole?

A I do not recall, that is why, earlier in my testimony I am not sure which driveway that we used. And I honestly can't remember if we was in a car or a truck. If we was in the Charger I know we wouldn't have made it down that driveway, we wouldn't have attempted it. But if we was in

the truck we probably could have made it down. So I am not sure which one, I don't recall.

Q And do you remember, sorry, you stated that there is more than one entrance onto Larry Ashley's property, is that correct?

A That is correct.

Q And, again, you previously, you have seen photos of Exhibit 14 and 15 which display a no trespassing sign. Have you seen this no, did you see that no trespassing sign on the day that Greer Ashley was arrested?

A No sir, I did not.

Q Thank you, sir, I have no further questions at this point.

THE COURT: Sir, if you would, just answer any questions that Mr. Henderson might have for you.

CROSS-EXAMINATION

By Mr. Henderson:

Q Deputy, how are you doing today, sir?

A Good, Carson, how are you.

Q Good. You are not saying that the no trespassing wasn't there, are you?

A I can't say. I can just say that I did not see a no trespassing sign, Carson, none was in view or it would have been obvious.

Q You just didn't see one?

A That is correct, I did not see a no trespassing sign.
Q Okay. And I am looking at this consent to search that you had, that you had Greer sign one, you had Larry sign one. Is that correct?
A I believe so, and I might have gotten both to sign the same one. I am not sure, Carson, I don't have it in front of me to tell you.
Q I will represent to you and I am referring to what has been introduced into evidence as Exhibit 28. I will represent to you there is a separate consent to search for Greer and then a separate one for Larry. I will make that representation to you.
A Okay.
Q And on both pieces, on both of these the address listed is [redacted] Keowee Road.
A That is, hold on one second. It is [redacted] Keowee Road. Yes sir, the residence is down in that, the Hole, I am referring to, the single wide trailer or the campers. I actually just responded to a call down the other day and it came out the same address that was in the Hole. That is not, they have not went to the GIS or to the Abbeville County Building and properly had an address put down there.
Q And you agree that all of the activity you were involved with on the day of Greer's arrest was on Larry

Ashley's property, correct?

A I would agree with Larry Ashley owns the property, yes sir.

Q Right, he owns the, where you were at?

A Yes, sir.

Q Okay. And that address was [redacted] Keowee Road?

A That is a different, that is a different, so these parcels are very confusing. He owns a whole plot, he also owns the body shop which is beside it so I am not sure if, I don't have Mr. Larry's residence in front of me. I do know that he owns the body shop; he owns his brick home; he owns the Hole down there. He owns all of that property down there.

Q I will represent to you that all of the real estate owned by Larry Ashley, which is 56 acres, and I am referring to what has been marked as Plaintiff's Exhibit 1, it is all known as [redacted] Keowee Road. I will make that representation to you.

A And I would say, Carson, that that is wrong. Through our dispatch the body shop has a different address than Mr. Larry Ashley's actual residence. And Mr. Larry Ashley owns the body shop as well as his house and the land behind.

Q Okay. And then we have got the house up on the road which is [redacted], is that correct?

A Like I said, Mr. Henderson, I don't have it in front of me.
Q I am sorry, I think it is [redacted] is the other house up on the road.
A That should be Mr. Ashley's address because all the back, I believe, is [redacted] as well. And the body shop may be [redacted] or something but it is two different addresses, Carson.
Q I agree with you that there are two different addresses. Okay. And you just are not sure which driveway you took to get onto the property that day?
A No sir, I am not. I don't recall, I don't want to tell you that I took one and I took the other. I don't remember which one we took.
Q Okay. You would agree with me that the consent you got Larry Ashley to sign, Greer had already been arrested at that point?
A Yes, sir. He was arrested for what was found in possession at the time and I have already searched his property that he had control. Mr. Ashley, Greer Ashley let me search what he controlled. So therefore, that is why I went to Larry Ashley because Greer Ashley didn't control the woods right behind Larry's house and stuff, that driveway is fairly long. So I just searched what he controlled, I didn't want to search vehicles and stuff

that Mr. Larry Ashley controlled.

Q You just said something, that driveway is pretty long, isn't it?

A It is, I mean, it is a fairly decent driveway. There is some ruts and stuff that you have got to get over, yes sir.

Q And I am talking about the driveway that is open, Larry Ashley's driveway?

A Larry Ashley's driveway is not that long. No, sir. I can see, I mean, his house doesn't sit right on the road but I can, I can throw a baseball and hit his house from the road.

Q Right. But once you leave the concrete part of his driveway, the dirt part of his driveway, that winds a good bit down into the road, to the woods, doesn't it?

A I would agree with that, yes sir.

Q I mean it kind of winds back and forth, it is kind of rutty, isn't it?

A The one to the right is rutty. The one right behind Larry's house is not rutty, no sir.

Q Okay. But the one that goes, I am talking about the one that you get to from Larry's house, right off his concrete driveway. I mean that, that kind of winds through the woods, doesn't it?

A It is a little windy, it is not that bad. You will

get back onto the main driveway fairly quick.
Q But all of that property, all of those driveways are on Larry Ashley's real estate, correct?
A Yeah, because he owns all of it. He owns the Hole and he owns his house and he owns the body shop. So, yes sir, that is fair to say.
Q Right. Again, like I said, there are some twists and turns when you get back into the woods. Actually I think there is one hard right turn, if I recollect?
A I believe there is a hard turn before you get to the residence that Mr. Greer was staying at back there.
Q Back where the trailer and stuff is at?
A Yes, sir.
Q Okay.
MR. HENDERSON: Your Honor, I don't have anything further.
THE COURT: Okay. Let me ask the Attorney General. Do you have any questions on redirect limited to what he went into on cross?
MR. NEUBAUER: I have just one very briefly.

REDIRECT EXAMINATION

By Mr. Neubauer:
Q Investigator Hines, Greer Ashley was arrested on Larry Ashley's property, is that correct?
A That is correct, yes sir.

Q Thank you, sir, no further questions.

THE COURT: Any reason why the Investigator cannot be excused for the rest of the day? Mr. Neubauer, he is your witness.

MR. NEUBAUER: No, Your Honor. No reason why he couldn't be excused.

THE COURT: All right. Thank you for showing up and you may be excused for the rest of the day. Thank you for your patience before we got to you.

MR. HINES: Yes sir, Your Honor. Do I need to be on standby for tomorrow or will I be freed up?

THE COURT: That's up to the lawyers.

MR. NEUBAUER: No, Your Honor. No, Investigator Hines, at this point I believe that is all the testimony that I needed. Thank you for your understanding during all of this.

MR. HENDERSON: I think he is free to go as well, Your Honor.

THE COURT: Thank you, Officer, enjoy your Friday. Are we through with Mr. Black's computer.

MR. NEUBAUER: I believe, to the best of my knowledge, that was all of the witnesses at Mr. Black's office.

THE COURT: Okay. Mr. Henderson.

MR. HENDERSON: I agree, Your Honor, I think we are

done with the Solicitor's computer. In fact, I think we are done for the day. I think we have got all the witnesses that we were anticipating.

THE COURT: But I have 45 more minutes.

MR. HENDERSON: I understand.

THE COURT: Okay. Mr. Ashley, we will try to get together tomorrow, and we will also try to get together a week in March. And then hopefully be able to conclude. I would encourage you to stay in touch with Mr. Henderson and he will explain everything to you because I cannot. Let's plan on tomorrow and if we can't do it we will come up with plan B. I guess just reach out to Mr. Neubauer and we will see y'all tomorrow.

MR. HENDERSON: I think we said we are missing some exhibits.

THE COURT: All right. I do not have the photographs of the home that sits on the road. It might have been 10 and 11 maybe. I have got 11 and 13.

MR. HENDERSON: Your Honor, Exhibit shows Greer Ashley's home; and then 13 shows Larry Ashley's home. You don't have them?

THE COURT: I do not.

MR. HENDERSON: We will get them sent to you. I may have to get Ms. Lumley to send them because she has been helping me to send stuff to Ms. Holston as well.

THE COURT: And what about, what was 13?

MR. HENDERSON: That is the picture of Larry's house, Your honor.

THE COURT: I don't have, i have got the picture of the no trespassing sign at a distance. But I don't have the picture of the no trespassing sign that you keep showing that is close up.

MR. HENDERSON: That would be Exhibit 14.

THE COURT: I don't have that one.

MR. HENDERSON: Okay.

THE COURT: 10, 11, what is 12?

MR. HENDERSON: Your Honor, 12 is a photograph of Larry Ashley's concrete driveway.

THE COURT: I don't have that either.

MR. HENDERSON: Okay.

THE COURT: 10, 11, 12, 13. What was 14?

MR. NEUBAUER: 14 is a closeup of the sign, sir.

THE COURT: That, I don't have that one. Those are the ones that I do not have.

MR. HENDERSON: Your Honor, I know your Clerk emailed me last night, we will send Exhibits 10, 11, 12, 13 and 14 to your Clerk.

THE COURT: Okay. We will gather at 1:00. That will give Mr. Henderson time to get his class in, lunch and then he has got Senator Garrett?

MR. HENDERSON: Yes, sir.

THE COURT: 1:00. All of this is qualified if DOC being allowing us to have access to Mr. Ashley. If we can't do that then we won't do the hearing. But we are hoping to start at 1:00 o'clock. All right. Anything else before I leave?

MR. NEUBAUER: No, Your Honor.

MR. HENDERSON: Not from our end.

THE COURT: It has been enjoyable. Thank you very much.

January 29, 2021.

THE COURT: I saw some emails about what we are going to do today. What did y'all decide.

MR. NEUBAUER: I attempted to have Bruce Byrholdt ready to do. Carson has indicated he cannot complete his testimony in an hour and a half. Therefore the only witness that we are going to have today is Billy Garrett. And we will have to handle the other two in March apparently.

THE COURT: Okay. I mean, I am just a humble public servant, I will do whatever y'all want to do. Let's see, where are we. Are y'all ready or do y'all need some more time?

MR. HENDERSON: I am ready, your Honor.

MR. NEUBAUER: I am ready to proceed, Your honor.

THE COURT: A have got Billy Garrett on a screen. He is able to hear me?

MR. GARRETT: Yes, I am. I can hear you well.

THE COURT: It is good to see you. Thank you for showing up. Have you ever testified remotely before?

MR. GARRETT: No, sir.

THE COURT: There is a couple of basic ground rules. We have a Court Reporter who is with us. She is taking down everything that is said. I just tell you that because when you speak today, due to the fact that we have got technical issues, echos and vibrations, just be sure that you speak slowly so that we can all understand you and she can type down the words. And also loud enough so that we can all hear you. If you ever cannot hear me or one of the questions when they are asking the questions, immediately let us know and we will speak up as well. Now, in order to start this process I have to administer an oath. So, sir, if you would please, raise your right hand.

BILLY GARRETT, being
first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Henderson:

Q Mr. Garrett, I will represent to you that Mr. Greer Ashley was arrested on November of '16 and he hired Bruce

Byrholdt as his attorney to represent him on those drug charges. Are you aware of that?

A No, I was not aware of the prior representation by Mr. Byrholdt.

Q Okay. And I will represent to you that on or about September 1st of '17, Mr. Ashley, Greer Ashley was arrested on a probation violation?

A I am familiar with that.

Q Okay. Mr. Ashley hired you to represent him on that, is that correct?

A Actually his Uncle came in and wanted me to go over and speak to Little Greer, as he kindly referred to him. Little Greer asked me and I went over and did see him concerning the probation violation penalty.

Q And it is my understanding from talking with you that Mr. Ashley or Greer Ashley's family hired you on September the 20th of 2017, correct?

A That is correct.

Q And you told me that, looking through your notes, you actually went over to the Abbeville County Detention Center to talk with Mr. Ashley, I believe, on September 21st of 2017. Is that correct?

A That's correct, Mr. Henderson.

Q And without going into great detail of what you and Mr. Ashley discussed, did it come a point in time where

you had some concerns about possible search problems?

A That's correct.

Q And tell His Honor a little bit about that. I know you did represent Mr. Ashley on that but kind of tell him what happened after those concerns were brought forth to you.

MR. NEUBAUER: Your Honor, briefly, before anything is said I would just, if he is going to go into what Greer Ashley said himself, I would object to that as hearsay. Greer Ashley would be able to testify himself about it but I don't feel that he should be able to present out-of-court statements from another witness.

MR. HENDERSON: I am not asking Mr. Garrett to say anything that Mr. Ashley told him.

MR. NEUBAUER: I want to preamble to cut that off before, I guess, reared its head.

THE COURT: Okay. Based on what Mr. Henderson said, I don't have to make any rulings. So the witness can answer the way the witness wishes to answer. Go ahead, sir.

A As a result of my conversations with Little Greer Ashley, sat down and discussed in great length what had occurred and why he was on probation and why he was going to be, why he was arrested and he was serving, at that point, without bond. So we talked about the bond, me

trying to get him a bond. And then we talked about the ultimate case, the case that he had hired Mr. Byrholdt on. And I told him I couldn't represent him on that case, I would have to speak with Mr. Byrholdt. In our conversation he told me basically the facts of what happened. As a result of that conversation, it became clear to me that, after I had talked to the Uncle that hired me, that there was a question about whether or not law enforcement had the right to go past a, a no trespassing sign onto the Greer family property. And I made a note to that to myself and at some later time I conferred that information over to Byrholdt, that they may have a search issue, that I was concerned about it because it was described, it seemed to me that there was no way that they could have seen him from that stop-sign or from that no trespassing. So is that what you are looking for, Mr. Henderson, any other parts of the discussion you want me to talk about?

Q I think that is fine. So your conversation with Mr. Byrholdt, at the earliest, could have been after you talked with Mr. Ashley on September 21st of 2017?

A That's correct.

Q And, again, I think you told me you checked your notes and your file and you couldn't find a specific date or time that you talked with Mr. Byrholdt?

A That's correct. I know Mr. Byrholdt and practiced law, saw both he and his father over the years. So I just mentioned to him that I was going to try, you know, try to bootstrap off of what he was doing. My concern was, is that it wasn't going for a lot if that would affect his ability to go forward in his case and on the initial case. And so we talked about him being on probation, this would be a violation of his probation if he was found having been guilty of this. It was a question of whether or not we would get him on bond. Again, I just talked to him generally and I said, have you had a chance to look at this issue of the search. My concern was, is that that, that information had been given to me and I wanted to make sure he had it because I didn't know from his conversations, my conversation, whether that had been discussed with Mr. Byrholdt. So after that we talked a little bit about the possible sentence he could get was like 25 years. He said he was going to negotiate. I contacted the Sheriff to see whether or not we could use potentially Mr. Ashley as a witness for the Government. Apparently there was something going on up in Anderson, drugs were going on up in Anderson by some Mexicans. He had some information to that effect and I was trying to see whether or not we could use that to try to help. And I went ahead and told Mr. Byrholdt about that generally,

told him that I would not get involved in his case but that that was available. And I would be happy to do that and at some point I found in my file when I wrote the sheriffs at the local counties and advised them about that. And I also explained that to Mr. Byrholdt, that I was trying to do that and, you know, if it helped him it would be great and if it didn't then he would have to get his permission before he could do anything like that on his case.

Q And, Mr. Garrett, I believe you said that looking in your file, that you got a telephone call on October the 10th of 2017 from Mr. Ashley's family telling you that he was scheduled to be in court on his criminal case on October the 23rd of '17. Is that correct?

A That's correct.

Q And they were just relaying that information to you, correct?

A That is correct.

Q And so there is no doubt in your mind that you raised the search issues with Mr. Byrholdt?

A No. There is no question. I mean, he and I, I told him he needed to look at it because there was some question about whether or not they had permission to go on the property. They were clear about that there was a sign there. And I asked them, how did they get all of that.

The gentleman said, the older gentleman said, he had said that to go down there and --

Q -- okay. Mr. Garrett, can you clarify what you just said, and that was consent after the fact, is that correct?

A That's correct. They came back and asked him, was it okay for them to be down there. That is what they told me happened. I said, well, did they have a search warrant. And he said, no, that they didn't have a search warrant. That they came back up after the fact and said was it okay for us to go down there, that we had been down there. And he wasn't happy about it but he said, y'all just do what y'all need to do. I think he was scared. I am talking about the older man now, the fellow that actually hired me. He was taken aback that they had went down on his property without his permission.

Q And that was the Uncle, correct?

A That's right, that's the Uncle.

Q Okay.

A There was a Randy Ashley; there is a Larry Ashley, I think is the Uncle; there is a Randy Ashley that was the conduit between me and Larry. And Randy Ashley was Little Greer's cousin, I think, maybe. I talked to both Randy Ashley and I talked to Larry Ashley.

Q And I will represent to you, Mr. Garrett, that Larry

Ashley has previously testified?
A Okay.
MR. HENDERSON: Your Honor, I don't have any other direct examination for Mr. Garrett.
THE COURT: All right, sir, answer any questions that Mr. Neubauer might have with you.
MR. NEUBAUER: Thank you, Your Honor.

CROSS-EXAMINATION

By Mr. Neubauer:
Q Mr. Garrett, you were not Greer Ashley's lawyer in this drug charge, correct?
A That is correct.
Q And you do not know the full extent of all discussions that happened between Bruce Byrholdt and Greer Ashley in this case, correct?
A I was never present, either of them were talking about this case.
Q So you would not be aware if Bruce Byrholdt had discussed the possible search issue with Greer Ashley?
A That is absolutely correct. I was not, and I purposefully was not involved in that representation.
Q And you do not know if they did, when these conversations would have happened, correct?
A The timing of it would have been from the time that I went and talked with him because I wouldn't have known

about it until then. I saw him on 9/21, I am thinking that shortly thereafter, there was a complimentary call out of professional courtesy. I wanted to make sure Mr. Byrholdt knew that I wasn't trying to get involved in this representation of Little Greer Ashley. So we had that conversation, professional conversation, generally discussed. At some later point we were able to allow his probation violation to be subsumed into this sentence, at a later time.

Q Yes, sir. But you do not know that your prior discussion with Mr. Byrholdt, that Mr. Byrholdt had spoken with Greer about any constitutional issues. Is that correct?

A All I know is, in my conversation with Little Greer Ashley, at the detention center in Abbeville, he advised that he had told them about this problem about this trespass sign and then coming onto the property. Whether he did or not, I don't know, I wasn't there. My recollection was, he brought it to my attention and I asked him, had he told that to his lawyer and he said that he had.

Q Yes, sir. Thank you so much. I have no further questions at this point.

THE COURT: Mr. Henderson, do you have any redirect limited to what the Attorney General went into?

MR. HENDERSON: No sir, Your Honor.

THE COURT: Any reason why the witness cannot be excused?

MR. HENDERSON: No, sir.

MR. NEUBAUER: No, Your Honor, thank you for your time.

THE COURT: Thank you very much and enjoy your day.

MR. GARRETT: Thank you.

THE COURT: All right. So, Mr. Henderson, and Mr. Neubauer, we have scheduled an entire afternoon and this is all you have got?

MR. HENDERSON: I think so, Your Honor, just because Mr. Byrholdt wasn't going to be available until after 3:30. And who knows, that could have turned into 4:00 o'clock. I know His Honor wants to be done before 5:00.

THE COURT: Now you are going to blame it on me.

MR. NEUBAUER: Your Honor, Mr. Byrholdt confirmed that he would be available at 3:30. Carson indicated that he did not believe that an hour and a half would be sufficient time to pull his testimony. I apologize that we only had ten to fifteen minutes worth of testimony this afternoon.

THE COURT: So you talked to opposing counsel and y'all made the unilateral decision without me, the Court Reporter and everybody else that y'all are just going to

throw half of the afternoon away.

MR. NEUBAUER: I was amenable to continuing forward.

THE COURT: It's okay.

MR. NEUBAUER: We couldn't come to an understanding.

THE COURT: That's all right. When Mr. Henderson throws me under the bus, and he says, oh, because His Honor wants to get out of here by 5:00, that is just fine, Mr. Henderson.

MR. HENDERSON: Your Honor, actually I have got plenty I can do this afternoon as well.

THE COURT: I am just a humble public servant at y'all's disposal. That is just it. Okay. So, are we going to be able to do this in a day's time when we get back together?

MR. HENDERSON: I think so, your Honor, absolutely. I would imagine we can probably take care of the direct and cross for Mr. Byrholdt and my client probably within four to five hours, would be my guess. And I am not anticipating, there wouldn't be any rebuttal case because Mr. Neubauer has already put up his client.

THE COURT: So you think that we have got two more witnesses, that would be Byrholdt and Mr. Greer Ashley?

MR. NEUBAUER: Yes, Your Honor. I would, I will reference it again, I would ask for a brief closing argument. But I believe my questioning of both Applicant

and trial counsel would be well under an hour.

THE COURT: Together?

MR. NEUBAUER: Yes, Your Honor.

THE COURT: So about thirty minutes a piece?

MR. NEUBAUER: Roughly, Your Honor, I have already prepared most of my questions for both of them and I do not foresee it lasting longer than an hour. It all just depends on how long it would take Mr. Henderson at this point and the brief closing that I would request would run at max, five to ten minutes. I have got a few cases that I would like to reference and then kind of make an argument of the State's position.

THE COURT: And have you ever worked with Mr. Henderson on a trial before?

MR. NEUBAUER: No, your Honor, this is the first evidentiary hearing that I have handled.

THE COURT: He is rough. Okay. Gentlemen, I am trying to have a little lividity, okay.

MR. NEUBAUER: I am sorry, I have been battling COVID this past week.

THE COURT: I am glad that you are there. Okay. Do you agree, Mr. Henderson, we can get through in a day? I mean, four or fie hours?

MR. HENDERSON: Absolutely, Your Honor. We will start at 09:30 that Monday morning. I am sure Your Honor

will take a midmorning break sometime. We ought to be done, 12:30, 1:30, 2:00.

THE COURT: Okay, I will everyone back on the 15th. Thank you.

*** END OF REQUESTED TRANSCRIPT OF RECORD ***

CERTIFICATE OF REPORTER

State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and partial transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Abbeville, on the 28th and 29th days of January, 2021 by Virtual Courtroom.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

May 25, 2022

Joy E. Holston

Joy E. Holston, Court Reporter

My Commission expires: May 2, 2026

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AGENCY I.D. SC0040300

INCIDENT REPORT

Honea Path Police Department

UNAPP

Updated

CASE NUMBER: 16-01181

NCIC INQ. | ENTD.

EVENT

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED
1. 90F - Unlawful Neglect of a Child	■ YES □ NO	□ YES □ NO		
2.	□ YES □ NO	□ YES □ NO		
3.	□ YES □ NO	□ YES □ NO		

TYPE VICTIM: ■ Individual □ Business □ Financial Ins □ Government □ Relig. Orgn. □ Soc./Public □ Other □ Unknown □ Police Off.

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER): [redacted] North Main Street, Honea Path, SC | ZIP CODE: 29654- | WEAPON TYPE:

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK: DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.
11/14/2016			11/14/2016		11/14/2016				

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT (J S O U)	RACE	SEX	AGE	ETH.	HOME PHONE D E	EMPLOYER PHONE D E
Clark, Kristen Agnew				J S O U						

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
[redacted] McGee Road	Anderson	SC	29621-	

VICTIM NO. 1

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT (J S O U)	RACE	SEX	AGE	ETH.	HOME PHONE D E	EMPLOYER PHONE D E
B.Y.				(J) S O U	W	M	BB			

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARTIES, ETC.
1'04"	10	BLK - Black	BRO - Brown	

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
[redacted] Railroad Street	Honea Path	SC	29654-	

VISIBLE INJURY (VICT. 1) □ YES NO □ EXPLAIN - | COMPLAINT OF NON-VISIBLE INJURIES: □ YES ■ NO

VICTIM (NO. 1): NONE ■ USING: ALCOHOL □ DRUGS □ TYPE:

TWO-MAN VEH. □ ONE-MAN VEH. □ DETECTIVE/SPLASMT. □ OTHER □ | ALONE □ ASSISTED □ | * J – This Jurisdiction S – State O – Out of State U – Unknown

SUBJECT NO. 1

■ SUSPECT □ RUNAWAY □ WANTED ■ WARRANT ■ ARREST ■ JAIL □ SUMMONS

NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
Young, Barbara Dezaraye	W	F	22	N	[redacted]/1993	5'04"	165	BRO - Bro	BRO - Bro

FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARTIES, ETC.

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
[redacted] Railroad Street	Honea Path	SC	29654-	

SUBJECT (NO. 1) USING: ALCOHOL □ COMPUTER EQUIP. □ DRUGS ■ Amphetamines/Methamphet NONE □ | ARRESTED NEAR OFFENSE SCENE □ YES NO ■ TOTAL # ARRESTED 0 | DATE/TIME OF OFFENSE 11/14/2016 | DATE/TIME OF ARREST

NARRATIVE

On the above date and time Ro was contacted by the Complainant in reference to receiving the Victim's drug screen record that was conducted due to a report Anderson DSS received about Subject #1 taking the Victim around drugs. Investigation to continue.....

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY | JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY

PROPERTY EST.

	TYPE (GROUP)							TOTAL VALUE
STOLEN								
DAMAGED								
BURNED								
RECOVERED								
SEIZED								
COUNTERFEIT								

ADMINISTRATIVE

SUBJECT IDENTIFIED ■ YES NO □ | SUBJECT LOCATED ■ YES NO □ | □ ACTIVE □ ADM. CLOSED □ UNFOUNDED | □ ARRESTED UNDER 18 ■ ARRESTED 18 AND OVER | □ EX-CLEAR UNDER 18 □ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. □ OFFENDER DEATH 2. □ NO PROSECUTION 3. □ EXTRADITION DENIED 4. □ VICTIM DECLINES COOPERATION 5. □ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
608 - Ptl. Timothy R. Wright, II	11/14/2016	608	602 - Lt. SHAWN R. BOSEMAN	11/21/2016	
			FOLLOW-UP INVESTIGATION OFFICER □ YES NO ■		

AGENCY I.D. SC0040300

SUPPLEMENTAL INCIDENT REPORT
Honea Path Police Department

CASE NUMBER: 16-01181

NCIC INQ. | ENTD.

☐ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

VICT./SUBJ./I.D./OVERFLOW

☐ COMPLAINANT ☐ VICTIM # ☐ ■ SUBJECT # 2 ☐ RUNAWAY ☐ WANTED ■ WARRANT ■ ARREST ■ JAIL ☐ SUMMONS ■ Suspect

NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
YOUNG, BRITTANY MICHELLE				* J S O U	W	F	23	[redacted]1992	N

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.
5'08"	200	BRO - Brown	BRO - Brown	

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.	HOME PHONE D E	EMPLOYER PHONE D E
[redacted] RAILROAD ST	Honea Path	SC	29654-		[redacted]	

☐ VICTIM NO. ___ VISIBLE INJURY: ☐ NO ☐ YES — EXPLAIN
COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES
VICTIM USING ALCOHOL: ☐ DRUGS: ☐ ☐ NONE
☐ TWO-MAN VEHICLE ☐ ONE-MAN VEHICLE ☐ DETECTIVE/SPLASMT ☐ OTHER ☐ ALONE ☐ ASSISTED

■ SUBJECT NO. 2 USING: ALCOHOL ☐ DRUGS ■ COMPUTER EQUIP. ☐ NONE ☐ TYPE: Amphetamines/Methamphetamines

VICT./SUBJ./I.D./OVERFLOW

☐ COMPLAINANT ☐ VICTIM # ☐ ■ SUBJECT # 3 ☐ RUNAWAY ☐ WANTED ■ WARRANT ■ ARREST ■ JAIL ☐ SUMMONS ■ Suspect

NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
Greene, Walter Eugene				* J S O U	W	M	63	[redacted]/1953	N

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.
5'11"	141	SDY - Sandy	BLU - Blue	

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.	HOME PHONE D E	EMPLOYER PHONE D E
[redacted] Railroad Street	Honea Path	SC	29654-		[redacted]	

☐ VICTIM NO. ___ VISIBLE INJURY: ☐ NO ☐ YES — EXPLAIN
COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES
VICTIM USING ALCOHOL: ☐ DRUGS: ☐ ☐ NONE
☐ TWO-MAN VEHICLE ☐ ONE-MAN VEHICLE ☐ DETECTIVE/SPLASMT ☐ OTHER ☐ ALONE ☐ ASSISTED

■ SUBJECT NO. 3 USING: ALCOHOL ☐ DRUGS ■ COMPUTER EQUIP. ☐ NONE ☐ TYPE: Amphetamines/Methamphetamines

NARRATIVE

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY

JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY

VEH./GUN/ECT

STATUS: ☐ STOLEN ☐ RECOVERED ☐ FOUND ☐ TOWED ☐ SUSPECT ☐ VICTIM
TYPE: ☐ VEHICLE ☐ GUN ☐ BOAT ☐ LICENSE PLATE ☐ SECURITIES/BONDS, STOCKS ☐ ARTICLE

VIN AND/OR LICENSE NO. | BOAT HULL NO. AND/OR REG. NO.
SERIAL AND/OR OWNER APPLIED NO. | STATE
YEAR OF REGISTRATION | YEAR OF EXPIRATION | YEAR | MAKE | TYPE
MODEL | STYLE | COLOR | BRAND NAME | CALIBER
NIC NO. | DENOMINATION | ISSUER | SECURITIES DATE
MISCELLANEOUS

PROPERTY EST.

TYPE (GROUP)							TOTAL VALUE
STOLEN							
DAMAGED							
BURNED							
RECOVERED							
SEIZED							
COUNTERFEIT							

ADMINISTRATIVE

SUBJECT IDENTIFIED ■ YES ☐ NO — SUBJECT LOCATED ■ YES ☐ NO — ☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED — ☐ ARRESTED UNDER 18 ■ ARRESTED 18 AND OVER — ☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
608 - Ptl. Timothy R. Wright, II	11/14/2016	608	602 - Lt. SHAWN R. BOSEMAN	11/21/2016	
			FOLLOW-UP INVESTIGATION OFFICER ☐ YES ☐ NO ■		

AGENCY I.D. SC0040300

SUPPLEMENTARY INCIDENT REPORT
Honea Path Police Department

CASE NUMBER 16-01181

NCIC INQ. | ENTD.

☐ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

NARRATIVE

statement. While speaking with the Complainant, she did advise me that Subject #1 and Subject #4 admitted to her in their meeting on 11/14/2016 that they both smoked methamphetamine together while Subject #1 was pregnant. The Complainant gave me a signed written statement at that time about the Subject #1 and Subject #4's disclosures. A Victim Assistance Form was also issued to the Complainant for the Victim due to the Victim being a juvenile and still in the custody of DSS. The written statement form and Victims Form will be attached to this report.

Investigation to continue…..

SUPPLEMENT #5 Ptl. Timothy R. Wright, II - 608 11/18/2016 13:57

On 11/18/2016 I, Ptl. Wright, had Subject #3 come to the Honea Path Police Department and speak with me about this incident. Subject #3 was read his miranda rights to which he waived and a miranda waiver form was signed. Subject #3 gave me a signed written statement on this incident. The signed written statement will be placed with this report. The whole interview was recorded on body camera and will be placed with this report also.

Investigation to continue…..

SUPPLEMENT #6 Ptl. Timothy R. Wright, II - 608 11/18/2016 17:34

On 11/18/2016 I, Ptl. Wright, had Haven NeGail Butler come up to the police department and speak with me about this incident since Mrs. Butler is the girlfriend of Subject #2 and has been around the Victim. Mrs. Gail was read her miranda rights to which she waived and gave me a signed written statement about this incident. The signed written statement will be placed with this report. The whole interview was recorded on body camera and will be placed with this report also.

Investigation to continue…..

SUPPLEMENT #7 Ptl. Timothy R. Wright, II - 608 11/19/2016 10:09

On 11/18/2016 I, Ptl. Wright, called the phone number that Subject #1 gave the Complainant to reach her by. The Complainant has also advised me that she has spoken with Subject #1 at this number before. I was calling to try and have Subject #1 and Subject #4 come to the Honea Path Police Department and speak with me about this incident. Once the number was dialed, a recording came over the phone stating that the phone number had been changed or disconnected. The attempt to call was also recorded on body camera and will be placed with this report. Due to the several signed statements from other parties stating that Subject #1 and Subject #4 used/smoked methamhetamines the entire time that Subject #1 was pregnant, warrants will be obtained on both

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED			
■ YES ☐ NO	■ YES ☐ NO	☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ■ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
608 - Ptl. Timothy R. Wright, II	11/14/2016	608	602 - Lt. SHAWN R. BOSEMAN	11/21/2016	
			FOLLOW-UP INVESTIGATION OFFICER ☐ YES NO ■		

AGENCY I.D. SC0040300

SUPPLEMENTARY INCIDENT REPORT
Honea Path Police Department

CASE NUMBER: 16-01181

NCIC: INQ. | ENTD.

☐ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

NARRATIVE

subjects for Unlawful Neglect of a Child.

Warrants will also be obtained on Subject #2 and Subject #3 for Unlawful Neglect of a Child due to the child being left in the custody of both subjects after the child was born. Both Subjects would watch the child and keep the child for Subject #1 when she did not want to. Also the Complainant placed the child in the temporary custody of Subject #2 and Subject #3. Both Subjects and the Victim tested positive for Cocaine. The drug test were collected on all parties on the same day (11/07/2016).

Investigation to continue.....

SUPPLEMENT #8 Ptl. Timothy R. Wright, II - 608 11/20/2016 13:41

On 11/19/2016 I, Ptl. Wright, obatined Warrant #2016A0420200204 on Subject #1, Warrant #2016A0420200203 on Subject #4, Warrant #2016A0420200206 on Subject #3, and Warrant #2016A0420200205 on Subject #2. All Warrants were obtained for the charge of Unlawful Neglect of a Child from Judge D.C Bannister. Copies of the warrants will be faxed to Dispatch to be placed into NCIC. Nothing further.....

SUPPLEMENT #9 Records 11/21/2016 14:46

All warrants served and subjects transported to ACDC by Lunz. All warrants faxed to dispatch to be removed.

SUPPLEMENT #10 Ptl. Timothy R. Wright, II - 608 12/13/2016 13:44

On 12/13/2016 I, Ptl. Wright, spoke with Subject #4 at the Anderson County Detention Center about this incident. Subject #4 was read his miranda rights to which he waived and stated that he would speak with me. Subject #4 gave me a signed written statement that will be placed with this report. The whole interview was also recorded on body camera and will be placed with this report. Nothing further.....

ADMINISTRATIVE

SUBJECT IDENTIFIED ■ YES ☐ NO | SUBJECT LOCATED ■ YES ☐ NO | ☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED | ☐ ARRESTED UNDER 18 ■ ARRESTED 18 AND OVER | ☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
608 - Ptl. Timothy R. Wright, II	11/14/2016	608	602 - Lt. SHAWN R. BOSEMAN	11/21/2016	
			FOLLOWUP INVESTIGATION OFFICER ☐ YES ■ NO		

AGENCY I.D. SC0040300

SUPPLEMENTARY INCIDENT REPORT
Honea Path Police Department

CASE NUMBER: 16-01181

NCIC INQ. | ENTD.

☐ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

NARRATIVE

Investigative Notes

(Ref. to Ptl. Wright's observations/actions)

On the above date and time I, Ptl. Wright, was contacted by the Complainant in reference to receiving the Victim's drug screen record that was conducted due to a report Anderson DSS received. The report stated that Subject #1 was taking the child/Victim around drugs. A safety action plan was put into place on 11/05/2016 by the Complainant due to the report that was filed with their department (HPPD Case #16-01150). When the safety action plan was being put into place, Subject #1 allowed the Victim to be placed in the temporary custody of Subject #2 and Subject #3 and all parties were advised by the Complainant to go for a drug screen. While speaking with the Complainant, she advised that the Victim did test positive for methamphetamine and cocaine. I asked the Complainant to fax all the copies of everyone's drug screen results to me at the Honea Path Police Department. The Complainant advised that on 11/11/2016 the Victim was placed into Emergency Protective Custody due to all 3 Subject's drug screen results coming back positive for narcotic drugs (HPPD Case #16-01173). While viewing the paperwork that was faxed, I did observe that all three Subjects and the Victim had a hair drug screen completed on 11/07/2016. Subject #1 tested positive for amphetamines and methamphetamine; Subject #2 tested positive for cocaine; Subject #3 tested positive for methamphetamine and cocaine. Before getting off the phone, the Complainant advised me that she spoke with Subject #1 this morning (11/14/2016) on the phone and Subject #1 admitted to smoking methamphetamine while she was pregnant but never "messed" with cocaine. I will obtain a signed written statement from the Complainant on what Subject #1 disclosed to her. All Subjects will be brought to the police department for further questioning.

Investigation to continue.....

SUPPLEMENT #1 Ptl. Timothy R. Wright, II - 608 11/14/2016 17:13

On 11/14/2016 I, Ptl. Wright, went to the residence of [redacted] Railroad Street and spoke with Subject #2. I asked Subject #2 if she would come to the Honea Path Police Department and speak with me about this incident. Subject #2 stated that she would come and speak with me and I escorted her to the police department. While speaking with Subject #2 she was read her miranda rights to which she waived to speak with me. A Miranda Form was signed and will be placed with this report. Subject #2 gave me a signed written statement in reference to this incident and it will be placed with this report. The whole interview was recorded on body camera and will be placed with this report also.

Investigation to continue.....

SUPPLEMENT #3 Ptl. Timothy R. Wright, II - 608 11/15/2016 18:04

On 11/15/2016 I, Ptl. Wright, went a made contact with the Complainant at her office to obtain a

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED				
■ YES ☐ NO	■ YES ☐ NO	☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
		☐ UNFOUNDED	■ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
608 - Ptl. Timothy R. Wright, II	11/14/2016	608	602 - Lt. SHAWN R. BOSEMAN	11/21/2016	
			FOLLOW-UP INVESTIGATION OFFICER ☐ YES NO ■		

AGENCY I.D. SC0040300

SUPPLEMENTARY INCIDENT REPORT
Honea Path Police Department

CASE NUMBER: 16-01181 | NCIC INQ. | NCIC ENTD.

☐ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

PAGE 6 of 6 PAGES

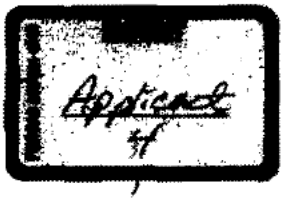
Victim(s), Offender(s), Others Involved

☐ COMPLAINANT ☐ VICTIM # ☐ SUBJECT # 4 ☐ RUNAWAY ☐ WANTED ■ WARRANT ■ ARREST ■ JAIL ☐ SUMMONS ■ Suspect

NAME (LAST, FIRST, MIDDLE): Brock, Donnie Wayne
VICTIM RELATIONSHIP TO SUBJECT #1 / #2 / #3:
RESIDENT: J S O U
RACE: W | SEX: M | AGE: 41 | D.O.B.: [redacted]/1975 | ETH: N
HEIGHT: 6'02" | WEIGHT: 200 | HAIR: BRO - Brown | EYES: BRO - Brown
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.:
ADDRESS: [redacted] Hammett Street | CITY: Honea Path | STATE: SC | ZIP CODE: 29654-
LOCATION NO. | HOME PHONE | EMPLOYER PHONE
☐ VICTIM NO. ___ VISIBLE INJURY: ☐ NO ☐ YES | EXPLAIN
COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES
VICTIM USING ALCOHOL: ☐ | ☐ NONE | DRUGS: ☐
☐ TWO-MAN VEHICLE ■ DETECTIVE/SPLASM? | ☐ ONE-MAN VEHICLE ☐ OTHER | ☐ ALONE ☐ ASSISTED
■ SUBJECT NO. 4 USING: ALCOHOL ☐ DRUGS ■ TYPE: Amphetamines/Methamphetamines
COMPUTER EQUIP. ☐ NONE ☐

☐ COMPLAINANT ☐ VICTIM # ☐ SUBJECT # 5 ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS ■ Suspect

NAME (LAST, FIRST, MIDDLE): Greene, Kimberly Michelle
VICTIM RELATIONSHIP TO SUBJECT #1 / #2 / #3:
RESIDENT: J S O U
RACE: W | SEX: F | AGE: 44 | D.O.B.: [redacted]/1972 | ETH: N
HEIGHT: 5'05" | WEIGHT: 152 | HAIR: BRO - Brown | EYES: BLU - Blue
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.:
ADDRESS: [redacted] Railroad Street | CITY: Honea Path | STATE: SC | ZIP CODE: 29654-
LOCATION NO. | HOME PHONE | EMPLOYER PHONE
☐ VICTIM NO. ___ VISIBLE INJURY: ☐ NO ☐ YES | EXPLAIN
COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES
VICTIM USING ALCOHOL: ☐ | ☐ NONE | DRUGS: ☐
☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASM? | ☐ ONE-MAN VEHICLE ☐ OTHER | ☐ ALONE ☐ ASSISTED
■ SUBJECT NO. 5 USING: ALCOHOL ☐ DRUGS ■ TYPE: Amphetamines/Methamphetamines
COMPUTER EQUIP. ☐ NONE ☐



STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

0000GS04
INDICTMENT NUMBER

2016A0420200203
CASE NUMBER

CASE DISPOSITION HISTORY

Defendant:
Brock, Donnie Wayne Hoyt
[redacted] Hammett St

Honea Path, SC

SS# [redacted]
Sex: M
Race: W

DOB: 1975[redacted]
DL#: [redacted]
DL State: SC

Date of Arrest:	2016-11-22
Filed with Clerk:	2016-11-29
Offense Description:	Children / Legal custodian, unlawful neglect of child or helpless person
Disposition:	Dismissed at Preliminary Hearing
Disposition Judge:	Magistrates General Sessions Court
Disposition Date:	12/16/2016

Richard A. Shirley

Richard A. Shirley, Clerk of Court
General Sessions, Anderson County

A TRUE COPY
MAY - 1 2019
ANDERSON CLERK OF COURT

ARREST WARRANT

2016A0420200203

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Honea Path

THE STATE

against

Donnie Wayne Hoyt Brock

Address: [redacted] Hammett St

Honea Path, SC 29654-1217

Phone: SSN: [redacted]

Sex: M Race: W Height: 6 4 Weight: 200

DL State: SC DL #: [redacted]

DOB: [redacted]/1975 Agency ORI #: SC0040300

Prosecuting Agency: Honea Path Police Department

Prosecuting Officer: Timothy R Wright - 0670

Offense: Children / Legal custodian, unlawful neglect of child or helpless person

Offense Code: 2481

Code/Ordinance Sec: 63-05-0070

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
100 South Main Street
Po Box 8002
Anderson, SC 29622

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA)

☐ County/ ☒ Municipality of)

Honea Path)

AFFIDAVIT

DEFENDANT COPY

Form Approved by S.C. Attorney Gen April 21, 2003 SCCA 518

Personally appeared before me the affiant Timothy R Wright

being duly sworn deposes and says that defendant Donnie Wayne Hoyt Brock

did within this county and state on or about 11/12/2016 violate the criminal laws o

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Honea Path

in the following particulars:

DESCRIPTION OF OFFENSE: Children / Legal custodian, unlawful neglect of child or helpless person

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

In that on 11/12/2016, the defendant/ Donnie Wayne Hoyt Brock did endanger the Victim/ Brayden Young's health and unlawfully placed him at unreasonable risk of harm by exposing him to Methamphetamine. This incident did occur inside the municipal town limits of Honea Path, in Anderson County, South Carolina 29654.. This being against the peace and dignity of the State of South Carolina. HPPD CASE#16-0H81.

Signature of Affiant

STATE OF SOUTH CAROLINA)

☐ County/ ☒ Municipality of)

Honea Path)

Affiant's Address 34 North Main St
Honea Path, SC 29654-

Affiant's Telephone (864)369-0532

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe tha

on or about 11/12/2016 defendant Donnie Wayne Hoyt Brock

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

☐ County/ ☒ Municipality of Honea Path) as set forth below:

DESCRIPTION OF OFFENSE: Children / Legal custodian, unlawful neglect of child or helpless person

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)

on 11/19/2016)

(L.S.))

Signature of Issuing Judge

Dennis Calhoun Bannister (Honea Path) Jr.)

Judge Code: 8072)

Judge's Address 204 South Main Street
Honea Path, SC 29654-1523

Judge's Telephone (864)369-2999

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

195

196

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ANDERSON

STATE VS.

BARBARA DEZARAYE YOUNG

AKA: _____

Race: White Sex: F Age: 23

DOB: [redacted]/1993 SS#: [redacted]

Address: [redacted] Hwy 246 N

City, State, Zip: Hodges, SC 29653

DL# [redacted] SID# SC02180420

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2017GS0401381
W: 2016A0420200204
ate of Offense: 11/12/2016
S.C. Code §: 63-05-0080
CDR Code #: 0078

ENTERED

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☑ PLEADS TS+C (8/25)

TO: Cruelty to a Child or Children

In violation of § 63-05-0080 of the S.C. Code of Laws, bearing CDR Code # 0078

☑ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As indicted, ☑ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☑ Recommendation by the State.

ATTEST:

Catherine Wyse, Assistant Solicitor 73802 SC Bar #

Barbara D. Young Defendant

Attorney for Defendant 13028 SC Bar #

WHEREFORE, the Defendant is committed to the ☐ **State Department of Corrections** ☑ **County Detention Center,** for a determinate term of _____ days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of Time Served days/months/years and or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing**

Total: $_____ plus 20% fee: _____ $_____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$_____
§14-1-206 (Assessments 107.2%)		$100.00
§14-1-211 (A)(1)(Conv. Surcharge)	$60	$_____
§14-1-211 (A)(2)(DUI Surcharge)	$100	$_____
§56-5-2995 (DUI Assessment)	$12	$_____
§56-1-286 (DUI Breath Test)	$25	$_____
Proviso 61.6 (Public Def/Prob)	$500	$_____
§14-1-212 (Law Enforce. Funding)	$25	$25.00
§14-1-213 (Drug Court Surcharge)	$150	$_____
§50-21-114 (BUI Breath Test Fee)	$50	$_____
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$_____
3% to County (if paid in installments)	$ [redacted]	$_____
TOTAL		$125.00

A TRUE COPY MAY - 1 2019 ANDERSON CLERK OF COURT

☐ **Ordered** PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly pmts. of $_____ Beginning _____

$_____ Paid to Public Defender Fund

Other: _____

FILED

☐ Appointed PD or appointed other counsel,

Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Richard A. Hunter

Court Reporter: VA

Presiding Judge: _____

Judge Bar ID: _____ Judge Code: 4[redacted]

Sentence Date: 12/7/17

SCCA/217 (07/2016)

WITNESSES

Honea Path Police Dept.
T. Wright

ARREST WARRANT NUMBER

2016A0420200204

ACTION OF GRAND JURY

TRUE BILL
MAY 23 2017
Foreperson

Foreperson of Grand Jury
Date: MAY 23 2017

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2017-GS-04- 01381

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS
MAY 23 2017
_____, **TERM**

THE STATE

VS.

BARBARA DEZARAYE YOUNG

INDICTMENT FOR

UNLAWFUL NEGLECT OF A CHILD

SC Code: § 63-05-0070
CDR Code: 2481

A TRUE COPY
MAY - 1 2019
ANDERSON CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

INDICTMENT

At a Court of General Sessions, convened on MAY 2 3 2017, the Grand Jurors of Anderson County present upon their oath:

UNLAWFUL NEGLECT OF A CHILD

The defendant, Barbara Dezaraye Young, in Anderson County, South Carolina, while having charge or custody of a child, being the parent or guardian of a child, or being responsible for the welfare of the child, as defined by S.C. Code Ann. 63-7-20, did in Anderson County on or about November 12, 2016, willfully and unlawfully place the minor victim, B. W. Y. (DOB: [redacted], 2016), at unreasonable risk of harm affecting the child's life, physical or mental health or safety; or unlawfully or maliciously do or cause to be done any bodily harm to the child so that the life or the health of the child was endangered or likely to be endangered; or did willfully abandon the child. All in violation of 63-05-0070 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

CATHERINE WYSE
ASSISTANT SOLICITOR

ARREST WARRANT

2016A0420200204

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Honea Path

THE STATE

against

Barbara Dezaraye Young

Address: [redacted] Railroad St

Honea Path, SC 29654-1620

Phone: SSN: [redacted]

Sex: F Race: W Height: 5 7 Weight: 165

DL State: SC DL #: [redacted]

DOB: [redacted]/1993 Agency ORI #: SC0040300

Prosecuting Agency: Honea Path Police Department

Prosecuting Officer: Timothy R Wright - 0670

Offense: Children / Legal custodian, unlawful neglect of child or helpless person

Offense Code: 2481

Code/Ordinance Sec: 63-05-0070

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Barbara Dezaraye Young on 11/22/16

A. Lowe/Anderson

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
100 South Main Street
Po Box 8002
Anderson, SC 29622

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Honea Path)

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

AFFIDAVIT

Personally appeared before me the affiant Timothy R Wright who being duly sworn deposes and says that defendant Barbara Dezaraye Young did within this county and state on or about 11/12/2016 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Honea Path) in the following particulars:

DESCRIPTION OF OFFENSE: Children / Legal custodian, unlawful neglect of child or helpless person

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

In that on 11/12/2016, the defendant/ Barbara Dezaraye Young being the parent and having given birth to the Victim/ B.Y. , did endanger the Victims health and unlawfully place the Victim at unreasonable risk of harm by exposing the Victim to Methamphetamine. This incident did occur inside the municipal town limits of Honea Path, Anderson County, South Carolina 29654. This being against the peace and dignity of the State of South Carolina. HPPD CASE#16-01181.

Signature of Affiant

STATE OF SOUTH CAROLINA)
☐ County/ ☒ Municipality of)
Honea Path)

Affiant's Address 34 North Main St
Honea Path, SC 29654-

Affiant's Telephone (864)369-0532

FILED-CLERK'S OFFICE
ANDERSON SS
2019 MAY 17 PM 1:15
COURT OF COMMON PLEAS & GENERAL SESSIONS

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 11/12/2016 defendant Barbara Dezaraye Young did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Honea Path) as set forth below.

DESCRIPTION OF OFFENSE: Children / Legal custodian, unlawful neglect of child or helpless person

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 11/19/2016

D.C. Bannister Jr. (L.S.)

Signature of Issuing Judge

Dennis Calhoun Bannister (Honea Path) Jr.

Judge Code: 8072

Judge's Address 204 South Main Street
Honea Path, SC 29654-1523

Judge's Telephone (864)369-2999

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

A TRUE COPY
MAY - 1 2019
ANDERSON CLERK OF COURT

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

199

200

AGENCY I.D. SC0040300

INCIDENT REPORT
Honea Path Police Department

CASE NUMBER: 16-01206

NCIC: INQ. | ENTD.

EVENT

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED
1. NRP - WARRANT SERVICE	■ YES ☐ NO	☐ YES ☐ NO	20(Residence/Home)	
2.	☐ YES ☐ NO	☐ YES ☐ NO		
3.	☐ YES ☐ NO	☐ YES ☐ NO		

TYPE VICTIM: ☐ Individual ☐ Business ☐ Financial Ins ☐ Government ☐ Relig. Orgn. ■ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.

Attached

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER): Keowee Road, Honea Path, SC | ZIP CODE: 29654- | WEAPON TYPE:

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK: DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.
11/21/2016	10:45		11/21/2016	15:00	11/21/2016	10:45	10:45	15:00	

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) | RELATIONSHIP TO SUBJECT #1 #2 #3 | RESIDENT * J S O U | RACE | SEX | AGE | ETH. | HOME PHONE D E | EMPLOYER PHONE D E

ADDRESS | CITY | STATE | ZIP CODE | LOCATION NO.

VICTIM NO. 1

VICTIM'S NAME (LAST, FIRST, MIDDLE): STATE OF SOUTH CAROLINA | RELATIONSHIP TO SUBJECT #1 #2 #3 | RESIDENT * J S O U | RACE | SEX | AGE | ETH. | HOME PHONE D E | EMPLOYER PHONE D E

HEIGHT | WEIGHT | HAIR | EYES | FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARTIES, ETC.

ADDRESS | CITY | STATE | ZIP CODE | LOCATION NO.

VISIBLE INJURY (VICT. 1) ☐ YES NO ☐ EXPLAIN - | COMPLAINT OF NON-VISIBLE INJURIES: ☐ YES ■ NO

VICTIM (NO. 1): NONE ☐ USING: ALCOHOL ☐ DRUGS ☐ TYPE:

TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPL.ASMT. ☐ OTHER ☐ | ALONE ☐ ASSISTED ☐ | * J – This Jurisdiction S – State O – Out of State U – Unknown

SUBJECT NO. 1

■ SUSPECT ☐ RUNAWAY ■ WANTED ■ WARRANT ■ ARREST ■ JAIL ☐ SUMMONS

NAME, (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
Brock, Donnie Wayne	W	M	41	N	[redacted]/1975	6'02"	200	BRO - Bro	BRO - Bro

FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARTIES, ETC.

ADDRESS: [redacted] Hammett Street | CITY: Honea Path | STATE: SC | ZIP CODE: 29654- | LOCATION NO.

SUBJECT (NO. 1) USING: ALCOHOL ☐ COMPUTER EQUIP. ☐ DRUGS ☐ NONE ☐ | ARRESTED NEAR OFFENSE SCENE ■ YES NO ☐ | TOTAL # ARRESTED 2 | DATE/TIME OF OFFENSE: 11/21/2016 10:45 | DATE/TIME OF ARREST: 11/21/2016 14:30

NARRATIVE

I OFFICER ELDER RECEIVED INFORMATION ON 11/21/2016 THAT TWO SUBJECTS DONNIE BROCK AND BARBARA YOUNG WHERE AT A RESIDENCE ON KEOWEE RD. I CONTACTED ABBEVILLE COUNTY SHERIFFS OFFICE. OFFICER LUNZ AND HINTON MET WITH DEPUTY MCURRY OF THE ABBEVILLE SHERIFFS OFFICE AND WENT TO THE [redacted] BLOCK OF KEOWEE RD. OFFICERS WITH DEPUTY WENT AND FOUND THE FEMALE BARBARA YOUNG IN A RV CAMPER. SHE WAS TAKEN INTO CUSTODY WITH OUT INCIDENT TRANSPORTED TO THE ANDERSON COUNTY DETENTION TO BE PROCESSED AND ARRAIGNED. THE MALE BROCK AND A WHITE MALE WHERE OBSERVED IN A GOLD IN COLOR FORD TRUCK. THE MALE GREER ASHLEY EXITED THE TRUCK AND RAN. SUBJECT WAS TAKEN INTO CUSTODY AFTER A SHORT PURSUIT. DONNIE BROCK DROVE OFF IN THE TRUCK STILL ON THE PROPERTY ROS LOST VISUAL CONTACT . SEVERAL HOURS LATER ABBEVILLE COUNTY SHERIFF'S OFFICE CONTACTED THE HONEA PATH POLICE DEPT. AND STATED THEY HAD FOUND DONNIE BROCK. OFFICER LUNZ WENT TO MEET WITH THEM. OFFICER LUNZ TOOK BROCK INTO CUSTODY AND TRANSPORTED HIM THE ANDERSON COUNTY DETENTION TO BE ARRAIGNED AND PROCESSED.

PROPERTY EST.

	JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	TOTAL VALUE
TYPE (GROUP)			
STOLEN			
DAMAGED			
BURNED			
RECOVERED			
SEIZED			
COUNTERFEIT			

FILED

ADMINISTRATIVE

SUBJECT IDENTIFIED ■ YES NO ☐ | SUBJECT LOCATED ■ YES NO ☐ | ☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED | ☐ ARRESTED UNDER 18 ■ ARRESTED 18 AND OVER | ☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
606 - Ptl. Kevin L. Elder	11/21/2016	606	602 - Lt. SHAWN R. BOSEMAN	11/22/2016	
610 - Ptl. Andrew P. Lunz			FOLLOW-UP INVESTIGATION OFFICER ☐ YES NO ■		

AGENCY I.D. SC0040300

SUPPLEMENTAL INCIDENT REPORT
Honea Path Police Department

CASE NUMBER: 16-01206

NCIC: INQ. | ENTD.

☐ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

PAGE 2 of 2 PAGES

VICT./SUBJ. I.D. OVERFLOW

☐ COMPLAINANT ☐ VICTIM # ☐ SUBJECT # 2 ☐ RUNAWAY ■ WANTED ■ WARRANT ■ ARREST ■ JAIL ☐ SUMMONS ■ Suspect

NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
Young, Barbara Dezaraye				* J S O U	W	F	23	11/19/1993	N

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARTIES, ETC.
5'04"	165	BRO - Brown	BRO - Brown	

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.	HOME PHONE D E	EMPLOYER PHONE D E
[redacted] Railroad Street	Honea Path	SC	29654-			

☐ VICTIM NO. ___ VISIBLE INJURY: ☐ NO ☐ YES — EXPLAIN
COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES
VICTIM USING ALCOHOL: ☐ DRUGS: ☐ ☐ NONE
☐ TWO-MAN VEHICLE ☐ ONE-MAN VEHICLE ☐ DETECTIVE/SPLASHT ☐ OTHER ☐ ALONE ☐ ASSISTED

■ SUBJECT NO. 2 USING: ALCOHOL ☐ DRUGS ☐ TYPE:
COMPUTER EQUIP. ☐ NONE ☐

VICT./SUBJ. I.D. OVERFLOW

☐ COMPLAINANT ☐ VICTIM # ☐ SUBJECT # ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS ☐

NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	D.O.B.	ETH
				* J S O U					

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARTIES, ETC.

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.	HOME PHONE D E	EMPLOYER PHONE D E

☐ VICTIM NO. ___ VISIBLE INJURY: ☐ NO ☐ YES — EXPLAIN
COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES
VICTIM USING ALCOHOL: ☐ DRUGS: ☐ ☐ NONE
☐ TWO-MAN VEHICLE ☐ ONE-MAN VEHICLE ☐ DETECTIVE/SPLASHT ☐ OTHER ☐ ALONE ☐ ASSISTED

☐ SUBJECT NO. ___ USING: ALCOHOL ☐ DRUGS ☐ TYPE:
COMPUTER EQUIP. ☐ NONE ☐

NARRATIVE

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY

JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY

VEH./GUN/ECT

STATUS	TYPE
☐ STOLEN	☐ VEHICLE
☐ RECOVERED	☐ GUN
☐ FOUND	☐ BOAT
☐ TOWED	☐ LICENSE PLATE
☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS
☐ VICTIM	☐ ARTICLE

VIN AND/OR LICENSE NO. | BOAT HULL NO. AND/OR REG. NO.
SERIAL AND/OR OWNER APPLIED NO. | STATE
YEAR OF REGISTRATION | YEAR OF EXPIRATION | YEAR | MAKE | TYPE
MODEL | STYLE | COLOR | BRAND NAME | CALIBER
NIC NO. | DENOMINATION | ISSUER | SECURITIES DATE
MISCELLANEOUS

PROPERTY EST.

TYPE (GROUP)							TOTAL VALUE
STOLEN							
DAMAGED							
BURNED							
RECOVERED							
SEIZED							
COUNTERFEIT							

ADMINISTRATIVE

SUBJECT IDENTIFIED ■ YES ☐ NO — SUBJECT LOCATED ■ YES ☐ NO — ☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED — ☐ ARRESTED UNDER 18 ■ ARRESTED 18 AND OVER — ☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
606 - Ptl. Kevin L. Elder	11/21/2016	606	602 - Lt. SHAWN R. BOSEMAN	11/22/2016	
610 - Ptl. Andrew P. Lunz			FOLLOW-UP INVESTIGATION OFFICER ☐ YES NO ■		

AGENCY I.D.
SC0010000

INCIDENT REPORT

CASE NUMBER: 2016-37829 | NIC NO. | NIC NTO

EXHIBIT
Applicant
24

EVENT

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. Drug / Narcotic Violations (35A)	☒ YES ☐ NO	☐ YES ☒ NO	Field/Woods		☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Org. ☒ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
2.	☐ YES ☐ NO	☐ YES ☐ NO			
3.	☐ YES ☐ NO	☐ YES ☐ NO			

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER): [redacted] KEOWEE ROAD HONEA PATH, SC | ZIP CODE: 29654 | WEAPON TYPE:

INCIDENT DATE	24 HR. CLOCK	TO DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK: DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART TIME	LOCATION NO.
11/21/2016	10:58	11/21/2016	10:58	11/21/2016	10:58:00 AM	10:58:00 AM	1:00:00 PM	4

VICTIM NO.1

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE
GLADDEN 103, LT MACK		* (J) S O U	B	M	0	N		

ADDRESS | CITY | STATE | ZIP CODE | LOCATION NO.

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE
Society/Public		* J S O U						

HEIGHT | WEIGHT | HAIR | EYES | FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS | CITY | STATE | ZIP CODE | LOCATION NO.

VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN - | COMPLAINT OF NON-VISIBLE INJURIES: ☐ YES ☒ NO

VICTIM (NO.1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK DRUGS: ☐ YES ☒ NO ☐ UNK. TYPE:

TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/PLAINCL. ☐ OTHER ☐ ALONE ☒ ASSISTED ☐ * J - This Jurisdiction, S - State, O - Out of State, U - Unknown

SUBJECT NO.1

☒ SUSPECT ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☒ ARREST ☒ JAIL ☐ SUMMONS

NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
ASHLEY, GREER HANIE JR	W	M	48	N	[redacted]/1968	510	200	BRO	HAZ

FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.: HAS MOUSTACHE

ADDRESS: [redacted] KEEWEE RD. | CITY: HONEA PATH | STATE: SC | ZIP CODE: 29654 | LOCATION NO.

SUBJECT (NO.1) USING ALCOHOL ☐ YES ☒ NO ☐ UNK. DRUGS ☒ YES ☐ NO ☐ UNK TYPE: | ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO ☐ UNK. TOTAL # ARRESTED: | DATE/TIME OF OFFENSE | DATE/TIME OF ARREST

NARRATIVE

ON TODAY'S DATE OF 11/21/16 DISPATCH ADVISED THAT THE HONEA PATH POLICE DEPARTMENT NEEDED ABBEVILLE COUNTY'S ASSISTANCE WITH SERVING AN ARREST WARRANT ON TWO INDIVIDUALS LOCATED ON KEOWEE ROAD IN ABBEVILLE COUNTY. UPON ARRIVAL DEPUTIES NOTICED A WHITE MALE RUNNING THE OPPOSITE DIRECTION OF THEM WHILE CARRYING AN UNKNOWN CONTAINER. AFTER CATCHING UP TO THE FLEEING SUBJECT IT WAS DISCOVERED THAT THE WHITE MALE LATER IDENTIFIED AS GREER HANIE ASHLEY JR. POSSESSED A LARGE QUANTITY OF CRYSTAL LIKE SUBSTANCE THAT LATER FIELD TESTED POSITIVE FOR METHAMPHETAMINE IN THE CONTAINER. THE MALE WAS ARRESTED FOR TRAFFICKING ICE OF 400 GRAMS OR MORE 3RD OFFENSE. SEE SUPPLEMENTAL REPORT FOR FURTHER INFORMATION.

JURISDICTION OF THEFT: SC0010000 | JURISDICTION OF RECOVERY:

PROPERTY EST.

TYPE(GROUP)	Drugs/Narcotics						TOTAL VALUE
STOLEN							
DAMAGED							
BURNED							
RECOVERED							
SEIZED							
FORGED							

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED			
☒ YES ☐ NO	☒ YES ☐ NO	☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
GLADDEN, MACK ERIC IV	11/21/2016	103	GLADDEN, MACK ERIC IV		103
			FOLLOW-UP INVESTIGATION ☒ YES ☐ NO OFFICER GRAHAM, MATTHEW DWAYNE	11/21/2016	102

AGENCY I.D.
SC0010000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER	NO.	ENTD.
2016-37829		

NCIC

☒ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

PAGE 2 of 2 PAGES

VICT/SUBJ OVERFLOW

☐ COMPLAINANT ☐ VICTIM # ☐ SUBJECT # ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS ☐ .

NAME (LAST, FIRST, MIDDLE) | VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3 | RESIDENT: JSOU | RACE | SEX | AGE | D.O.B. | ETH.

HEIGHT | WEIGHT | HAIR | EYES | FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS | CITY | STATE | ZIP CODE | LOCATION NO. | DAY PHONE | EVENING PHONE

☐ VICTIM NO. . VISIBLE INJURY ☐ YES ☐ NO EXPLAIN: | COMPLAINT OF NON-VISIBLE INJURIES ☐ YES ☐ NO | VICTIM USING ALCOHOL ☐ YES ☐ NO ☐ UNK. DRUGS ☐ YES ☐ NO ☐ UNK. TYPE | ☐ TWO-MAN VEH. ☐ ONE-MAN VEH. | ☐ DETECTIVE/SPLASMT. ☐ OTHER | ☐ ALONE ☐ ASSISTED

☐ SUBJECT NO. . USING ALCOHOL ☐ YES ☐ NO USING DRUGS ☐ YES ☐ NO ☐ UNK. TYPE

VICT/SUBJ OVERFLOW

☐ COMPLAINANT ☐ VICTIM # ☐ SUBJECT # ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS ☐ .

NAME (LAST, FIRST, MIDDLE) | VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3 | RESIDENT: JSOU | RACE | SEX | AGE | D.O.B. | ETH.

HEIGHT | WEIGHT | HAIR | EYES | FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS | CITY | STATE | ZIP CODE | LOCATION NO. | DAY PHONE | EVENING PHONE

☐ VICTIM NO. . VISIBLE INJURY ☐ YES ☐ NO EXPLAIN: | COMPLAINT OF NON-VISIBLE INJURIES ☐ YES ☐ NO | VICTIM USING ALCOHOL ☐ YES ☐ NO ☐ UNK. DRUGS ☐ YES ☐ NO ☐ UNK. TYPE | ☐ TWO-MAN VEH. ☐ ONE-MAN VEH. | ☐ DETECTIVE/SPLASMT. ☐ OTHER | ☐ ALONE ☐ ASSISTED

☐ SUBJECT NO. . USING ALCOHOL ☐ YES ☐ NO USING DRUGS ☐ YES ☐ NO ☐ UNK. TYPE

NARRATIVE

JURISDICTION OF THEFT: SC0010000

JURISDICTION OF RECOVERY:

VEHICLE/ETC 1

STATUS: ☐ STOLEN ☐ RECOVERED ☐ FOUND ☐ TOWED ☐ SUSPECT ☐ VICTIM

TYPE: ☐ VEHICLE ☐ GUN ☐ BOAT ☐ LICENSE PLATE ☐ SECURITIES/BONDS/STOCKS ☐ ARTICLE

VIN AND/OR LICENSE NO. | BOAT HULL NO. AND/OR REG. NO.

SERIAL AND/OR OWNER APPLIED NO. | STATE

YEAR OF REGISTRATION | YEAR OF EXPIRATION | YEAR | MAKE | TYPE

MODEL | STYLE | COLOR | BRAND NAME | CALIBER

NIC NO. | DENOMINATION | ISSUER | SECURITIES DATE

MISCELLANEOUS
10 CLEAR PLASTIC SANDWICH BAGS CONTAINING CRYSTAL LIKE SUBSTANCE IN A GALLON SIZE ZIP LOCK BAG (Drugs/Narcotics)

PROPERTY EST.

TYPE(GROUP)							TOTAL VALUE
STOLEN							
DAMAGED							
BURNED							
RECOVERED							
SEIZED							
FORGED							

ADMINISTRATIVE

SUBJECT IDENTIFIED: ☒ YES ☐ NO | SUBJECT LOCATED: ☒ YES ☐ NO | ACTIVE ☐ ☐ ADM. CLOSED ☐ UNFOUNDED | ☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER | ☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
GLADDEN, MACK ERIC IV	11/21/2016	103	GLADDEN, MACK ERIC IV		103
			FOLLOWUP OFFICER INVESTIGATION ☒ YES ☐ NO GRAHAM, MATTHEW DWAYNE	11/21/2016	102

AGENCY I.D.
SC0010000

INCIDENT SELECTED SUPPLEMENTAL REPORT

NCIC	CASE NUMBER	DIO.	ENTO
	2018-37829		

☒ SUPPLEMENTAL REPORT	☐ CASE STATUS CHANGE	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 1 of 1 PAGES	
☐ MODIFIES ORIGINAL		☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY		

NARRATIVE

THESE TWO WANTED INDIVIDUALS, DONNIE BROCK AND DESIREE YOUNG HAD ALREADY BEEN ENTERED INTO THE NCIC BY HONEA PATH PD. MYSELF ALONG WITH DEPUTY MCCURRY DID PROVIDE ASSISTANCE WITH ATTEMPTING TO SERVE THESE WARRANTS AT THE LOCATION THESE TWO INDIVIDUALS HAD BEEN STAYING. UPON ARRIVAL AT THE LOCATION OF [redacted] KEOWEE ROAD, HONEA PATH SC 29654 WE OBSERVED AN UNKNOWN WITE MALE TO BEGIN FLEEING ON FOOT BY RUNNING THROUGH THE WOODS. THE UNKNOWN WHITE MALE POSSESSED A LIGHT GREEN CONTAINER LATER IDENTIFIED AS A LIQUID LAUNDRY DETERGENT CONTAINER.

I DID PURSUE THE UNKNOWN WHITE MALE THROUGH THE WOODS AND WAS ABLE TO CATCH UP TO HIM DUE TO HIM FALLING TWICE. UPON MAKING CONTACT WITH THE WHITE MALE WHO WAS AT THIS TIME IDENTIFIED AS GREER HAYNIE ASHLEY JR I OBSERVED THE CONTAINER TO HAVE AN INCISION APPROXIMATELY 5 INCHES LONG ALONG THE UPPER HALF OF THE CONTAINER. IN PLAIN VIEW THE CONTAINER DIDN'T APPEAR TO CONTAIN ANY LIQUIDS BUT DID APPEAR TO HAVE SEVERAL CLEAR PLASTIC SANDWICH BAG'S IN IT WHICH CONTAINED A CLEAR CRYSTAL LIKE SUBSTANCE RESEMBLING CRYSTAL METH. AT THIS TIME ASHLEY JR WAS READ HIS RIGHTS AND DETAINED.

I NOTIFIED LT GRAHAM AND SGT HINES WITH THE ABBEVILLE COUNTY NARCOTICS TASK FORCE OF MY FIND AND REQUESTED THEIR ASSISTANCE. THIS SUBSTANCE DID FIELD TEST POSITIVE TO BE METH AMPHETAMINE BASED. ASHLEY JR WAS ONCE AGAIN READ HIS MIRANDA RIGHTS AND ARRESTED FOR THE OFFENSE OF TRAFFICKING ICE/CRANK/CRACK/COCAINE 400 GRAMS OR MORE 3RD OFFENSE (44-53-375(C)(5)). SEE SUPPLEMENTAL FOR FURTHER INFORMATION.

JURISDICTION OF THEFT	JURISDICTION OF RECOVERY

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED			
☒ YES ☐ NO	☒ YES ☐ NO	☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
GLADDEN, MACK ERIC IV	11/21/2018	103			
			FOLLOW-UP OFFICER INVESTIGATION ☐ YES ☒ NO		

AGENCY I.D.
SC0010000

INCIDENT SELECTED SUPPLEMENTAL REPORT

CASE NUMBER	NCIC NO	NCIC DATE
2016-37829		

☒ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY
PAGE 1 of 1 PAGES

NARRATIVE

AFTER ASSISTING WITH THE ARREST OF ASHLEY JR., I ACCOMPANIED HONEA PATH IN THE SEARCH FOR DONNIE BROCK AND DESIREE YOUNG AT ASHLEY JR'S RESIDENCE IN WHICH THEY HAD NCIC ARREST WARRANTS FOR. AFTER SPEAKING WITH LT. GLADDEN BY TELEPHONE WHO ADVISED ME THAT ASHLEY JR STATED THE TWO SUBJECTS WE WERE SEARCHING FOR HAD BEEN STAYING IN THE SMALL CAMPER NEAR THE SHOP BUILDING, I DID KNOCK AND ANNOUNCE CALLING OUT FOR "DESIREE YOUNG". SHE THEN ANSWERED BY NAME AND WAS ASKED TO STEP OUT AND SPEAK WITH US. SHE WAS THEN TAKEN INTO CUSTODY BY HONEA PATH PD.

AT THIS POINT I WAS CONTACTED BY LT. GRAHAM WHO REQUESTED OF ME TO SECURE THE SCENE, AND STATED INVESTIGATORS WERE COMING TO SEARCH THE WHOLE PROPERTY OF [redacted] KEOWEE RD. AFTER THEIR ARRIVAL AND SEARCH OF THE PROPERTY AND BUILDINGS NEAR ASHLEY JR'S RESIDENCE I THEN STOOD WATCH OF THE RESIDENCE AS INVESTIGATORS PROCEEDED TO LARRY ASHLEY THE PROPERTY OWNER'S RESIDENCE. AFTER INVESTIGATORS OBTAINED CONSENT TO SEARCH FOR THE PROPERTY FROM LARRY ASHLEY I WAS CLEARED BY LT. GRAHAM WHO REQUESTED OF ME TO SEARCH THE AREA WHERE ASHLEY JR WAS ARRESTED.

AFTER SEARCHING THE AREA I WAS RETURNING TO MY CAR WHEN I OBSERVED TWO INDIVDUALS WALKING ON THE ROAD FROM ASHLEY'S OTHER PROPERTY BETTER KNOWN AS "THE BODY SHOP". ONE OF THE SUBJECTS LATER IDENTIFIED AS DONNIE BROCK, THE SUBJECT WE HAD BEEN SEARCHING FOR WITH HONEA PATH, RAN UPON OBSERVING MY PRESCENCE. I THEN NOTIFIED OTHER DEPUTIES/INVESTIGATORS IN THE AREA AND PROCEEDED TO FOLLOW THE SUBJECT DOWN THE ROAD TOWARDS "THE BODY SHOP". BROCK WAS ARRESTED BY LT. GRAHAM AND ELDER WITH HONEA PATH PD WAS NOTIFIED OF BROCK'S ARREST AND A SHORT TIME AFTER A HONEA PATH OFFICER ARRIVED TAKING BROCK INTO CUSTODY.

END OF SUPPLEMENT

	JURISDICTION OF THEFT	JURISDICTION OF RECOVERY

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
☒ YES ☐ NO	☒ YES ☐ NO	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
MCCURRY, EVAN LEWIS	11/21/2016	126			
			FOLLOW-UP OFFICER INVESTIGATION ☐ YES ☒ NO		

AGENCY I.D.
SC0010000

INCIDENT SELECTED SUPPLEMENTAL REPORT

NCIC	CASE NUMBER	DIG.	ENTD
	2016-37829		

☒ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☒ MODIFIES ORIGINAL ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY
PAGE 1 of 2 PAGES

NARRATIVE

ON 11/21/2016 I WAS CONTACTED BY LT. GLADDEN WHO STATED THAT HE NEEDED ASSISTANCE AT THE LISTED LOCATION. UPON ARRIVAL I MEET WITH LT. GLADDEN AND BEGAN PHOTOGRAPHING THE SCENE. IT WAS NOTED THAT SEVERAL BAGS OF A CLEAR CRYSTAL LIKE SUBSTANCE WAS INSIDE A GREEN LAUNDRY DETERGENT BOTTLE WITH THE SIDE CUT OUT OF IT. THE SUBSTANCE WAS LATER TESTED AND FIELD TESTED POSITIVE AS METHAMPHETAMINE. A ABBEVILLE COUNTY CONSENT TO SEARCH FORM WAS COMPLETED AND SIGNED BY GREER ASHLEY TO SEARCH HIS CAMPER FINDING NO OTHER CONTRABAND. WE DID LOCATE A SET OF DIGITAL SCALES AND SEVERAL SANDWICH BAGS IN THE BUILDING "CHICKEN COUPE" LOCATED BESIDE THE CAMPER THAT GREER ASHLEY TOLD US ABOUT. WHILE SPEAKING WITH GREER ASHLEY HE INFORMED ME UNDER MIRANDA THAT HE HAD JUST PURCHASED THE METHAMPHETAMINE FROM A GUY OUT OF WILLIAMSTON NAMED "PACO". GREER STATED THAT HE PAID UP FRONT $4,000 AND WAS FRONTED FOR THE OTHER $16,000. GREER STATED THAT HE HAD BEEN DOING GOOD FOR SOME TIME AND RECENTLY STARTED BACK SEALING, BECAUSE HE WASN'T MAKING ENOUGH OF MONEY BY JUST WORKING.

AFTER CLEARING FROM THAT LOCATION WE TRAVELED TO THE RESIDENCE OF LARRY ASHLEY WHO IS THE PROPERTY OWNER OF [redacted] KEOWEE RD. WHERE WE EXPLAINED TO HIM WHAT HAD OCCURRED . WE ASKED LARRY IF HE WOULD GIVE US CONSENT TO SEARCH THE PROPERTY AT WHICH TIME HE GRANTED AND ALSO SIGNED THE ABBEVILLE COUNTY CONSENT TO SEARCH FORM. WHILE SEARCHING THE PROPERTY WE DID NOT LOCATE ANY OTHER ILLEGAL NARCOTICS ON THE SAID PROPERTY.

AFTER SEARCHING THE PROPERTY WE THEN WENT TO ANOTHER LOCATION OWNED BY LARRY ASHLEY WHICH IS THE BODY SHOP. WHEN WE ARRIVED AT THE BODY SHOP WE NOTICED A WHITE MALE EXITING FROM THE WOODS. THE MALE WAS LATER IDENTIFIED AS DONNIE BROCK, THE SAME INDIVIDUAL THAT COUNTY UNITS AND HONEA PATH POLICE DEPARTMENT WERE SEARCHING FOR. DONNIE WAS PLACED IN HANDCUFFS AND I CONTACTED KEVIN ELDER WITH THE POLICE DEPARTMENT AND ADVISED HIM THAT WE HAD DONNIE IN CUSTODY. A SHORT TIME LATER A HONEA PATH OFFICER ARRIVED ON SCENE AND TOOK POSSESSION OF DONNIE.

ONCE BACK AT THE OFFICE, ALL THE EVIDENCE WAS FIELD TESTED AND DID TEST POSITIVE FOR METHAMPHETAMINE. THE TOTAL WEIGHT OF ALL THE METHAMPHETAMINE WAS 971.7 GRAMS. THE SUBSTANCE WAS PLACED INTO A CARDBOARD BOX DUE TO NOT BEING ABLE TO FIT INTO A BEST PACK.

	JURISDICTION OF THEFT	JURISDICTION OF RECOVERY

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED			
☒ YES ☐ NO	☒ YES ☐ NO	☐ ACTIVE ☐ ADMI. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
GRAHAM, MATTHEW DWAYNE	11/21/2016	102			
			FOLLOW-UP INVESTIGATION ☐ YES ☒ NO — OFFICER		

AGENCY I.D.
SC0010000

INCIDENT SELECTED SUPPLEMENTAL REPORT

CASE NUMBER	INCI.	NCIC ENTD
2016-37829		

☒ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☒ MODIFIES ORIGINAL ☐ ADDITIONAL OFFENDER(S) ☐ ADDITIONAL RECOVERED PROPERTY
PAGE 2 of 2 PAGES

NARRATIVE

I THEN ENTERED THE SUBSTANCE INTO ILAB AND SEALED THE BOX WITH EVIDENCE TAPE. ALL THE EVIDENCE THAT WAS SEIZED WAS PLACED INTO THE ABBEVILLE COUNTY EVIDENCE LOCKER FOR STORAGE.

JURISDICTION OF THEFT | JURISDICTION OF RECOVERY

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
☒ YES ☐ NO	☒ YES ☐ NO	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE/NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
GRAHAM, MATTHEW DWAYNE	11/21/2016	102			
			FOLLOW-UP OFFICER INVESTIGATION ☐ YES ☒ NO		

AGENCY I.D.
SC0010000

INCIDENT SELECTED SUPPLEMENTAL REPORT

NCIC	CASE NUMBER	ORIG.	ENTD
	2016-37829		

☒ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY
PAGE 1 of 3 PAGES

NARRATIVE

ON 11/21/2016 LT. GRAHAM AND I WERE CONTACTED BY LT. GLADDEN. LT. GLADDEN STATED THAT HE NEEDED ASSISTANCE AT THE LISTED ADDRESS. ONCE ON SCENE LT. GLADDEN SHOWED ME A LAUNDRY DETERGENT CONTAINER THAT HAD A LARGE HOLE CUT IN THE SIDE OF IT. I OBSERVED SEVERAL BAGS OF A CLEAR CRYSTAL-LIKE SUBSTANCE.

I ADVISED LT. GLADDEN THAT HE COULD RELEASE THE SUBSTANCE TO ME AND I WOULD FIELD TEST, WEIGH, AND PLACE IT INTO PROPERTY AND EVIDENCE. HE COMPLETED A CHAIN OF CUSTODY FORM AND I TOOK POSSESSION OF THE SUBSTANCE. ON SCENE ONE OF THE BAGS WAS FIELD TESTED AND DID TEST POSITIVE AS METHAMPHETAMINE.

WE THEN SPOKE TO LT. GLADDEN AND HE STATED THAT GREER ASHLEY JR., WHO HAD THE SUBSTANCE IN HIS POSSESSION LIVED AT THE LISTED RESIDENCE. I OBSERVED AN OLDER WHITE MALE SITTING ON THE STEPS OF THE RESIDENCE. THE MALE WAS LATER IDENTIFIED AS BARRY DALE MORGAN ([redacted]-1959). I ASKED MR. MORGAN IF GREER ASHLEY LIVED AT THE RESIDENCE WITH HIM. HE STATED THAT HE LIVED IN THE CAMPER BEHIND THE RESIDENCE, BUT DID COME INSIDE TO SHOWER, EAT AND ECT. I ASKED HIM IF ANYTHING WAS ILLEGAL INSIDE HIS RESIDENCE. HE STATED THAT HE DID HAVE A LITTLE MARIJUANA INSIDE HIS RESIDENCE. I ASKED IF ASHLEY PLACED ANYTHING INSIDE HIS RESIDENCE. HE STATED NOT TO HIS KNOWLEDGE. I THEN EXPLAINED TO HIM THE REASON THAT I WAS ASKING. HE STATED THAT HE UNDERSTOOD. I THEN ASKED HIM IF HE WOULD BE WILLING TO SIGN A CONSENT TO SEARCH FORM, HE STATED THAT HE WOULD. SGT. ASHLEY THEN COMPLETED A CONSENT TO SEARCH FORM AND MORGAN SIGNED IT. I THEN ASKED HIM IF HE WOULD GO INSIDE THE RESIDENCE WITH ME, HE AGREED AND WE WENT INSIDE. ONCE INSIDE I EXPLAINED TO MORGAN THAT HE COULD TELL ME TO STOP SEARCHING AT ANYTIME. I ASKED HIM WHICH ROOM BELONGED TO HIM. HE THEN SHOWED ME A DOOR THAT WAS LOCKED. I ASKED MORGAN IF HE WOULD UNLOCK HIS DOOR. HE AGREED AND WE BOTH WENT INSIDE. ONCE INSIDE THE ROOM I DID LOCATE A VERY SMALL AMOUNT OF A GREEN LEAF SUBSTANCE AND SEVERAL ITEMS OF DRUG PARAPHERNALIA. I THEN LOCATED TWO BIRD TALONS. I ASKED HIM ABOUT THE TALONS. HE STATED THAT ONE OF THE TALONS BELONGED TO AN OWL AND THE OTHER BELONGED TO A HAWK. I DID OBSERVED A FEATHER TAPED TO THE HAWK FEATHER.

I SPOKE WITH DNR OFFICER CHRIS BENSEL. HE STATED THAT BOTH BIRD TALONS WERE ILLEGAL TO

JURISDICTION OF THEFT	JURISDICTION OF RECOVERY

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ ACTIVE ☐ NONE CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
☒ YES ☐ NO	☒ YES ☐ NO			

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
HINES, JEFFERY SCOTT	11/22/2016	114			
			FOLLOW-UP INVESTIGATION ☐ YES ☒ NO — OFFICER		

AGENCY I.D.
SC0010000

INCIDENT SELECTED SUPPLEMENTAL REPORT

CASE NUMBER: 2016-37829 | NOW: ENG. | ENTD

☒ SUPPLEMENTAL REPORT ☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY

NARRATIVE

POSSES AND ASKED ME IF I WOULD CONFISCATE THEM. I TOLD HIM THAT I WOULD SEIZE THEM WITH THE OTHER ILLEGAL CONTRABAND THAT I LOCATED. I DID SEIZE ALL ILLEGAL ITEMS AND PLACED THEM IN PROPERTY AND EVIDENCE AT THE ABBEVILLE COUNTY SHERIFF'S OFFICE.

LT. GRAHAM AND I THEN SPOKE WITH GREER ASHLEY AFTER HE WAS READ HIS MIRANDA WARNING BY LT. GLADDEN. WE ASKED ASHLEY IF HE HAD ANYTHING ELSE ILLEGAL ON THE PROPERTY. HE STATED THAT HE DID HAVE A SET OF DIGITAL SCALES AND SANDWICH BAGS. WE HAD GREER COMPLETE A CONSENT TO SEARCH FORM. HE STATED THAT WE COULD SEARCH HIS CAMPER AND HIS PROPERTY. HE THEN TOOK US INSIDE A CHICKEN COOP. HE THEN STATED THAT HE HAD A SET OF DIGITAL SCALES INSIDE A CHICKEN BOX AND POINTED TO THE BOX THAT THE SCALES WERE LOCATED IN. THE SCALES WERE IN WORKING ORDER AND DID HAVE A LARGE AMOUNT OF CRYSTAL-LIKE RESIDUE ON THEM. HE THEN POINTED AT A CABINET AND STATED THAT HE HAD SANDWICH BAGS INSIDE. SEVERAL BOXES OF SANDWICH BAGS WERE LOCATED INSIDE THE CABINET. HE THEN POINTED A BLACK CONTAINER AND STATED THAT HE USED THE CONTAINER TO SET ON THE DIGITAL SCALES TO WEIGH OUT THE METH. I DID OBSERVE A LARGE AMOUNT OF A CRYSTAL-LIKE SUBSTANCE INSIDE THE CONTAINER. I COLLECTED THE EVIDENCE. WE THEN SEARCHED HIS CAMPER WITH NEGATIVE RESULTS. ASHLEY WAS THEN TRANSPORTED TO THE ABBEVILLE COUNTY DETENTION CENTER BY LT. GLADDEN.

LT. GRAHAM, SGT. ASHLEY AND I THEN WENT TO THE RESIDENCE OF LARRY ASHLEY, WHO IS PROPERTY OWNER. WE EXPLAINED TO HIM WHAT WAS GOING ON. I TREN ASKED HIM IF WE COULD HAVE CONSENT TO SEARCH THE ENTIRE PROPERTY, DUE TO THE PROPERTY HAVING SEVERAL BUILDING AND ABANDONED VEHICLES ON IT. HE DID COMPLETE A CONSENT TO SEARCH FORM. WE SEARCH THE PROPERTY AND DID NOT LOCATE ANY OTHER CONTRABAND.

LT. GRAHAM AND I TRANSPORTED ALL EVIDENCE TO THE ABBEVILLE COUNTY SHERIFF'S OFFICE. ONCE AT THE OFFICE WE SEPARATED THE FIVE BAGS OF A CRYSTAL-LIKE SUBSTANCE. FOUR OF THE FIVE TOTAL BAGS CONTAINED TWO PLASTIC BAGS OF A CLEAR CRYSTAL-LIKE SUBSTANCE THAT WEIGHED APPROXIMATELY 1/4 POUND EACH. THE FIFTH BAG ALSO CONTAINED TWO BAGS OF A CLEAR-CRYSTAL LIKE SUBSTANCE. THESE TWO BAGS DID WEIGH APPROXIMATELY 1 OZ EACH. THE TOTAL WEIGHT OF THE CLEAR CRYSTAL-LIKE SUBSTANCE WEIGHED APPROXIMATELY 971.7 GRAMS.

	JURISDICTION OF THEFT	JURISDICTION OF RECOVERY

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
☒ YES ☐ NO	☒ YES ☐ NO	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	ARRESTING OFFICER	DATE	UNIT NUMBER
HINES, JEFFERY SCOTT	11/22/2016	114			
			FOLLOW-UP OFFICER INVESTIGATION ☐ YES ☒ NO		

AGENCY I.D.
SC0010000

INCIDENT SELECTED SUPPLEMENTAL REPORT

CASE NUMBER	IND.	EXTD.
2016-37829		

☒ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

NARRATIVE

I COMPLETED A FIELD TEST ON EACH BAG OF CRYSTAL-LIKE SUBSTANCE. EACH BAG DID FIELD TEST POSITIVE AS METHAMPHETAMINE. LT. GRAHAM DID PLACE THE CLEAR CRYSTAL-LIKE SUBSTANCE IN SLED ILAB TO BE TESTED. THE METHAMPHETAMINE WAS THEN PACKAGED INSIDE A CARDBOARD BOX. I THEN PLACED ALL EVIDENCE, INCLUDING THE CARDBOARD BOX THAT CONTAINED THE METHAMPHETAMINE IN ABBEVILLE COUNTY PROPERTY AND EVIDENCE.

JURISDICTION OF THEFT	JURISDICTION OF RECOVERY

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
☒ YES ☐ NO	☒ YES ☐ NO	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
KINES, JEFFERY SCOTT	11/22/2016	514			
			FOLLOW-UP INVESTIGATION ☐ YES ☒ NO / OFFICER		

EXHIBIT
Applicat
2800

Abbeville County Sheriff's Office

Consent to Search

Date 11-21-16 Location [redacted] Keowee Rd, Honea Path SC

I Larry Ashley Greer Ashley, Having been informed of my constitutional right not to Have a search of the premises

Hereafter mentioned without a search warrant and of my right to refuse to Consent to such a search, hereby authorize consent to Search / Abbeville County Sheriffs Office

Of the Abbeville County Sheriff's Office to conduct a complete search of my premises located at [redacted] Keowee Rd. Honea Path SC / camper

These officers are authorized by me to take from my premises any letters, papers, materials or other property which they may desire.

This written permission is given by me to the above named Officers of the Abbeville County Sheriff's Office voluntarily and without threats are promises of any kind.

X Larry Ashley JR
Signature of person giving consent to search

Witness

The following is an inventory of the property taken pursuant to this consent

- 5 Boxes of sandwich bags
- misc drug paraphernalia

FILED

This inventory was made in the presence of LT. Graham, Det Davis, Sgt Hineo,

And

Signature of officer Executing Consent

Abbeville County Sheriff's Office

Consent to Search

Date 11-21-14 Location [redacted] Keowee Rd, Honea Path SC 29654

I Larry Ashley, Having been informed of my constitutional right not to Have a search of the premises Hereafter mentioned without a search warrant and of my right to refuse to Consent to such a search, hereby authorize Consent to Search / Abbeville County Sheriffs Office

Of the Abbeville County Sheriff's Office to conduct a complete search of my premises located at [redacted] Keowee Rd Honea Path SC

These officers are authorized by me to take from my premises any letters, papers, materials or other property which they may desire.

This written permission is given by me to the above named Officers of the Abbeville County Sheriff's Office voluntarily and without threats or promises of any kind.

X Larry W. Ashley
Signature of person giving consent to search

Witness: [signature]

The following is an inventory of the property taken pursuant to this consent

This inventory was made in the presence of

And

Signature of officer Executing Consent [signature]

Byrholdt Drawdy
ATTORNEYS AT LAW, LLC

EXHIBIT
Applicant
29

2316 N. Main Street, Ste. 117
Anderson, SC 29621

P. 864.261.3977
F. 864.261.3978

www.ByrholdtDrawdy.com
Suzie@ByrholdtDrawdy.com
Bruce@ByrholdtDrawdy.com

Dec. 16, 2016

Via Fax/US Mail: (864) 366-9188

Emily McMahan
Abbeville County Courthouse
Box 99
103 Courthouse
Abbeville, SC 29620-0099

Via Fax/US Mail: (864) 942-8830
Yates Brown
Abbeville County Solicitor's Office
Post Office Box 516
Greenwood, South Carolina 29648

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2016 DEC 16 PM 12 33
EMILY [illegible]
CLERK OF COURT

Re: State -vs- Greer Haynie Ashley, Jr.
2016A0110100346

Dear Emily and Yates:

This is to advise that we represent Mr. Ashley on the above-captioned charges. Please let me know when his next court appearance is set. I have also enclosed my discovery requests for filing please return certified copies to me in the enclosed envelope.

Thanking you in advance for your cooperation in this matter.

With kindest regards, I am

Sincerely yours,

Bruce A. Byrholdt
Attorneys for Mr. Ashley

Enclosures (2)

FILED

Email Julie Davenport / K. Granade

STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)

IN THE COURT OF GENERAL SESSIONS

STATE,

Greer Haynie Ashley, Jr.,

Defendant.

MOTION FOR DISCOVERY AND BRADY MATERIAL

2016A0110100346

TO: YATES BROWN, ABBEVILLE COUNTY SOLICITOR'S OFFICE

RULE 5: DISCLOSURE IN A CRIMINAL CASE

(a) Disclosure of Evidence by the Prosecution.

(1) Information Subject to Disclosure.

(A) Statement of Defendant. Upon request by a defendant, the prosecution shall permit the defendant to inspect and copy or photograph: any relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution; the substance of any oral statement which the prosecution intends to offer in evidence at the trial made by the defendant whether before or after arrest in response to interrogation by any person then known to the defendant to be a prosecution agent.

(B) Defendant's Prior Record. Upon request of the defendant, the prosecution shall furnish to the defendant such copy of his prior criminal record, if any, as is within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution.

(C) Documents and Tangible Objects. Upon request of the defendant the prosecution shall permit the defendant to inspect and copy books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the prosecution, and which are material to the preparation of his defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the defendant.

(D) Reports of Examination and Tests. Upon request of a defendant the prosecution shall permit the defendant to inspect and copy any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution, and which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at the trial.

******Defendant would also request disclosure of any exculpatory information or material which is in your possession, or through the exercise of due diligence,**

should be in your possession, pursuant to Brady v. Maryland.

BYRHOLDT DRAWDY, LLC

Bruce A. Byrholdt

Bruce A. Byrholdt
Attorney for the Defendant
2315 N. Main St., Ste. 117
Anderson, SC 29621
(864) 261-3977 (864) 261-3978 fax

Anderson, South Carolina
12/16, 2016.

FILED
STATE OF SOUTH [illegible]
COUNTY OF [illegible]
2016 DEC 19 AM 9 37
[illegible]
CLERK OF COURT

Byrholdt
Drawdy
ATTORNEYS AT LAW, LLC

2315 N. Main Street, Ste. 117
Anderson, SC 29621

P. 864.261.3977
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www.ByrholdtDrawdy.com
Sarah@ByrholdtDrawdy.com
Bruce@ByrholdtDrawdy.com

Dec. 16, 2016

Via Fax/US Mail: (864) 366-9188

Emily McMahan
Abbeville County Courthouse
Box 99
103 Courthouse
Abbeville, SC 29620-0099

Via Fax/US Mail: (864) 942-8830
Yates Brown
Abbeville County Solicitor's Office
Post Office Box 516
Greenwood, South Carolina 29648

FILED
2016 DEC 19 AM 9 37
EMILY [illegible]
CLERK OF COURT
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

Re: State -vs- Greer Haynie Ashley, Jr.
2016A0110100346

Dear Emily and Yates:

This is to advise that we represent Mr. Ashley on the above-captioned charges. Please let me know when his next court appearance is set. I have also enclosed my discovery requests for filing please return certified copies to me in the enclosed envelope.

Thanking you in advance for your cooperation in this matter.

With kindest regards, I am

Sincerely yours,

Bruce A. Byrholdt
Attorneys for Mr. Ashley

Enclosures (2)

STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE STATE, Plaintiff, -vs- Greer Haynie Ashley, Jr., Defendant	IN THE COURT OF GENERAL SESSIONS AFFIDAVIT OF SERVICE 2016A0110100346

This is to certify that I, April D. Rollins, legal assistant to Bruce A. Byrholdt, of the Law Firm of **BYRHOLDT DRAWDY**, attorney for Defendant, did serve the documents listed below upon the following individual(s) as addressed, by depositing same in the United States mail this 29 Day of December, 2016.

FILED
2017 JAN 3 AM 9 36
ABBEVILLE COUNTY
CLERK OF COURT

Served upon:

Yates Brown
Abbeville County Solicitor's Office
Suite 203 Park Plaza
600 Monument Street
PO Box 516
Greenwood, SC 29649

Document(s) Served:

Motion for Discovery and Brady Material

I am not a party to this action

April Rollins

SWORN TO BEFORE ME THIS
29 DAY OF Dec, 2016.

Bruce A Byrholdt
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 8/22/2017



STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)

IN THE CO... SESSIONS

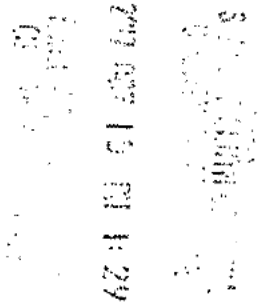
STATE,

Greer Haynie Ashley, Jr.,

Defendant.

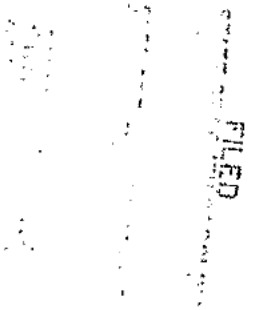
NOTICE OF MOTION AND MOTION TO SUPPRESS EVIDENCE

2017-GS-01-00063



TO: MICHA BLACK, ABBEVILLE COUNTY SOLICITOR'S OFFICE

PLEASE TAKE NOTICE that Defendant Greer Haynie Ashley, Jr., by and through his undersigned attorney, will move ten (10) days after service hereof, or as soon thereafter as counsel may be heard, before the Presiding Judge, Abbeville County Court of General Sessions, for an Order Suppressing any evidence, including but not limited to statements of the Defendant, drugs and other items and materials seized from Defendant Ashley on or about November 21, 2016, in Abbeville County on the basis that the seizure of Greer Haynie Ashley, Jr. violated the constitutional safeguards of the Fourth



Amendment to the United States Constitution and Art. 1, Sec. 10 of the South Carolina Constitution.

BYRHOLDT DRAWDY, LLC

Bruce A. Byrholdt

Bruce A. Byrholdt
Attorney for the Defendant
2315 N. Main St., Ste. 117
Anderson, SC 29621
(864) 261-3977 (864) 261-3978 fax

Anderson, South Carolina
10/10, 2017.

Bruce Byrholdt

From: Micah Black <mblack@greenwoodsc.gov>
Sent: Wednesday, October 18, 2017 4:53 PM
To: Bruce Byrholdt
Subject: Greer Ashley



Bruce,

I met with two of the officers this afternoon, Gladden and McCurry, who initially chased Greer Ashley and arrested him. They told me that Mr. Ashley did give several statements when he was initially arrested that I believe are Brady material but were not written/included in the report.

> First, after Ashley was detained and cuffed, he said "My life is over." Gladden questioned why? Ashley stated, "you will see" and pointed towards the detergent bucket of meth.
>
> Second, while Gladden was transporting Ashley to the Abbeville LEC, Ashley repeatedly stated over and over again that his life was over and he was going to prison for the rest of his life.

Obviously you are entitled to this information and I am letting you know as soon as I have learned of these other statements. At this point however, I am inclined not to use these two statements at trial. I want to sleep on it though, before I give you a definite answer. I am assuming you want a Jackson v Deno hearing regarding the statement he gave to Lieutenant Graham. I do plan on eliciting this statement at trial.

Thanks,
Micah

Find Greenwood County on social media:

NOTE: This e-mail is a public record which may be subject to disclosure pursuant to the Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 *et seq.*, to a person or party requesting the same.



STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,
PLAINTIFF,
-VS-
GREER HAYNIE ASHLEY, JR.
DEFENDANT.

2017-GS-01-0063

TRANSCRIPT OF RECORD

OCTOBER 23, 2017
ABBEVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

APPEARANCES:

ATTORNEY FOR PLAINTIFF:
MICAH BLACK, ASSISTANT SOLICITOR

ATTORNEYS FOR DEFENDANT:
BRUCE BYRHOLDT, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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(NO EXHIBITS INTRODUCED DURING PLEA)

THE COURT: Mr. Black, happy to hear from you, sir.

MR. BLACK: Thank you, Your Honor. Your Honor, standing before you is Mr. Greer Ashley. He is pleading on a trafficking indictment number 17-63. He's actually pleading to a lesser included of trafficking second between 28 and 100 grams. This is a negotiated 15-year-sentence, Your Honor. He is represented by Mr. Bruce Byrholdt out of Anderson. Like I stated earlier, Judge, this case was I guess technically the second one up on the docket. The first one up on the docket -- the first one and the second one were sort of flip flopped, but they both ended up pleading, Your Honor.

THE COURT: Mr. BYRHOLDT, you are representing Mr. Ashley on these charges. If I am not mistaken, trafficking in meth or crack 28 to 100 grams carries a minimum of seven years and a maximum of 30 years. I think it is an 85 percent offense.

MR. BYRHOLDT: It is.

THE COURT: And it is also, of course, classified as a violent and a serious offense. You have reviewed all that with Mr. Ashley?

MR. BYRHOLDT: We've gone over all of the evidence. I have informed him that this is an 85 percent crime. There is no probation or parole eligible, and that the 15-year-sentence he would serve at the minimum of 85 percent of

that, Your Honor. Based on my review of the facts in evidence, we were able to negotiate this out. I think it is a fair sentence for the State and the Defendant, Your Honor.

THE COURT: Mr. Ashley, you raised your hand there a few seconds ago. Is there something that you needed to tell me?

DEFENDANT: Yes, sir. I was just really wanting to wait until this evening so I could talk with my other attorney, Mr. Billy Garrett.

MR. BYRHOLDT: There's going to be a probation violation, Your Honor, but as I told him the State -- he needs to take this offer now or the State is withdrawing all of it and he would be looking at a mandatory 25. Mr. Garrett has not called me and Mr. Garrett was supposed to be here at 12:30. I told everybody to be here by noon. I had federal sentencing --

MR. BLACK: Judge, just to clear, kind of -- I did speak to Mr. Garrett last week. Mr. Garrett represents him on a probation violation. Mr. Byrholdt represents him on these charges. I think on the probation case there's like 9 years, eight and a half years hanging over his head on it. We're going forward. Mr. Garrett threw out some options for me and that's just -- we're not doing that.

MR. BYRHOLDT: We've explored the same options. We've talked about Drug Court and a lot of things, and the State just will not consider those, Your Honor.

THE COURT: Here's how we can handle this, Mr. Ashley. When Mr. Garrett gets over here or if he's able to send me a consent order, I'm more than happy to run the eight or nine years concurrent with the 15 years that you're getting today. I'm assuming there's no big objection from the State on that. They're shaking their heads no. So if you want to accept the 15-year-deal and go forward with your plea today, you won't lose anything. Is that acceptable to you, sir?

DEFENDANT: Yes, sir. I guess.

THE COURT: Mr. Ashley, if you could just raise your right hand so I can put you under oath, please.

GREER H. ASHLEY, having first been duly sworn, testified as follows:

EXAMINATION BY THE COURT

Q You are Greer Haynie Ashley, Jr.?

A Yes, sir.

Q Mr. Ashley, I'm told that you want to plead guilty to trafficking in methamphetamine or crack in an amount between 28 grams and 100 grams. I'm told that under this section that carries a minimum of seven years and a maximum of 30 years. Is that your understanding?

A Yes, sir.

Q In this case, Mr. Ashley, you understand you, your attorney, and the Solicitor have apparently agreed on a 15-year-sentence. Is that accurate?

A Yes, sir.
Q You understand that if I accept your plea I'll have to impose a sentence of 15 years. I can't go above it. I can't go below it. Because it's negotiated, I've got to give you 15 years if I take your plea. Do you understand, sir?
A In other words, you can't -
Q I can't do less than 15 years if I end up accepting your plea.
MR. BYRHOLDT: And it can't be more than that either.
Q Do you understand that, Mr. Ashley?
A Well -- I ain't -- I'd like to talk to the other attorney.
(Whereupon, the Defendant spoke with his attorney briefly off the record.)
A All right.
Q Mr. Ashley, I'm really not in a position to rush you, and I really don't want to rush you, and I hear that you would like to talk to Mr. Garrett about your probation violation, but realize I can't force the Solicitor to keep any deal on the table. We've got a jury that's going to be here in an hour. That's kind of where we are. That might put you between a rock and a hard place, but I've got no control over that. Do you understand that, sir?
A Yes, sir.

(Whereupon, the Defendant spoke with his attorney briefly off the record.)

Q Mr. Ashley, do you understand that it's 15? I have to impose that sentence if I take your plea. Do you understand that, sir?

A Yes, sir.

Q I cannot deviate from that. I can't give you 16. I can't give you 14 or anything less. Do you understand that, sir?

A Yes, sir.

Q Additionally, Mr. Ashley, you understand that you'll have to serve 85 percent of that 15-year-sentence before you could ever hope to be released from the Department of Corrections? Do you understand that, sir?

A Yes, sir.

Q I haven't done the math on that, but it's probably around 12 and a half or 13 years, ballpark. Do you understand that, sir?

A Yes, sir.

Q So when you get out of prison, you're probably going to be somewhere around 60 or 61 years of age. Do you understand that, sir?

A Yes, sir.

Q This is also classified as a violent offense and a most serious offense. The violent nature of the offense means

that you're prohibited from possessing a firearm from here on out and that you would be prevented from doing certain programs in the Department of Corrections. Mr. Ashley, within the last 24 hours have you taken any medication or any substance that affects your thinking?

A No, sir.

Q Have you ever been treated for any mental health issues or problems understanding what's taking place?

A Well, I'm seeing a counselor.

Q Okay. What is your diagnosis, sir?

A I don't really know.

Q Are you taking any medication for it?

A No, sir.

Q What are you talking to your counselor about? Is it --

A About my drug problem and all. Sherry at Uptown Counseling in Greenwood.

Q I got you. It's not a situation where you're hearing voices or anything like that? It's one of those things where you're struggling to try and overcome your additions. Is that correct?

MR. BYRHOLDT: He's never had drug addiction treatment.

A I've never had no treatment, that's why I was really wanting to talk to my other attorney and see what -- you know? But they're pushing me here I reckon.

Q Well, that seems to be the case here, Mr. Ashley. I

can't make you plead guilty and I'm certainly not inclined to if you don't want to. It's your choice on whether or not you want to go forward. It's your choice on whether or not you want to go forward and take this plea or we can pick a jury an hour from now. That's just where we are. What do you want to do?

A They can't wait an hour?

(Whereupon, the Defendant spoke with his attorney off the record.)

MR. BYRHOLDT: Could I have one minute with him, Your Honor?

THE COURT: By all means, please.

(Whereupon, there was a pause in the proceedings.)

THE COURT: We'll be going back on the record in Mr. Ashley's case. Mr. Ashley, you've had some time to talk with your attorney here while we took a brief break. Are you ready to proceed? Do you want to proceed with the guilty plea?

DEFENDANT: Yes, sir.

THE COURT: Again, you understand that if I take your plea I've got to give you 15 years. Do you understand?

DEFENDANT: Yes, sir.

THE COURT: Mr. Ashley, are you, in fact, guilty of trafficking in methamphetamine in an amount between 28 and 100 grams?

DEFENDANT: Yes, sir.

THE COURT: Mr. Black is going to give me the facts. I want you to listen very closely to what he says happened. When he's done talking I'll ask if that's what you did wrong.

MR. BLACK: Your Honor, this happened at [redacted] Keowee Road, kind of in the Honea Path area of Abbeville County. It happened on November 21, 2016. It was about 11 o'clock in the morning. What actually happened, Judge, Honea Path had some active arrest warrants on two individuals. They were Donnie Brock and Desiree Young. They contacted Abbeville County about them. They had information that they were staying at this particular address on Keowee Road. Abbeville County Deputy Gladden and Deputy McCurry went with Honea Path to the residence. They kind of led the way since they know the area. They were looking for these two individuals that had these active arrest warrants.

When they pulled onto this piece of property, they immediately saw the individual that is the Defendant in this case, Mr. Ashley, he kind of took off. They ended up following him. At first I don't think they realized who he was, but they ultimately figured out kind of during the pursuit that it was Greer Ashley. There was another -- there was a vehicle that was kind of in the same area. He went right. They all went left. They chased Mr. Ashley.

Mr. Ashley -- I think he fell a couple of times, but ultimately they were able to catch up with him after about 30 seconds or so. He kind of was carrying in his hand a -- like a detergent container. Kind of carrying it like a football, like a running back would, and he wouldn't let loose of it -- kind of when they were about to catch up with him he chucked it.

When they got him they realized who he was. Mr. Ashley is actually on probation. He kept saying, "My life is over. My life is over." The officers -- they said, "What are you talking about?" Went over, looked at this container, the top was cut open and inside was a large quantity of methamphetamine. I think they ended up weighing it out, Judge. They obviously sent it down to SLED. It was about 971 grams, which is two pounds and -- two and one fourth pounds I think is what the total weight is.

They called the investigators for Abbeville County. They called Mr. Hines and Lieutenant Graham who is at the Sheriff's Department. Lieutenant Graham actually spoke with the Defendant. The Defendant was up front with him. He admitted that it was meth. It field tested positive for meth. He actually gave a statement after Miranda was read. It was read a couple of times, but he told Officer Graham that he had just purchased the meth from a guy out of Williamston named, Paco. Mr. Ashley said he paid him up

front $4,000 and was fronted the other $16,000, so that was $20 grand that he paid up front for two and a quarter pounds of meth. Obviously, he was arrested, Judge. The drugs were tested by SLED and they did confirm that they were indeed methamphetamine. Your Honor, he does have two prior drug offenses. The State was planning on introducing that after securing a conviction, but obviously we're here pleading guilty today.

THE COURT: Just so that the record is clear, we're talking about the finished product of meth and not the sludge or the --

MR. BLACK: It was pure ice.

EXAMINATION BY THE COURT

Q Mr. Ashley, you heard what the State alleges happened on November 21 of last year. Is it true that you were in possession of roughly two and a quarter pounds of methamphetamine?

A Yes, sir.

Q So you are guilty of this charge?

A Yes. Since then I've been trying to get help and trying to straighten up.

Q Well, that's to your credit. Mr. Ashley, I need to briefly review with you rights that you're giving up by pleading guilty. If you don't understand something, stop me. I'll let you talk to your attorney as long as you need

to. Okay, sir?
A Yes, sir.
Q You realize, of course, you don't have to plead guilty. You could have a jury trial in this case. Do you understand that, sir?
A Yes, sir. They would give me the thirty then.
Q They would give you what?
A They'd give me the thirty then.
Q Yeah, that sometimes -- all I can say, Mr. Ashley, sometimes you find yourself between a rock and a hard place. Your lawyer's job -- maybe he can't get you out of it. Maybe the only thing he can do is hopefully get you through it so you've got a little bit of daylight left at the end of the tunnel. Do you understand what I'm saying to you?
A Yes, sir.
Q The jury should be here in about 50 minutes. If you wanted, we could go ahead and pick a jury on this. Do you understand that, sir?
A Yes, sir.
Q We'd pick 12 people from Abbeville who would be the jury and the State would have the burden of proving your guilt beyond a reasonable doubt to the unanimous satisfaction of all twelve members of that jury. Do you understand that, sir?
A Yes, sir.

Q The way the State would try to meet that burden is that they would call witnesses. You and your attorney would be able to see, confront, and cross examine all of those witnesses. Do you understand, sir?
A Yes, sir.
Q So you could ask them any question relevant to any issue involved in this case. At trial, Mr. Ashley, you have no burden of proof. The burden is always on the State. If you wanted to, you could call your own witnesses to testify. Any witnesses that were reluctant to come to court you could subpoena them. Do you understand, sir?
A Yes, sir.
Q You could force them to come to court. At trial you could also take the stand in your own defense. Mr. Ashley, you would be treated pretty much the same way as any other witness, so if you decided that you didn't want to take the stand or you were afraid to take the stand I would instruct the jury that they couldn't use that against you or use it as evidence of guilt. Do you understand, sir?
A Yes, sir.
Q That's your Fifth Amendment right against self incrimination. By pleading guilty you waive that in that you admit to me that you are, in fact, guilty of trafficking in these drugs. Do you understand, sir?
A Yes, sir.

Q Now, at trial, Mr. Ashley, understand you would be presumed innocent. I would describe the presumption of innocence as being like a robe of righteousness. It's placed about your shoulders. It stays with you. Only the jury can strip it from you. Do you understand that, sir?

A Yes, sir.

Q If you plead guilty, though, you waive that presumption of innocence. By pleading guilty you also waive your right to challenge any of the State's evidence. I've been given a brief overview of the evidence they have against you. Apparently you did give a statement to the police. Do you understand you could challenge the statement and any evidence that was seized. You could challenge all of that at trial. If the Court were to conclude that it was illegally gathered, then they wouldn't hear about your confession. If the search of the drugs was improper, the drugs would probably be suppressed. Do you understand that, Mr. Ashley?

A Yes, sir. Can I speak to my lawyer a minute?

THE COURT: Go right ahead, please.

(Whereupon, the Defendant spoke with his attorney off the record.)

DEFENDANT: I'm ready, Your Honor.

Q You're ready to proceed, Mr. Ashley?

A Yes, sir.

Q So you understand that you could challenge any evidence the State has against you at trial?
A Yes, sir.
Q If you plead guilty, you waive your right to mount any such challenge. Do you understand?
A Yes, sir.
Q Finally, Mr. Ashley, I don't know if you have any defense to this charge or not. I'm sure that's something that you've discussed with your attorney; correct?
A Yeah.
Q You realize that by pleading guilty you're waiving your right to present any defense to the Court or to this jury. Do you understand that, sir?
A Yes, sir.
Q Mr. Ashley, all of these are very important rights. Are you certain you want to give them up and plead guilty?
A Yes, sir.
THE COURT: Mr. Byrholdt, you're satisfied with the Discovery response in this case and you've reviewed it to the extent Mr. Ashley has wanted to see it or needed to see it?
MR. BYRHOLDT: I have, Your Honor. We filed a suppression motion, but I told him after my review of the case law from the South Carolina Supreme Court, the recent decisions on search dealing with flight and the recent

decision of the U.S. Supreme Court. I told him that I doubted the evidence would be suppressed in this case, based on the current case law.

Q Mr. Ashley, are you happy with the way that Mr. Byrholdt has represented you on these charges?

A Yes, sir.

Q Any complaints to make against him?

A No, sir.

Q He's done everything you've wanted him to do?

A Yes, sir.

Q You are totally satisfied with his help?

A Yes, sir.

Q And you've understood all of your conversations with him?

A Yes, sir.

Q Mr. Ashley, do you have any complaints to make against the Solicitor's Office, law enforcement, court personnel, or anybody associated with this prosecution?

A No, sir.

Q Aside from the 15-year-sentence, has anyone promised you anything or held out any other hope of reward?

A No, sir.

Q Mr. Ashley, are you pleading guilty of your own free will because you did, in fact, traffic in this methamphetamine?

A Yes, sir. I did possess it and all.
Q Have you understood all of the questions I've asked you?
A Yes, sir.
Q Anything you want to ask me about anything we've gone over?
A I was just wanting to see if I could kind of get some help or something. Maybe a non-violent charge.
Q I don't know that that's -- clearly, this is violent. I've got no control over that. Do you understand that? I can asked that you be screened for the Addictions Treatment Unit while in the Department of Corrections. Some people feel it's a good program. Some people don't find it that beneficial, but I think like anything else you get out what you put into it.
A I can file for it whenever I get there or whatever.
Q All right. I find there is a basis for this plea. It is freely, knowingly, voluntarily, and intelligently made. Mr. Ashley has consulted with his attorney. He is totally satisfied with Mr. Byrholdt's assistance. This plea is, in the opinion of the Court, in Mr. Ashley's best interest and in the interest of the State of South Carolina, so I will accept it. You understand, Mr. Ashley, once I sentence you if you want to appeal any aspect of this guilty plea here today you need to tell Mr. Byerholdt to do it immediately

after, because you've only got ten days to appeal. I don't think an appeal is going to do you much good, but you do have one year to file any action for post-conviction relief. Do you understand that, sir?

A Yes, sir.

THE COURT: Mr. Byrholdt, happy to hear from you, sir.

MR. BYRHOLDT: Your Honor, the Court has no choice following a negotiated sentence. I would ask you to recommend if there's any addiction programs that he can try to get some help. I firmly believe this was in Greer's best interest. I think he would've gotten hammered at trial and would've gotten either 25 or 30 years. He'll come out a relatively young man. Compared to my age, a lot younger than I am. He'll hopefully have a long and healthy life. He's going to be able to handle his addiction problem and hopefully get a handle on it, Your Honor.

THE COURT: Very good. Mr. Ashley, anything that you would like to say, sir?

DEFENDANT: No, sir.

THE COURT: I assume he's been in jail continuously since November 21?

MR. BLACK: No, he's not, Judge.

MR. BYRHOLDT: Sixty days.

MR. BLACK: He did 8 on the charge. I know he bonded out pretty quick thereafter, and then I think on the

probation stuff he's been -- the probation case he's been in for a little bit longer, but he only did 8 days on the original charge.

THE COURT: Okay.

MR. BLACK: Looks like he was picked up on 9/8/17 for a probation violation, but he did 8 days originally before he bonded out, Judge.

THE COURT: Well, he's accepting responsibility. I'm going to give him credit for the 60 days.

MR. BYRHOLDT: Thank you, Your Honor.

THE COURT: Mr. Ashley, I've followed the negotiated plea in this case. I know that this is going to be hard for you to do, but I've gone ahead and sentenced you per your agreement to 15 years. I've given you credit for 60 days that you've previously served on this, and I've asked that you be screened for the Addictions Treatment Unit while in the Department of Corrections. Okay, sir?

DEFENDANT: Yes, sir.

THE COURT: So you've got 15 years to do. Mr. Ashley, I do wish you luck. Please take care of yourself.

DEFENDANT: Thank you.

(END OF REQUESTED TRANSCRIPT OF RECORD)

Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for McCormick County, South Carolina, on the 23rd day of October, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Tara T. Scott

Tara T. Scott, CVR

Circuit Court Reporter

August 10, 2018

Byrholdt
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May 6, 2019

Carson M. Henderson
HENDERSON LAW FIRM
109-b Oak Ave
Greenwood, SC 29646

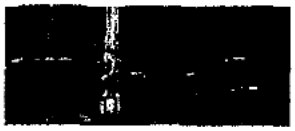
RE: Unredacted file of Greer Ashley, Jr.

Dear Carson:

Enclosed please find copy of Mr. Ashley's file.

With kind regards,

Bruce A. Byrholdt
Attorneys at Law





Carson Henderson <carson@carsonhendersonlawfirm.com>

GREER ASHLEY

3 messages

Patricia Williams <pwilliams@abbevillecountysc.com> Mon, Jan 25, 2021 at 10:28 AM
To: "carson@carsonhendersonlawfirm.com" <carson@carsonhendersonlawfirm.com>

Good morning, I Captain Williams has Sgt. Dom check through the old files and he was unable to locate any visitation list for 2016 and 2017. Let me know if I can be of any other assistance.

Captain P Williams

Abbeville County Detention Center

864-378-7184

greer ashley.docx
12K

Carson Henderson <carson@carsonhendersonlawfirm.com> Mon, Jan 25, 2021 at 11:00 AM
To: Patricia Williams <pwilliams@abbevillecountysc.com>

Thanks. I may still need for you to testify to this in virtual court on Thursday. I'll be in touch in the next day or so.
[Quoted text hidden]

--
Carson M. Henderson
The Henderson Law Firm, P.C.

864-649-0384 (office)

109-B Oak Avenue
Greenwood S.C. 29646

www.carsonhendersonlawfirm.com

Carson Henderson <carson@carsonhendersonlawfirm.com> Mon, Jan 25, 2021 at 11:15 AM
To: Patricia Williams <pwilliams@abbevillecountysc.com>

Captain Williams, you WILL NOT have to testify on Thursday. You are released from the subpoenas that I had served on you. Thanks for your cooperation.
[Quoted text hidden]

I Sgt. Dorn was unable to locate the requested files for inmate Ashley, Greer for dates 2016-2017.

Thanks

Sgt. Dorn 01-23-2021

PROOF OF SERVICE

SERVED	DATE 01/20/2021	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE Abbeville County Detention Center	☐YES ☐NO AMOUNT $
SERVED ON Administrator/Captain Williams		MANNER OF SERVICE Personally
SERVED BY Caitlin Knight		TITLE Private Investigator

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 01/20/2021

Caitlin Knight
SIGNATURE OF SERVER

109-B Oak Avenue Greenwood, SC 29646
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF ABBEVILLE

COPY

GREER H. ASHLEY, JR. (#338842), Plaintiff

v.

STATE OF SOUTH CAROLINA, Defendant

SUBPOENA IN A CIVIL CASE

Case Number: 2018-CP-01-168

Pending in ABBEVILLE County

TO: **ABBEVILLE COUNTY DETENTION CENTER**
ATTENTION: JAIL ADMINISTRATOR

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM VIRTUAL
	DATE AND TIME AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME , AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

ALL DOCUMENTS INDICATING THE NAME OF EACH PERSON WHO VISITED GREER H. ASHLEY, JR., WHILE HE WAS INCARCERATED IN THE ABBEVILLE COUNTY DETENTION CENTER FROM 01/01/16 – 12/31/2017, AS WELL AS THE DATE OF EACH VISIT.

PLACE THE HENDERSON LAW FIRM, P.C. 109-B OAK AVENUE GREENWOOD, S.C. 29646 (OR ELSE YOU CAN TURN OVER THE DOCUMENTS TO MY PRIVATE INVESTIGATOR, KRISTIE LUMLEY)	DATE AND TIME **MONDAY, JANUARY 25, 2020, AT 11:00 AM**

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature — 01/20/21 Date — CARSON M. HENDERSON Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number:

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

248
109-B OAK AVENUE, GREENWOOD, S.C. 29646
864-953-0011

Clerk of Court/Issuing Officer's Signature | Date | Print Name
Pro Se Litigant's Name, Address and Telephone Number :

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE	☐YES ☐NO AMOUNT $
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on_____

_____
SIGNATURE OF SERVER

_____
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

PROOF OF SERVICE

SERVED	DATE 01/20/2021.	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE Abbeville County Detention Center	☐ YES ☐ NO AMOUNT $
SERVED ON Administrator/Captain Williams		MANNER OF SERVICE Personally
SERVED BY Caitlin Knight		TITLE Private Investigator

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 01/20/2021

Caitlin Knight
SIGNATURE OF SERVER

103-B Oak Avenue Greenwood, SC 29646
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) **Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

STATE OF SOUTH CAROLINA

COPY

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF ABBEVILLE

GREER H. ASHLEY, JR. (#338842), Plaintiff

v.

SUBPOENA IN A CIVIL CASE

STATE OF SOUTH CAROLINA, Defendant

Case Number: 2018-CP-01-168

Pending in ABBEVILLE County

TO: **ABBEVILLE COUNTY DETENTION CENTER**
ATTENTION: JAIL ADMINISTRATOR

☒ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM VIRTUAL
CIRCUIT JUDGE MARK HAYES' VIRTUAL COURTROOM -- SEE ATTACHMENTS FOR HOW TO "ENTER" VIRTUAL COURTROOM	DATE AND TIME **THURSDAY, JANUARY 28, 2021, AT 10:45 AM**

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME , AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

ALL DOCUMENTS INDICATING THE NAME OF EACH PERSON WHO VISITED GREER H. ASHLEY, JR., WHILE HE WAS INCARCERATED IN THE ABBEVILLE COUNTY DETENTION CENTER FROM 01/01/16 – 12/31/2017, AS WELL AS THE DATE OF EACH VISIT.

PLACE	DATE AND TIME , AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

(Attorney/Issuing Officer's Signature	01/20/21 Date	CARSON M. HENDERSON Print Name

Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number:
109-B OAK AVENUE, GREENWOOD, S.C. 29646

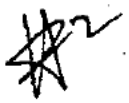
864-953-0011

Clerk of Court/Issuing Officer's Signature	Date	Print Name

Pro Se Litigant's Name, Address and Telephone Number:

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)



PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE	☐YES ☐NO AMOUNT $
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on_____

_____
SIGNATURE OF SERVER

_____
ADDRESS OF SERVER

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(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

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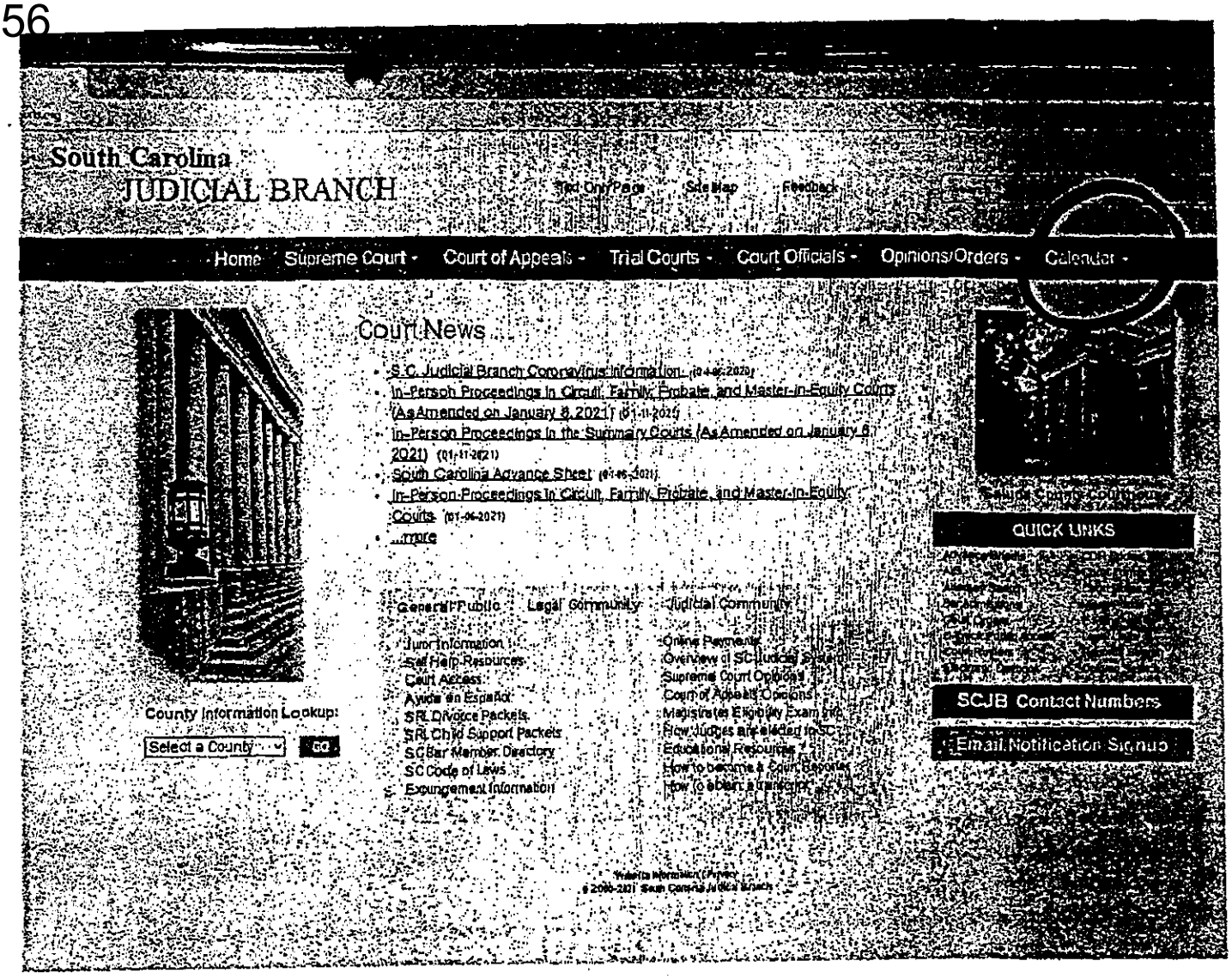
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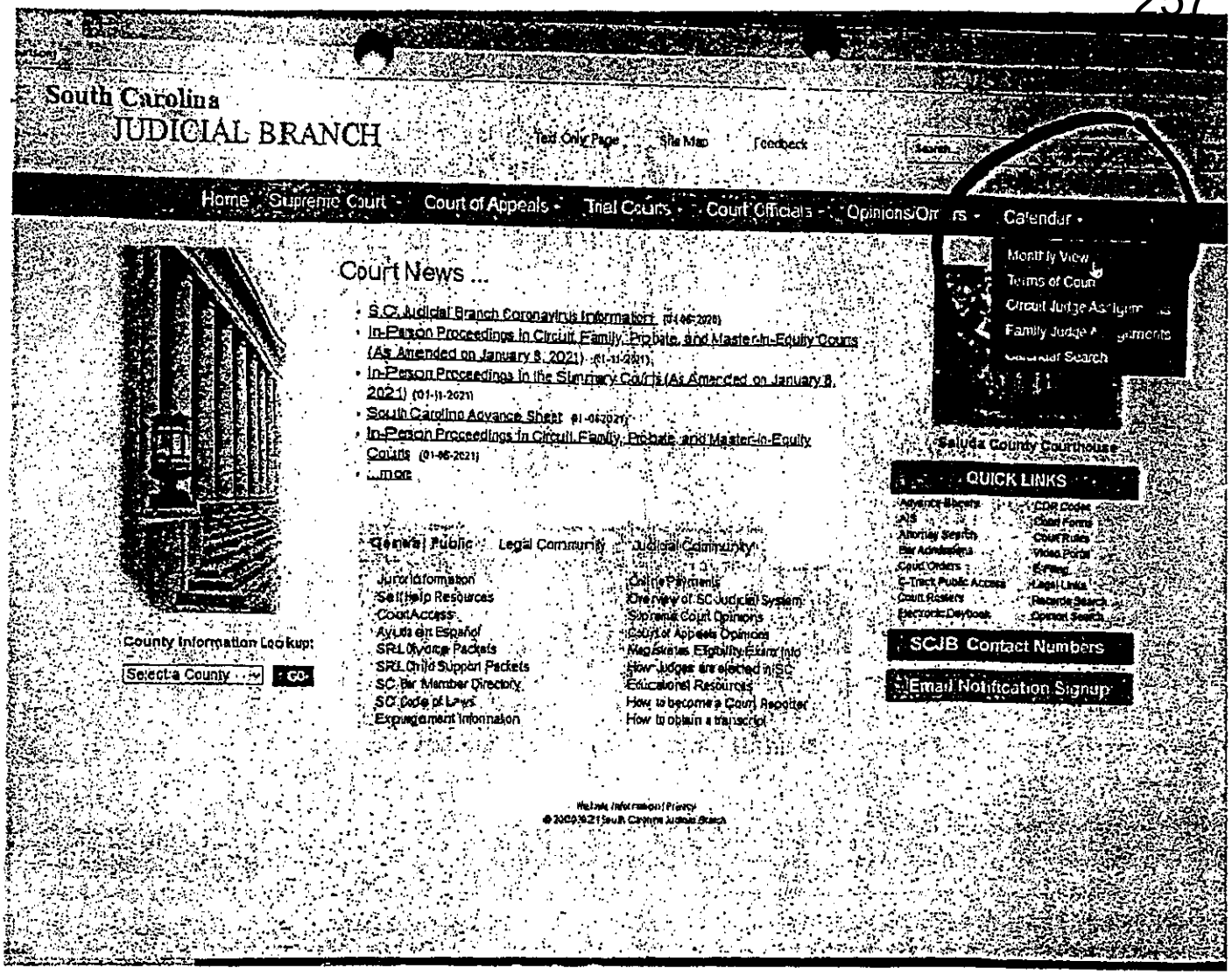
(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)



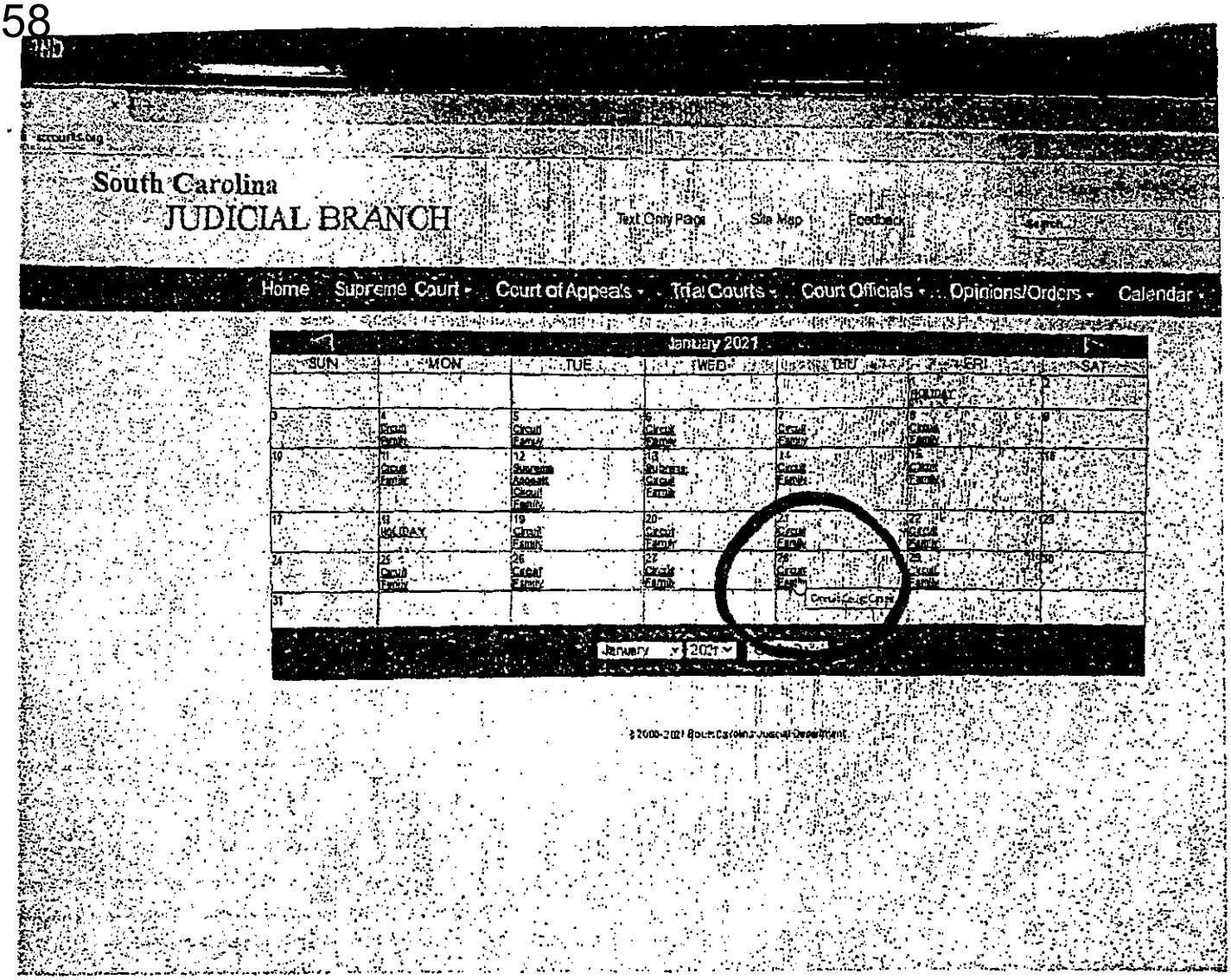
GO TO -

SCCOURTS.ORG

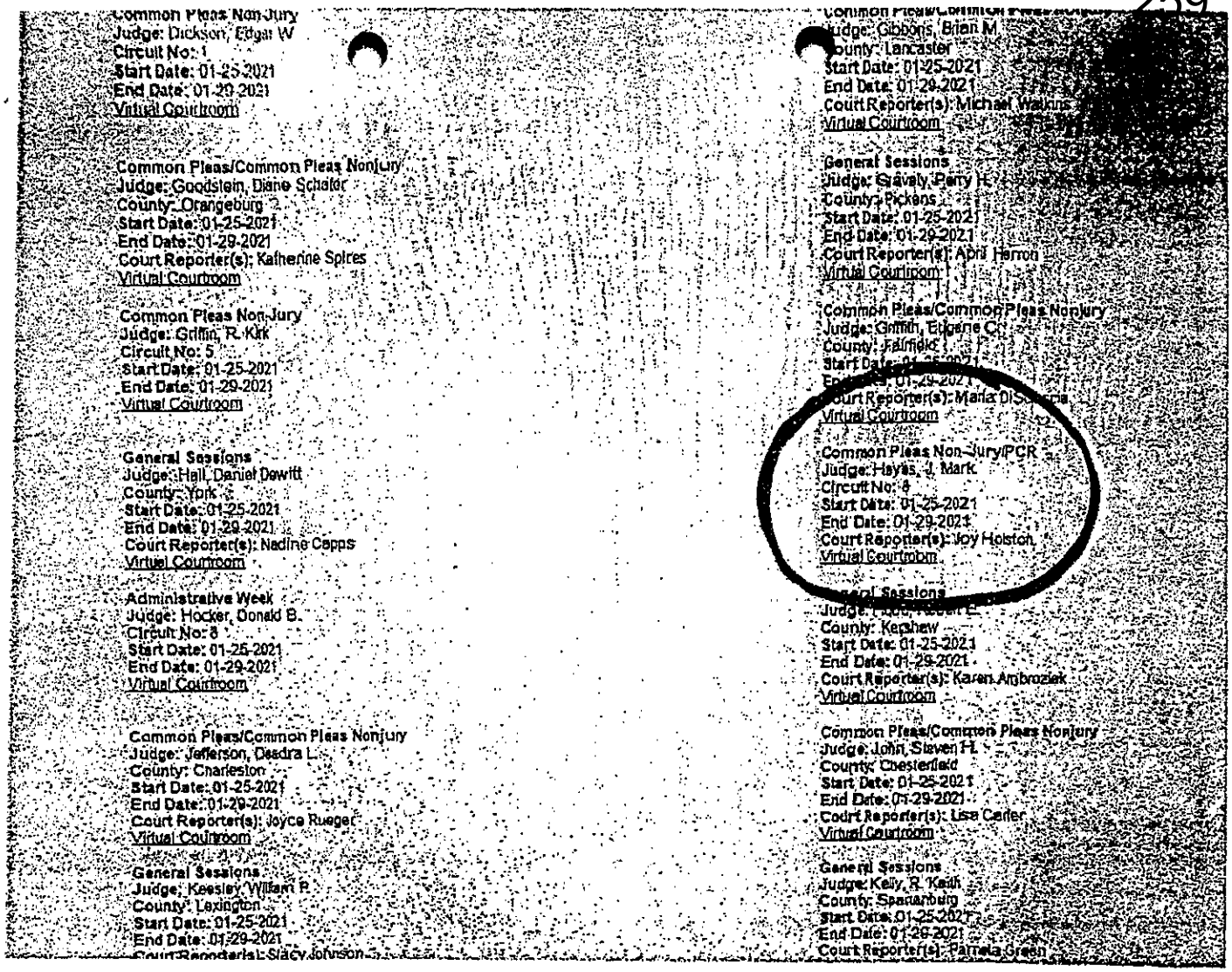
- CLICK ON "CALENDAR"



CLICK ON "MONTHLY VIEW"



CLICK ON "CIRCUIT"
ON THURSDAY, JAN. 28, 2021



Common Pleas Non-Jury
Judge: Dickson, Edgar W
Circuit No: 1
Start Date: 01-25-2021
End Date: 01-29-2021
Virtual Courtroom

Common Pleas/Common Pleas Nonjury
Judge: Goodstein, Diane Schafer
County: Orangeburg
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Katherine Spires
Virtual Courtroom

Common Pleas Non-Jury
Judge: Griffin, R. Kirk
Circuit No: 5
Start Date: 01-25-2021
End Date: 01-29-2021
Virtual Courtroom

General Sessions
Judge: Hall, Daniel Dewitt
County: York
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Nadine Capps
Virtual Courtroom

Administrative Week
Judge: Hocker, Donald B.
Circuit No: 8
Start Date: 01-25-2021
End Date: 01-29-2021
Virtual Courtroom

Common Pleas/Common Pleas Nonjury
Judge: Jefferson, Deadra L.
County: Charleston
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Joyce Rueger
Virtual Courtroom

General Sessions
Judge: Keesley, William P.
County: Lexington
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Stacy Johnson

Judge: Gibbons, Brian M
County: Lancaster
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Michael Watkins
Virtual Courtroom

General Sessions
Judge: Gravely, Perry H.
County: Pickens
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): April Herron
Virtual Courtroom

Common Pleas/Common Pleas Nonjury
Judge: Griffith, Eugene C.
County: Fairfield
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Maria DiSabatino
Virtual Courtroom

Common Pleas Non-Jury/PCR
Judge: Hayes, J. Mark
Circuit No: 8
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Joy Holston
Virtual Courtroom

General Sessions
Judge: Hood, Robert E.
County: Kershaw
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Karen Ambrozek
Virtual Courtroom

Common Pleas/Common Pleas Nonjury
Judge: John, Steven H.
County: Chesterfield
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Lisa Carter
Virtual Courtroom

General Sessions
Judge: Kelly, R. Keith
County: Spartanburg
Start Date: 01-25-2021
End Date: 01-29-2021
Court Reporter(s): Pamela Green

CLICK ON JUDGE HAYES' "VIRTUAL COURTROOM"

EXHIBIT
Appt. ct
35

CRIMINAL RETAINER AGREEMENT

I, Greer Haynie Ashley, Jr., retain the law firm of Byrholdt Drawdy, LLC this 15th day of Dec. 2016 to represent me on the charge of Trafficking Meth more than 400 gr in Warrant 2016A0110100346.

I agree to pay the sum of Ten Thousand ($10,000.00) Dollars for dismissal, for reduction of charge, or plea. The total sum of Fifteen Thousand ($15,000.00) Dollars for trial.

RETAINER: $7,000.00. Earned upon payment.

BALANCE: $3,000.00 on or before March 1, 2017. Balance of $5,000.00 when case is placed on trial docket.

I understand that this agreement only pertains to representation through dismissal, reduction of charge, plea or trial in state court. **This agreement does not concern the taking of an appeal other than filing a notice of appeal should one be deemed necessary.** I further understand that I am responsible for keeping the attorneys informed of my address and telephone number and for making all scheduled court appearances unless excused by my attorneys or the court.

I further understand that I am also responsible for any costs deemed necessary for the defense of my case, including but not limited to discovery, expert witnesses, travel ($0.35/mil), all costs must be paid when arrangements are made.

Failure to satisfy any terms of this Agreement will result in the attorney having the right to file a motion with the court to be relieved as counsel, service of the motion shall be at the last address provided the attorneys, and all monies paid to date shall be forfeited as attorneys fees for non-compliance with the Agreement.

I understand that there have been no guarantees made concerning the outcome of this case.

I understand that Trafficking Meth. More than 400 gr carries a mandatory sentence of 25 to 30 years and a $200,000.00 fine; No probation and no part of sentence suspended. A subsequent conviction carries enhanced penalties.

I understand this agreement and enter into it freely and voluntarily.

Greer H. Ashley Jr.
Greer Haynie Ashley, Jr.

Bruce A Byrholdt
ATTORNEY

FILED



Byrholdt Drawdy
Attorneys at Law, LLC

Consultation Intake Sheet

The information contained on this form is the privileged, private, and confidential work product of the Byrholdt Drawdy Attoneys at Law, LLC and will be used to prepare and vigorously defend Client in Family Court, Magistrate Court, SC General Sessions Court, or Federal Court or prosecute Client's legal claim(s). Access to this form is restricted to Client, Bruce Byrholdt, Sarah Drawdy and members of their staff. Clients are directed to complete this form as clearly and completely as possible. Please print all answers.

Today's Date _____

How did you find out about Byrholdt Drawdy Attorneys at Law, LLC? Please circle one.

Yellow Pages ___ Another Person (Who?) _____
Billboard ___ Attorney (Who?) _____
Newspaper ___ Other (Describe) _____
Radio ___ TV _____

Client

Last Name: Ashley Jr First: Greer Middle Haynie
Gender Male Female _____
Birth Date: [redacted]68
Address: [redacted] Keowee Rd Honea Path SC, 29654

Cell Phone: [redacted] Home Phone: [redacted]
Work Phone: [redacted] Other: _____

Email: _____

Reason for visit (Check any that apply)

___ Criminal Defense ___ Family Law/Divorce ____ SSDisability
___ Estate/Probate ___ Civil
___ Will POA ___ Appeal ____ Other

Brief Explanation

15
.05
75
120



STATE OF SOUTH CAROLINA)
) **IN THE COURT OF GENERAL SESSIONS**
COUNTY OF ABBEVILLE)

STATE, **PLEA OFFER**

Greer Haynie Ashley, Jr.,

Defendant. **2016A0110100346**

The State has made an offer for you to plead guilty and they will recommend fifteen (15) years. If you do not want to plead guilty your case will be on the trial docket the week of October 23, 2017. Trafficking Meth more than 400 gr carries a sentence of 25 to 30 years and a fine of $200,000.00. A guilty plea will result in probation violation.

I accept the plea offer: _____

I reject the plea offer and want a trial: GHA JR

Greer H. Ashley Jr
Greer Haynie Ashley, Jr.

Oct. 10, 2017

COURT'S EXHIBIT NO. 24 IDENTIFICATION/ENTRANCE DKT.# PCR-954 DATE: 1-28-2021

TIMOTHY R. Wright, II

PROOF OF SERVICE

SERVED Subpoena	DATE 01-13-21	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE Honea Path Police Dept. 30 N. Main ST	☐YES ☐NO AMOUNT $
SERVED ON Sgt Chase Pace		MANNER OF SERVICE Personally
SERVED BY Kristie Lumley		TITLE Private Investigator

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 01-13-21

Kristie Lumley
SIGNATURE OF SERVER

300 Hwy 246 S. Greenwood, SC 29649
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

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(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Kevin L. Elder

PROOF OF SERVICE

SERVED Subpoena	DATE 01-13-21	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE Honea Path Police Dept. 30 N. Main St.	☐YES ☐NO AMOUNT $
SERVED ON Sgt Chase Pace		MANNER OF SERVICE Personally
SERVED BY KRISTIE LUMLEY		TITLE Private Investigator

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 01-13-21

Kristie Lumley
SIGNATURE OF SERVER

300 Hwy 246 S. Greenwood, SC
ADDRESS OF SERVER

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Andrew P. Lunz

PROOF OF SERVICE

SERVED Subpoena	DATE 01-13-21 PLACE Honea Path Police Dept. 30 N. Main ST	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐YES ☐NO AMOUNT $
SERVED ON Sgt Chase Pace		MANNER OF SERVICE Personally
SERVED BY Kristie Lumley		TITLE Private Investigator

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 01-13-21

Kristie Lumley
SIGNATURE OF SERVER

300 Hwy 246 S. Greenwood, SC 29649
ADDRESS OF SERVER

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(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

MACK GLADDEN

PROOF OF SERVICE

SERVED	DATE 01/14/21	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE Abbeville Sheriff's office	☐ YES ☐ NO AMOUNT $
SERVED ON Tripp Crosby		MANNER OF SERVICE Personally
SERVED BY Caitlin Knight		TITLE Process Server

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 01/14/21

Caitlin Knight
SIGNATURE OF SERVER

109-B Oak Ave Greenwood, SC 29646
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c)

(1) ...ppoena shall take reasonable steps to avoid imposing undue burden or ex... ...ch the subpoena was issued shall enforce this duty and impose upon the party or... ...de, but is not limited to, lost earnings and a reasonable attorney's fee.

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Abbeville County Sheriff's Office

Captain Tripp Crosby
UNIFORM PATROL COMMANDER

21 Old Calhoun Falls Road
Abbeville, SC 29620
tcrosby@abbevillecountysc.com

Phone: (864) 446-6000
Cell: (864) 378-5137
Fax: (864) 446-6050

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Evan McCURRY

PROOF OF SERVICE

SERVED	DATE 01/14/21	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE Abbeville Sheriff's office	☐ YES ☐ NO AMOUNT $
SERVED ON Tripp Crosby		MANNER OF SERVICE Personally
SERVED BY Caitlin Knight		TITLE Process Server

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 01/14/21

Caitlin Knight
SIGNATURE OF SERVER

109-B Oak Ave Greenwood, SC 29646
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d): Evan McCurry is now with the City of Abbeville and Tripp Crosby stated he would make sure Evan McCurry was served.

(c) **Protection of Persons Subject to Subpoenas.**

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268

I accept service of this subpoena
8:10AM 1/25/21 – Will be in the secretary's office

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE	☐YES ☐NO AMOUNT $
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on_____

_____
SIGNATURE OF SERVER

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State of South Carolina	)	Court of Common Pleas
	)	
County of Abbeville	)	2018-CP-01-168
GREER H. ASHLEY, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Post-Conviction Relief
	)	Hearing
STATE OF SOUTH CAROLINA,	)	
	)	
Defendant.	)	

Monday, March 15, 2021
Via WebEx, South Carolina

B E F O R E:

The Honorable J. Mark Hayes, II, Judge.

A P P E A R A N C E S:

Carson Henderson, Esquire
109-B Oak Avenue
Greenwood, South Carolina 29646
Attorney for the Plaintiff

Michael Jacob Neubauer, Esquire
Assistant Attorney General's Office
Rembert C. Dennis Building
1000 Assembly Street
Columbia, South Carolina 29201
Attorney for the State

Nadine Capps, CVR
Court Reporter

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VIA WEBEX, SOUTH CAROLINA, MONDAY, MARCH 15, 2021, 8:38 A.M.

P R O C E E D I N G S

(Exhibit 37 was admitted.)

THE COURT: This is a continuation of the post-conviction with the application filed by Mr. Ashley at 2018CP460261. At this time I'm going to turn this matter back over to Mr. Carson Henderson.

MR. HENDERSON: Thank you, Your Honor. One housekeeping matter, Exhibit Number 37, which I had emailed everybody and which led to His Honor asking me to send a notebook of all the exhibits, Exhibit 37, which is a plea offer, the State has consented for that coming into evidence, Your Honor.

THE COURT: Okay. All right.

MR. HENDERSON: And that would leave Exhibits 35 and 36 -- or proposed exhibits, which have not been entered into evidence, which I will present to Mr. Byrholdt when I examine him.

THE COURT: Okay. All right. Thank you for that. Yes, sir, Mr. Henderson.

MR. HENDERSON: Your Honor, I would call Donnie Wayne Brock, and he in the library with Ms. Lumley.

THE COURT: Okay.

MR. BROCK: Yes, sir.

THE COURT: Mister -- you say it was Block?

MR. BROCK: Mr. Brock, Brock.

THE COURT: Mr. Brock, it's a pleasure meeting you. Now we are all appearing remotely, so -- but I do let you know we are making a recording of everything that happens, so when you speak today, sir, please speak slowly so we all can understand you, but loud enough so that we all can hear you.

MR. BROCK: Yes, sir.

THE COURT: If ever during this process you cannot hear Mr. Henderson or Mr. Neubauer or me or anybody else when we're speaking, immediately let us know, and we'll speak up.

MR. BROCK: Yes, sir.

THE COURT: Now, sir, in order to begin this process, I have to administer an oath to you, so if you would please raise your right hand.

DONNIE WAYNE BROCK, SWORN

THE COURT: Thank you, sir. You may put your hand down. Sir, at this time, I'm going to turn this matter over to Mr. Henderson. Please answer the questions that he has for you.

THE WITNESS: Yes, sir.

DIRECT EXAMINATION by Mr. Henderson:

Q. Donnie, I want you to turn your attention to November 21st of 2016, and I will represent to you that's

the day that Greer Ashley was arrested. Do you remember that day?

A. Yes, sir.

Q. Okay. I'm going to have Ms. Lumley show you a couple of exhibits that are already into evidence. Okay. I'm going to have Ms. Lumley show you Exhibit Number 9, which is already into evidence.

A. Okay. Yes, sir. I see it.

Q. Do you recognize that gate?

A. Yes. Little -- little driveway.

Q. What?

A. Greer's driveway.

THE COURT: Let me ask you to do this, Mr. Brock, you're coming across sort of muffled to me, so maybe if you could lean into the microphone a little bit.

THE WITNESS: Okay.

THE COURT: And, Mr. Carson, if you could back up and ask him that question one more time.

Q. Okay. Donnie, do you -- yes or no -- do you recognize what's in this photograph?

A. Yes.

Q. Okay. Yes or no, is what's in this photograph, is that how the gate looked on November 21st of 2016?

A. Yes, sir, it was.

Q. The gate was closed that day?

A. Yes, sir.
Q. Okay. Was the "No Trespassing" sign on the gate that day?
A. Yes, sir, it was.
Q. I'm going to have Ms. Lumley show you what's already been entered into evidence as Exhibit Number 12. Do you recognize what's in that photograph, yes or no?
A. Yes.
Q. Okay. Does that photograph show where Greer Ashley's driveway meets up with Larry Ashley's driveway?
A. No, it doesn't.
Q. Okay. Is that -- is that not where "Little Greer"'s driveway pulls into Larry's driveway?
A. No, it don't. It's further down the road -- further -- farther, about a half a mile down the dirt road.
Q. No, no, no. I'm talking about -- let me rephrase my question. I'm talking about if you're standing up at Keowee Road --
A. Yes.
Q. -- you know, Larry's driveway comes off Keowee-Road.
A. Yes.
Q. Greer has a driveway off of Keowee Road, correct?
A. Correct.
Q. And you can drive on Greer's driveway to pull onto Larry's driveway, can't you?

A. Yes, yes, correct.
Q. Okay. Let me go back and ask my questions. Does this photograph, Exhibit 12, show where Greer's driveway pulls into Larry's driveway?
A. Yes, it does. At the time right here, when you first pull in, you could see it; but if you go down the driveway, no, you can see it.
Q. No, that's not what I'm asking you. I'm asking is this where Greer's driveway pulls into Larry's driveway?
A. No.
Q. Okay. Where in this photograph -- where at -- where at in Exhibit 12 does Greer's driveway, right at Keowee Road, pull into Larry's driveway?
A. All right. It's -- it's directly straight across, up through there about 70 or 50 -- 75 yards. It's right here. It's -- it's up that way. Right there. You got a road there. It's -- it's about -- about 60 feet or 75 feet up through there.
Q. Okay. I got you. Let me ask you, if you're standing -- if -- if somebody is standing in -- on this concrete pad, in Exhibit Number 12, could they see deep enough in the woods to see where law enforcement arrested Greer on November the 21st of '16?
A. No, sir. They can't see that far, no. There's no way possible.

Q. No way humanly possible?
A. No way humanly possible, no.
Q. Okay. I want to show you what's been entered into evidence as Exhibit 14. Do you recognize that photograph, yes or no?
A. Yes, I do.
Q. Okay. And that photo shows a "No Trespassing" sign on Larry Ashley's tree, correct?
A. Yes, sir.
Q. Was that sign on that tree on November the 21st of 2016?
A. Yes, sir, it was.
Q. Has that sign been there for years?
A. It's been there -- yeah. Well, which was quite a few years, yeah.
Q. Okay. I want to have Ms. Lumley show you what's already into evidence as Exhibit 23. It's a video. And I'm going to ask you to watch the video all the way through and then I'm going to have some questions, okay. And Ms. Lumley's going to have to play the video for you in the conference room.
A. Okay.
(Exhibit 23 playing.)
Q. Donnie, did you have a chance to look at that video?
A. Yes, sir, I just seen it.

Q. Are you familiar with the area that's shown on that video?
A. Yes, sir, I am.
Q. And -- and all the property that's shown on that video is on Larry Ashley's land, correct?
A. Correct.
Q. Okay. Again, I want to have Ms. Lumley play that video for you again, and I want you to say the word "stop" when we reached the point where you first knew that law enforcement was on the property. Okay?
A. Okay.
(Exhibit 23 replayed.)
Okay. Stop. Right along there, where it was. It's on right now. Right there.
Q. Okay. And, Donnie, can you look at the video and tell us how far into the video -- what's the time now when you said the word "stop"?
A. 1:15, 1:15, 1:15.
Q. Okay. One minute and 15 seconds into the video?
A. Yes, sir.
Q. Okay. Did you actually see the police that day?
A. No, not then. No, no.
Q. Did Greer tell you that the police -- or did Greer say the word "police" to you?
A. Yes.

Q. Okay. When Greer said the word "police" to you, were you in a vehicle?
A. Yes, I was sitting in his truck, yeah.
Q. Okay. And was Greer on foot, outside of the vehicle?
A. Yes.
Q. Okay. When you heard the word "police," did you drive away?
A. Yes, I did.
Q. Did Greer start -- did -- did Greer start walking away?
A. Yeah, Greer walked up -- up through -- up -- up that way, yeah.
Q. Okay. So y'all were going separate ways?
A. Yes.
Q. Okay. And so is it fair to say that y'all were deep in the woods on Larry's property when Greer said the word "police"?
A. Yeah. We was pretty -- yeah, we was pretty far in the woods, yes.
Q. Let me ask you, from where -- where you were standing when Grees -- when Greer said "police," could you see Keowee Road from there?
A. No way, no. No, no way.
Q. Because it's a very wooded area?
A. Yes. You couldn't see, no. You couldn't see Keowee Road.

Q. Okay. You couldn't see because there's a lot of junk?
A. Yeah. Trees I mean, you -- ain't no way possible you could see that far, the road, no.
Q. Is it fair to say that you were probably several football fields off Keowee-Road when Greer yelled --
A. About two football fields, probably.
Q. Okay. Let me -- let me ask -- let me ask my question, Donnie.
A. Yes, sir.
Q. Is it fair to say that -- again, how far do you believe you were off Keowee-Road when Greer said the word "police"?
A. I'd say 200 -- 250 -- 250 yards. Two football fields, probably.
Q. A long way into the woods.
A. Yes.
Q. Okay. You weren't anywhere near Larry's "No Trespassing" sign, were you?
A. No.
Q. You were way deeper in the woods than that, weren't you?
A. Yes, yes.

MR. HENDERSON: Okay. Your Honor, I don't have any further questions for this witness.

THE COURT: All right. Mr. Brock, if you would answer any questions that Ms. Neubauer may have for you.

Again, let us know if you can't hear us.

THE WITNESS: Okay.

CROSS-EXAMINATION by Mr. Neubauer:

Q. Good morning, Mr. Brock. I just have two questions for you really quickly.

A. Yes, sir.

Q. First, was there a valid arrest warrant out for you on November 21st, 2016?

MR. HENDERSON: Your Honor, I'm going to object. That calls for a legal conclusion. Speculation.

THE COURT: All right. You want to rephrase.

MR. NEUBAUER: Yes.

Q. Was there -- I'll just go to my second question. Were you arrested on November 21st, 2016?

A. Yes, I was.

Q. And were you arrested on Larry Ashley's property on that day?

A. Yes, I was.

MR. NEUBAUER: No further questions.

THE COURT: Any redirect limited to what he went into?

MR. HENDERSON: No, sir, Your Honor.

THE COURT: All right. Listen, Mr. Brock, thank you very much. Any reason why the witness cannot be excused?

MR. HENDERSON: No, Your Honor. And I think he's going to sit around and observe because -- in the conference room, because he's not going to be recalled.

THE COURT: Okay. So did we have an agreement on sequestration?

MR. HENDERSON: We -- we did, Your Honor. And I know that Mr. Byrholdt heard his testimony, but Mr. Brock didn't testify to anything that Mr. Byrholdt --

THE COURT: Okay. Mr. Neubauer does not intend to call Mr. Brock back or anything?

MR. HENDERSON: No, sir. Not at all, not at all.

THE COURT: Let Mr. Neubauer answer that. I think he's the one that decides.

MR. HENDERSON: Oh, I'm sorry, I'm sorry.

MR. NEUBAUER: No, Your Honor, I have no reason to go call Mr. Brock back.

THE COURT: Okay. Mr. Henderson, are you ready for your next witness?

MR. HENDERSON: Yes, sir, Your Honor. And I call Mr. Byrholdt, please.

THE COURT: All right. Mr. Byrholdt, just need to remind you that you ARE under oath, and so just let us know if ever you can't hear Mr. Henderson or Mr. Neubauer or me, and just be sure that you speak up so that we all can hear you, but also speak slowly so that we all can understand

you. At this time I'll turn this over to -- now, Mr. Byrholdt, you're muted. There you go.

MR. BEERHOLDT: I have not been sworn yet, Your Honor.

THE COURT: Oh, you haven't been. Okay. Then raise your right hand.

BRUCE BYRHOLDT, SWORN

Thank you, sir. You may put your hand down. At this time I will turn this matter over to Mr. Henderson.

MR. HENDERSON: Thank you.

DIRECT EXAMINATION by Mr. Henderson:

Q. Hey, Bruce. Thank you for being here today, sir.

A. You're welcome.

Q. Have you got your file in front of you?

A. It's on the desk next to me.

Q. Okay. I want to call your attention -- and I could have Ms. Lumley hold it up to the screen, but my proposed Exhibit 35, which is entitled Criminal Retainer Agreement, dated December the 5th of 2016, I want to -- can you find that document, or if not, I'll have Ms. Lumley put it up to the screen?

A. I have it.

Q. Okay. Is that the document that Greer Ashley signed on December the 15th of 2016?

A. Yes, sir.

Q. And it looks like it's got your signature on the bottom left; is that correct?
A. Yes.
Q. And that's a document that your office created?
A. It's a document that I created.
Q. That you created. Okay.
MR. HENDERSON: Your Honor, at this time I would move Exhibit 35 into evidence.
THE COURT: Mr. Neubauer?
MR. NEUBAUER: I'm sorry, sir. No objection.
THE COURT: Without objection, this will be admitted.
(Exhibit 35 was admitted.)
Q. And, Bruce, I want to show you what my proposed Exhibit 36 -- it's entitled Consultation Intake Sheet.
Do you have the document with you?
A. I do.
Q. And, I suppose, ignoring the writing on the document, I'm guessing, that's a form that you or your office created?
A. Yes.
Q. And that Greer Ashley or somebody on his behalf filled out that form?
A. Correct.
Q. And you took possession of the original document?
A. Yes.

MR. HENDERSON: Your Honor, at this time I would move Exhibit 36 into evidence.

MR. NEUBAUER: No objection, Your Honor.

THE COURT: Without objection it will be admitted, yes, sir.

(Exhibit 36 was admitted.)

Q. And, Bruce, I want to -- and I will represent to you that for the matter that we're here on that Greer was arrested on November the 21st of '16. Do you agree with that?

A. I have no other information that would dispute that.

Q. Okay. And do you recognize that at some point, several days after that, he bonded out?

A. Correct.

Q. And, again, I will represent to you that Greer was arrested on a probation violation on or about September the 1st of '17. Do you agree with that?

A. True.

Q. Okay. Let me ask you, before Greer bonded out, did you have any contact with him?

A. No. I was dealing with his uncle.

Q. Okay. So his uncle actually called you before Greer bonded out?

A. Based on my recollection, Mr. Henderson.

Q. Okay. So it's fair to say that before Greer bonded out

you didn't meet with him.
A. I don't recall that.
Q. Okay. Do you recall meeting with Greer prior to the client contract being signed on December the 15th of 2006?
A. I don't recall whether I did or not.
Q. Okay. Prior to him signing this retainer agreement and hiring you and then him getting arrested again on September the 1st of '17, how many times did you meet with Greer?
A. I can't recall a specific number, Mr. Henderson.
Q. And I'm looking at what's been marked and entered into evidence as Exhibit 37, which is entitled Plea Offer, and again, that document is dated October the 10th of 2017. And I believe that document was signed when you met with Greer in the Abbeville County jail.
A. Yes, sir.
Q. Okay. And I will represent to you that when Greer was arrested on September the 1st of '17, until the day that he pled guilty on October 23 of '17, that's about 52 days. I will represent that to you.
A. Whatever the number is.
Q. Okay. Other than that meeting with Greer in the jail on October the 10th of '17, how many times did you meet with Greer while he was incarcerated on the probation violation?
A. I can't recall, Mr. Henderson.

Q. Do you know if you had any telephone conversations with Greer while he was in jail on the probation violation?
A. I doubt that I would speak to him by phone, because those calls would have been recorded, unless I could have asked for a, you know, privileged call.
Q. Did you recall doing that?
A. I do not recall getting a screened phone call.
Q. Do you recall writing any letters to Greer while he was in the Abbeville Jail on the probation violation?
A. No. But my recollection is I believe I met with him, we discussed the case, I drafted up the motion to suppress. The case was going to be called for trial. And in my meetings with Mr. Ashley, you know, we'd discussed what had happened the day of his arrest.

I take it that Mr. Ashley is waiving attorney-client privilege?

Q. I think by the very nature of him filing this action he does.
A. Well -- but I want to make sure that that is the understanding.
Q. I mean, I think by court rule or statute that's the case.

THE COURT: Mr. Neubauer, I think Mr. Henderson appropriately summarizes the filing of the PCR and the waiver of attorney-client privilege. Do you disagree?

MR. NEUBAUER: No, Your Honor. That is a correct interpretation.

THE COURT: Okay. All right. Then I would -- Mr. Neubauer, thank you. Go ahead, Mr. Henderson.

MR. NEUBAUER: Yes, sir.

Q. Bruce, let me go back again, and I will let you give your answer.

But, again, going back to this -- October 10th, '17, where you met with Greer in the jail.

A. Yes, sir.

Q. Okay. And the reason I know that's the date is because that's the date that the plea offer was communicated to Greer, correct?

A. Yes, sir.

Q. Was that the first time that you had communicated a plea offer to Greer?

A. I think we'd discussed trying to work out a plea offer early on in the case. Because with Greer being on probation, with Greer being in trouble, he was looking at a serious sentence if he was convicted.

Q. Okay.

A. And when we discussed what happened that day, I wanted to get his version of what happened. And he took off running and a laundry bottle in his hand, kept it with him the entire time he was running. When he was arrested there

was, like I say, in excess of 400 grams of meth. It was going to be a tough haul. If he testified at trial, his record would come out; if he didn't testify, it was going to be hard to have anything on his side of the case. We discussed that, you know, fully with him. We were able to -- I filed my motion to suppress and discussed with the solicitors and was able to get the charge reduced down to what he eventually pled guilty to and got the sentence that we had, you know, reached by agreement.

Q. Going back to this plea offer that was dated October 10 of '17. And it says that the State will recommend 15 years.

A. Correct.

Q. Did I state that accurately?

A. Yes, sir.

Q. Prior to that, had the State made any prior settlement offers?

A. No, sir.

Q. So when you communicated this offer on October the 10th, that was the first time you had communicated a settlement offer to Greer, correct?

A. It's the first time I had received one.

Q. Bingo. So I mean, you communicated it, I guess, as soon as you got it?

A. I talked to Greer and said if we can get it down to

where you're looking at 15 years, do you want to go to trial or do you want to accept the plea offer. He was hesitant at first. I explained the pros and cons of going forward and told him that, you know, the gamble was on his part, and he decided to take the plea.

Q. Okay. On October the 10th of '17, that's the date that you also filed your motion to suppress, correct?

A. Correct.

Q. Did you file that motion to suppress before or after meeting Greer in jail that day?

A. I think I filed a motion to suppress before that is my recollection. Because I don't think I would have talked to him about it without filing it.

Q. I will represent to you that you're going -- what's already into evidence as Exhibit 30, your motion to suppress, was filed on October the 10th of 2017 at 1:29 p.m.

A. Okay.

Q. You also met with Greer on October the 10th. I'm just trying to figure out, on October the 10th of '17, what came first, meeting with Greer or the filing of the motion to suppress.

A. Mr. Henderson, I can't -- I have no -- I can't tell you what came first. It may have been that I talked to Greer about filing the motion and using that to try and get the solicitor to come down. But I think my timing would have --

I think I would have filed it first, and then met with the solicitors. When I talked to -- I think the solicitors knew I was going to file it. I told him that I was going to file the motion to suppress.

Q. Okay. Did you take a copy of that motion to suppress then to the jail when you met with Greer on October the 10th?

A. I either had it with me or we discussed it beforehand. I went over what it was going to consist of, what my motion was, what I was relying on.

Q. So you don't think that you met with Greer and then went back to Henderson, got it typed up, and then drove back to Abbeville to file it?

A. No, sir.

Q. Okay. And I will turn your attention to what's already into evidence as Exhibit 33, and that was your letter to me, dated May the 6th of 2019, whereas you say, "Dear Carson. Enclosed, please find a copy of Mr. Ashley's file."

A. Okay.

Q. Do you remember writing me that letter?

A. I remind -- responded to your request.

Q. Okay. And that would have been a copy of Greer's entire file, correct?

A. Right there (indicating). Yes, sir.

Q. Okay. No -- everything you had you would have sent me

a copy of?
A. I didn't remove anything from the file.
Q. Okay. And I will represent to you there are really no notes in the file.
A. Okay.
Q. I mean, you don't dispute that, do you?
A. If you didn't get them, there were no notes in the file.
Q. Okay. I want to discuss some exhibits with you that are already into evidence. I want to call your attention to Exhibit 29, which is the Rule 5 and Brady Motion that was dated and clocked on December the 16th of 2016.

Do you remember doing that?

A. I filed a discovery motion, yes, sir.
Q. Okay. And I will represent to you that was one day after Greer Ashley hired you on December the 15th of 2016.
A. I try and get them out the day I'm hired.
Q. And here, toward -- basically, at the bottom of page 3 of this motion, in bold letters, you always -- you wrote and -- or typed that defendant would also request disclosure of any exculpatory information or material which is in your possession or through the exercise of due diligence should be in your possession, pursuant to *Brady versus Maryland*. Do you remember that?
A. That is in my discovery request, yes, sir.

Q. And did the -- and I don't believe the government sent you any information about how deep into the woods Greer was when he was arrested, did they?
A. I don't recall a specific admission by the State that he was X number of yards or feet into the woods.
Q. Okay. So you think you sent to me all the discovery responses that the State gave to you?
A. Mr. Henderson, I told you I sent you everything that was in my file, sir.
Q. Okay. And, again, we've just discussed what's been marked as Exhibit 30, your motion to suppress, which was filed, again, October the 10th of '17. And I believe you said it sounded like -- again, correct me if I'm wrong -- that you believe that you filed the motion that day, before meeting with Greer that day at the jail.
A. That is my best recollection, Mr. Henderson.
Q. Okay. And it says, "Please take notice that Defendant Ashley will move ten days after service for a motion to suppress."

Did you ever work on getting a suppression hearing scheduled?
A. Not after meeting with Mr. Ashley and trying to work out the plea.
Q. Okay.
A. Not necessary -- part -- but I was negotiating with the

solicitors. They were willing to reduce the charge, recommend 15 years, and in return, they wanted Mr. Greer to withdraw or not go forward on the suppression motion.

Q. Okay.

A. If we were going to go forward on the suppression motion, then all deals were going to be off; he was looking at 25 to 30 and a $200,000 fine.

Q. Okay. And you would agree this motion to suppress was filed 13 days before the scheduled trial date?

A. Yes, sir.

Q. Okay. And I'm looking at what's already into evidence as Exhibit 31. It is an email from Solicitor Micah Black to you, dated October the 18th of 2017.

Do you have that document with you?

A. I do not have it handy -- or, Mr. Henderson, you can have your paralegal hold it up.

MR. HENDERSON: Kristie, if you would hold up Exhibit 31, please.

THE WITNESS: It's not that clear. I can't read it. If you will tell me -- I trust you will tell me accurately what's in there.

Q. Right. Where Solicitor Black, again, five days before the scheduled trial date, he sent you some supplemental Rule 5 responses about what deputies Gladden and McCurry would testify that Greer said to them that day.

A. Okay.
Q. And also he says, "I'm assuming that you want a *Jackson versus Denno* Hearing regarding the statement he gave to Lieutenant Graham." And he says, "I do plan on eliciting this statement at trial."
A. Right. Okay.
Q. And is it fair to say that at least on October the 18th that y'all had not settled this case yet?
A. That would be fair.
Q. Okay. And, again, in this email -- again, I don't have a response in your -- there's not a response, your response to this email isn't in the file. I don't know if there was a response, but I will also represent to you that there's no mention of a motion to suppress in this email.

Do you dispute that?

A. I'm taking you at your word. I don't -- like I say, it's not clear enough for me to read.
Q. Okay. I just didn't know if it was handy in your file or...
A. I mean, if you want me to look through the file, I'll be happy to.
Q. No. I mean, I think I've covered the points I needed.
A. Right.
Q. I want to turn to -- well, going back -- well, let me ask you, in your file, I didn't see any type of written

notice from the solicitor that Greer was up for a jury trial on Monday, October 23rd of '17.

A. I don't know. Like I say, I've sent you everything in my file. It may be that we communicated by telephone.

Q. Okay.

A. A lot of times -- with Abbeville, a lot of time that's the easiest way to communicate with them. I'll call either Yates or Micah on their cell phone because it's hard to reach Abbeville.

Q. I understand. I'm just saying that there's no written jury trial notice in your file.

Did you obtain a written juror list from the clerk of court?

A. Probably not. Because by that time, I think we'd already agreed to do a plea.

Q. Okay. As least as of October the 18th, five days before court, you had told me that, you know, y'all hadn't settled the case by then. I mean, wouldn't you have gotten a jury list long before that?

A. If we were proceeding to trial, I would have gotten a jury list when they came out, Mr. Henderson.

Q. Okay. They come out typically, what, a couple week --three weeks before court?

A. Usually, in Abbeville, maybe a week ahead of time.

Q. Okay. Would your meeting with Greer on

October the 10th, '17, in the jail -- is that the first time you notified him that he was on the trial roster for October 23rd?

A. That is probably -- that's probably a fair statement.

Q. And, in looking back at your criminal retainer agreement, which is now into evidence as 35, where Greer agreed to be responsible for any cost deemed necessary for the defense of this case, did you hire a private investigator to do anything or...

A. I did not hire a private investigator, Mr. Henderson.

Q. Okay. And I'm looking at what's now into evidence as 36, the Consultation Intake Sheet, and it's got Greer's address as [redacted] Keowee Road, Honea Path.

Would Greer have written that or would you have written that?

A. That is not my handwriting for the address.

Q. Okay. So most likely it's Greer's, then?

A. It was either Greer or Larry, his uncle.

Q. Okay. After you met with Greer in the Abbeville jail on October the 10th of '17, did you have any more meetings with him prior to seeing him in court on October the 23rd of '17?

A. Not that I recall, Mr. Henderson.

Q. Did you have any telephone conversations with him during that time frame, between October the 10th to

October 23rd?
A. Not that I recall.
Q. Okay. And you would agree that on Exhibit 37, which is into evidence, on the plea offer, where it says "I reject the plea offer and want a trial," Greer Ashley put his initials out beside that?
A. I don't have that handy. If I could see it.
Q. I will have Ms. Kristie put that up.
A. Yes, sir.
Q. And it's Exhibit 37.
A. That is correct.
Q. Okay. At least, from the time that you left the jail from meeting Greer, on October the 10th of '17, he didn't want to plead guilty; he wanted to go forward with this trial, correct?
A. That's what the plea offer said when he rejected it on that date.
Q. Okay.
A. So I believe I would have talked to him again then about his -- on going to trial. Like I say, again, I have no independent recollection. It's been five years.
Q. Right. And, again, I don't have any notes in your file at all. I'm just trying to figure out -- after Greer told you, after you had filed -- you'd already filed a motion to suppress, you went to see Greer, Greer tells you "I want to

go to trial."

What did you do in preparation for trial from that point up to September the -- or October 23rd of 2017?

A. Probably reviewed the discovery material that had been sent. At some point I had to talk to Greer. Whether it was that morning, like I say, I don't have any recollection, Mr. Henderson. But for -- I mean, from day one, I mean, you know, Greer just told me he panicked, he ran and he had the drugs in his hand and he knew he was in trouble. I was trying to keep him from going away for 30 years. I was afraid that he was going to get hammered at trial.

Q. I want to turn your attention to October 23rd of '17, and I will represent to you that's the day that Greer pled guilty.

A. Okay.

Q. Do you have a copy of the transcript -- of the plea transcript?

A. I do.

Q. Let me ask you, prior to the plea, did you and Solicitor Black go back and conference this case with Judge Addie?

A. I don't recall doing that. Not with Judge Addie, no, sir. I would have talked with the solicitor about it, but I didn't go back and -- I have no recollection of going back to the judge's chambers.

Q. Okay. And I'm looking at page 10 of the plea transcript, and again, the plea transcript is Exhibit 32.
A. I've got it.
Q. And I'm looking at line 6, on page 10, where it says:

"MR. BLACK: Your Honor, this happened at [redacted] Keowee Road."

A. I have the page.
Q. Did I read that correctly?
A. That's what that -- that's what the transcript says, yeah.
Q. Okay. At some point have you now learned that this incident did not occur at [redacted] Keowee Road?
A. Well, it happened in the proximity. I mean, he was in the woods when he got arrested; he was not on a road. I think he was just giving some background information to the judge.
Q. Okay. And then looking down at line 18, on that same page, when they pulled onto this piece of property, they immediately saw the individual -- that is the defendant in this case, Mr. Ashley -- he kind of took off.
A. Yes, sir.
Q. Has anything that you learned in your investigation indicated to you that there was no way that law enforcement could have seen Mr. Ashley immediately upon pulling onto this property?

A. Well, I think there was a -- if -- with my recollection, there was a recording on the police radio that mentioned Mr. Ashley by name.
Q. You mean an audio recording?
A. An audio recording, yes, sir.
Q. That you heard with your own ears, I suppose?
A. Yeah.
Q. Okay. Now, that wasn't produced in your file.
A. I think I used it as part of my -- on my motion. Because, you know, they knew who he was, and like I say, I discussed that with Greer. I don't know why -- I don't know why that was not produced.
Q. So, again, upon your recollection of this audio recording, is that when police saw Greer, they called him out by name?
A. One of the officers mentioned something that was like the statement, "There goes Greer Ashley" or "That's Greer." Something like that.
Q. Okay.
A. It was one of them two.
Q. Okay. And that would have been, I guess, when they were calling in to dispatch, saying that we've located somebody?
A. It was just on the police audio, when they arrived at the scene.

Q. Okay. Do you know how long the police had been on this property before they did this radio dispatch of, "There goes Greer Ashley"?

A. I do not.

Q. Okay. Did you take any steps to investigate how far or deep into this property the police were when they say said, "There goes Greer Ashley"?

A. I looked at that when I filed my motion with -- like I say, from day one is Greer admitted to having the drugs, taking off running, and keeping the laundry bottle with him. He didn't drop it. He didn't try and throw it away. He just took off running. Greer told me he thought he'd been setup.

Q. And then on page 16 of the guilty plea transcript --

A. Yes, sir.

Q. -- you know, you tell the judge -- you tell Judge Addie that you've reviewed cases about flight.

Am I saying that correctly?

A. Yes.

Q. Okay. And you said you also reviewed the recent decision of U.S. Supreme Court. What case was that?

A. Give me a second. It may have been *Illinois versus Wardlaw*, and there was a South Carolina Supreme Court, *State versus Taylor*, and a Georgia Supreme Court, *Harris versus* -- or Georgia Court of

Appeals, *Harris versus State*.

Those are the ones I can put my hands on right now.

Q. Well, I notice you did a lot of legal research on the issues of flight.

A. Yes, sir.

Q. Did you do any issues -- do any research on the issue of law enforcement entering somebody else's property, you know, with no search warrant, when there's a "No Trespassing" sign and just go, trying to serve an arrest warrant? Did you do any research on that?

A. That probably -- both Greer and his uncle, Larry Ashley -- no one ever mentioned "No Trespassing" signs or anything like that. And my position was they were there with an arrest warrant, they recognized somebody that took off, they gave chase. I did not look at that issue, Mr. Henderson.

Q. Okay. So you don't recollect anybody telling you about there being these "No Trespassing" signs up?

A. I have no recollection of that at all, Mr. Henderson.

Q. Okay. So is it fair to say that -- that you didn't walk the property? You didn't visit the property?

A. I did not walk the property, Mr. Henderson. I relied on what my client told me about what happened that day. Had he not taken off running, they had no reason to bother him.

Q. Have you -- did you do any research or did you try to find copies of these arrest warrants that the police supposedly had that day?
A. I don't recall whether I did that or not. I think the person was arrested -- there was one person arrested later that day, and I think the lady was found on the property. I don't know if it was Greer's property or his uncle Larry Ashley's property.
Q. Okay. And I will represent to you that these arrest warrants for other people had not been countersigned by an Abbeville County Magistrate.
A. I accept that.
Q. Did you -- so you didn't take that into account, of what law enforcement was doing on Larry Ashley's property that day, I suppose?
A. No. What I took in account was my client told me he took off running with an armload of drugs.
Q. Okay. Did you ever pinpoint with Greer about where exactly he was on Larry Ashley's property at?
A. I did not.
Q. Okay. Other than Greer, did you talk to any other witnesses?
A. Greer told me he was by himself.
Q. So you didn't talk to Donnie Brock, who's just testified?

A. Did not.
Q. Okay. And I will represent to you that Mr. Brock's name is actually mentioned in the incident report, dealing with Mr. Ashley's arrest -- Greer Ashley's arrest.
A. Mr. Henderson, I understand that, but my client told me that he took off running with an armload of drugs. I was trying to save him from spending a minimum 25 years in prison. Looks like I saved him, at least at this point, maybe 11, 11 and a half years, and, you know...
Q. Let me ask you, other than the discovery responses produced by the solicitor's office, did you obtain any other evidence, documents, anything else?
A. Mr. Henderson, I gave you what was in my file, which was the discovery evidence on them. Like I say, I spoke to his uncle probably numerous times, talked with Greer about what happened.
Q. And it's your testimony that nobody ever told you there was a great big "No Trespassing" sign or multiple "No Trespassing" signs on this property?
A. No, sir, no.
Q. So I'm guessing that you didn't serve any trial subpoenas, did you?
A. I did not. Because he did not have -- he did not provide me a name of one witness that could assist him on the allegations that were made against him concerning the

drugs.
Q. Did you ever pick up the phone and call any of the law enforcement officers mentioned in the incident reports?
A. I did not.
Q. Okay. And you said that you didn't call or try to contact Donnie Brock, correct?
A. I asked -- did not.
Q. And I think there was a lady by the name of Barbara Young that was on the property that day. You didn't try to talk to her?
A. I asked his uncle and I asked Greer if he had any witness that would offer any supporting evidence for him. They had none. He got caught running away with drugs.
Q. And, again, just to clarify: You didn't go onto the property?
A. I did not.
Q. And you don't know where Greer was at on his uncle Larry's property, when he first saw the police; is that correct?
A. He told me he was close enough to see the police when they drove up, he got scared, and took off running.
Q. But you just don't know where that was at on the property, correct?
A. Mr. Henderson, I did not walk the property.
Q. Okay. And I will represent to you, this tract of land

is 56 acres, and that's been introduced into evidence without objection, that Larry Ashley's property is 56 acres, so it's a big tract of land.

A. Okay.

Q. And, again, you just didn't -- you didn't visit the property? Didn't ride the property? Didn't walk the property?

A. Again, Mr. Henderson, I did not walk the property.

Q. Let me ask you, if you had learned that there was a "No Trespassing" sign up or multiple "No Trespassing" signs up that day and that the arrest warrants for Mr. Brock and Ms. Young hadn't been countersigned, would that have made a difference in your analysis of this?

A. It could have.

MR. HENDERSON: Your Honor, I don't believe I have anything further.

THE COURT: All right. Why don't we take a short recess. We'll come right back.

MR. HENDERSON: Thank you.

MR. NEUBAUER: Yes, Your Honor. Thank you.

THE COURT: All right. Mr. Byrholdt, just reminding you, you're still in the process of giving testimony, so don't talk to anybody about the substance of your testimony. We'll come right back.

(A recess was taken.)

THE COURT: All right. I think we're all back together.

Mr. Neubauer, are you ready for the cross-examination?

MR. NEUBAUER: Yes, sir, Your Honor.

THE COURT: Yes, sir. More than happy to turn it over to you.

MR. NEUBAUER: Thank you so much.

CROSS-EXAMINATION by Mr. Neubauer:

Q. Good morning, Mr. Byrholdt.

A. Afternoon, Michael.

Q. How long have you been practicing law in the state of South Carolina?

A. I guess going on 40 years.

Q. Yes, sir. And what percentage of that would you say was criminal defense?

A. Probably at least half.

Q. Yes, sir. And do you remember how you came to represent Mr. Ashley in this matter?

A. I think his uncle knew my ex-wife.

Q. Okay. And his uncle is the one who ultimately reached out to you?

A. Yes.

Q. And you filed a Rule 5 and Brady Motion the day after you began representing Mr. Ashley.

Did you review the discovery materials you received, with Mr. Ashley?
A. I did.
Q. And did he understand the discussions that you had regarding the State's evidence?
A. I believe he did.
Q. And do you remember how long you represented Mr. Ashley prior to his guilty plea?
A. I guess about ten months, I guess, it would be -- nine or ten months.
Q. Yes, sir. And do you know how many -- roughly how many times you met with Mr. Ashley during that period?
A. Mr. Neubauer, I can't recall that.
Q. Yes, sir. But you had meetings with not only Greer Ashley, but also his uncle, Larry Ashley, correct?
A. Many meetings with Larry Ashley; a few meetings with Greer Ashley. Like I say, I was looking at this case from the start of trying to get it where he was not looking at 25 or 30 years in prison.
Q. Yes, sir. So you discussed the charges of Mr. Ashley and the potential penalties, and he knew he was facing up to 30 years and a minimum 25 years, correct?
A. Yes, sir.
Q. And did you review Mr. Ashley's constitutional rights with him prior to his guilty plea, his right to a trial,

right to confront witnesses?
A. Yes, sir. He was well aware of what his rights were.
Q. Yes, sir. And could you briefly just go over the facts of the case according to the State.
A. Well, the facts according to the State were, if you're out trying to serve a -- they were looking for two people they claimed they had warrants for. When they arrived on the property, at least one of the officers saw a man, recognized him as Greer Ashley, and then this man they'd seen took off running. Officers gave chase, caught him after a pretty good run in the woods, with a laundry -- half cut off bottle of laundry detergent, filled with methamphetamines, more than 400 grams.
Q. Yes, sir. And did Mr. Ashley discuss his version of the facts with you?
A. He did. He said when he saw what he thought was law enforcement appear at the scene, he took off running, and got caught. Never dropped the laundry bottle, never tried to throw it away. You know, not a good situation.
Q. Yes, sir. Did Mr. Ashley ever deny his involvement in this case?
A. Never.
Q. Yes, sir. And Mr. Ashley is alleging you failed to do an adequate pretrial investigation in this case.
Do you remember your investigation into this case,

leading up to his plea?

A. I reviewed all the discovery material. I looked at case law. You know, I talked to him -- he couldn't take the stand. He would have -- they would have asked him about his drug history. You know, I told him he had an absolute right to go to trial, but I said I'd practiced at that time probably 35 years. I think I had two suppression motions that were granted. One was because it was a clerical error; the return was never made. The second one was a pat down with -- involving like -- Judge Pyle was my trial judge, and it went beyond just a mere pat down because then he had reached into the guy's pockets.

It's not an easy thing to get drugs suppressed, and it's difficult when you've got a great quantity of drugs. Not to -- you know, I thought it was in Greer's best interest to see if we could work out a deal where he wasn't looking at the mandatory 25 or 30. I think it was a mandatory $200,000 fine. And when he decided to plead, he'd agreed with me on that.

I would correct one thing. I went -- well, during the break, I looked at the transcripts. I hadn't -- I didn't review the file in preparation for this hearing. I don't do that. And it was a negotiated plea, so I would have met with Judge Addie and the prosecutor to negotiate his plea. There was no way they were going to -- they could

back out of the 15 years. That was to protect Mr. Ashley. It was just a recommendation. The Court could have still given, you know, up to the max for the amount he pled to.

Q. Yes, sir. And just briefly on that. With it being a negotiated plea, you'd discussed that with Mr. Ashley and he was well aware that if the plea was accepted it would be for 15 years; it couldn't be above or under that amount?

A. It was going to be this -- he was going to receive the sentence that we negotiated, which was 15 years, which would make him able to go after serving 85 percent of it.

Q. Yes, sir.

A. You know, that was -- that was what was worked out.

Q. Yes, sir. Were there any meritorious defenses in Mr. Ashley's case that you can think of?

A. Not that I -- not that I thought of at that time, no, sir.

Q. And I believe Mr. Henderson spoke with you that -- about you not hiring a private investigator in this case.

Do you hire a private investigator in every case that you handle?

A. I've probably hired an expert in less than 10 percent of the cases I've handled over the years.

Q. Yes, sir. So you would not say that it --

A. I would do it on a murder case if there's evidence that could be self-defense or looking at gunshot wounds or stuff

like that. But on a drug trafficking case or drug case, it's -- you know, that's -- you're looking at what happened that day.

Q. Yes, sir. And would you say that it's not uncommon for you to investigate a case without a private investigator?

A. No. I would, you know -- I'll say probably in 90 -- 95 percent of the cases, I don't use a private investigator.

Q. Yes, sir. And you were not made aware of any "No Trespassing" signs by Mr. Ashley or Larry Ashley, correct?

A. Never.

Q. And did Mr. Ashley ever provide you with any possible witnesses for you to interview or subpoena?

A. No, sir.

Q. And if you had been provided any names of potential witnesses, would you have investigated these?

A. I would have met with the witnesses and find out what evidence they believe they had, what they're willing to go -- if necessary, to go to court and testify.

Q. Yes, sir. Mr. Ashley has also alleged that you failed to discuss his constitution -- or some constitutional issues surrounding the police's entry into the land.

You talked with Mr. Ashley about this suppression motion, correct?

A. I did.

Q. And you discussed any issues there might be about the

arrest of Mr. Ashley, how the police got onto the land, what, I guess, their rights were, what his rights were?

A. I discussed what I looked at as the issue in the case, on whether the fact that they -- somebody that merely identified him and he took off, would that give him grounds, what I was going to challenge. I was not aware of any "No Trespass" signs or anything like that.

From what Greer told me, like I say, when the -- when he saw the police, they saw him, and the chase started.

Q. Yes, sir. Now, just in regards to the plea, did Mr. Ashley understand that the 15-year plea offer was contingent on you not going forward with the suppression motion?

A. He certainly was aware of that.

Q. Yes, sir. And you didn't --

A. That was how the negotiated plea was arrived at.

Q. Yes, sir. And you -- at the beginning of the actual plea hearing, you stated on the record that you believed the evidence would not have been suppressed based on current case law in South Carolina; is that correct?

A. That was going to be a long shot, to see if the judge would have suppressed that evidence based on the information that was available then.

Q. Yes, sir. And you discussed this with Mr. Ashley; he would have been aware of your opinions regarding the ability

to suppress this evidence?
A. Yes. I told him that it was going to be a long shot and that if the suppression hearing was held and we were not successful, then there was no reason at all for the State to offer anything.
Q. Yes, sir. And he -- or would you believe that he understood the conversations you had regarding the suppression motion?
A. He did.
Q. Yes, sir. And the 15-year plea offer, were you the one who sought that from the State or did Solicitor Black introduce that?
A. I sought that on Greer's behalf.
Q. And you communicate --
A. I asked for less than that. That's the number that we arrived at.
Q. Yes, sir. And then you -- as soon as you had that potential agreement in place, you communicated that with Mr. Ashley?
A. I did.
Q. And Mr. Ashley's also alleging his plea was not knowingly and intelligently given. You, again, will say that you -- prior to his plea, you discussed his constitutional rights with him?
A. I did. We also took a break during the plea, where he

had some questions, and I answered his questions there and completed the plea.

Q. Yes, sir. And Mr. Ashley at one point had communicated that he wanted to go to trial; is that correct?

A. That is correct.

Q. And, in fact, during the actual plea hearing, Mr. Ashley was given multiple chances to end the plea hearing and proceed with the jury selection if he decided that he did not want the plea; is this correct?

A. That is correct.

Q. Would you feel, based on your conversations with him and based on the colloquy from the judge, that he was being pressured or, I guess, forced into a plea?

A. No more than any criminal defendant that is looking at time in prison.

Q. Yes, sir. And do you believe pleading guilt was in Mr. Ashley's best interest in this case?

A. I do. I think he would have been found guilty. I don't think the evidence would have been suppressed. If he's granted a new trial, he'll get that opportunity. Like I say, that's a big gamble, looking at 30 years.

Q. Yes, sir. And if he'd wanted to proceed to trial on November 23rd, would you have felt prepared to proceed to trial at that point?

A. We would have gone forward, yes, sir.

Q. And, ultimately, when it comes to a plea or plea decision, whose -- who has the final decision regarding accepting a plea?

A. The defendant. No one else.

MR. NEUBAUER: Yes, sir. Thank you so much. I have no further questions at this time.

THE COURT: Any redirect limited to what he went into, Mr. Henderson?

MR. HENDERSON: Very briefly.

REDIRECT EXAMINATION by Mr.Henderson:

Q. Bruce, again, I know you said that Greer's version of events was that he saw the police, the police saw him, he took off running, and he got caught with the meth, correct?

A. That's correct.

Q. And, again, you just never explored with Greer or did any independent investigation to figure out where they actually first saw one another on the property, correct?

A. Greer said he was, like I say, close enough where he could see the police when he took off, Mr. Henderson. That's the only information he provided me.

Q. Right. Again, on 56 acres, you can be close enough to see the police and them to see you, I would surmise, at lots of various locations, correct?

A. That would be proper. There could be many locations.

Q. Right. And you didn't seek to pinpoint at what

location on this 56 acres that Greer first saw the police and the police first saw Greer; is that correct?

A. I did not pinpoint the location, Mr. Henderson.

Q. Okay. And you said also, again -- you reiterated to the attorney general what you had told me, that Greer didn't provide you with any witnesses, correct?

A. Neither Greer nor his uncle, Larry Ashley, provided me with any witnesses.

Q. Right. But you would agree with me on the incident report, that law enforcement witnesses -- there was this Donnie Brock, there was this Barbara Young, the other people that they -- that law enforcement were supposedly looking for that day, correct?

A. That is correct. But Greer never said those people were with him that day or anything else.

Q. Okay. And, again, when you do a thorough, meaningful, independent investigation, you dig into stuff that your client may not tell you; is that correct?

A. Well, you gotta dig in stuff that you're made aware of.

Q. Right. I mean --

A. That your client -- I mean, if your client tells you there's no one else around, yeah, I guess I could interview everybody in Abbeville to see if anybody else was around, but that's not -- like I say, I used the information I was provided by Mr. Ashley and his uncle.

Q. Right. I'm not asking you to interview everybody in Abbeville. I'm asking to do interviews and talk with the people listed in the police report that was provided to you in discovery.
A. The information provided in discovery did not lead me to anything that I thought would benefit Mr. Greer Ashley.
Q. You heard Donnie Brock's testimony a while ago, didn't you?
A. I've heard what he testified today.
Q. Right. And he was listed in the incident report provided to you in discovery responses, correct?
A. Right.
Q. If you had known back in 2017 what Donnie Brock testified to today, would that have made a difference to your analysis?
A. Well, I probably would have asked him a lot more questions.
Q. Right. Again, for a criminal defense proceeding, I agree with you, but I'm in the PCR proceeding right now.
A. Understood.
Q. But you would agree that he would have been a good source of information if you had talked to him, correct?
A. He may have been a source of information.
Q. He could have pinpoint -- he could have pinpointed where actually Greer was at on the property when he first

saw the police.
A. Well, the question was when did Greer Ashley see the police and when did the police see Greer Ashley.
Q. Right. I understand that. And Greer's going to be testifying here shortly. I'm just thinking of other witnesses that you had access to or should have known about.
A. I asked Greer and I asked his uncle is there anybody that can help us out in any way in this case, and he provided me no information at all.
MR. HENDERSON: I don't have anything further, Your Honor.
THE COURT: Mr. Neubauer, anything related to any new issues he raised?
MR. NEUBAUER: No, Your Honor.
THE COURT: Okay. Well, thank you very much, Mr. Byrholdt. You can stay with us if you want. If you want to leave, you may do that as well.
But, Mr. Henderson, you ready to call your next witness?
MR. HENDERSON: Absolutely.
MR. BYRHOLDT: I'll be leaving. Thank you, sir.
MR. HENDERSON: I call Greer Ashley, Your Honor.
THE COURT: All right. Mr. Ashley, can -- Mr. Ashley, if you will please raise your right hand.
GREER H. ASHLEY, JR., SWORN

THE COURT: Now, Mr. Ashley, we're getting some feedback. I'm going to mute myself. So whenever you speak, let Mr. Henderson finish his question and then speak. That way we will maybe cut down the echoes. Okay?

THE WITNESS: Okay. Thank you, sir.

THE COURT: Thank you.

DIRECT EXAMINATION by Mr. Henderson:

Q. Greer, good morning.

A. Sir?

Q. How are you today?

A. I'm doing all right.

Q. Now, you understand that in a PCR proceeding all the judge has to do is grant you a new trial. Do you understand that?

A. Yes, sir.

Q. He can't do anything else. Do you understand that?

A. Yes, sir.

Q. Okay. And if you were granted a new trial you would most likely be returned to the Abbeville County Detention Center. Do you understand that?

A. Yes, sir.

Q. Because that's where you were at when you were -- when you pled guilty. Do you understand that?

A. Yes, sir.

Q. And you still want to go forward with this PCR?

A. Yes, sir.
Q. Okay. Greer, while it's on my mind, at any time during Mr. Byrholdt's representation of you and your meeting with him, did you tell Mr. Byrholdt about the "No Trespassing" signs on your uncle's property?
A. Yes, sir. I told him how they come around. The gate was shut. They come around on my uncle's property, yes, sir.
Q. Okay. Did you tell Mr. Byrholdt about the "No Trespassing" sign that was on your closed gate?
A. Yes, sir.
Q. Okay. And that's separate from the "No Trespassing" sign on Larry's tree, correct?
A. Yes, sir.
Q. And you told him all about that; is that correct?
A. I told him how they come down the dirt road, and we were on down in the woods there. And when they come around the curve, that's when I told Donnie, I said, "There's the police."
Q. I'll get into that, Greer.
A. Okay.
Q. I just want to make sure. Did you tell Mr. Byrholdt about that "No Trespassing" sign on Larry's tree?
A. Yes, sir. I told him they come around on private property.

Q. Any doubt about that at all?
A. Sir?
Q. Any doubt that you told him about that?
A. No, sir.
Q. Okay. Now, this property has been in the family -- in the Ashley family for a long time, correct?
A. Yes, sir. It was my grandmother's.
Q. Right. And your uncle Larry owns 56 acres and you own 3 acres, correct?
A. Yes, sir.
Q. And the "No Trespassing" sign on Larry's tree, has that been there for a long time?
A. Yes, sir.
Q. Has the "No Trespassing" sign on your gate been there for a long time?
A. Yes, sir.
Q. Let me ask you -- and I will represent to you that all these events occurred on November the 21st of '16. You agree with that, don't you?
A. Do what now?
Q. Do you agree that all of these events occurred on November the 21st of '16?
A. Yes, sir.
Q. And you would agree with me that all the events occurred on Larry Ashley's property, correct?

A. Yes, sir.

MR. HENDERSON: I want to have Ms. Lumley hold up Exhibit 12, that has been marked, that's already into evidence.

Q. Do you recognize that?

A. Yes, sir. That's my uncle Larry's driveway.

Q. And if you look off to the right, that's kind of where the portion of your driveway merges into Larry's driveway, correct?

A. Yes, sir.

Q. If somebody is standing at that point or parked in a car at that point, could they see deep enough into the woods to the location where you first saw the police?

A. No, sir.

Q. Can you give an estimation as to how deep into the woods you would have been?

A. All right. That's his concrete driveway there.

Q. Right.

A. So probably that much farther down through the dirt road.

Q. And you're back in there a good ways.

A. Yes, sir.

Q. Okay. I'm going to have Ms. Lumley show you what's already into evidence as Exhibit 23, a video, and I want you to watch in full one time. And after you watch it, let me

know, and I'm going to have some questions for you.
A. Okay.
(Exhibit 23 video played.)
Right there. Right there.
Q. Hold on, hold on. Watch the video first.
Now, Greer, what I'm going to have Ms. Lumley do is I'm going to have her to play the video again, and when we reach the point where you were at when you first saw the police, I want you to say, "Stop." Okay?
A. Where I was at or where they was at?
Q. Well, let's do it both ways. Let's do it -- let's do "Stop" and -- say, "Stop" where the police were at; and then we'll restart the video, and you say "stop" where you were at. Okay?
A. Okay.
Q. And Ms. Lumley will announce the times to the Court.
So, again, the first time will be where the police were at; the second time will be where you were at when you first saw the police.
A. Okay.
Q. Does that make sense to you?
A. Yes, sir.
Q. Okay. Ms. Lumley is going to start the video, and you say "stop" where the police were at when you first saw them.
A. Okay.

(Video was replayed.)
A. Right there's where I seen the police. Right there.
MR. HENDERSON: Okay. And, Kristie, could you announce what that time is.
MS. LUMLEY: Fifty-three seconds.
Q. Now, Greer, I'm going to have Kristie restart the video, and I want you to say "stop" again where you were standing when you first saw the police. Does that make sense to you?
A. Yeah. Where I was.
Q. Where you were at, correct.
(Video was replayed.)
A. I was right -- right in there. It was right there.
MR. HENDERSON: And, Kristie, can you announce the time to the Court.
MS. LUMLEY: A minute, six.
Q. Now, Greer, where the police saw you and you saw the police, did they speed up to come after you?
A. Donnie took off to the right, in the truck, and I went to the left and didn't run right at 15 foot and fell.
Q. And any doubt that the police knew who you were?
A. Well, Officer Gladden, he knows me. He's stopped me many a time. He knows me.
Q. Okay. And I'm going to have Kristie show you Exhibit 28, which is already into evidence. Okay?

A. Okay.

MR. HENDERSON: Kristie, let me get Exhibit 28 from you. I'm not sure where Kristie's gone to, Your Honor. If I may call her.

(Exhibit 28 was displayed upon the screen.)

There she goes. Okay. She's back on. Okay.

Q. Greer, this is the Consent to Search. Do you remember signing the Consent to Search?

A. No, sir. That's after they went and got the --

Q. That's not what I asked you. Do you remember signing the Consent to Search, yes or no?

A. Yes, sir.

Q. Yes or no, did you sign that Consent to Search after you were arrested?

A. Yes, sir, after.

Q. Okay. And, again, you signed the Consent to Search 56.70 -- [redacted] Keowee Road, correct?

A. Yes, sir.

Q. Who owns [redacted] Keowee Road?

A. Me and my dad.

Q. Okay. And you were on Larry Ashley's property, correct?

A. Yes, sir.

Q. Okay. There wasn't any reason for the police to be searching your property, correct?

A. Because they found so much drugs, they wanted to search.
Q. Okay. And, Greer, I'm going to refer to Exhibit 35, which is already into evidence, the Retainer Agreement that you signed. Okay?
A. Okay.
Q. Had you -- before you met with Mr. Byrholdt on December the 15th of '16, had you met with him previously about this matter?
A. No, sir. I know his wife -- his ex-wife.
Q. Okay. So you never met with him about this matter before?
A. Not until we hired him.
Q. Okay. After you hired Mr. Byrholdt and prior to you going back to jail on your probation violation, how many times did you meet Mr. Byrholdt?
A. Me and my uncle probably went to his office about three times.
Q. And every time that you went to his office was Larry with you?
A. Yes, sir.
Q. So you didn't go up there any times without Larry?
A. No, sir.
Q. Did Larry go up there any without you?
A. No, sir.

Q. And I'm showing you what's been marked as Exhibit 36, which would be the Consultation Intake.
A. Now, what did you say there now?
Q. I'm going to show you what's been marked as Exhibit 36, which is the sheet that you filled out for your meeting with Mr. Byrholdt.
A. Okay.
Q. Is that your handwriting?
A. Yes, sir.
Q. Okay. And you put down your address, [redacted] Keowee Road, correct?
A. Yes, sir.
Q. That's the house you own and where you live at?
A. Yes, sir.
Q. And that's not Larry Ashley's property?
A. No, sir.
Q. I want to turn your attention to Exhibit 37, which is in evidence, and it's the plea offer. And this document is dated October the 10th of '17.

Do you remember signing that document?

A. That's when Mr. Byrholdt come see me in jail, right?
Q. Yes, sir.
A. Yes, sir. I told him I wasn't taking the plea.
Q. That you wanted to go to trial?
A. I wanted him to have it -- to suppress it -- see if

they'd suppress the drugs because they come on my property.
Q. Let me ask you, what time of the day did Bruce meet with you on October the 10th, at the jail?
A. I think it was in the morning. I'm not really sure.
Q. Did he mention or do know whether or not he had already filed a motion to suppress that day?
A. He said he hadn't signed it. That's the reason I signed that paper saying I wasn't going to take the plea until he suppressed -- seen about suppressing the drugs.
Q. So it's your testimony that when Bruce met with you on October the 10th of '17, in the morning, that at that time he had not filed the motion to suppress?
A. Yes, sir.
Q. And you told him that you wanted the motion to suppress filed and to be heard?
A. Yes, sir.
Q. You were arrested on the bond -- on the probation violation on or about September 1st of '17. You agree with that, don't you?
A. Yes, sir.
Q. Prior to Bruce meeting with you in the jail on October the 10th of '17 -- and that would be about 40 days -- had he met with you anytime in the jail before October 10th?
A. No, sir.

Q. Had he made any phone calls to you?
A. No, sir.
Q. Had he written you any letters?
A. No, sir.
Q. I guess somebody, your Uncle Larry, or somebody, I guess, had told him that you were in jail, correct, or do you know?
A. I mean, I -- yeah. I'm pretty sure my uncle called him or went and seen him, one. I don't -- probably.
Q. After October the 10th of '17, when you signed that plea offer, did you meet with Mr. Byrholdt at all between then and October 23rd, in the courtroom?
A. No, sir.
Q. Did he make any phone calls to you?
A. No, sir.
Q. Did he write any letters to you in that time frame?
A. No, sir.
Q. Did he have any communication with you during that, say, 13-day period?
A. No, sir.
Q. When did you learn -- going back to Exhibit 37, which is in evidence -- and, again, until this -- this document says that your case would be on the trial docket the week of October 23rd, 2017.

Let me ask you, when did you learn that your case

was going to be first up for a jury trial during the week of October 23rd, the court date?

A. That morning, when they carried me over there.

Q. Who is "they"?

A. Mister -- Judge Addie and --

Q. No. That's not -- you said somebody -- you said they carried you. Who carried you?

A. The -- the jail.

Q. Okay. And where did they carry you to?

A. To the courthouse.

Q. Okay. About what time did you arrive at the courthouse?

A. That was that morning. It was in the morning.

Q. Was Bruce there? Was your lawyer there?

A. No, sir.

Q. What time did he arrive?

A. He come rushing in right before they was going to call a recess for lunch.

Q. Okay. So middle part of the day?

A. Yeah. Yes, sir.

Q. Do you know if he -- do you know if he and Solicitor Black had a conference with the judge that morning?

A. I don't know. He said -- he said that they would -- that they weren't going to -- told him they not suppressing

the drugs, what he told me.
Q. Bruce told you that?
A. Yes, sir.
Q. Who did he say wasn't going to suppressant the drugs?
A. He said he talked to the judge, and they wasn't going to suppress the drugs.
Q. Okay.
A. Because I asked him about the suppression hearing.
Q. Okay. And his response was the judge said he wasn't going to suppress it?
A. Yes, that was his response.
Q. Okay. And you don't know whether or not he and Solicitor Black went back and talked to the judge at all?
A. No, sir. I don't even know if he really filed it.
Q. Okay. And, again, you've testified -- and I just want to be clear -- that you explained to Mr. Byrholdt about the trespass sign on Larry's tree, correct?
A. Yes, sir.
Q. And you explained to him about the trespass sign on your gate?
A. Yes, sir.
Q. And to the best of your knowledge, did Bruce visit these properties?
A. Did he what now?
Q. Did he visit these properties?

A. No, sir, no, sir. He never did come. I kept trying to get him to come, he never would.
Q. Do you think it's important for a lawyer, in this particular case, to walk this property?
A. I thought he should.
Q. Right. You think it's very important that he should have?
A. Yes, sir.
Q. Okay. To the best of your knowledge, did Bruce hire a private investigator or anybody on his behalf to come walk this property?
A. No, sir. He never sent no one.
Q. Okay. So he didn't take any pictures of the property?
A. No, sir.
Q. He didn't take any videos of the property?
A. No, sir.
Q. Okay. Did you ever hear that audio from the police, where they're saying, "There goes Greer Ashley"?
A. I never heard it, but Mr. Byrholdt told me he heard it.
Q. Okay. So that was -- obviously, some law enforcement identified you running, and they called it in, correct?
A. That's what he said, yes, sir.
Q. Okay. Now, Greer, are you asking Judge Hayes to grant you a new trial?
A. Yes, sir.

Q. Okay. No ifs, ands, or buts about that?
A. Sir?
Q. No if, ands, or buts about that? You're sure you want a new trial?
A. Yes, sir.
Q. Okay. And let me ask you, do you believe that Bruce's representation was deficient or not up to par?
A. Yes, sir.
Q. Okay. And do you believe that if Bruce had done a meaningful investigation and walked this property and filed -- actually argued this motion to suppress, do you think there's a reasonable probability that the Court would have suppressed the drugs?
A. Yes, sir.
Q. Okay. And so let me ask you, are you happy with the investigation I've done?
A. Now, what now?
Q. Are you happy with the investigation I've done?
A. Yes, sir.
Q. Are you happy with the -- are you happy with how we've prepared your case for PCR?
A. Yes, sir.
Q. Let me ask you: If Bruce had done the investigation and preparations that I've done, would you have insisted on going to trial and having this motion to suppress heard?

A. If he'd have done what you've done, I'd have been happy with it.
Q. Okay. You would have wanted it -- you would have wanted this suppression hearing to be heard, correct?
A. Yes, sir.
Q. Okay. And, again, you're asking for His Honor to grant you a new trial?
A. Yes, sir.
MR. HENDERSON: Okay. I don't have anything further, Your Honor.
THE COURT: Mr. Henderson, if you would just mute yourself. It would stop with some of the echoes.
Mr. Ashley, please answer -- are you ready to go, Mr. Neubauer?
MR. NEUBAUER: Yes, Your Honor.
THE COURT: Please answer any questions that Mr. Neubauer may have, and, again, let us know if you can't hear us. Okay?
THE WITNESS: Okay.
CROSS-EXAMINATION by Mr. Neubauer:
Q. Good afternoon, Ms. Ashley.
A. Good afternoon.
Q. Do you remember discussing the discovery that your -- or Mr. Byrholdt received with Mr. Byrholdt? Did he walk you through the discovery that the State provided him?

A. Yes, sir. He said that the officer seen me run, and I told him that they didn't see me run, that he was already on the property.
Q. Yes, sir. And you recall Mr. Byrholdt filing a motion to suppress in this case, correct?
A. What now?
Q. Do you recall Mr. Byrholdt filing a motion to suppress in this case?
A. No, sir. When I was at -- when I was in the county jail and he come to see me, I asked him had he filed to suppress the drugs, and he hadn't filed at that time.
Q. Thank you. And I'll represent to you that Mr. Byrholdt filed a Notice of Motion and Motion to Suppress Evidence on October 10th, 2017.
A. Yes, sir. That's when I told him that I wanted to -- wanted him to make to suppress -- see about suppressing.
Q. And did Mr. Byrholdt tell you that he thought the motion would not be granted?
A. That's what he told me, yes, sir.
Q. And when you received the 15-year plea offer from the State, did Mr. Byrholdt tell you that if the motion to suppress was not granted, that the State would withdraw that 15-year offer?
A. Yes, sir. He told me that he done talked to the judge, and they wasn't -- that he wasn't going to suppress the

drugs, that I best do the 15 years.
Q. And so prior to trial, you decided to plea, knowing that this would end up with you withdrawing the motion to suppress, so by pleading, you knew that your motion to suppress would be withdrawn, correct?
A. No, sir.
Q. So Mr. Byrholdt did not tell you that if you went forward with a suppression hearing that the plea offer would be off the table?
A. He said -- he said that they wasn't going to go -- go for the suppression and that it'd be my best interest to take the 15 years.
Q. Yes, sir. Now, do you have any experience with motions to suppress?
A. No, sir.
Q. So can you state the likelihood of a motion being granted?
A. I don't know. He was my attorney. I thought he would -- he'd know what to do.
Q. Okay. So, now, regarding your plea, do you recall waiving your constitutional rights prior to entering your guilty plea?
A. That morning?
Q. Yes, sir. When you were in court with Judge Addie.
A. Yes, sir. I signed some papers.

Q. And do you recall telling the plea judge that no one threatened you in any manner to get you to plead guilty?
A. Yes, sir. Because that's what they say you have to say.
Q. Now, do you recall the plea judge telling you the maximum penalty for each of your charges?
A. Yes, sir.
Q. And you told him you understood that?
A. Yes, sir.
Q. And you understood the -- you understood your charges, your potential penalties, but you told the judge that you wanted to plead guilty for 15 years, correct?
A. Yes, sir. That's what I pled for.
Q. And you told the judge that you were not under the influence of any drugs, medication, or alcohol at your plea hearing?
A. I wasn't. I'd been in the county jail.
Q. And do you recall the plea judge asking you if you had had any mental, nervous, or emotional conditions which would keep you from understanding the judge's questions?
A. I told him I was seeing a psychiatrist.
Q. But you told him that that would not keep you from understanding the questions that you were being asked, correct?
A. Yes, I guess I did.

Q. And the judge asked you again if you understood everything that he'd asked you at the end of the plea hearing, correct?
A. Yes, I guess.
Q. And do you recall telling the plea judge that you were pleading guilty of your own free will?
A. Yes, sir, I guess so. I guess I did.
Q. And do you recall telling the judge that you were satisfied with your attorney?
A. Yeah, I guess I did.
Q. And do you recall telling the judge that your attorney did everything you wanted him to do?
A. Well, I felt like I was pressured into taking the plea. Because it hadn't been but two or three weeks when he come to see me in the county jail, when he told me about the plea.
Q. Yes, sir. And do you recall saying that you understood all of the conversations you had with your attorney?
A. Yes, sir, I guess.
Q. And do you recall telling the judge that you were pleading guilty because you are, in fact, guilty of violating the laws of South Carolina?
A. Yes, sir, I guess I did.
Q. And do you recall being informed that you had ten days to file an appeal after your plea?

A. Yes, sir. I remember saying something about that.
Q. Yes, sir. Now, you received the written plea offer, which is Exhibit 37, on October 10th of 2017, correct?
A. That one that he brought me over at the county jail?
Q. Yes, sir. The paper that you signed.
A. Saying I wouldn't take the plea?
Q. Yes, sir.
A. Yes, sir.
Q. And in that written plea offer, it indicated to you that your case would be on the trial docket for the week of October 23rd, correct?
A. Yes, sir, it would be on the docket.
Q. Yes, sir. So from October 10th, you had notice that if you wanted to plea it would be before your case was called to trial the week of October 23rd, correct?
A. Yes, sir.
Q. And, in fact, you were informed multiple times by Judge Addie during your plea hearing that if you weren't comfortable and you wanted to proceed with your trial that you could go to trial, and they would select a jury for you that day.
A. Yes, sir.
Q. And after a few conversations, you repeatedly told Judge Addie that you did want to plead guilty, correct?
A. Yes, sir.

Q. And, again, do you remember Judge Addie told you at your plea hearing that if you wanted to challenge the State's evidence, including attempting to suppress any physical evidence, that you had the right to a hearing to suppress that evidence, correct?
A. Sir?
Q. So during your plea hearing, Judge Addie said, as part of your rights, that you have the right to challenge the State's evidence, that would include filing and having a hearing on a motion to suppress the drugs. Do you remember him telling you that?
A. I don't remember. I can't recall. But Byrholdt said they done discussed that. I don't -- I don't know.
MR. NEUBAUER: And I would just draw the Court's attention to page 15 and 16 of the plea transcript.
Q. All right. And you did ultimately decide that day to plead guilty to the 15-year offer, correct?
A. Yes. I was -- yeah. Byrholdt told me that would be the best to do.
Q. And did you believe that that was the best chance?
A. I was going by what he said.
MR. NEUBAUER: Thank you. At this point I have no further questions.
THE COURT: Mr. Henderson, do you have any redirect limited to what counsel when into?

MR. HENDERSON: Very briefly.

REDIRECT EXAMINATION by Mr. Henderson:

Q. Again, you knew that you were going to be on the trial docket after you talked with Bruce on October 10th, '17, correct?

A. Yes, sir.

Q. But, again, you didn't learn that you were first up for trial until the morning you got to court on October 23rd?

A. Yes, sir.

Q. And you said Bruce wasn't even there when you got there?

A. No, sir.

MR. HENDERSON: Okay. I don't have anything further, Your Honor.

THE COURT: Okay. Thank you, Mr. Ashley. Mr. Ashley, is there someone there that can mute you so that we don't get anymore echo. I think we can do that, Mr. Ashley. Okay. Thank you, Mr. Ashley.

Mr. Henderson, do you have any other witnesses?

MR. HENDERSON: Your Honor, I rest.

THE COURT: Mr. Neubauer, does the State anticipate calling any witnesses? Do you need a break to review?

MR. NEUBAUER: No, Your Honor. At this point we do not intend on calling any other witnesses. We've already

had Mr. Byrholdt's testimony.

THE COURT: Okay. All right. Give me just a moment.

All right. Thank you, Mr. Ashley. I'm going to -- it's a pleasure meeting you. Sorry that we cannot be face-to-face, but during the time of COVID, this is the way that court administration has allowed us to take care of some matters. Mr. Ashley, I'm going to ask that you just stay in touch with Mr. Henderson. I've got to take the matter under advice and considerate it, but -- so just stay in touch with Mr. Henderson. I'm sure he'll be able to answer any questions that you have.

Mr. Ashley, I do want to just -- if you can un-mute Mr. Ashley. I just want to be sure that we have covered a couple of things with you. Mr. Henderson did cover the fact this is a PCR hearing. This is not a criminal proceeding, where that if I agree with you and feel that you have met your burden of proof, that I could not -- you would not be resentenced. What would happen would be that you would actually go back and start over. So do you understand that I am limited; that if I agree with you, that I would send this back down to Abbeville, and they would start over your criminal proceedings, which would mean that you, in fact, could eventually receive a more substantial sentence than the 15 years you've already received --

MR. ASHLEY: Yes, sir.

THE COURT: -- if the State meets their burden of proof.

MR. ASHLEY: Yes, sir.

THE COURT: Okay. And, Mr. Ashley, am I correct to conclude that your decision to ask me to review your PCR, that it is a free and voluntary decision by you?

MR. ASHLEY: Yes, sir.

THE COURT: Nobody has come to you and threatened you in any way or promised you anything in order to get you to proceed with this post-conviction relief application?

MR. ASHLEY: No, sir.

THE COURT: Okay.

MR. NEUBAUER: Sorry to interject, Your Honor. I believe at our last meeting in January, I'd requested a brief argument. I'm not sure if you'd made a decision regarding that.

THE COURT: How brief do you want?

MR. NEUBAUER: Just a few minutes. I could keep it easily under five minutes of speaking.

THE COURT: Okay. All right. Let me just ask him a couple questions, then we'll see if we can get the arguments in before lunch.

MR. NEUBAUER: Yes, Your Honor.

THE COURT: All right. And now I lost my train of

thought. Well, thank you, Mr. Ashley.

Mr. Henderson, couple of matters for you. There is the video that has been shown by Ms. Lumley. Is that video part of the record?

MR. HENDERSON: Yes, sir. It was introduced at our first hearing date, on that Thursday, by agreement of the parties. I think Ms. Holston has -- I think she's got an emailed copy, but I have actually filed a hard copy, on DVD, with the Abbeville clerk's office.

THE COURT: Okay. And that's 23, correct?

MR. HENDERSON: Yes, sir, Your Honor.

THE COURT: Okay. So just be sure we've got that.

Now, there has been a reference in this proceeding to an audio recording the counsel said that he heard, but there is not that audio recording part of this record?

MR. NEUBAUER: That is correct, Your Honor, just Mr. Byrholdt's unchallenged testimony that it exists. And actually, I think Greer actually confirmed that in his testimony, that he hadn't heard it, but he heard about it.

THE COURT: Okay. There is an Exhibit I that's on my list as Exhibit 34. Is there -- I reviewed Exhibit I, your 34, as being something that deals with a witness giving him access to the post-conviction relief proceedings. Is there a witness that you did not call that you want to call?

MR. HENDERSON: No, not at all. I think what

Exhibit 34 is, Your Honor, without all my exhibits in front of me -- I think that's when I subpoena the Abbeville Detention Center for the records.

THE COURT: Okay.

MR. HENDERSON: And the young lady over there actually emailed us back and said, "We can't find our records, visitor list," so I just made that an exhibit and the State consented to it, so...

THE COURT: Gotcha. Okay. I just wanted to be sure I understood what that was. Okay.

And I appreciate Mr. Henderson getting together the notebook of exhibits for me. It is a big -- organizationally, it's a lot of assistance. Does such a notebook exist for one of the court reporters?

MR. HENDERSON: Your Honor, it doesn't. That was the only one I've made. Actually, Ms. Holston has -- she would actually have all the exhibits, other than 37, but at the time she got them, 35 and 36 were not into evidence. They were introduced in evidence today, along with the new 37, so if Ms. Capps wants me to send her 35, 36, and 37, I guess. I mean, I can enter however we need to do that, Your Honor.

THE COURT: Why don't you send it to Ms. Capps and also send it to Ms. Holston, and that way both of them will have it, because I know we've got -- two different court

reporters will be transcribing the proceeding. And that way -- just cover your bases.

MR. HENDERSON: And I see Ms. Capps. And your email address is on the judicial website.

THE COURT: All right. Now, Mr. Henderson, Mr. Neubauer wants to argue. Are you ready to argue as well?

MR. HENDERSON: Yes, Your Honor. I am, I am.

THE COURT: Since Mr. Henderson has the burden of proof, we'll let Mr. Henderson go first, and then we'll hear from Mr. Neubauer. Mr. Henderson can reply to close.

Yes, sir, Mr. Henderson.

MR. HENDERSON: Very briefly, Your Honor, I'm not sure I absolutely need to do that -- do this, but I'd like to amend my application to conform with the evidence presented; and specifically, I'm interested in the testimony from Deputy Gladden, previously, who testified that when he first saw the person who turned out to be Mr. Ashley, that he was past the "No Trespassing" sign; even if Deputy Gladden didn't see the "No Trespassing" sign, that Mr. Ashley was, in fact, past that, and that -- that when he first saw that person, that he saw no sign of criminal activity. And I think this ties back into the flight issue, Your Honor; that if you take Deputy Gladden's version of events, that if he sees Mr. Ashley on past the "No

Trespassing" sign and not seeing him do anything wrong and he otherwise doesn't have any lawful authority to be there, no consent, no permission, no search warrant, that Greer or anybody else can run. I mean, that's not -- so to that extent, that Mr. Byrholdt should have challenged the flight issue, based upon that testimony, I'd like to amend my pleadings to allege ineffective assistance of counsel for not doing the proper investigation to -- on that particular element of flight, Your Honor.

THE COURT: Okay. We can get Mr. Neubauer's objection, if he has anything.

MR. HENDERSON: And, Your Honor, it's -- my argument's not going to go but a couple minutes.

This boils down to not whether or not Greer Ashley got caught with drugs. Everybody here today knows he got caught with drugs in his hands. That's not the issue. The issue is whether or not Bruce was ineffective -- offered ineffective assistance of counsel.

Your Honor, without walking this property, you wouldn't see all this stuff. You wouldn't know all this stuff. You wouldn't physically see the "No Trespassing" signs. You wouldn't physically see the closed gate. Larry's property is 56 acres, Your Honor. You've seen this video numerous times, that we played. And they are deep in the woods, well past Larry's "No Trespassing" sign, before

they come up on Greer. Again, they just didn't have any lawful authority to be there, Your Honor. The statutes and the Attorney General on his opinions are very clear about these service of warrants from outside jurisdictions. These warrants have to be countersigned. I don't know who tipped off law enforcement, that Greer was down there with drugs. This case is a case of one where they got tipped off. I mean, you just have to use your good common sense on that. I don't know who did it, don't really care who did it. That's why the police weren't interested in complying with proper procedure for an out-of-jurisdiction warrant. They weren't there for Brock and Young; they were there for Greer Ashley. Again, they're just driving down past "No Trespassing" signs to get to him deep into the woods. You know, that's why law enforcement didn't follow proper procedure. They weren't there for Young and Brock. That's just a ruse that got them there.

And also, Your Honor, this point about Greer and, by extension, Larry Ashley not mentioning the trespassing signs, that they're on somebody's property, Your Honor, again, you've heard -- you heard Larry Ashley's testimony from the get-go, about informing Bruce about being on the -- their "No Trespassing" sign there. You heard Greer Ashley's testimony that, hey, we told him he needed to look into this. You heard Mr. Garret's testimony from last time,

that, hey, you know, that he called Mr. Byrholdt and that discussed with him, said, hey, they're raising some issues about the search, the "No Trespassing" sign, being on somebody else's property. You need to look into that.

So, Your Honor, I just find it hard to believe that today was the first day that Mr. Byrholdt heard about "No Trespassing" signs. And today might very well be the first day you've heard about warrants that weren't countersigned, but he should have figured that out in his investigation, Your Honor. This is just purely a case of sloppy investigation or no investigation, Your Honor. The issue is not whether or not Greer Ashley had drugs; the issue is whether law enforcement were lawfully on the property when they encountered him. And, again, Your Honor, I think we proved more likely than not that Mr. Byrholdt was ineffective in not doing this investigation and not arguing this motion, and that's my argument, Your Honor.

THE COURT: Yes, sir, Mr. Neubauer.

MR. NEUBAUER: Thank you, Your Honor. First, I would object to the amended allegation Mr. Henderson just addressed. At this point we've received no notice of his intention to amend an allegation, and we have no opportunity to quest in witnesses regarding these amended allegations. I feel if he'd sought to amend these -- amend his allegations, this would have been proper at the beginning of this

hearing, back in January, or even prior to today's continuation of this hearing; however, springing it on the State in the closing minutes of a hearing, I feel, is improper.

But as far as the State's contentions regarding this case, we believe that Mr. Byrholdt was correct in his assessment regarding the motion to suppress. The applicant claims of warrants were not valid because they were not countersigned by Abbeville County Sheriff's Office. Though the warrants weren't countersigned, they were executed by Honea Path Police Department and Abbeville County Sheriff's Office, which is lawful, regarding to *State versus Hammond* 270 S.C. 347, where in their conclusion, they conclude the fact that -- "We conclude that the fact that the place to be searched was outside of the officer's jurisdiction did not in and of itself render the warrants invalid." In that case, Greenville County -- a Greenville City Police Officer served a warrant with the assistance of Greenville County Police Officers, and they found that the -- or the execution of the warrant was valid.

Additionally, the State would contend that Mr. Ashley does not -- or did not have standing in this matter to challenge the suppression of the drugs regarding -- for he did not have a reasonable expectation of privacy in order to challenge the search. To challenge the

search and attempt to suppress evidence requires a reasonable expectation of privacy under the Fourth Amendment. Pulled that directly from the *State versus McKnight*, 291 S.C. 110. In this case, Mr. Ashley was found outside of the curtilage of Larry Ashley's house. He was not found on his property. The police were attempting to execute valid arrest warrants that they had in this case. Mr. Ashley, upon noticing the police, took flight and that gave police a reasonable suspicion to stop him and at least question him regarding his flight in that moment. We hold that the police properly executed this; that there were no -- there was no reasonable expectation of privacy with Mr. Ashley at this point. We've heard testimony from multiple police officers, stating that they did not see a "No Trespassing" sign or that there was no sign located there at the time of the arrest. I apologize. That would be the extent of the State's argument at this point.

THE COURT: Any reply, Mr. Henderson?

MR. HENDERSON: Very briefly, Your Honor.

I don't think any of the officers testified there wasn't a "No Trespassing" sign. I think they just said they didn't see it; not sure. I don't think anybody flatly came out and said that Larry Ashley was a liar, that there was no "No Trespassing" sign there, so I think that's kind of a misstatement of the testimony.

And, again, Your Honor, when the government goes on the private property, past a "No Trespassing" sign without consent, of course, anybody out there's got a reasonable expectation of privacy if you're standing out in the woods. This -- again, this boils down to them not getting permission to come onto this property. They didn't have a search warrant, and again, I am not challenging the sufficiency of the warrants. That's not it. I've just -- I used all that to you show, you know, what I call the "rues" as to why the government was trying to be on the property, you know. They could have easily done that the right way and been on the property, and we wouldn't have to be having this conversation, you know, so -- but, again, that's my reply.

And going back to the amended -- to allege about the flight. Again, this is straight from the law enforcement officer's testimony. I mean, this isn't anything I've sprung on them. They heard the exact same testimony I heard, about that when we first saw Mr. Ashley. Again, that was Deputy Gladden's testimony, "When I first saw him, I didn't see any criminal activity." And by that testimony, he would have to have been past that "No Trespassing" sign that he didn't have permission or a search warrant to cross. And if that's the case, if he crossed it and Mr. Ashley starts running, that's Deputy Gladden's

version of events, I think he can run. You know, so that would be my short rebuttal, Your Honor.

THE COURT: Thank you, both.

Again, Mr. Ashley, it's a pleasure meeting you. Just stay in touch with Mr. Henderson. He will answer any questions you have, keep you updated, but I do have to take the matter under advisement. I would ask that Mr. Henderson and Mr. Neubauer -- let's reconvene at 2:00 p.m.

Ms. Capps, thank you. We do not need you for that meeting. That is not a recorded meeting.

(The proceeding concluded at 10:57 a.m.)

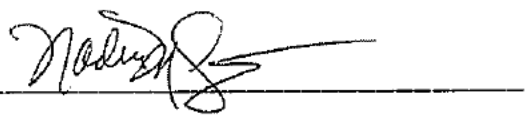
CERTIFICATE OF REPORTER

State of South Carolina) Case no. 2018-CP-04-00168
)
County of Abbeville)

I, Nadine M. Capps, Official "Retired" Reporter for the Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Common Pleas Court for Abbeville County, South Carolina, on the 15th day of March, 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

November 9, 2022



Nadine M. Capps, CVR
Court Reporter

CRIMINAL RETAINER AGREEMENT

I, Greer Haynie Ashley, Jr., retain the law firm of Byrholdt Drawdy, LLC this 15th day of Dec. 2016 to represent me on the charge of Trafficking Meth more than 400 gr in Warrant 2016A0110100346.

I agree to pay the sum of Ten Thousand ($10,000.00) Dollars for dismissal, for reduction of charge, or plea. The total sum of Fifteen Thousand ($15,000.00) Dollars for trial.

RETAINER: $7,000.00. Earned upon payment.

BALANCE: $3,000.00 on or before March 1, 2017. Balance of $5,000.00 when case is placed on trial docket.

I understand that this agreement only pertains to representation through dismissal, reduction of charge, plea or trial in state court. **This agreement does not concern the taking of an appeal other than filing a notice of appeal should one be deemed necessary.** I further understand that I am responsible for keeping the attorneys informed of my address and telephone number and for making all scheduled court appearances unless excused by my attorneys or the court.

I further understand that I am also responsible for any costs deemed necessary for the defense of my case, including but not limited to discovery, expert witnesses, travel ($0.35/mil), all costs must be paid when arrangements are made.

Failure to satisfy any terms of this Agreement will result in the attorney having the right to file a motion with the court to be relieved as counsel, service of the motion shall be at the last address provided the attorneys, and all monies paid to date shall be forfeited as attorneys fees for non-compliance with the Agreement.

I understand that there have been no guarantees made concerning the outcome of this case.

I understand that Trafficking Meth. More than 400 gr carries a mandatory sentence of 25 to 30 years and a $200,000.00 fine; No probation and no part of sentence suspended. A subsequent conviction carries enhanced penalties.

I understand this agreement and enter into it freely and voluntarily.

Greer H. Ashley Jr.
Greer Haynie Ashley, Jr.

Bruce A Byrholdt
ATTORNEY

FILED
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EXHIBIT
35

Byrholdt Drawdy
Attorneys at Law, LLC

Consultation Intake Sheet

The information contained on this form is the privileged, private, and confidential work product of the Byrholdt Drawdy Attorneys at Law, LLC and will be used to prepare and vigorously defend Client in Family Court, Magistrate Court, SC General Sessions Court, or Federal Court or prosecute Client's legal claim(s). Access to this form is restricted to Client, Bruce Byrholdt, Sarah Drawdy and members of their staff. Clients are directed to complete this form as clearly and completely as possible. Please print all answers.

Today's Date _____

How did you find out about Byrholdt Drawdy Attorneys at Law, LLC? Please circle one.

Yellow Pages ___
Billboard ___
Newspaper ___
Radio ___
Another Person (Who?) _____
Attorney (Who?) _____
Other (Describe) _____
TV _____

Client

Last Name: Oakley Jr First: Green Middle Haynie
Gender Male _____ Female _____
Birth Date [redacted]-68
Address: [redacted] Keowee Rd Honea Path SC, 29654

Cell Phone: [redacted]
Work Phone: [redacted]
Home Phone: [redacted]
Other: _____

Email: _____

Reason for visit (Check any that apply)

___ Criminal Defense
___ Estate/Probate
___ Will POA
___ Family Law/Divorce
___ Civil
___ Appeal
___ SSDisability
___ Other

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Brief Explanation

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EXHIBIT
36

STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)

IN THE COURT OF GENERAL SESSIONS

STATE,

PLEA OFFER

Greer Haynie Ashley, Jr.,

Defendant.

2016A0110100346

The State has made an offer for you to plead guilty and they will recommend fifteen (15) years. If you do not want to plead guilty your case will be on the trial docket the week of October 23, 2017. Trafficking Meth more than 400 gr carries a sentence of 25 to 30 years and a fine of $200,000.00. A guilty plea will result in probation violation.

I accept the plea offer: _____

I reject the plea offer and want a trial: GH. A JR

Greer H. Ashley Jr
Greer Haynie Ashley, Jr.

Oct. 10, 2017

2017 MAR 29 PM 3:35

EXHIBIT
37

STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE	IN THE COURT OF COMMON PLEAS FOR THE EIGHTH JUDICIAL CIRCUIT
Greer Ashley, #338842, Applicant, v. State of South Carolina, Respondent.	2018-CP-01-168 **ORDER OF DISMISSAL**

This matter comes before the Court by way of an application for post-conviction relief filed on June 4, 2020, by Greer Ashley (Applicant). The State (Respondent) filed a Return on January 21, 2021, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on January 28, 2021, January 29, 2021, and March 15, 2021 remotely via the WebEx virtual courtroom. Applicant was present at the hearing and represented by Carson Henderson, Esquire. Assistant Attorney General Michael Neubauer of the South Carolina Attorney General's Office appeared on behalf of Respondent. At the hearing, Applicant testified on his own behalf. Bruce Byrholdt, Esquire, Larry Ashley, Donnie Brock, Honea Path Police Officer Timothy Wright II, Honea Path Police Officer Kevin Elder, Honea Path Police Officer Andrew Lunz, Abbeville County Sherriff's Office Deputy Mack Gladden, Abbeville County Sheriff's Office Deputy Evan McCurry, Honea Path Police Lieutenant Matthew Graham, Billy Garrett, Esquire, and Assistant Solicitor Micah Black of the Eighth Circuit Solicitor's Office also testified. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof of establishing any constitutional or statutory violations or deprivations to entitle him to relief. Accordingly, this Court denies and dismisses this application with prejudice. Specific findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 are set forth

TRUE COPY
BY Vanessa Clark
ABBEVILLE COUNTY CLERK OF COURT

below.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. During the March 31, 2017 term, the Abbeville County Grand Jury indicted Applicant for trafficking methamphetamine (400 grams or more) (2017-GS-01-0063). Bruce Byrholdt, Esquire, represented Applicant. Assistant Solicitor Micah Black of the Eighth Circuit Solicitor's Office prosecuted the case.

On October 23, 2017, Applicant plead guilty to the lesser included offense of trafficking methamphetamine 28-100 grams, second offense, before the Honorable Frank Addy, Jr. Pursuant to negotiations between the State and Applicant, Judge Addy sentenced Applicant to imprisonment for fifteen years. Applicant did not appeal his guilty plea or sentence.

SUMMARY OF FACTS

On November 21, 2016, officers from the Honea Path Police Department, and the Abbeville County Sherriff's Office, were attempting to serve active warrants on two subjects in Abbeville County. GP Tr. 10. According to information law enforcement received, the two wanted subjects were in the Honea Path area of Abbeville County. GP Tr. 10. As officers pulled onto a piece of property where the subjects were believed to be located, officers saw Applicant, who fled the area on foot. GP Tr. 10. Law enforcement pursued Applicant and were able to apprehend Applicant about thirty seconds after he fled the property. GP Tr. 11. When Applicant fled he was carrying a detergent bottle like "a running back would" hold a football. GP Tr. 11. Applicant was on probation at the time and repeatedly stated, "My life is over" after law enforcement caught up to him. GP Tr. 11. The detergent bottle was recovered and a large quantity of methamphetamine was found inside. GP Tr. 11. The substance field tested positive for methamphetamine and that

was later confirmed by SLED. GP Tr. 11. The total weight of methamphetamine in Applicant's possession was nine-hundred and seventy-one grams (i.e. two and one fourth pounds). GP Tr. 11. The state told the Court the product tested was "pure ice" and not an unfinished form of methamphetamine. GP Tr. 12.

After being advised of his rights pursuant to Miranda[1], Applicant gave a statement to law enforcement. GP Tr. 11. Applicant stated he had just purchased the methamphetamine from a guy out of Williamston named Paco. GP Tr. 11. Applicant stated he paid Paco a total of twenty-thousand dollars for the drugs. GP Tr. 11-12. Applicant had two prior drug convictions that the State indicated to the Court they would have introduced after securing a conviction had Applicant not pled guilty. GP Tr. 12.

ALLEGATIONS RAISED

In Applicant's post-conviction relief application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
    a. "Counsel did not file a suppression motion for evidence that was seized without a search warrant or arrest warrant in violation of Applicant's Fourth Amendment right."
    b. "Counsel was ineffective because his guilty plea did not comply with Rule 11 of the Federal Rules of Civil Procedure."
    c. "Counsel provided 'bad advice' that led Applicant to plead guilty."
2. Involuntary Guilty Plea
    a. "Applicant's guilty plea was not knowing and intelligently 'made to the court.'"

As requested relief, Applicant states he is seeking a new trial

On January 14, 2021, Applicant, through his attorney, filed an amended application alleging:

[1] Miranda v. Arizona, 384 U.S. 436 (1966).

b. Applicant is informed and believes that his trial counsel was ineffective because he failed to properly advise Applicant regarding the federal and state constitutional issues related to law enforcement's entry onto real estate owned by Larry W. Ashley at [redacted] Keowee Road in Honea Path, S.C.
c. Applicant is informed and believes that his trial attorney was ineffective because he failed to conduct a meaningful independent investigation.

At the evidentiary hearing, Applicant stated he was going forward on the allegations set forth in his original application and his amended application.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This Court viewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the trial transcript, the application for post-conviction relief, the amended application for post-conviction relief, and the legal arguments made by the attorneys. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. § 17-27-80 (2003).

1. Ineffective Assistance of Counsel

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Petitioner, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Petitioner has the burden of proving the allegations in his PCR action, and when alleging counsel was constitutionally ineffective, he must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result." Strickland, 466 U.S. at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Petitioner must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness

under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). Petitioner must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Petitioner such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from a rigid rule of representation. Rather, Strickland requires the applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 697. The function of the PCR court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney." Id. at 690. "[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel." Hill, 474 U.S. 52; cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel).

When reviewing a guilty plea, the analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show counsel's representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58-59. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58-59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59. This inquiry "focuses on a defendant's decisionmaking" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. ___, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372.

a. ***Counsel did not file a suppression motion for evidence that was seized without a search warrant or arrest warrant in violation of Applicant's Fourth Amendment right, and Applicant believes his trial attorney was ineffective because he failed to properly advise Applicant regarding the federal and state constitutional issues related to law enforcement's entry onto real estate owned by Larry W. Ashley at [redacted] Keowee Road in Honea Path, SC***

Applicant alleges his attorney failed to file a motion to suppress the drug evidence the police obtained at the time of his arrest. Specifically, Applicant asserts Counsel was ineffective for

failing to file a motion to suppress for evidence that was seized without a search warrant or arrest warrant in violation of the South Carolina Constitution, Article 1, §10, and the Fourth Amendment of the United States Constitution.

Additionally, Applicant alleges his counsel was ineffective because he failed to properly advise Applicant regarding the federal and state constitutional issues related to law enforcement's entry onto the real estate owned by Applicant's uncle, Larry Ashley. Included within this claim is his argument that counsel should have filed a motion to suppress based on this warrantless entry. All claims related to entry onto the property will be addressed here.

On November 19, 2016, Honea Path Police Department (HPPD) obtained arrest warrants for two individuals, Donnie Brock and Barbara Young. On November 21, 2016, HPPD received information that Mr. Brock and Ms. Young were located at a residence on Keowee Road in Honea Path, contained within Abbeville County. HPPD contacted Abbeville County Sheriff's Office (ACSO) to meet at the [redacted] block of Keowee Road, as Keowee Road was outside the jurisdiction of HPPD. Applicant asserts the information received by HPPD was not from a reliable enough source for HPPD or ACSO to obtain a search warrant to search Larry Ashley's property. Applicant additionally asserts HPPD did not have the arrest warrants for Mr. Brock and Ms. Young countersigned by an Abbeville County magistrate prior to arriving at Keowee Road. Applicant asserts the only way to access the plot of land where Mr. Brock and Ms. Young were located is to go through a gate which blocked a dirt driveway on Larry Ashley's property. Applicant further asserts the gate was locked and contained a no trespassing sign on November 21, 2016. Applicant asserts Larry Ashley had a large no trespassing sign posted on a tree which would have been visible to police. Applicant asserts there were no exceptions to the search warrant requirements which would have allowed HPPD or ACSO to continue onto Larry Ashley's property past the no

trespassing signs. Applicant further asserts plea counsel did not visit the Keowee Road property prior to Applicant's plea, Applicant believes vising the property would make it clear the criminal activity occurred on Larry Ashley's property, beyond the no trespassing sign. Applicant believes law enforcement could not have seen Applicant from either Keowee Road or from Larry Ashley's no trespass sign. Applicant asserts plea counsel did not file a motion to suppress until he spoke with Applicant's probation attorney. Applicant asserts plea counsel did not discuss the constitutional issues related to law enforcement searching Larry Ashley's property, to look for Mr. Brock and Ms. Young, without a search warrant. Applicant asserts he was prejudiced by plea counsel's failure to discuss the lack of search warrant issue with him as a ground for suppression. Amended Allegation p. 2-5.

The Fourth Amendment to the United States Constitution protects the people's right to be free from unreasonable searches and seizures. U.S. Const. Amend. IV. Warrantless searches and seizures inside a man's home are presumptively unreasonable absent a recognized exception to the warrant requirement. State v. Robinson, 410, S.C. 519, 526, 765 S.E.2d 564, 568 (2014) (citing United States v. Karo, 468 U.S. 705, 714-15 (1984). Though, "the Fourth Amendment protects people, not places. What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection." Robinson. 410 S.C. at 527, 765 S.E.2d at 568 (quoting Katz v. United States, 389 U.S. 347 (1967)).

The Fourth Amendment is not triggered unless a person has an actual and reasonable expectation of privacy. Id. 410 S.C. at 527, 765 S.E.2d at 568 (citing Katz, 389 U.S. at 361). Fourth Amendment rights are personal rights, which, like some other constitutional rights, may not be vicariously asserted. Id. 410 S.C. at 527, 765 S.E.2d at 568-69 (quoting Rakas v. Illinois, 439 U.S. 128, 133-34 (1978). A person who is aggrieved by an illegal search and seizure, only through the

introduction of damaging evidence secured by a search of a third person's premises or property has not had any of his Fourth Amendment rights infringed. Id. 410 S.C. at 527, 765 S.E.2d at 569 (citing Rakas 439 U.S. at 134). To claim the protection of the Fourth Amendment, a defendant must demonstrate that he had an actual and reasonable expectation of privacy in the place searched. Id. 410 S.C. at 528, 765 S.E.2d at 569 (citing Minnesota v. Carter, 525 U.S. 83, 88 (1998).

"The Proponent of a motion to suppress has the burden of establishing that his own Fourth Amendment rights were violated by the challenged search or seizure." Id. 410 S.C. at 528, 765 S.E.2d at 569 (quoting Rakas, 439 U.S. at 130 n.1).

The Court in Robinson has held "even if the ultimate Fourth Amendment violation a criminal defendant seeks to vindicate is a trespass under Jones[2], the defendant must demonstrate that he had an actual and reasonable expectation of privacy in the area upon which the police illegally trespassed. Id. 410 S.C. at 532, 765 S.E.2d at 571.

> When a person claims ineffective assistance based on counsel's failure to file a suppression motion, we apply a "refined" version of the Strickland analysis. With respect to the performance prong, we ask whether the unfiled motion would have had some substance. If the motion would have had some substance, then we ask whether reasonable strategic reasons warranted not filing the motion. To satisfy the prejudice prong, the defendant must show that: (1) the [suppression] motion was meritorious and likely would have been granted, and (2) a reasonable probability that granting the motion would have affected the outcome of his trial.

United States v. Pressley, 990 F.3d 383 (2021) (internal citations and quotations omitted).

At the evidentiary hearing, Applicant's counsel amended his allegation to conform to the evidence presented. This includes Applicant's counsel's assertion Deputy Gladden testified he did not see any criminal activity when he first saw the person who turned out to be Applicant. The person who turned out to be Applicant was past the no trespassing sign on Larry Ashley's property

[2] United States v. Jones, ___ U.S. ___, 132 S.Ct. 945 (2012).

when he spotted police on the property. Applicant's counsel further asserts this person had the right to take "flight" if there is no criminal activity observed.

Applicant testified the no trespassing sign on Larry Ashley's tree and on Applicant's gate have been there for a long time. Applicant testified he believes he told Counsel about the no trespassing sign on Larry Ashley's tree, however he does not remember telling Counsel about the sign on Applicant's gate. Applicant testified a car parked on Larry Ashley's driveway would not have been able to see Applicant in the woods. Applicant testified the police began chasing him as soon as they spotted him. Applicant further testified the police were familiar with him, and had arrested him multiple times. Applicant testified he told Counsel he wanted Counsel to file a motion to suppress the evidence before Applicant would consider any plea offer. Applicant testified Counsel said he spoke with the judge and the drugs would not be suppressed. On cross-examination, Applicant testified he thought the motion to suppress should be granted. Applicant testified he spoke with counsel about a motion to suppress the drug evidence in his case due to the police allegedly entering Larry Ashley's land unlawfully. In his amended application for post-conviction relief, Applicant asserts his counsel filed a motion to suppress the drug evidence in his case pursuant to the Fourth Amendment of the United States Constitution, and Article 1, §10 of the South Carolina Constitution. Applicant testified when he spoke with counsel the motion had not been signed, and this led Applicant to request a trial instead of accepting a plea at that time. Applicant testified he signed a plea agreement on October 10, 2017, indicating he did not want to accept a plea offer, and wanted to proceed to trial. Applicant testified at that point he wanted counsel to file a motion to suppress the drugs in his case. On cross examination Applicant testified he asked Counsel about a motion to suppress on October 10, 2017, and was told by Counsel that a

motion to suppress had not been filed at that point. Applicant testified he was told by Counsel that Counsel did not believe a motion to suppress the drugs in this case would be granted.

Larry Ashley testified he lived next door to Applicant, and owned a fifty six acre tract of land on Keowee Road. Larry Ashley testified the gate described in Applicant's allegations was located on Applicant's land. Larry Ashley testified there was a no trespassing sign on a tree on his property, which has been there since 2006. Larry Ashley testified the gate on Applicant's property was usually closed. Larry Ashley testified Counsel did not come to his property to inspect the scene. Larry Ashley testified a person would have to drive far into his property to see the trailer where Mr. Brock and Ms. Young were located. Larry Ashley testified he did not give police permission to search his property prior to police entering his land and arresting Applicant. On cross-examination, Larry Ashley testified police have been on his land at previous times and that police usually ask him for permission to enter the property. Larry Ashley testified first responders would drive down the dirt road near Applicant's property when the gate was open.

Officer Kevin Elder testified he was informed Donnie Brock and Barbara Young were located on Larry Ashley's property on November 21, 2016, the day Applicant was arrested. Officer Elder testified he was told Mr. Brock and Ms. Young were located in a trailer on Larry Ashley's property. Officer Elder testified HPPD did not have a search warrant for Larry Ashley's property. Officer Elder further testified HPPD asked ACSO to assist in locating Mr. Brock and Ms. Young on November 21, 2016, however Officer Elder testified the arrest warrants for Mr. Brock and Ms. Young were not countersigned by an Abbeville County Magistrate. On cross-examination, Officer Elder testified HPPD contacted ACSO to help execute an active arrest warrant for Mr. Brock and Ms. Young. Officer Elder further testified the sheriff's office can detain subjects of arrest warrants for city police.

Officer Andrew Lunz testified he met ACSO officers at Keowee Road. Officer Lunz testified his office had two municipal bench warrants from Anderson County that they were attempting to execute. Officer Lunz testified the warrants were not countersigned, which is why they called for assistance from ACSO. Officer Lunz testified he did not remember anyone at the scene calling Larry Ashley to ask for permission to enter the property. Officer Lunz further testified he cannot recall how the officer entered Larry Ashley's land on November 21, 2016. Officer Lunz testified he and fellow officers went a decent way into Larry Ashley's property before he saw Applicant. Officer Lunz testified he was not in the first car on the property, and by the time he saw Applicant other officers were already in pursuit. Officer Lunz testified Applicant was not in his view when he entered the property. Officer Lunz testified they located Ms. Young next to the trailer at the back of Larry Ashley's property. On cross-examination, Officer Lunz testified HPPD contacted ACSO for assistance because the property was outside of HPPD jurisdiction. Officer Lunz further testified he did not recall seeing a closed gate or any no trespassing signs.

Deputy Evan McCurry testified he was in a marked patrol car when he arrived at Keowee Road. Deputy McCurry testified police were not actively chasing anyone when they pulled into the driveway of Larry Ashley's property. Deputy McCurry testified though HPPD had arrest warrants they did not have a search warrant at the time they entered Larry Ashley's property. Deputy McCurry testified he did not ask for consent from Larry Ashley before entering the property. Deputy McCurry testified to the best of his knowledge Mr. Brock and Ms. Young lived in a trailer on the property. Deputy McCurry testified he cannot remember the driveway law enforcement used to enter the property on November 21. 2016. Deputy McCurry further testified he did not recall a no trespassing sign when he entered the property. Deputy McCurry testified he cannot recall when he saw Applicant, Deputy McCurry indicated he was in the second car in line.

On cross-examination Deputy McCurry testified he assisted in the arrest of Applicant. Deputy McCurry testified he entered the property and proceeded to the area where Mr. Brock and Ms. Young were supposed to be located. Deputy McCurry testified when they reached the closed gate they proceeded to a second entrance which police have previously used. Deputy McCurry testified he did not manipulate the gate in order to enter the property. Deputy McCurry testified when police approached Applicant, Applicant ran away. Deputy McCurry testified Applicant was not found near any dwelling, but was located on the road leading to the back of Larry Ashley's property.

Deputy Mack Gladden testified he was in the lead car when police entered the property. Deputy Gladden testified he does not recall seeing a no trespassing sign, or a closed gate. Deputy Gladden testified police did not go down the path with the gate because this path was very difficult to navigate without a truck. Deputy Gladden testified he did not stop and speak with Larry Ashley prior to entering the property because he saw a truck and a white male on the property, who he believed to be the suspect police had an arrest warrant for. Deputy Gladden testified he was able to see Applicant through the trees when police entered the property. On cross-examination Deputy Gladden again testified he did not see a no trespass sign on the property. Deputy Gladden testified when he reached Applicant law enforcement found a substance which appeared to be drugs, and Applicant stated "I am going to jail for life."

Investigator Jeffrey Hines testified he and other law enforcement officers entered the property through a second driveway due to the muddy conditions on November 21, 2016. Investigator Hines testified he did not see a no trespassing sign, and he did not recall seeing a closed gate on that day.

Billy Garrett[3], Esquire, testified he had a conversation with Applicant, during which he questioned whether the law enforcement had the right to pass a no trespassing sign on Larry Ashley's property in order to execute the arrest warrants. Mr. Garrett further testified he told Applicant's plea counsel there may be a search issue based on the way the search was described by Applicant. Mr. Garrett testified he spoke with Applicant's plea counsel and Applicant's counsel stated he was going to try and suppress the evidence based on the potential issues with the police entry onto the property.

Assistant Solicitor Micah Black testified he responded to a standard discovery request from Applicant's plea counsel. Assistant Solicitor Black testified he received a motion to suppress from Applicant's plea counsel on October 10, 2017. Assistant Solicitor Black testified he sent an email to Applicant's plea counsel on October 18, 2017, regarding statements Applicant made to police when he was arrested. Assistant Solicitor Black testified in the email he sent Counsel he asked, if he would want a Jackson v. Denno[4] hearing prior to trial. Assistant Solicitor Black testified a suppression hearing was never officially scheduled, however around the same time Applicant's counsel filed the motion to suppress, Assistant Solicitor Black provided Applicant's counsel with a plea offer for fifteen years where Applicant would have to serve eighty-five percent. Assistant Solicitor Black testified he spoke with Applicant's counsel and indicated the fifteen year plea offer would be taken off the table if Applicant proceeded with a suppression hearing.

Bruce Byrholdt (Counsel) testified he met with Applicant and discussed Applicant's case prior to drafting the motion to suppress. Counsel testified he met with Applicant at the jail and

[3] Mr. Billy Garrett, Esquire, represented Applicant on a probation violation at the time of Applicant's guilty plea for trafficking methamphetamine between twenty-eight and one-hundred grams. Mr. Garrett was not present at Applicant's guilty plea, however the court agreed to run Applicant's sentence for his probation violation concurrent with the fifteen year sentence Applicant would receive as part of his negotiated plea. GP Tr. p. 4, l. 6- p. 5, l. 9.

[4] Jackson v. Denno, 378 U.S. 368 (1964).

discussed plea offers early because Applicant was on probation when he was arrested. Counsel testified he met with Applicant on October 10, 2017, and discussed Applicant's case. Counsel testified he filed the motion to suppress on the same day he met with Applicant. Counsel testified he cannot recall if he filed the motion to suppress after he met with Applicant on October 10, 2017 or before his meeting with Applicant on that day. Counsel testified he wanted to use the motion to suppress as a way to persuade the Assistant Solicitor to reduce the charges and facilitate a plea deal. Counsel testified Assistant Solicitor Black knew Counsel was going to file a motion to suppress. Counsel testified he did not schedule a hearing on the motion to suppress because Applicant agreed to a plea offer which was contingent on Applicant not going forward with his motion to suppress. Counsel confirmed he was told by Assistant Solicitor Black the fifteen year plea offer would be off the table if Applicant proceeded with a suppression hearing. Counsel testified there was no reference to the motion to suppress in his email to Assistant Solicitor Black on October 18, 2017, however the motion to suppress was filed at this point.

Counsel testified he Applicant was arrested in the woods behind Larry Ashley's house, however at the plea hearing Assistant Solicitor Black stated the arrest occurred at [redacted] Keowee Road. Counsel testified he recalled telling the plea judge he reviewed cases about flight as well as other relevant cases and he believed the evidence would not be suppressed in this case. Counsel testified he did not do any research regarding law enforcement entering someone else's property without a search warrant when there are no trespass signs. However, at Applicant's plea hearing, Counsel stated he reviewed case law regarding the motion to suppress, and he doubted the evidence would be suppressed in this case based on the current case law. . GP Tr. p. 16, l. 22- p. 17, l. 3.

Counsel testified he was never told about a no trespass signs on the property by Applicant or Larry Ashley. Counsel indicated his position was the police had a valid arrest warrant, the police

were attempting to execute those warrants, they recognized someone who ran away when he spotted the police, and the police gave chase. Counsel testified if he were told no trespassing signs were on the property, and the arrest warrants were not countersigned, this may have changed his analysis of the situation. On cross-examination, Counsel testified he researched case law in preparation for Applicant's case, but he believed the evidence would not be suppressed. Counsel indicated he only had two motions to suppress granted in his career and it was not easy to have drug evidence suppressed. Counsel testified he informed Applicant of doubts regarding the suppression of the evidence, and advised Applicant the fifteen year plea offer would be off the table if a suppression hearing was held. Counsel testified he thought that getting the suppression motion granted would have been a "long shot." Counsel testified he thought it was in Applicant's best interest to plea due to the fact Applicant was facing twenty-five to thirty years in prison and a mandatory two hundred thousand dollar fine if Applicant were convicted at trial. Counsel testified he spoke with Applicant regarding the motion to suppress, but their conversations did not include issues regarding the no trespassing signs. Counsel again indicated he did not believe the evidence would be suppressed and stated he believe Applicant would have been found guilty.

This Court finds Applicant's allegation is without merit. Applicant has failed to show his counsel was deficient. Applicant testified he spoke with Counsel prior to Counsel filing the motion to suppress and indicated he wanted to proceed to trial. Counsel testified he filed a motion to suppress on October 10, 2017, the same day he spoke with Applicant. Mr. Black testified he received a copy of Applicant's motion to suppress prior to Applicant pleading guilty. Applicant additionally has failed to show he was prejudiced by Counsel's performance. Counsel testified he spoke with Applicant and informed him the motion to suppress would likely not be granted, and it would be in Applicant's best interest to accept a guilty plea instead of risking twenty-five to thirty

years in prison. Applicant has failed to provide any evidence to show his counsel was ineffective for failing to file a motion to suppress.

Additionally, Applicant has failed to show counsel was deficient in his research and conversations regarding Applicant's motion to suppress, and constitutional issues related to law enforcement's entry onto Larry Ashley's property, when Applicant was arrested police were executing arrest warrants with the assistance of officers from the Abbeville County Sheriff's Office. Applicant failed to inform his plea counsel of the existence of no trespass signs on the property, which Applicant alleges, may have presented additional issues for Counsel to consider in a suppression hearing. At Applicant's plea hearing, Counsel stated after he reviewed case law from the South Carolina Supreme Court, the recent decisions on search dealing with flight and the recent decisions from the United States Supreme Court, Counsel doubted the evidence would be suppressed. GP Tr. p. 16, l. 22- p. 17, l. 3. Counsel informed Applicant of the likelihood of succeeding on a motion to suppress drug evidence, especially considering the quantity of drugs which were seized during the arrest.

Counsel provided proper advice to Applicant based on the information presented, including Counsel's lack of information regarding the no trespassing signs, and Applicant's inability to demonstrate a reasonable expectation of privacy on his uncle's land at the time of his arrest. Applicant was spotted by police while in a wooded area on his uncle's property. Applicant could not have asserted he had a reasonable expectation of privacy on the land where he was arrested. Additionally, Applicant has failed to present sufficient evidence to demonstrate he had a reasonable expectation of privacy on his uncle's land when he was spotted by police.

Applicant has additionally failed to show he would have proceeded to trial absent the legal advice given by Counsel. Applicant was provided with sufficient legal assistance from Counsel

and was informed of the likelihood of succeeding with his motion to suppress. Applicant was informed the plea offer would be off the table if Applicant proceeded with his motion to suppress, and Applicant would be facing twenty five to thirty years in prison if he proceeded to trial and were convicted. Applicant was aware the plea offer was for a negotiated plea which would ensure Applicant would face no more than fifteen years in prison. Applicant was provided with sufficient information no only on the likelihood of succeeding with his motion to suppress, but with his chances of acquittal if he went to trial, and the amount of prison time he would face if he were convicted at trial. This Court finds Counsel's testimony to be credible, and believes Counsel properly researched and advised Applicant based on the information Counsel was provided by Applicant and Larry Ashley, and the circumstances surrounding Applicant's arrest. Accordingly, Applicant's claim his plea counsel was ineffective for failing to file a motion to suppress, and for failing to properly advise Applicant regarding the constitutional issues related to law enforcement's entry onto Larry Ashley's property are without merit. These claims are denied and dismissed with prejudice.

b. Counsel was ineffective because his guilty plea did not comply with Rule 11 of the Federal Rules of Civil Procedure.

Applicant alleges his counsel was ineffective because Applicant's guilty plea did not comply with Rule 11 of the Federal Rules of Civil Procedure.

This Court finds Applicant's allegation is without merit, and should be dismissed with prejudice. Rule 1 of the Federal Rules of Civil Procedure indicates "These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1. Applicant claim that his criminal guilty plea should comply

with Rule 11 of the Federal Rules of Civil Procedure fails as a matter of law because the Federal Rules of Civil Procedure are inapplicable to state criminal proceedings. Therefore, this claim is denied and dismissed with prejudice.

c. Counsel provided 'bad advice' that led Applicant to plead guilty.

Applicant asserts Counsel was ineffective because he provided bad advice that lead to Applicant's guilty plea.

In the context of a guilty plea, the court must determine whether 1) counsel's advice was within the range of competence demanded of attorneys in criminal cases—i.e. was counsel's performance deficient, and 2) if there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty. Smith v. State, 369 S.C. 135, 138, 631 S.E.2d 260, 261 (2006) (citing Hill v. Lockhart, 474 U.S. 52, 56–58 (1985).

Applicant at his PCR hearing testified he spoke with Counsel prior to agreeing to a guilty plea. Applicant testified he did not want to accept a plea offer, and instead wanted to proceed with a motion to suppress. Applicant testified he was told by Counsel the judge would not suppress the drugs in Applicant's case. Applicant testified he felt the motion to suppress should have been granted by the judge. On cross-examination Applicant testified when he spoke with Counsel the motion to suppress had not been filed. When asked whether he felt his motion to suppress would be granted by the judge, Applicant testified he thought Counsel would know.

Counsel testified he does not recall how many times he met with Applicant. Counsel testified on October 10, 2017, he met with Applicant, discussed Applicant's case, drafted a motion to suppress, and filed the motion to suppress on the same day. Counsel testified at his October 10, 2017, meeting with Applicant, they discussed the fact that Applicant's case was going to be called for trial in a few weeks. Counsel testified he discussed plea offers with Applicant very early in his

representation of Applicant. Counsel testified Applicant was on probation and due to his charges he was looking at a serious sentence. Counsel testified he told Applicant that getting the drugs suppressed would be a "tough haul" and Counsel informed Applicant if he testified his testimony could be impeached due to his record of prior convictions. Counsel testified through his plea negotiations with Assistant Solicitor Black he was able to get Applicant's charges reduced. Counsel testified he communicated all plea offers to Applicant, and advised Applicant of the risk associated with proceeding to trial based on the State's evidence, and the charge Applicant was facing. Counsel testified he advised Applicant of the pros and cons of accepting a plea or proceeding to trial, and it was Applicant's decision to make. Counsel testified he informed Applicant he did not believe the Court would grant Applicant's motion to suppress. Counsel testified he did legal research for Applicant's motion to suppress and based his advice on the legal research he did after filing Applicant's motion to suppress. Counsel testified he thought proceeding to trial would be a "big gamble" and Applicant would likely have been found guilty.

This Court finds Applicant's allegation is without merit. This Court finds Applicant has failed to show how Counsel was deficient. Applicant has failed to prove Counsel's advice was not within the range of competence demanded of attorneys in criminal cases. Though Applicant was hoping for a lesser sentence than he received, Applicant was informed prior to his plea hearing that he would be facing twenty-five to thirty years if convicted at trial. Additionally, Applicant's counsel informed Applicant he did not believe the evidence in Applicant's case would be suppressed. This court views Applicant's counsel's testimony on this point, and otherwise, as credible. Applicant's counsel provided Applicant with competent advice. Applicant has additionally failed to establish he was prejudiced by Counsel's advice. Applicant has failed to show that he would have proceeded to trial if not for counsel's advice. Applicant, at his plea

hearing, plead guilty to a fifteen year negotiated sentence for Trafficking Methamphetamine 28-100 grams, which was a lesser included charge. Applicant was indicted for Trafficking Methamphetamine 100 plus grams and was facing a possible sentence of twenty five to thirty years in prison if Applicant was convicted at trial. Applicant, through his plea, was able to avoid a sentence ten to fifteen years greater than the sentence he received by pleading guilty. At his plea hearing, Applicant was initially hesitant to plead guilty, and indicated he wanted to speak with another attorney, Billy Garrett, who represented Applicant for a probation violation. GP Tr. p. 4, l. 6-15; p. 6, l. 12-13. However, despite being given multiple opportunities to stop his plea hearing, and proceed to jury selection, Applicant made the decision to plead guilty. GP Tr. p. 6, l. 17-25; p. 8, l. 25- p. 9, l. 19; p. 13, l. 3-25; p. 16, l. 15-17. This Court finds Applicant has failed to demonstrate ineffective assistance of counsel based on the advice Applicant received from Counsel. Therefore this claim is denied and dismissed with prejudice.

d. Applicant believes his trial attorney was ineffective because he failed to conduct a meaningful independent investigation.

Applicant asserts his counsel failed to conduct a meaningful independent investigation prior to Applicant's guilty plea. Applicant, in his amended allegations asserts Counsel never independently investigated why Honea Path Police and Abbeville County Sheriffs were on Larry Ashley's property at the time of Applicant's arrest. Applicant asserts Counsel never walked or drove the property owned by Applicant or Larry Ashley. Applicant asserts though Counsel filed a motion to suppress, his deficient independent investigation would have prohibited Counsel from meaningfully arguing the motion even if Counsel had argued the motion at a suppression hearing. Applicant believe he was prejudiced by Counsel's failure to conduct a meaningful independent investigation.

Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result. Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (citing Kibler v. State, 267 S.C. 250, 227 S.E.2d 199 (1976)).

Applicant testified he was in the woods when the police entered Larry Ashley's property and would not have been visible from Keowee Road. Applicant testified there were multiple no trespassing signs on Larry Ashley's property which existed for long time. Applicant testified he asked Counsel to visit the property multiple times prior to his plea, and Counsel never visited the property. Applicant testified he met with Counsel three times at Counsel's office. Applicant testified he only met with Counsel one or two times once he was arrested on a probation violation in September 2017. Applicant testified he did not have any phone calls with Counsel while incarcerated prior to his plea. Applicant testified he explained to Counsel his concerns with the police entering Larry Ashley's land due to the existence of the no trespassing signs. Applicant testified he never heard Counsel talk about hiring a private investigator to take photos and videos of the scene. Applicant testified he thought his counsel's representation was deficient. On cross-examination, Applicant testified he recalled telling the plea judge he was satisfied with his attorney. Applicant testified he recalled telling the plea judge his attorney did everything he wanted him to do, though Applicant testified he was pressured into taking the plea deal.

Counsel testified he could not recall how many times he met with Applicant. Counsel testified he only met with Applicant's uncle before Applicant was released from jail on bond. Counsel testified he did not have any telephone conversations with Applicant while Applicant was incarcerated because the phone call would have been recorded. Counsel testified he did not have any handwritten notes in his file detailing his conversations with Applicant. Counsel testified he

did not hire a private investigator in this case, however on cross-examination Counsel indicated he does not hire a private investigator in the majority of his cases. Counsel testified he would have talked with Applicant about going to trial during their October 10, 2017, meeting. Counsel testified his trial preparations included reviewing discovery, talking with Applicant, and conducting legal research to see if the physical evidence would be suppressed. Counsel testified he also reviewed an audio recording from police at the time Applicant was arrested. Counsel testified he did not investigate how far onto Larry Ashley's property the police were when they spotted Applicant. Counsel testified he relied on his client's details regarding what happened on the day of Applicant's arrest. Counsel testified he did not talk to any other witnesses, due to the fact Applicant testified he was in the woods by himself. Counsel testified he did not attempt to contact Donnie Brock, who was also arrested on the property on the same day. Counsel testified he did not serve any subpoena for witnesses to testify. Counsel testified he was not provided any names of potential witnesses by Applicant. Counsel testified he did not go onto the property where Applicant was arrested. Counsel testified he was told by Applicant that Applicant was close enough to see the police, got scared, and took off running prior to his arrest. Counsel testified if he was informed of the no trespassing signs this may have altered his analysis while drafting his motion to suppress the drug evidence. On cross-examination Counsel testified he had many meeting with Larry Ashley, and a few meetings with Applicant, both at Counsel's office, and at the jail. Counsel testified Applicant never denied his involvement in the case. Counsel testified he was never told of the existence of the no trespassing signs on Larry Ashley's property. Counsel further testified neither Applicant, nor Larry Ashley ever provided Counsel with any potential witnesses for him to call.

This Court finds Applicant has failed to show his counsel was ineffective for failing to conduct a meaningful independent investigation prior to Applicant's plea. Applicant has failed to demonstrate how Counsel's investigation was deficient. Counsel testified he did not visit the scene of the arrest prior to Applicant's plea, however Counsel did conduct a legal investigation into possible issues Counsel could address during a suppression hearing. Counsel testified he did not speak with any witnesses, nor did he subpoena any witnesses, though Counsel noted Applicant and his uncle Larry Ashley never provided Counsel with any possible witnesses, and Applicant stated he was arrested by himself in the woods. Counsel relied on the information provided to him by Applicant, and investigated all issues he was made aware of through his conversations with Applicant, Applicant's probation attorney, and Larry Ashley. Applicant has also failed to show he was prejudiced by Counsel's investigation. Counsel admitted his analysis of the legal issues surrounding the police presence on Larry Ashley's property may have changed if he was provided information about the no trespass signs. However counsel testified he was not made aware of any no trespassing signs prior to Applicant's decision to plead guilty. Counsel testified he informed Applicant of the likelihood of succeeding on a motion to suppress, and advised Applicant it would be in his best interest to accept a fifteen year negotiated plea instead of risking the possibility of a twenty-five to thirty year sentence if he were convicted at trial. Applicant was aware of the benefit he would receive from this plea, and Applicant made an informed decision to accept a plea which would reduce his possible prison time by fifteen years. Applicant has failed to present any information that would have been uncovered as a result of further investigation. This court finds Applicant's allegation Counsel did not conduct a meaningful independent investigation to be without merit. Therefore this claim is denied and dismissed with prejudice.

2. **Involuntary Guilty Plea**

a. Applicant's guilty plea was not knowing and intelligently 'made to the court.'

Applicant asserts his plea was not knowingly and intelligently made to the court. Applicant argues his plea was the result of ineffective assistance of counsel giving him bad advice and not filing a suppression motion as he said he was going to do.

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced." Reed v. Becka, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. Boykin v. Alabama, 395 U.S. 238 (1969); Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. Brady v. United States, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. *Id.* at 755; see also United States v. Smith, 440 F.2d 521, 528–529 (7th Cir.) (Stevens, J., dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." North Carolina v. Alford, 400 U.S. 25, 31 (1970). The State may properly encourage guilty pleas either by being more lenient to those who enter such pleas, Brady, 397 U.S. at 750–53, or by increasing the risks of punishment on those who do not. Alford, 400 U.S. at 37 (1970); cf. United States v. Cox, 464 F.2d 937, 942 (6th Cir. 1972) ("It is well established that a guilty plea is not rendered invalid because

it represents a compromise by defendant, thrusts a difficult judgment upon him, or is motivated by fear of greater punishment." (citing Brady, 397 U.S. 742)). An applicant who enters a plea on the advice of counsel may "only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the [applicant] would not have pled guilty, but would have insisted on going to trial." Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Hill, 474 U.S. 52).

The voluntariness of a guilty plea, however, "is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997); cf. Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant's claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant's claim his lawyer misadvised him).

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243. Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory

minimum penalty, and the nature of the constitutional rights being waived." Pittman, 337 S.C. at 599, 524 S.E.2d at 624.

Applicant testified he did not speak with his attorney the morning of his plea, prior to going before the judge. Applicant testified his attorney did not arrive to the courthouse until right before lunch. On cross-examination Applicant testified he remembered discussing discovery with Counsel. Applicant testified he was hesitant to plead guilty during his plea hearing. Applicant requested multiple times to have a break where he could speak with Counsel, additionally, Applicant sought to delay his plea hearing in order to have a conversation with his probation attorney. However, Applicant testified he told the plea judge he did not need more time to talk with his attorney prior to pleading guilty. Applicant testified he recalled telling the plea judge he was not threatened or promised anything to get him to accept the plea. However, at the evidentiary hearing, Applicant testified he was advised by his attorney that he had to say yes to the plea judge's questions. Applicant testified he recalled telling the plea judge he was pleading guilty on his own free will. Applicant testified he recalled telling the plea judge Applicant's counsel did everything Applicant wanted him to do. However, at the evidentiary hearing, Applicant testified he was pressured into taking a plea deal. Applicant testified he recalled the plea judge informing him of his charges, the maximum sentence his charge carried, and the negotiated sentence Applicant and the State agreed to. Applicant testified he recalled the plea judge informing Applicant of his right to appeal within ten days of his plea. Applicant further testified he recalled the plea judge discussing his constitutional rights, including the right to remain silent, the right to confront witnesses, and the right to challenge the State's evidence against him.

Counsel testified he had discussions about a plea deal early into his representation of Applicant and Applicant was initially hesitant to accept a plea. Counsel testified he explained the

pros and cons of going to trial or accepting a plea, and this decision was left to Applicant. Counsel testified he spoke with Assistant Solicitor Micah Black and Judge Addy prior to Applicant pleading guilty, Counsel testified this conversation was to ensure Judge Addy would accept the negotiated plea offer. Counsel testified, at Applicant's plea hearing, he told Judge Addy he reviewed cases about flight, along with other cases and based his decision on the likelihood of succeeding on Applicant's motion to suppress on this research. On cross-examination, Counsel testified he reviewed discovery with Applicant and believed applicant understood the evidence against him. Counsel testified he discussed Applicant's constitutional rights, and stated Applicant was well aware of his rights. Counsel testified he discussed with Applicant the plea offer was for fifteen years, and explained the specifics of a negotiated plea. Counsel testified he explained to Applicant the motion to suppress would be a long shot, and the negotiated plea offer would be contingent on not going forward with the motion to suppress. Counsel further testified Applicant was given multiple opportunities to end his plea hearing, and proceed to a jury trial, however Applicant chose to plead guilty. Counsel testified he felt Applicant was not under any more pressure than any other criminal defendant. Counsel testified it was Applicant's choice to plead guilty, and Counsel would have been prepared to go to trial if Applicant chose to not plea.

This court find Applicant's allegation to be without merit. Applicant was aware of the crime he was charge with, and the possible penalties if he was convicted. Given the record before this court, applicant's assertions are not credible. Applicant was informed about the negotiated plea offer from the State, and knew accepting this plea would reduce his possible jail sentence by ten to fifteen years. Applicant had multiple opportunities to speak with his counsel, both before, and during the plea hearing. Applicant was informed of his constitutional rights by Counsel and the plea judge. Though Applicant was told he had to choose between going forward with his plea

hearing, or proceeding to trial, Applicant made an informed decision to accept the negotiated plea offer and limit his possible jail time to fifteen years. This court finds Applicant has failed to show his plea was not knowingly and intelligently given to the court. Additionally Applicant has not provided any evidence, outside of his own self-serving testimony, to indicate he would have rejected the plea offer, and proceeded to trial, if he was provided with more information. Therefore, Applicant's claim is denied and dismissed with prejudice.

CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.



IT IS THEREFORE ORDERED THAT:

1. The application for post-conviction relief is denied and dismissed with prejudice; and

2. Applicant is to remain in the custody of the Respondent.

AND IT IS SO ORDERED this 18th day of August, 2021.

J. MARK HAYES, II
Presiding Judge
Eighth Judicial Circuit

Abbeville, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE GREER H. ASHLEY, JR. (#338842), Petitioner, v. STATE OF SOUTH CAROLINA, Respondent.	IN THE COURT OF COMMON PLEAS EIGHTH JUDICIAL CIRCUIT STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE Filed Sept. 07 A.D. 2021 at 12:38 o'clock P M Shandal Boggs Clerk of Court **PETITIONER'S MOTION TO RECONSIDER** C/A No. 2018-CP-01-168

The Petitioner Greer H. Ashley, Jr. (hereinafter "Greer"), by and through his attorney of record, respectfully asks the Court to reconsider its Order of Dismissal dated August 18, 2021, wherein the Court dismissed the Applicant's PCR application. Greer's attorney received a signed but not filed copy of the Order by first-class mail from the Office of the Attorney General on Monday, August 30, 2021.

The following is a brief summary of the testimony and evidence presented at the PCR hearing, and Greer is informed and believes that the Court should reconsider its Order and that the Order should be amended to include the following findings of fact:

1. Law enforcement arrived at Greer's property at [redacted] Keowee Road in Honea Path to serve arrest warrants on Donnie Wayne Hoyt Brock and Barbara Dezaraye Young.

2. Greer's property is located in Abbeville County.

3. The arrest warrants had been issued by the Honea Path municipal court for alleged crimes which occurred in Anderson County.

4. The Town of Honea Path is located primarily in Anderson County.

5. The arrest warrants weren't countersigned by an Abbeville County magistrate.

6. Law enforcement didn't enter Greer's property because of conflicting reasons: his gate was closed and had a "no trespassing" sign on it, or the gate was open but the roadway on the other side of the gate was so rutted that it was impossible to drive on.

7. Law enforcement then got on and used Larry Ashley's (hereinafter "Larry")

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ABBEVILLE COUNTY CLERK OF COURT

driveway to enter Larry's property.

8. Larry's property, which contains approximately 56 acres, is located at [redacted] Keowee Road in Honea Path.

9. Larry's property is located in Abbeville County.

10. At Larry's house, on the day of Greer's arrest, a "no trespassing" sign was posted on a tree at the right of Larry's house at the start of a dirt driveway.

11. Law enforcement didn't have a search warrant to enter Larry's property to look for Mr. Brock and Ms. Young.

12. Law enforcement didn't get Larry's consent to enter and search his property prior to Greer's arrest.

13. There was no emergency or hot pursuit necessitating law enforcement to enter Larry's property.

14. Abbeville County Deputy Mack Eric Gladden, IV, testified that he saw Greer while Deputy Gladden was at the point where Greer's driveway intersects with Larry's driveway close to Keowee Road (as reflected on the photographs and video entered into evidence).

15. The remaining law enforcement officers testified that Greer was discovered deep in the woods, at a location that couldn't be seen from where Greer's driveway intersects with Larry's driveway.

16. All law enforcement testimony indicates that Greer was on the other side of Larry's "no trespassing" sign when law enforcement first saw Greer.

17. Trial counsel didn't walk and/or drive Larry's property (or Greer's property for that matter).

18. Greer, Larry, and attorney Billy J. Garrett, Jr., told trial counsel about Larry's "no trespassing" sign and/or that there were search issues.

The following is a more extensive summary of the testimony from each trial witness, and Greer is informed and believes that the Court should reconsider its Order and that the Order should be amended to include the following findings of fact:

Larry Ashley testified as follows:

1. He didn't consent for his property to be searched prior to Greer's arrest.
2. Law enforcement didn't ask him for permission to search his property.
3. The "no trespassing" sign had been on the tree for years.
4. He owned the property where Greer was located and arrested.
5. Greer operated a body shop on Larry's property.
6. Larry's property adjoins Greer's property.

Kevin Elder testified as follows:

1. No search warrant was obtained.
2. The arrest warrants hadn't been countersigned by an Abbeville County magistrate.
3. The Abbeville County Sheriff's Office can detain subjects that the Honea Path Police Department (hereinafter "HCPD") has warrants on, and then HCPD can get those subjects from the Abbeville County deputy who has detained the subjects.

Andrew Lunz testified as follows:

1. No search warrant was obtained.
2. The arrest warrants hadn't been countersigned by an Abbeville County magistrate.
3. The arrest warrants weren't countersigned "which is usually why we go with the agency down there so that they can actually take the person into custody and then we will take them in."
4. Nobody called Larry to ask for permission to enter and search his property.
5. Nobody knocked on Larry's door to ask for permission to enter and search his property.
6. "I remember there was several like trails and lanes back through there, through the woods. I don't recall exactly which trail we used going in. I was probably, at least the second or third vehicle back[.]"

7. "I remember taking a trail that went through the woods, I remember it being a very windy type trail[.]"

8. He had to travel a "little bit" to get to where Greer was located.

9. He didn't recall a "no trespassing" sign on Larry's tree.

10. "I would say we went down a decent ways before he was seen."

11. "I recall going a little ways into the woods."

12. "I mean it's a little ways off the road and there are trees."

13. "A lot of woods."

14. He didn't speak with anyone on Larry's property

15. There was no hot pursuit.

16. He didn't see Greer when he entered Larry's property.

17. He arrived at Keowee Road at 10:45 a.m.

Evan McCurry testified as follows:

1. He agreed that Officer Lunz arrived at Keowee Road at 10:45 a.m.

2. Law enforcement wasn't actively chasing anybody.

3. Law enforcement didn't have a search warrant.

4. He wasn't sure if the arrest warrants were countersigned.

5. Law enforcement didn't have consent from Larry.

6. He thought Greer lived in a trailer on Larry's property.

7. Law enforcement went down the driveway past Larry's house.

8. Law enforcement didn't get out at Larry's house.

9. He first said the "no trespassing" sign wasn't there.

10. Then he said he didn't recall seeing the "no trespassing" sign.

11. "I remember it was very briefly after we passed that house that we saw Mr. Ashley. We saw a white male running[.]"

12. He wasn't the officer who obtained the consents to search from Larry and Greer after Greer was arrested.

13. "We approached a black, I believe, Ford truck. And when the mere presence of

law enforcement was observed a white male -- the car left towards a wooded area. And he was noted to be toting something as he ran."

14. "[T]he gate was closed and we were familiar with the second entrance that wound back to that place."

15. Law enforcement didn't have access through Greer's gate.

Mack Gladden testified as follows:

1. Law enforcement entered the Keowee Road property at the driveway just beside Larry's driveway.

2. He didn't recall Greer's gate being closed.

3. He didn't recall seeing the "no trespassing" sign on Greer's gate.

4. He thought Greer was living on the backside of Larry's property at the time of Greer's arrest.

5. He was going to Larry's house to speak to Larry.

6. He didn't stop at Larry's house.

7. He didn't have dispatch call Larry.

8. "I was going to try to speak to Greer at first but I knew I had to pass Larry's property first. That is the reason I was going to speak to Larry to see had he seen the wanted person."

9. "[I]n the process of turning to get onto Larry's driveway I could see down the straight away, just an open trees, and was down beside Larry's property that leads back to -- by Greer's residence. And in the process of looking that way I could see a white male and a truck down on that opening, the first den right there, before I even made it to Larry's property or Larry's residence per se."

10. "I saw a human being and a truck."

11. "I did not recognize the human being at the time."

12. He didn't recall seeing the "no trespassing" sign on Larry's tree.

13. "[A]s far as seeing the vehicle, the vehicle takes off, the person takes off."

14. There was no hot pursuit beforehand.

15. He didn't see any criminal activity while looking down the road.

Micah Black testified as follows:

1. He wasn't sure when the Abbeville general sessions trial docket was sent to trial counsel, but he usually sends the trial docket out at least one (1) month prior to the term of court.

2. He had been in discussions with trial counsel about possible plea offers.

3. He told trial counsel that the 15-year negotiated offer was off the table if trial counsel went forward with a suppression hearing.

4. He communicated this to trial counsel by telephone.

5. He doesn't think he and trial counsel had a pre-trial meeting with Judge Addy.

6. No other plea offers were extended to Greer.

Billy Garrett testified as follows:

1. He was hired by Greer's family on September 20, 2017, for Greer's probation violation only.

2. He met with Greer at the Abbeville County jail on September 21, 2017.

3. After talking to Larry and Greer, it became clear that there was a question of whether law enforcement had the right to go past the "no trespassing" sign farther onto Larry's property.

4. He relayed this information to trial counsel and that there may be a search issue.

5. He wanted to make sure that trial counsel had this information.

6. He wasn't sure of the date that he called trial counsel.

7. There was no way that law enforcement could have seen Greer while situated at Larry's "no trespassing" sign.

8. He received a telephone call from Greer's family on October 10, 2017, that Greer was scheduled for court on October 23, 2017.

9. There was no question that he raised possible search issues with trial counsel.

10. Larry didn't give prior consent for law enforcement to enter his property.

11. Law enforcement didn't have a search warrant.

12. Larry was scared and signed a consent to search after the fact.

13. Greer told him that Greer had told trial counsel about the "no trespassing" sign.

Donnie Brock testified as follows:

1. The "no trespassing" sign was on Larry's tree when Greer was arrested.

2. Law enforcement couldn't see Greer and him from the "no trespassing" sign.

3. Greer and him were deep into the woods when they first saw law enforcement.

Bruce Byrholdt testified as follows:

1. Greer was arrested for a probation violation on or about September 1, 2017.

2. He couldn't recall how many times he met with Greer prior to Greer being arrested for the probation violation on September 1, 2017.

3. He met with Greer on October 10, 2017, while Greer was in the Abbeville County jail on the probation violation.

4. He couldn't recall how many other times he met with Greer while Greer was in jail on the probation violation.

5. He didn't recall any screened phone calls with or letters to Greer while Greer was in jail on the probation violation.

6. He communicated the plea offer to Greer on October 10, 2017, at the jail.

7. He filed the motion to suppress on October 10, 2017.

8. The State hadn't made any previous settlement offers.

9. He thinks he filed the motion to suppress prior to talking to Greer at the jail.

10. Then he said he's not sure what came first - his meeting with Greer or the filing of the motion to suppress.

11. He agreed that he sent his entire file to PCR counsel.

12. There were no notes in his file.

13. He asked for exculpatory information in his discovery requests.

14. The State didn't send him anything about how deep Greer was in the woods at the time of his arrest.

15. His best recollection was that he filed the motion to suppress prior to meeting with Greer at the jail.

16. He didn't work on scheduling a suppression hearing after meeting with Greer at the jail.

17. The motion to suppress was filed 13 days before Greer's scheduled court date.

18. The case wasn't settled at the time of Solicitor Black's email on October 18, 2017.

19. There was no written notice of trial in his file.

20. He probably didn't obtain a written juror list from the Abbeville County clerk of court.

21. It's a fair statement that the first time he notified Greer that he was on the trial roster was October 10, 2017, at the jail.

22. He didn't hire a private investigator.

23. He didn't recall any meetings with Greer after October 10, 2017, but before October 23, 2017.

24. He didn't recall any telephone conversations with or letters to Greer after October 10, 2017, but before October 23, 2017.

25. He agreed that Greer signed the form indicating that he wanted a jury trial.

26. He probably reviewed discovery responses while preparing for trial.

27. He didn't have any recollection of when he talked to Greer to prepare for trial, and that it could have been the morning of October 23, 2017.

28. He didn't have any recollection of conferencing this case with Judge Addy prior to the plea.

29. He now knows that the events complained of didn't occur at [redacted] Keowee Road, but rather happened in the proximity thereto.

30. The recording on the police radio mentioning Greer by name wasn't produced to PCR counsel.

31. He didn't know how long law enforcement had been on Larry's property before the radio dispatch.

32. He denied ever being told about the "no trespassing" sign on Larry's property.

33. He didn't research the issue of law enforcement entering someone's property with no search warrant to serve an arrest warrant on a third party.

34. He didn't walk Larry's property or Greer's property.

35. He didn't recall if he tried to locate the arrest warrants that law enforcement had the day of Greer's arrest.

36. He didn't pinpoint with Greer about where exactly Greer was on Larry's property at the time of arrest.

37. He didn't talk to Donnie Brock, who was mentioned in the incident report.

38. He didn't serve any trial subpoenas.

39. He didn't call any of the law enforcement officers mentioned in the incident report during his investigation.

40. "It could have" made a difference in his analysis if he had learned about the "no trespassing" sign or signs and that the arrest warrants for Brock and Young hadn't been countersigned by an Abbeville County magistrate.

41. He had many meetings with Larry.

42. He had a few meetings with Greer.

43. "They would have asked him about his drug history" if Greer testified.

44. "And it was a negotiated plea, so I would have met with Judge Add[y] and the prosecutor to negotiate his plea. There was no way they were going to - they could back out on the 15 years."

45. He looked at the issue in this case as Greer running when he saw the police and after the police had recognized him.

46. "That was going to be a long shot, to see if the judge would have suppressed that evidence based on the information that was available **then**." (emphasis added)

47. He sought the 15 year offer on Greer's behalf.

48. When asked by the attorney general if he was prepared to proceed to trial on October 23, 2017, his response was, "We would have gone forward, yes, sir."

49. There could be many locations on 56 acres where you could be close enough to see law enforcement and them to see you.

50. Information provided by the State in discovery didn't lead to anything that he thought would benefit Greer.

51. He agreed that Donnie Brock would have been a source of information about Greer's case.

Greer Ashley testified as follows:

1. He told trial counsel about the "no trespassing" signs on his property and Larry's property.

2. He told trial counsel that his gate was shut.

3. The "no trespassing" signs had been on his gate and Larry's tree for a long time.

4. All events occurred on Larry's property.

5. At the point where his driveway merges into Larry's driveway, someone standing or parked at that point couldn't see deep enough into the woods to where Greer first saw the police.

6. At 53 seconds into the video is where law enforcement were when he first saw them.

7. At 66 seconds into the video is where he was when he first saw law enforcement.

8. He signed the consent to search form for his property after he was arrested, although all events happened on Larry's property.

9. He met with trial counsel "about three times" after hiring trial counsel but before his probation violation arrest on September 1, 2017.

10. He told trial counsel that he wanted to have the suppression motion filed and heard during the October 10, 2017, meeting at the jail.

11. Trial counsel hadn't filed the motion to suppress on October 10, 2017, at the time of the meeting at the jail.

12. His first meeting with trial counsel after his probation violation arrest was on October 10, 2017.

13. He didn't receive any phone calls or letters from trial counsel after his probation violation arrest but prior to October 10, 2017.

14. He had no meetings with trial counsel after October 10, 2017, but before October 23, 2017.

15. He didn't receive any phone calls or letters from trial counsel after October 10, 2017, but before October 23, 2017.

16. He learned that his case was first up for jury trial when he arrived at the courthouse on the morning of October 23, 2017.

17. Trial counsel arrived in court during the middle part of the day.

18. Trial counsel said he talked to the judge, and the judge wasn't going to suppress the drugs.

19. He tried to get trial counsel to visit the Keowee Road property, but trial counsel wouldn't.

20. He thought it was very important that trial counsel should have visited the property.

21. He never heard the audio recording where the police said, "There goes Greer Ashley" or something like that.

22. He believes trial counsel's representation was deficient.

23. He thinks there's a reasonable probability that the drugs would have been suppressed if trial counsel had conducted a meaningful investigation and properly argued the motion to suppress.

Greer is informed and believes that the Court should reconsider its Order and that the Order should be amended to include the following documents entered into evidence:

1. Honea Path Police Department officers arrived at Keowee Road at 10:45 a.m. on November 21, 2016. Greer's trial exhibit #6.

2. Abbeville County Deputy Mack Gladden arrived at [redacted] Keowee Road (Greer's house) at 10:58 a.m. on November 21, 2016. Greer's trial exhibit #7. Deputies intended to assist Honea Path Police Department with serving arrest warrants. "Upon arrival deputies noticed a white male running the opposite direction of them while carrying an unknown container." "Upon arrival at the location . . . we observed an unknown w[h]ite male to begin fleeing on foot

by running through the woods." Gladden's testimony indicated that he first saw the person when the person was on the other side of Larry's "no trespassing" sign, and that Gladden didn't observe any criminal activity upon first seeing the person.

3. After being arrested, Greer and Larry each signed a Consent to Search form authorizing law enforcement to search Greer's property at [redacted] Keowee Road. Greer's trial exhibit #28. However, all events occurred on Larry's property at [redacted] Keowee Road.

The following is relevant law to the issues in this case, and Greer is informed and believes that the Court should reconsider its Order and that the Order should be amended to include the following conclusions of law:

1. After all testimony, Greer's attorney made a motion to conform the allegations contained in his amended PCR application to the testimony presented at trial by Deputy Mack Gladden. Gladden testified that when he first saw a person on the other side of Larry's "no trespassing" sign, this person wasn't doing anything wrong and Gladden didn't see any criminal activity. When this testimony is considered along with the uncontradicted evidence that law enforcement had no consent, no permission, no hot pursuit, or no search warrant to be on Larry's property, then Greer or anybody else can run upon seeing law enforcement. Trial counsel should have challenged this aspect of the flight issue.

2. To find that law enforcement entered Larry's property without first having the arrest warrants for Brock and Young countersigned by an Abbeville County magistrate. See Code Section 22-5-190. Once Honea Path Police Department learned that Brock and Young were located on property in Abbeville County, Honea Path PD should have had the arrest warrants countersigned. An opinion from the Office of the Attorney General to Cayce Department of Public Safety dated April 15, 2010 (2010 WL 1808725 (S.C.A.G.)) discusses Code Section 22-5-190. In the case at hand, the Honea Path PD officers on Larry's property had no authority to arrest Brock and Young, because these officers were outside their jurisdiction. The Abbeville County deputies on Larry's property had no authority to arrest Brock and Young, because the warrants hadn't been countersigned. All the deputies could have done would be to take the arrestees before an Abbeville County magistrate. It appears that law enforcement was

on a fishing expedition because no officer on scene had the lawful authority to arrest Brock and Young, which was law enforcement's purported reason for being on Larry's property. This is supported by the fact that Brock's charge was dismissed (Greer's trial exhibit #4) and Young's charge was greatly reduced from a possible 10 years to a maximum of 30 days (Greer's trial exhibit #5).

3. To meet the prejudice burden, an applicant need only testify that he would not have pled guilty. See e.g., Alexander v. State, 303 S.C. 539, 402 S.E.2d 484 (S.C. 1991). Greer testified that he wanted to go to trial so that trial counsel could argue the motion to suppress. Trial counsel was unprepared and in no position to argue a motion to suppress on Monday, October 23, 2017. Furthermore, trial counsel misled Greer when trial counsel said the trial judge intended to deny the motion to suppress, even though the matter hadn't been presented to the trial judge.

4. "The prevailing seizure jurisprudence flows from the idea that, short of an investigatory stop, a person is 'free' to disregard the police and go about his business.'" Wingate v. Fulford, No. 19-700, decided February 4, 2021, and amended February 5, 2021 (4th Cir. 2021). Deputy Mack Gladden testified that he saw the person who turned out to be Greer before Gladden reached the "no trespassing" sign on Larry's tree. Gladden had no authority to go past the "no trespassing" sign. If the Court accepts Gladden's testimony and believes that Greer first noticed law enforcement before law enforcement passed the "no trespassing" sign, then Greer had every right to run.

5. In Sikes v. State, 323 S.C. 28, 30, 448 S.E.2d 560, 562 (S.C. 1994), the applicant received ineffective assistance of counsel when his trial counsel did not move to suppress evidence that was obtained in violation of the Fourth Amendment of the United States Constitution. In Kimmelman v. Morrison, 477 U.S. 365, 375, 106 S. Ct. 2574, 2583, 91 L. Ed. 2d 305 (1986), the U.S. Supreme Court set forth the standard for prejudice in Fourth Amendment PCR claims: "Where defense counsel's failure to litigate a Fourth Amendment claim competently is the principal allegation of ineffectiveness, the defendant must also prove that his Fourth Amendment claim is meritorious and that there is a reasonable probability that the verdict would have been different absent the excludable evidence in order to demonstrate actual

prejudice." In the case at hand, trial counsel's failure to investigate led him to be unaware of Larry's "no trespassing" sign and that law enforcement had no permissible reason to drive past Larry's "no trespassing" sign to serve arrest warrants that hadn't been countersigned.

6. The case at hand is similar to Kolle v. State, 386 S.C. 578, 690 S.E.2d 73 (S.C. 2010) in that trial counsel hadn't sufficiently prepared to argue a motion to suppress. In Kolle, trial counsel was ineffective in a drug trafficking plea case for advising the defendant to plead guilty without sufficiently investigating and arguing the motion to suppress evidence seized from an apartment in which the defendant was an invited guest. Police officers testified that they received a call about loud music from the apartment. When an officer arrived, he heard music and observed fresh "forced entry marks" on the door, but no one responded to knocking. Believing there were exigent circumstances, officers entered and observed powder cocaine and materials used for processing and manufacturing cocaine in plain sight. The officers seized the powder cocaine and obtained a search warrant, which yielded a find of 63 grams of cocaine in the apartment. Counsel moved to suppress the evidence, but the motion was denied, due to the court's finding of exigent circumstances followed by plain view. The defendant pled guilty the same day. Counsel's conduct was deficient during the motion hearing, because counsel had failed to obtain discovery and, therefore, failed to question the officers about time discrepancies, such as the warrant being issued and executed even before the initial "loud music complaint." Likewise, counsel failed to point out that the arrest and search warrant affidavits and incident reports referred to crack cocaine rather than powder and made no reference to "fresh damage" or "forced entry." If counsel had adequately performed, there is a reasonable probability that the court would have granted the suppression motion. Even if the trial court had ruled erroneously, counsel could have advised the defendant to proceed to trial and then challenge the denial of the suppression motion on direct appeal.

7. Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (S.C. 2000) discusses prejudice in guilty plea PCR's, and the Court very clearly states that the proper analysis is ONLY if but for counsel's unprofessional errors the defendant would not have pled guilty and would have insisted on going to trial. "[T]he fact that the judge sentenced Thompson within the range is irrelevant. To establish prejudice, the proper analysis is to determine whether there was a reasonable

probability that, but for counsel's unprofessional errors, the defendant would not have pled guilty and would have insisted on going to trial. See Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985)." In the case at hand, even though Greer may have received a good deal, that's not the issue. The issue is whether but for trial counsel's unprofessional errors would Greer have insisted on going to trial. The answer is yes, Greer testified that he wanted to go to trial and have his suppression motion heard.

RESPECTFULLY SUBMITTED.

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Greenwood, South Carolina

September 1, 2021

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state of South Carolina	)	
	)	Court of Common Pleas
County of Abbeville	)	2018-CP-01-00168
		Post Conviction Relief
State of South Carolina	)	
vs.	)	Transcript of Record
	)	
Greer Ashley	)	
	)	
Defendant	)	

June 22, 2022
Virtually in Newberry, South Carolina

B E F O R E:

Honorable J. Mark Hayes, II, Judge

A P P E A R A N C E S:

Zachary Jones, Assistant Attorney General
Attorney for the State

Carson Henderson, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

(There were no exhibits introduced in the case)

THE COURT: Mr. Greer, this is a motion hearing so I do not anticipate that you will be speaking today. But please listen to the arguments that are presented. After it is over please reach out to Mr. Henderson if you have any questions. I am sure that he will be able to answer those questions for you. But, again, we are here today on the Post Conviction Relief matter of Ashley Greer versus the State of South Carolina. I have got the case number, 2018-CP-01-168. We are here to receive the arguments in regards to Petitioner's motion for reconsideration that was filed by Mr. Henderson. With Mr. Henderson being the moving party, then Mr. Henderson will go first to present his arguments. After that then Mr. Jones, who is with the Attorney General's office, will give his positions. And then since Mr. Henderson has the burden of proof he then will get to make a brief reply and to close. And, again, thank you all for getting together and at this time I will be more than happy to turn it over to Mr. Henderson.

MR. HENDERSON: Thank you, Your Honor. This case started with two arrest warrants that were issued by the Honea Path Municipal Court out of Anderson. That is what got this ball rolling. Keep in mind, this property, Greer's property is up at Larry Ashley's property, is in Abbeville County. It is my understanding, I think the

testimony at trial indicated that Honea Path was looking for two subjects, a Mr. Brock and a Ms. Young that, sounds like an informant had told them was possibly somewhere around Greer Ashley's property or his Uncle's, Larry Ashley's property. Keep in mind, Your Honor, let's assume they are valid arrest warrants, I have no reason to doubt they were valid arrest warrants. But, again, Honea Path City Police can't arrest people in Abbeville County. They did not get these warrants countersigned by an Abbeville County Magistrate. Going out on this property looking for Mr. Brock and Ms. Young, I am not exactly sure how they ever intended to arrest them because nobody there had any authority to arrest them. That was their purpose for being on this property, Your Honor. The testimony was that they tried to enter, I say property, but plural, properties, the testimony was that they tried to enter through Greer Ashley's gate. There was some conflicting testimony, the police, one of the officer's said there is a no trespassing sign on that gate that was closed. And another officer, at least one other officer said, hey, the gate was open but the road was too messy and rutted, we couldn't go down that road. So they decided to go over to the next driveway which is Larry Ashley's driveway, Greer's Uncle. The properties adjoin and there is kind of a dirt driveway from Greer's property to the next, with a

concrete driveway at Larry's property. And at least one of the deputies said, I think that was Deputy Gladden, that when he was at that intersection, and again Your Honor, there were photos that were introduced into evidence; there was a video that was introduced into evidence. So there is plenty of evidence in the record indicating where Greer's dirt driveway runs into his Uncle's concrete driveway. Deputy Gladden was the only deputy that said, at that point in time he could look down past Larry Ashley's house and see somebody in the woods in a truck. Even he said that at that point that he saw no criminal activity, he didn't recognize anybody, there was no extenuating circumstances, there was no hot pursuit, there was no nothing other than these arrest warrants in their hand. So they drive down Larry Ashley's concrete driveway. And again, there is plenty of pictures documenting this in the Court's record, Your Honor. And at the end of Larry's concrete driveway there is a dirt driveway that takes deeper into Larry Ashley's property. Now, there was evidence presented and photographs, there is a long time no trespassing sign on Larry Ashley's tree right there. That is to put the word on notice, don't go any farther on my property. And, again, all law enforcement testified that they made no efforts to contact Larry Ashley, they had to pull right up to his house.

There is no testimony that they got out and knocked on his door, no called him, no radio in to dispatch, had dispatch call him. They made no effort to get permission or consent to go deeper into his property. Because at that point in time all the other deputies besides Deputy Gladden testified that they did not see Greer Ashley until they were much deeper into the woods, along these winding roads. Again, the testimony was consistent that Greer was located or first seen past the no trespassing sign or past Larry Ashley's house where the no trespassing sign was. Your Honor, that is just, that is what causes us so grave concern here about this search going on at somebody else's property without permission; no hot pursuit; no extenuating circumstances; no nothing to serve an arrest warrant that no law enforcement officer there had the lawful authority to serve. Again, we believe that trial counsel was deficient because he didn't raise any of these issues. I don't even think he was aware of these issues looking back at his testimony, Your Honor. My investigator and I did a lot of digging to try to figure out why law enforcement was here. Finally figured out why they were there was to serve those warrants on Mr. Brock and Ms. Young. And, again, I hope His Honor got a taste of this property, watching that video and looking at the photographs. Trial counsel should have gotten, gone down

to Abbeville County from Anderson County and walked this property, driven this property. And I will tell Your Honor, I got out and walked this property. I have driven this property and until you actually do that you can't get a taste of what is actually going on out there. Your Honor, that is, and in my motion to reconsider I think I have tried to give some reason of what everybody testified to. And, Your Honor, if you see something in the testimonial summaries and quotes, that is directly from the trial transcript. I know it is not cited by line and page number but those are verbatim from the trial transcript which I had ordered the family to come up with the money and I ordered the transcript. So now given good summaries, I believe, of what each of these officers and other witnesses testified to. Now, I think we are going back to something really important too, is that Greer Ashley and Larry Ashley and Billy Garrett all testified that trial counsel was put on notice, they discussed with him about this no trespassing sign and their possible search issues here. And, Your Honor, I know the Court weighs credibility issues in making determinations. But Larry Ashley doesn't have a dog in this fight, there is no reason to disbelieve him when he talks about that I have had a no trespassing sign on that same spot for years. And actually one of the other officer's testified that

they saw the no trespassing sign on Greer's gate. And Greer testified that it had been there for years. I don't think that there is any reason to disbelieve what Larry Ashley has to say about his own property and what an officer has to say about Greer Ashley's property. Your Honor, it just concerns us that trial counsel didn't do any investigation, none, nota. If you look, I am trying to set this out very clearly in the motion to reconsider, is that trial counsel didn't notify Greer about he was going to court to, I believe, what, 13 days prior to, yes, 13 days prior to his court date when he went and visited Greer in the Abbeville County jail where he was at on a probation warrant. I entered into evidence too a document showing that Greer signed that day that I want a jury trial. And I am not even sure, and again, trial counsel's motion to suppress was filed that exact same date. Again, there is a dispute about whether or not it was filed prior to trial counsel talking to Greer at the jail or after talking to Greer at the jail. But at least we know both events occurred on the same day. Even after then trial counsel was emailing with the Solicitor about, about this case which at that point in time trial counsel knew that Greer wanted a trial. And trial counsel didn't visit with Greer during that kind of 13 day period, didn't write him, didn't telephone him at all for trial preparation. Trial

counsel said he didn't serve any subpoenas, didn't get a jury list. He had never visited the property, no nothing. And, Your Honor, I see where Greer, when you go to court on that particular day, you are just kind of hemmed up at that point in time, where the Solicitor has made an offer the day you go to trial or have this suppression hearing that trial counsel is not prepared for at all. You know, all offers are off the table and he is looking at, getting way, way hammered, a lot worse than he was actually sentenced to by negotiated sentence. Trial counsel also testified to or actually Greer testified that trial counsel told him that they had a pretrial conference with Judge Addy and Judge Addy told him he was going to not, you know, he was going to rule against the motion to suppress; whereas the Solicitor testified that he didn't recollect having that. Greer was there, Greer says he didn't recollect, going back and talking to the Judge. Greer was there and he testified that he didn't recollect that happening either. Because, again Your Honor, I am not accusing anybody of anything but trial counsel was woefully unprepared the morning that they were going to strike a jury if this case couldn't get worked out. I mean, he was not prepared to argue this motion to suppress basically under the Fourth Amendment. And, now I cited some cases at the, you know, near the back of my motion.

I would turn to page 12, just kind of paragraph one there, where I made a motion to conform my petition to the testimony presented at trial where Officer Gladden testified that the first person, that he saw the person, I am assuming turned out to be Greer, that that person wasn't doing anything wrong. That the officer, Deputy Gladden didn't see any criminal activity, period. Your Honor, if you are on private property and law enforcement is having a reason to be there and somebody sees law enforcement, they should be entitled to run. And that is the portion of flight that I think trial counsel, or one of the issues that trial counsel should have raised. That if I am on my own property or some other person's property where I have a right to be and law enforcement doesn't have a right to be there, and I see law enforcement I can skedaddle. I just don't think that gives any reason for law enforcement to come onto this property. And paragraph two where I kind of cite the history and the statutes and the Attorney General's opinions about these arrest warrants not being countersigned and all the deputies there on the property not having the lawful authority to arrest Mr. Brock and Ms. Young. Paragraph three where Greer testified at the hearing that he wanted to go forward with this suppression hearing and which presumably he could have testified at that hearing; he could have

testified at trial if it went there. And, again, to meet the prejudice burden as an applicant, he had only testified that he would not have plead guilty. Greer actually signed a document that he didn't want to plead guilty. But he wanted the suppression hearing to go forward. He would have had very good information and in site to give about this matter. We are raising a Fourth Amendment violation is what it boils down to. Basically, I think we have to show that there, that if we had gone to trial and the suppression hearing and raised this Fourth Amendment issue properly, not the way the trial counsel would have presented it, but properly presented it at trial, I think there is a fair reasonable probability that Greer would have been successful in having these drugs suppressed. Your Honor, I cite a case on paragraph six, on page 14. I call it Kolle versus State and that is K-O-L-L-E, which is somewhat similar which is basically a plea on a Fourth Amendment case where the PCR, where the Supreme Court granted relief where trial counsel should have raised the Fourth Amendment issues and didn't. So, Your Honor, I am not going, I mean I can sit here all day and talk about this case. But, again, I have tried to cover all points in my motion. But, again, I think it starts with these arrests warrants, it goes towards these officers being on the property without permission, at

least the trespassing. And trial counsel doing no investigation, trial counsel would have picked up on all of this if he had done some digging, go out there and talk to people; go out here and examine public records, find documents. He didn't do all of this, it is hard work. I mean, I understand that and I try to get out here and do the hard work and that is how we discovered all of this stuff. And again, Your Honor, Greer believes that trial counsel was deficient and he believes that he was prejudiced by this deficiency. Your Honor, that is my argument. And I would incorporate the rest of my brief motion.

THE COURT: Thank you. Can I ask you a question.

MR. HENDERSON: Yes, sir.

THE COURT: Okay. Let's, one of the things I struggle with and I remember your presentation in PCR hearing, it was very thorough, you had me to watch videos and do a lot of, you did a great presentation of what normally I don't see in a lot of the PCR cases. This is a PCR that follows a guilty plea, not a PCR that follows a trial. Explain to me, if you can or enlighten me or advocate or persuade me, how do I not view this differently with it being a PCR that results in a trial versus a PCR that follows on a plea because we have this idea that he would not have entered the guilty plea but

for this, the failure of, of what you are arguing is the Fourth Amendment deficiencies. How do I get over to that barrier that this is a plea that had been freely and voluntarily, I got the knowing part but he still entered this plea without any type of duress. Help me understand the difference between a trial versus a plea that dealt with the Fourth Amendment issues.

MR. HENDERSON: Your Honor, on the plea and actually I think that Kolle case that I cited on paragraph six was actually a plea case, a Fourth Amendment plea case. But here, even though Greer put his hand on the Bible and stood in front of Judge Addy and plead guilty, I think his testimony indicated at the PCR hearing and I think the presentation that I showed was that, hey, he got up there and plead guilty but he had no choice. He knew that his trial counsel was not prepared. Trial counsel, I mean, there was no notice of trial counsel's file. And he testified, I had his whole file, there was not no, number one of that. So Greer is standing here saying, listening to his trial counsel say there is a negotiated 15 years. But if we go forward with this suppression hearing that deal is off the table and I think you are looking at a minimum, a minimum, mandatory of 25, it may be higher than that. So there was a significant gap there. So Greer, so I think like most of us, with the guns being pointed at

you, you know, you have to make that decision on the split second. He made a decision that he knew his lawyer wasn't prepared and when he started riding along with his lawyer he is going to be spending a lot of time, a lot more time potentially in the penitentiary. And, again, that's not effective representation, that is not competent representation to ever drag your client down with you during your representation. And that is exactly what trial counsel did. Greer was kind of forced there, he was going to trial and faced a lot more time or taking this offer that his trial counsel had indicated to him, after trial counsel had done no work, none, nota. I just can't figure out, we entered into evidence, Your Honor, I think, his contract, the amount of money trial counsel was paid. I mean, it is, for no work, no investigation being done. So Greer, I would hate to say if I was sitting there in Greer's shoes, I would have done the same thing, Your Honor. But that doesn't excuse trial counsel for being ineffective in not being prepared when I think there is a reasonable probabilty if trial counsel had done a proper, thorough investigation that these drugs would have been suppressed for Fourth Amendment grounds basically, you know, basically trespass, going onto Larry Ashley's property when they did not have any permission to be on his property or any other exception to the Fourth

Amendment to be on his property. So, again, yes, I mean Greer may have made a bad decision that made him plead guilty. But again, I think that bad decision has to be looked at in the light of what his trial counsel had done and had not done at that point in time. And I just don't think it is fair for any defendant to ever be punished for their lawyer's inadequacy. That is how I see this case, Your Honor. And I know the next motion we are having is dealing with a guilty plea after trial. And then we will cross that bridge there but I still see that if the lawyer is ineffective and has prejudiced their client it shouldn't matter whether or not it is a plea or a trial. I hope that answers your question, Your Honor. It is a, that you have got that Mr. Ashley just kind of hemmed in and has no where to go.

THE COURT: Intellectually that helps because some people accuse me of being intellectually challenged so I appreciate, thank you very much. Mr. Jones, so okay. Thank you for that, Mr. Henderson. Let me hear from the State and I might have some more questions for you.

MR. JONES: Okay, thank you, Your Honor. The State's position is that the failure to request a suppression hearing in this case was not prejudicial or deficient because there were no grounds under the Fourth Amendment for suppression of the evidence seized in this case. And

I am just going to go down Mr. Henderson's points and reference the order that Your Honor signed to show why that is. First, as to the arrest warrants, as Mr. Henderson has admitted, there is no question that the arrest warrants were valid. And there is no authority that the procedural requirement of countersigning by a Magistrate in order to effect a formal arrest is necessary for Fourth Amendment purposes. In fact, there was a case in State v. Sims in which an officer did not have the arrest warrant with him even though he knew that there was an arrest warrant somewhere in South Carolina and he knew that there was an outstanding arrest warrant issued by Federal authorities. And in that case the officer was held, not to have violated the Fourth Amendment when he entered the motel room of the defendant in order to make an arrest. That follows from the United States Supreme Court precedent in cases such as Aiden v New York although there are many others saying that an arrest warrant founded on probable cause carries with it the limited authority to enter a dwelling or, I would submit, any other kind of property when there is reason to believe the suspect is within. That brings me to the second point which is the Open Fields Doctrine which I believe is applicable in this case. There is a difference in Fourth Amendment terms between a search of a house and a search

of open fields around the house. Even if, under the common law of trespass, an officer would be trespassing on someone else's property, that is not a search for Fourth Amendment purposes unless it occurs in a house or in the curtilage of a house. And in this case Mr. Greer was apprehended, Mr. Ashley, sorry, was apprehended in the forest outside of the curtilage of any buildings. So under the Fourth Amendment and under the Open Fields Doctrine that would not have been a search and therefore there was not a Fourth Amendment, the Fourth Amendment was not even implicated in this case. Again, cases for that, the Open Field Doctrine is very old, Hester v. United States; Justice Holmes wrote the distinction between open fields and houses is as old as the common law. And the facts of that case were actually interestingly similar to this case. In this case, of course, Mr. Ashley was apprehended carrying a bottle that turned out to be filled with methamphetamine. In the Hester case the defendant was apprehended carrying a bottle of moonshine liquor and once again, in that case, officers had gone on to the property without permission. But because they hadn't gone near the house of a curtilage of the house, when the defendant fled carrying the bottle of moonshine, they were able to apprehend him. And the Supreme Court said, the Fourth Amendment does not implicate in this case. Again,

the Fourth Amendment protects houses, persons and papers and effects and the Supreme Court held that open fields are not encompassed within any of those, any of those enumerated protections. And South Carolina has never departed from the Open Fields Doctrine nor has the Supreme Court of the United States. In fact, the case of Oliver v. United States, the Supreme Court expressly held that the fact, even if there are no trespassing signs put up around the property, that has no effect on the officer's rights to search the property, to enter the property for and otherwise valid purpose. Within this case I would submit they did because they had the authority to, well, even if it had been a search they would have had authority to do it under the arrest warrants. But because it was in the forest outside, you know, not near any houses or curtilage of any houses, it was, for that reason not even a search. And the precedent is clear that officers can enter property, a private person's property to make those and observe what they may without concentrating a search for the purposes of the Fourth Amendment. Finally, I would just say that there is a standing issue. Mr. Ashley was not apprehended on his own property, he was apprehended on the property of Larry Ashley. And that, of course, brings with it obvious Fourth Amendment implications. You can't search a Constitution, someone

else's Constitutional right as a grounds to have evidence suppressed in your own criminal case. The test for that is enumerated in South Carolina in State v. Robinson where there is a multi-factor test. And I am just going to go through those factors and explain why, in this case, this does not meet the requirements for Mr. Ashley to have Constitutional standing to object to the entry of officers on Larry Ashley's property. Again, just to reiterate, this was not a search in the first place. But if Your Honor disagrees and finds that it was a search and finds that the officers did not have authority under the arrest warrants, both of which I think are false, but nevertheless it would only have been a search as to Larry Ashley's property and not to Greer Ashley's property. And that is because of these factors. The first one enumerated by the South Carolina Supreme Court is whether the defendant owned or had property rights in the property. Of course, this was Larry Ashley's property. A lot of these there is no firm evidence on but, of course, in the Post Conviction Relief context it is the requirement of the Applicants to present evidence establishing his case. So where there is no evidence, I would submit Applicant has failed to meet his burden. The second factor and this is one of those where there is no evidence, is whether the Applicant was an over night guest

there. There is no evidence of that. There is no evidence that he kept a change of clothes there. The third factor, he could not have had a key to it. The fourth factor, because it was an open forest. The fifth factor, there is no indication that he had dominion and control over the property or the rights to exclude other people from it. The next factor is how long he had known the owner. I am willing to concede that Mr. Ashley probably knew his Uncle, Larry Ashley, for a long time but that is the only factor that counsel is in favor of this. After that, whether he had been there, whether he attempted to keep his activities there private. There is no evidence that he attempted to keep any of his activities private from other people at the property. Of course, he attempted to keep the methamphetamine private by fleeing from the police but that is not relevant to the Fourth Amendment aspect for obvious reasons. The next factor is whether, I am sorry, never mind, I am sorry. The next factor is whether he engaged in domestic activities at the property or only commercial activities. There was evidence that he had a body shop, I believe, on Larry Ashley's property. But there is no evidence that he routinely engaged in any domestic activities there. Finally, or sorry, there is two more. One is, whether he paid rent, he did not or at least there is no evidence.

And the one, the other is whether he alleged a proprietary interest in the premises or in the evidence seized. Again, there is no evidence of that. So I would submit, again, even if the officers lacked any authority under the arrest warrants to enter the property and even if this was not an open field or rather an open area apart from a house or the curtilage of a house, I would submit that because it was Larry Ashley's property and not Greer Ashley's property, Mr. Ashley had no cognizable Fourth Amendment interest in not suppressing or excluding the evidence seized from the search. And because there was no grounds for suppression under the Fourth Amendment, there could have been no prejudice for failing to suppress and there could have been no deficiency for failing to request a suppression hearing. And, again, all of these points were at least touched on in Your Honor's order dismissing Mr. Ashley's PCR application. So I would submit that there is no grounds for reconsideration in this case. Notwithstanding Mr. Henderson's excellent arguments, the Fourth Amendment simply does not require the suppression of the drugs seized from Larry Ashley's property. And that was the main thrust of the State's position.

THE COURT: Okay. Thank you for that. So, I understand the, let me tell you what I am hearing. It doesn't matter that the police officers were there to, on

the property because of that warrant that was issued from Honea Path, it was in Anderson County. It didn't matter that the police officers were not in a jurisdiction that they had any authority over because they had been properly issued an arrest warrant from a Honea Path Court even though they had traveled into, outside the County to another county, went on private property that had a no trespass sign, they still went on the property. And the fact that they found this gentleman, who is not the property owner, with a large quantity of drugs. All of that just didn't matter for Fourth Amendment purposes because he was not the owner of the property, had no vested interest in the property, and could claim no rights for Fourth Amendment purposes flowed to him. Even if the police were there, for an invalid reason or an unlawful reason or without authority, all of that just doesn't matter because he just has no Fourth Amendment right. Is that correct?

MR. JONES: Well, Your Honor, of course he has Fourth Amendment rights. The question is, whose Fourth Amendment rights were violated. And I would submit, let's take a worse case scenario. Let's say the officers had no valid warrant, no valid suspicion even though it allowed them to go onto the property. Let's take it even further and say that it was not an open field, it was in fact a house or

some other expressly protected area. If the officers had violated Larry Ashley's Fourth Amendment rights and in doing so had found evidence implicating Greer Ashley, under the Doctrine of, set forth in State v. Robinson, the Constitutional Standing Doctrine, Greer Ashley would have to establish some reason that his own personal Fourth Amendment rights were violated. He could not assert the violations of Larry Ashley's Fourth Amendment rights in order to obtain suppression of this evidence. Does that answer Your Honor's question?

THE COURT: Yes. You said it a lot more articulately correct than I did. So, it didn't matter that even if I believed Mr. Henderson's assertion that his lawyer was unprepared, did no research, did not visit the property, that does not matter because that lawyer was being asked to conduct research and investigation to go visit the property on an issue that did not apply to Mr. Greer Ashley.

MR. JONES: Yes, Your Honor. So that would go to the deficiency prong. But, of course, there would also be the prejudice prong which is that even if the attorney had conducted an investigation and had ordered a suppression hearing, because there was no Fourth Amendment violation the suppression hearing would not have made a difference. The end of the result of the suppression hearing would

have been that, assuming it went according to the precedent of our Courts, would have been that the evidence could come in. So I would submit that the final result would not have changed and, of course, that is the test for ineffective assistance of counsel.

THE COURT: That is what I said. Thank you. Mr. Henderson, I am going to give you an opportunity to reply to anything that was just said.

MR. HENDERSON: Your Honor, these documents are introduced into the trial evidence after Greer's arrest, law enforcement had Greer and Larry Ashley both sign the consent to search. They knew there was a search had already gone on. I mean, I think that, I mean that is their acknowledgment, that they were trying to cover themselves for being there that they previously did not have permission. And, again, going back to this arrest warrant, Your Honor, again let's assume that the arrest warrants for Mr. Brock and Ms. Young were -- there was nobody there with those warrants had the authority to serve them, or they hadn't been countersigned. No law enforcement officer there could have served those warrants. And if any officer there had grabbed Ms. Young and Mr. Brock, I don't know if Mr. Brock or Ms. Young ever raised that issue to their respective criminal situations. That is how I see it that law enforcement didn't have any

reason to be there at all, they had no authority to serve these arrests. This just goes back to seeing Greer or seeing some other identified, minding his own business who is committing no crime pass the trespass sign. That doesn't give law enforcement any reason to start crossing the threshold of the property like this, especially when no law enforcement officer had the authority to serve those arrest warrants. And going back, Greer's property does abut Larry's property, they are next to one another, they are parked in the driveway, actually here you have multiple driveways. Greer clearly has permission to be on that property, operating a body shop on that property. Again, he has got some draws over Larry's property, that Larry is letting him be there, letting him operating a business, letting him use this property, can travel up and down the road to this property. There are multiple roads in and out of this property. And, again, all the officers said that they were in the woods before they ever saw anybody, actually saw Greer Ashley. So there is witnesses say that they were deep into the woods. Again, law enforcement is going past this no trespassing sign. He has been to the woods with an arrest warrant and don't have any jurisdiction or authority to serve. So you know, I just, and again, I may be wrong, Your Honor, but this is a host of problems. And I think at the very least trial

counsel could have researched this, should have walked the property, could have interviewed witnesses, should have found some of the witnesses that we found and I will tell the Court we went to some bad places to find these witnesses. We found them, we did the work. And, again, I told the Greer if the Court granted him a new trial there is no guarantee he would win. I don't think that is the issue. And I think we have gone and trial counsel was, Your Honor, I submit that Greer has been prejudiced. And, again, Your Honor, I know they call it the Open Fields Doctrine, a lot of people are in open fields. And this, there is nothing open about it. If you are standing, you are not going to be able to see bad behavior happening in the middle of an open field at all. You can't see anything, you have got to get on the winding roads to get back into this overgrown property to see anything. I am not exactly sure the Open Fields Doctrine is operable to this, Your Honor. It is not open. That is my rebuttal argument, Your Honor.

THE COURT: Okay. Well, thank you. And you feel like that I need to revise or revisit my order because I got it wrong the first time?

MR. HENDERSON: Yes, sir.

THE COURT: I don't take it personal.

MR. HENDERSON: Oh, no, no, no.

THE COURT: Okay. Thank you for those, I will take a look at it and I will let you know. Mr. Ashley, stay in touch with your lawyer. I have to take a look at some more information. I will make a ruling as expeditiously as I can after I have taken a look at the information. But thank you very much.

MR. ASHELY: Thank you, sir.

THE COURT: Thank you, sir.

*** END OF REQUESTED TRANSCRIPT OF RECORD ***

CERTIFICATE OF REPORTER

State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter, do hereby certify that the foregoing is a true, accurate and complete transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Abbeville, South Carolina, heard virtually in the County of Newberry, South Carolina on the 22nd day of June, 2022.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 27, 2022

Joy E. Holston

Joy E. Holston, Court Reporter

My Commission expires: May 2, 2026

STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE	IN THE COURT OF COMMON PLEAS FOR THE EIGHTH JUDICIAL CIRCUIT
Greer Ashley, #338842, Applicant, v. State of South Carolina, Respondent.	2018-CP-01-168 **ORDER DENYING MOTION FOR RECONSIDERATION**

This matter comes before the Court by way of a motion for reconsideration filed by Applicant Greer Ashley on September 7, 2021, challenging this Court's order of dismissal filed August 31, 2021. A hearing to consider Applicant's motion was held remotely via the WebEx virtual courtroom on June 22, 2022. Applicant was present at the hearing and represented by Carson Henderson, Esquire. Assistant Attorney General Zachary W. Jones, of the South Carolina Attorney General's Office, represented Respondent the State of South Carolina. After once again reviewing the matter, this Court declines to alter or amend its prior order.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. During the March 31, 2017 term, the Abbeville County Grand Jury indicted Applicant for trafficking methamphetamine (400 grams or more) (2017-GS-01-0063). Bruce Byrholdt, Esquire, represented Applicant. Assistant Solicitor Micah Black of the Eighth Circuit Solicitor's Office prosecuted the case.

On October 23, 2017, Applicant plead guilty to the lesser included offense of trafficking methamphetamine 28-100 grams, second offense, before the Honorable Frank Addy, Jr. Pursuant to negotiations between the State and Applicant, Judge Addy sentenced Applicant to imprisonment

for fifteen years. Applicant did not appeal his guilty plea or sentence.

Applicant filed an application for post-conviction relief on June 4, 2020, alleging he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
   a. "Counsel did not file a suppression motion for evidence that was seized without a search warrant or arrest warrant in violation of Applicant's Fourth Amendment right."
   b. "Counsel was ineffective because his guilty plea did not comply with Rule 11 of the Federal Rules of Civil Procedure."
   c. "Counsel provided 'bad advice' that led Applicant to plead guilty."
2. Involuntary Guilty Plea
   a. "Applicant's guilty plea was not knowing and intelligently 'made to the court.'"

As requested relief, Applicant stated he is seeking a new trial.

On January 14, 2021, Applicant, through his attorney, filed an amended application alleging:

3. Applicant is informed and believes that his trial counsel was ineffective because he failed to properly advise Applicant regarding the federal and state constitutional issues related to law enforcement's entry onto real estate owned by Larry W. Ashley at [redacted] Keowee Road in Honea Path, S.C.
4. Applicant is informed and believes that his trial attorney was ineffective because he failed to conduct a meaningful independent investigation.

Respondent filed a Return on January 21, 2021, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on January 28, 2021, January 29, 2021, and March 15, 2021 remotely via the WebEx virtual courtroom. Applicant was present at the hearing and represented by Carson Henderson, Esquire. Assistant Attorney General Michael Neubauer of the South Carolina Attorney General's Office appeared on behalf of Respondent. At the hearing, Applicant indicated he was going forward on all of his allegations, and he testified on his own behalf. Bruce Byrholdt, Esquire, Larry Ashley, Donnie Brock, Honea Path Police Officer Timothy Wright II, Honea Path Police Officer Kevin Elder, Honea Path Police Officer Andrew Lunz, Abbeville

County Sheriff's Office Deputy Mack Gladden, Abbeville County Sheriff's Office Deputy Evan McCurry, Honea Path Police Lieutenant Matthew Graham, Billy Garrett, Esquire, and Assistant Solicitor Micah Black of the Eighth Circuit Solicitor's Office also testified. After a review of the record and all evidence presented, this Court denied and dismissed the application with prejudice. The Court's order of dismissal set forth specific findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80. Upon reconsideration, this Court declines to alter or amend any of the findings and conclusions set forth in its order of dismissal, all of which are adopted and incorporated in this order.

SUMMARY OF FACTS

On November 21, 2016, officers from the Honea Path Police Department, and the Abbeville County Sherriff's Office, were attempting to serve active warrants on two subjects in Abbeville County. (GP Tr. p.10). According to information law enforcement received, the two wanted subjects were in the Honea Path area of Abbeville County. (GP Tr. p.10). As officers pulled onto a piece of property where the subjects were believed to be located, officers saw Applicant, who fled the area on foot. (GP Tr. p.10). Law enforcement pursued Applicant and were able to apprehend Applicant about thirty seconds after he fled the property. (GP Tr. p.11). When Applicant fled he was carrying a detergent bottle like "a running back would" hold a football. (GP Tr. p.11). Applicant was on probation at the time and repeatedly stated, "My life is over" after law enforcement caught up to him. (GP Tr. p.11). The detergent bottle was recovered and a large quantity of methamphetamine was found inside. (GP Tr. p.11). The substance field tested positive for methamphetamine, and that was later confirmed by SLED. (GP Tr. p.11). The total weight of methamphetamine in Applicant's possession was nine-hundred and seventy-one

grams (i.e. two and one fourth pounds). (GP Tr. p.11). The state told the Court the product tested was "pure ice" and not an unfinished form of methamphetamine. (GP Tr. p.12).

After being advised of his rights pursuant to Miranda[1], Applicant gave a statement to law enforcement. (GP Tr. p.11). Applicant stated he had just purchased the methamphetamine from a guy out of Williamston named Paco. (GP Tr. p.11). Applicant stated he paid Paco a total of twenty thousand dollars for the drugs. (GP Tr. pp.11-12). Applicant had two prior drug convictions that the State indicated to the Court they would have introduced after securing a conviction had Applicant not pled guilty. (GP Tr. p.12).

APPLICANT'S MOTION FOR RECONSIDERATION

In his motion for reconsideration, Applicant requests that the Court amend its order to include additional findings of fact. Specifically, Applicant lists 170 statements, taken from the testimony presented at the evidentiary hearing, which he asserts should have been included in the Court's order. Applicant also lists three exhibits he believes should have been referenced in this Court's order. However, the Court's order already contained a summary of the testimony presented at the evidentiary hearing, including most of the statements listed by Applicant. Repeating the summary of the testimony in the order's discussion of the Court's factual findings would not change the Court's analysis because the primary issue in this case is a legal one: did the police intrusion onto Larry Ashley's property violate Applicant's rights under the Fourth Amendment to the United States Constitution?

Applicant raises the following legal arguments for his position that the Court should alter or amend its order denying his application for post-conviction relief:

1. That at the time he was first seen by officer Mack Gladden, he "wasn't doing anything

[1] Miranda v. Arizona, 384 U.S. 436 (1966).

wrong" and was within his rights to run away;

2. That the arrest warrants were invalid because they were not signed by an Abbeville County magistrate;
3. That trial counsel erroneously told Applicant the trial judge was going to deny the motion to suppress;
4. That Applicant was free to run from police because the officers had no authority to pass the "no trespassing" signs on the property;
5. That trial counsel's failure to perform a more thorough investigation prejudiced Applicant because, had counsel discovered the existence of the "no trespassing" signs, he would not have advised Applicant to plead guilty;
6. That trial counsel had not sufficiently prepared to argue a motion to suppress and that, if he had been prepared, the motion would likely have succeeded;
7. That, but for counsel's errors, Applicant would have insisted on going to trial.

Whether Applicant's constitutional rights were violated is central to Applicant's post-conviction relief claims. If his rights were not violated, then there could have been no grounds for suppressing the methamphetamine; if there were no grounds for suppressing the methamphetamine, then counsel was not ineffective in advising Applicant to give up his attempt at suppression in order to accept the State's plea bargain. On the other hand, if Applicant's rights under the Fourth Amendment *were* violated by the search that yielded the methamphetamine, then his suppression motion would likely have succeeded, and counsel may have been deficient in erroneously advising him that suppression was unlikely.

It is not disputed that law enforcement had no search warrant or consent to search Larry Ashley's property, where Applicant was caught with the drugs. However, the officers entered the

property in an attempt to apprehend two individuals who had outstanding arrest warrants. The South Carolina Supreme Court has held that police do not violate the Fourth Amendment by entering property pursuant to a valid arrest warrant. *State v. Sims*, 304 S.C. 409, 418–19, 405 S.E.2d 377, 382–83 (1991).

Applicant claims the arrest warrants were not properly countersigned by an Abbeville County magistrate pursuant to S.C. Code Ann. § 22-5-190. However, the mere fact that the arrest warrants were not countersigned by a magistrate in Abbeville County does not render them invalid for the purposes of the Fourth Amendment analysis. The Court has reviewed the authorities cited by Applicant (i.e., S.C. Code Ann. § 22-5-190 and the Attorney General's advisory opinion regarding the same), neither of which suggests that failure to countersign an otherwise proper warrant renders the warrant invalid for Fourth Amendment purposes. In fact, Applicant's own motion states that "[a]ll the deputies could have done would be to take the arrestee before an Abbeville County magistrate"—an act which presupposes the authority to seize the arrestee in the first place. Therefore, the Court declines to amend its finding that law enforcement had authority, under the valid arrest warrants, to enter Larry Ashley's property in search of the arrestees.

Applicant claims that his mere flight upon seeing law enforcement, without any other contemporaneous evidence of criminal activity, did not give law enforcement authority to enter the property to pursue him. Applicant claims he "had every right to run" because, short of an investigatory stop, a person is free to disregard police and go about his business. However, merely disregarding police is different from actively fleeing from police. "Headlong flight . . . is the consummate act of evasion: It is not necessarily indicative of wrongdoing, but it is certainly suggestive of such. . . . Flight, by its very nature, is not 'going about one's business.'" *Illinois v. Wardlaw*, 528 U.S. 119, 124–25 (2000). Moreover, law enforcement did not merely enter the

property because they saw Applicant fleeing; they were also entering the property to search for two suspects for whom they had valid arrest warrants. Even if Applicant were merely "going about his business," officers would have had the authority to enter the property.

Applicant contends trial counsel should have performed a more thorough investigation, which would have revealed the numerous "no trespassing" signs law enforcement would have had to pass in order to reach the spot where Applicant was discovered with the drugs. However, the police had the right to enter the property pursuant to the valid arrest warrants; since they had the right to search for the individuals named in the warrants, they necessarily had the right to ignore any "no trespassing" signs or other indicia of privacy interests. Therefore, counsel's knowledge of the "no trespassing" signs would not have changed the likely outcome of the suppression motion.

In addition, the property did not belong to Applicant, but to his uncle Larry. "A person who is aggrieved by an illegal search and seizure . . . of a third person's premises or property has not had any of his Fourth Amendment rights infringed." *Rakas v. Illinois*, 439 U.S. 128, 134 (1978). A person making a motion to suppress must show that he, personally, had a reasonable expectation of privacy in the area that was illegally searched. *State v. Robinson*, 410 S.C. 519, 528, 765 S.E.2d 564, 569 (2014). A person who is merely present on another's property, with the consent of the owner, does not necessarily have a reasonable expectation of privacy in the property. *See id.* at 530, 765 S.E.2d at 570 (holding a defendant who was not a renter, overnight guest, or otherwise connected with the searched property could not assert a Fourth Amendment violation merely because he was present with the owner's consent). Therefore, even if the search of Larry Ashley's property was an illegal search, Applicant has not shown that his *own* Fourth Amendment rights were violated.

Therefore, as already explained in the Court's previous order, there is no likelihood that Applicant's suppression motion would have succeeded if he had pursued it. Therefore, counsel was not ineffective for advising Applicant to accept the State's plea offer instead. In addition, because Applicant's claim that his guilty plea was involuntary is premised on his ineffective assistance claim, that claims also fails. Accordingly, the Court declines to alter its prior order denying and dismissing Applicant's post-conviction relief application with prejudice.

CONCLUSION

The Court finds Applicant has failed to present any information or argument that would require this Court to reconsider, alter, or amend its previous order. *See I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000) (stating the purpose of a motion to alter or amend is to "enable the [Court] to rule properly after it has considered all relevant facts, law, and arguments"); *see also Wilder Corp. v. Wilke*, 330 S.C. 71, 77, 497 S.E.2d 731, 734 (1998) (noting the proper use of a Rule 59(e) motion is to preserve issues raised to, but not ruled upon by, the trial court). Accordingly, Applicant's motion to alter or amend pursuant to Rule 59(e), SCRCP, is **DENIED.**

The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

AND IT IS SO ORDERED this 19th day of August, 2022.

J. MARK HAYES, II
Presiding Judge
Eighth Judicial Circuit

Abbeville, South Carolina

WITNESSES

J. S. Hines
Abbeville County Sheriff

WARRANT NUMBER

2016A0110100346

TRUE BILL

Foreman of the Grand Jury

Date: MAR 31 2017

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

March Term, 2017

Indictment # 17GS01-0063

THE STATE

vs.

Greer Haynie Ashley Jr.

INDICTMENT FOR

TRAFFICKING IN METHAMPHETAMINE
§44-53-0375

CDR: 0370

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

INDICTMENT FOR

TRAFFICKING IN METHAMPHETAMINE §44-53-0375

At a Court of General Sessions, convened on the 31st day of March, 2017, the Grand Jurors of Abbeville County present upon their oath:

That Greer Haynie Ashley Jr., on or about November 21, 2016, in Abbeville County, did willfully, unlawfully, and knowingly traffic in methamphetamine, in that the said defendant(s) did sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was in actual or constructive possession or did knowingly attempt to become in actual or constructive possession of 400 grams or more of methamphetamine, in violation of Section 44-53-375 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

Assistant Solicitor