

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Spartanburg County

J. Mark Hayes, II. Circuit Court Judge

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Sep 11 2020

S.C. SUPREME COURT

BRITTANY C. FOSTER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2020-000143

APPENDIX

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INDEX

INDEX	i
TRANSCRIPT OF PLEA HELD APRIL 27, 2017	1
ORDER DISMISSING APPEAL FILED JULY 17, 2017	29
REMITTITUR DATED AUGUST 4, 2017	30
APPLICATION FOR POST-CONVICTION RELIEF	31
RETURN	38
AMENDED APPLICATION FOR POST-CONVICTION RELIEF	46
TRANSCRIPT OF POST-CONVICTION RELIEF HEARING HELD NOV. 8, 2018	49
ORDER TO CONSIDER EXHIBITS DATED NOVEMBER 9, 2018	129
STATE’S EXHIBIT #1	131
STATE’S EXHIBIT #2	194
STATE’S EXHIBIT #3	204
STATE’S EXHIBIT #6	205
STATE’S EXHIBIT #15	213
STATE’S EXHIBIT #14	226
STATE’S EXHIBIT #13	233
STATE’S EXHIBIT #12	274
STATE’S EXHIBIT #10	275
STATE’S EXHIBIT #11	280
POST-HEARING BRIEF CLOCKED NOVEMBER 27, 2018	284
ORDER OF DISMISSAL	293
INDICTMENTS	307

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-)
6 Brittany Cassandra)
7 Foster,)
8)
9)
10) TRANSCRIPT OF RECORD
11) 2016-GS-42-04429; -04429A;
12) -04423; -04427
13)
14)
15) April 27, 2017
16) Spartanburg, South Carolina
17)
18)
19)
20)
21)
22)
23)
24)
25)

11 B E F O R E:

12 HONORABLE LETITIA H. VERDIN, JUDGE

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

16 BARRY JOE BARNETTE, ESQUIRE
17 Attorney for the State

18 ROBERT B. HALL, ESQUIRE
19 Attorney for the Defendant

23 Margaret A. Woods
24 Circuit Court Reporter

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5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

PAGE

Plea	4
Certificate of reporter	28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1	Incident report	4	11
S-2	Incident report	4	11
S-3	Pre-interrogation waiver form	4	11
S-4	Interview with Brittany Foster	4	11
S-5	Interview with Keenen Hines	4	11
S-6	Voluntary Statement Keenen Hines	4	11
S-7	Food Lion surveillance video	4	11
S-8	Exxon surveillance video	4	11
S-9	Exxon surveillance video	4	11
S-10	Photographs (5)	4	11
S-11	UCI Dive report	4	11
S-12	Firearms/Tool Mark Report	4	11
S-13	Coroner's report	4	11
S-14	Autopsy report Anthony Biggerstaff	4	11
S-15	Competency report/mental health evaluation	4	11

1 (State's Exhibit Nos. 1 through 15 marked for
2 identification.)

3 MR. BARNETTE: Your Honor, this the case State vs.
4 Brittany Foster, Your Honor, she's pleading guilty to four
5 counts, um, on three indictments. The first indictment is
6 16-GS-42-4429, Your Honor, she's pleading to two counts on
7 that indictment, the first count is for murder, the second
8 count is possession of a firearm during a commission of a
9 violent crime, that's count two, uh, the other two, Your
10 Honor's, on 16-GS-42-4427 is possession unlawful pistol and
11 16-GS-42-4423 possession a meth first offense, Your Honor, all
12 these have been true billed the grand jury, Your Honor. This
13 is a straight up plea in this case, she is res [sic] by
14 Mr. Robert Hall in this case, Your Honor. I do have the
15 victim's family here, Your Honor, the mother Jane Ayres and
16 the victim is here, Amanda Hash, his sister is here, she would
17 like address the Court the appropriate time, also, two
18 officers that worked on the case, Your Honor, Investigator Tom
19 Clark as well Sergeant Brandon Letterman, uh, they'd like to
20 speak at the appropriate time also and I do have fifteen
21 exhibits, Your Honor, which includes the, uh, mental health
22 valuation, I'd like to enter those as part a the facts and
23 evidence a the case at the appropriate time with the facts
24 when I go over that.

25 THE COURT: Alright.

1 EXAMINATION BY THE COURT:

2 Q. Um, Ms. Foster, you're here today plead to
3 2016-GS-42-4429 murder, uh, and, um, 4429A possession of a
4 weapon during the commission of a violent crime, that's count
5 two on that indictment and, uh, murder carries a minimum of
6 30 years to life, course it's classified as a violent and most
7 serious offense, uh, possession of a weapon during commission
8 of a violent crime carries 5 years, unlawful carrying of
9 pistol carries up to a year and possession of methamphetamine
10 carries up 3, is that your understanding?

11 A. Yes.

12 Q. Have you discussed these charges with your attorney?

13 A. Yes.

14 Q. Do you feel like you've had adequate time to discuss
15 these matters with your attorney?

16 A. Yes.

17 Q. Are you under the influence of drugs or alcohol here
18 today?

19 A. No, ma'am.

20 Q. Um, has anyone forced you to plead guilty?

21 A. No, ma'am.

22 Q. Has anybody promised you anything to get you plead
23 guilty?

24 A. No, ma'am.

25 Q. When you plead guilty you give up certain constitutional

1 rights, one is your right to remain silent about these
2 charges, do you know that?

3 A. Yes, ma'am.

4 Q. You also give up your right to a jury trial, at that
5 trial your attorney could call witnesses for you, could
6 cross-examine witnesses against you, uh, State would have to
7 prove your guilt beyond a reasonable doubt but when you plead
8 guilty you give up your right to a jury trial, do you
9 understand that?

10 A. Yes, ma'am.

11 Q. How old are you?

12 A. Twenty-two.

13 Q. How far did you go in school?

14 A. The middle a ninth grade.

15 Q. Okay. Um, have you had any kind of mental health
16 counseling, substance abuse counseling, anything like that in
17 your life?

18 A. Yes, ma'am.

19 Q. Tell me about that.

20 A. My father molested me when I was 11-years-old ---

21 Q. Okay.

22 A. --- and I had to have counseling for that.

23 Q Okay. Okay. Um, what about since that time, have you
24 ever had any kind of mental health counseling, ever been
25 diagnosed with any mental illness?

- 1 A. Bipolar.
- 2 Q. Okay, and were y -- are you being treated for that?
- 3 A. No, ma'am.
- 4 Q. Okay. Have ya ever taken medication for that?
- 5 A. No, ma'am.
- 6 Q. Okay. Let me ask you this: I I see that she's had an
7 evaluation done, uh, and and I see that, um, the evaluators,
8 uh, have, that have, um, opined that she is competent to stand
9 trial; however, uh, let me ask you this, ma'am, um, do you
10 know what you're here today to do? Why are you here in court
11 today, what's the purpose?
- 12 A. Yes, ma'am.
- 13 Q. Okay, tell me why. What are ya here today to do?
- 14 A. To plead guilty.
- 15 Q. Okay, right, um, at -- and and I'm not asking you any
16 trick questions, I just am askin' you because I wanna know if
17 you understand what's happenin'. This (indicating) man who's
18 standin' next to you, you don't have to know what his name is
19 but do you know who he is and what he does?
- 20 A. Yes, ma'am.
- 21 Q. Tell me.
- 22 A. He's here to fight for me.
- 23 Q. That's a good way to put it, that's a good way to put it,
24 he's your lawyer, right? Uh, do you know what my job is?
- 25 A. Yes, ma'am.

1 Q. What is that?

2 A. To sentence me.

3 Q. Alright, alright. Um, alright, um, are you on any kinda

4 medication whatsoever?

5 A. Yes, ma'am.

6 Q. Tell me about that.

7 A. I'm on, um, BuSpar for, um, anxiety.

8 Q. Okay, anything else?

9 A. And, um, Prozac ---

10 Q. Okay.

11 A. --- for depression, ---

12 Q. Okay. Alright, ---

13 A. --- and that's ---

14 Q. --- anything else?

15 A. --- that's it.

16 Q. Okay. Alright, um, I want you to listen to the facts as

17 stated by -- oh, I didn't ask you this: Do you have any

18 complaint to make against law enforcement, the solicitor's

19 office or your lawyer as a result a these charges whatsoever,

20 any complaint to make?

21 A. No, ma'am.

22 Q. Okay, alright. Um, I want you to listen as the solicitor

23 states facts in this case, uh, I'm gonna have a couple more

24 questions for you after that, alright?

25 A. Okay.

1 MR. BARNETTE: 'kay.

2 THE COURT: Yes, sir.

3 MR. BARNETTE: Thank, Your Honor, just to enter the
4 exhibits first 'fore I go through the facts, State Exhibit 1,
5 Your Honor, is the incident reports from the Spartanburg
6 County Sheriff's Office, I believe consists of 63 pages of the
7 incident involvin' the murder and the possession a weapon
8 durin' a violent crime, Your Honor, uh, State Exhibit 2, Your
9 Honor, is the traffic stop involving, it consists of 10 pages,
10 it consists of the, uh, unlawful pistol charge as well as a
11 the possession a meth, uh, first, uh, first offense charge,
12 Your Honor, State Exhibit Number 2 [sic], Your Honor, is gonna
13 be the, uh, waiver that Ms. Foster did before she talked to
14 law enforcement, the Spartanburg County Sheriff's Office, Your
15 Honor, State Exhibit 4, Your Honor, is the interview that was
16 conducted by the Spartanburg County Sheriff's Officer, Your
17 Honor, that is on videotape, uh, and made part a the record,
18 State Exhibit 5, Your Honor, is her co-defendant Keenen Hines,
19 Your Honor, he also gave a statement and they recorded that
20 and also, uh, I have that, Your Honor, State Exhibit 6, Your
21 Honor, is actually a transcript of Mr. Hines's, uh, statement
22 or well he gave it to 'em on the, uh, it was actually a auto
23 recording, Your Honor, State Exhibit 7, Your Honor, is a Food
24 Lion at the Columbus, North Carolina, I'll explain the
25 relevance to that, that was actually surveillance video from

1 that store then State Exhibits 8 and 9, Your Honor, is the
2 Exxon surveillance here in Spartanburg County and I'll explain
3 the purpose a that, it basically showed the, uh, defendant or
4 co-defendant and the victim get in the victim's car at there
5 before this happened, State Exhibit 10, Your Honor, are
6 pictures in this case, it's five different pictures, uh, there
7 was a picture where the victim's car was found in Lake Bowen,
8 Your Honor, it was found by the sheriff's department, in that,
9 uh, car, Your Honor, there was a gu -- uh, gunshot, uh, went
10 through the windshield, you'll see that on the second picture,
11 third and forth pictures, Your Honor, was a, uh, they have
12 blood on and State Exhibit 5, Your Honor, is actually where
13 the victim was found in the creek in this case, uh, State
14 Exhibit 11, Your Honor, is the dive report that was done by
15 the Spartanburg County Sheriff's, uh, Dive Team, Your Honor,
16 State Exhibit 12, Your Honor, is the firearm's report that
17 shows a .38, uh, pistol, semi-automatic Ruger pistol was used
18 in this case and the bullets and things that were found and
19 the, and the casings, there was two bullets and two casings
20 and they all matched that was found, uh, from the victim in
21 this case, matched it to the gun that was used by her in this
22 case, I'll explain where the gun came from, how she got it,
23 where it went from there in the facts, State Exhibit 13, Your
24 Honor, is the coroner's report consists of basically 40 pages
25 from the Spartanburg County Coroner's Office, Your Honor,

1 State Exhibit 14, Your Honor, is the, uh, autopsy that was
2 done Anthony Biggerstaff by Dr. Wren in this case, made that
3 State Exhibit 14, State Exhibit 15, Your Honor, sumtin' you've
4 already reviewed, it is the mental health evaluation that was
5 done on Ms. Foster in this case, I'd like make all fifteen
6 part, uh, exhibits part a the record this time, Your Honor,
7 part a the evidence in this case.

8 THE COURT: Alright, any objection to that?

9 MR. HALL: No objection, Your Honor.

10 THE COURT: Alright, they're so entered.

11 (State's Exhibit Nos. 1 through 15 admitted into
12 evidence.)

13 MR. BARNETTE: Uh, goin' through the facts, Your Honor,
14 I'll start where the -- when they found the car. On May 30th
15 2016, Your Honor, deputies Spartanburg County Sheriff's Office
16 responded [REDACTED] Suttles Road in Inman, South Carolina in
17 reference to a vehicle found floating in Lake Bowen, Your
18 Honor. Upon arrival the vehicle was recovered, there was
19 evidence in the vehicle indicated someone was injured in the
20 back seat a the vehicle, found floating near the vehicle was
21 spiral notebook indicating this may have been, uh, they found
22 blood on it, they just figured it was involved with it, Your
23 Honor, and found out that the victim this case, Anthony
24 Biggerstaff, Your Honor, had two roommates that had recently
25 moved out with him and those two roommates was the defendant

1 Brittany Foster as well as the co-defendant Keenen Hines, Your
2 Honor, um, basically sent a BOLO out tryin' to find those two
3 individuals, Your Honor. Um, there was a traffic stop, Your
4 Honor, goin' back State Exhibit 2, Your Honor, that was done
5 on June 2nd 2016, the sheriff's department was already in the
6 effort a tryin' to locate them and was found, there was a
7 traffic stop made by Sergeant Henderson a the Spartanburg
8 County Sheriff's Office, Your Honor, it occurred, uh, on,
9 near, on New Cut Road towards Business I-85, Your Honor, he
10 saw a vehicle bein' drove an expired ta, uh, date on the tag,
11 Your Honor, he made a traffic stop there, Your Honor, that was
12 a Jessica Nesbitt that was drivin' the vehicle, Your Honor, in
13 this case, she couldn't produce a driver's license, um,
14 basically, uh, he started lookin', askin' for different
15 things. Mr. Hines was in the passenger side, Ms. Nesbitt was
16 in the front seat, the defendant was in the back seat.
17 Mr. Hines appeared to reach under, Your Honor, they, uh,
18 started doin' a search, from that they complete, asked
19 Ms. Nesbitt 'bout her license, found maybe a purse in trunk,
20 Your Honor, they looked through several purses in the trunk,
21 they observed a baggy, corner of a plastic bag that was torn
22 off, asked what it was and hand it to her, didn't have any
23 contraband, Your Honor, then they saw a small black baggy
24 consumed of a, uh, small baggy inside a purse, said it was
25 her's, some crystal-like substance was found then, Your Honor,

1 it was field test for meth, uh, then they asked Nesbitt is
2 there anything in the car that was illegal, uh, she came up
3 sentence said Hines had a pistol in the car, he placed Hines
4 in handcuffs for officers' safety, Your Honor. Captain Metz
5 (phonetic) res, uh, responded there as well as several
6 officers, Your Honor, they found a black revolver in there,
7 Your Honor, in this case and, uh, all three peoples arrested
8 on charges, Your Honor. Um, Sergeant Letterman as well as
9 Investigator Clark was also workin' the case, Your Honor,
10 they'd actually, uh, been talkin' to different people, uh,
11 they went to the, to the, uh, jail, uh, they actually
12 interviewed the, uh, defendant this case, gave her Miranda
13 warnings and she confessed to murdering, uh, Mr. Biggerstaff
14 in this case, Your Honor. If I can read this to ya here, it
15 appears to happen, the murder happened on May 29th 2016, Your
16 Honor, that was found because they had actually went to the
17 victim's, uh, residence and they found a Food Lion receipt
18 from May 29th the day before, went and actually got him on
19 tape then also went to the Exxon which is 'cross from where I
20 think they were livin' at the time and and in Spartanburg
21 County and the Exxon, uh, shows on videotape, shows the victim
22 come back to his car, he'd actually went inside, they were
23 waitin' on him, the victim actually gets in the back seat of
24 his car, um,
25 Mr. Hines goes in the driver, to be the driver the vehicle,

1 the defendant went in the front passenger seat in this case
2 and, uh, they went into, uh, talk to her, Your Honor, and
3 basically she admitted, uh, shooting him and admitting
4 shooting seven times a .380 that was actually get from
5 Mr. Hines, is Mr. Hines's brother's gun I think, um, and she
6 admits to shootin' him. He was actually shot four times, once
7 through the head, once through the chest and twice through the
8 arms, Your Honor, in this case and then that you saw the
9 bullet hole, you'll see the pictures there in the back, one of
10 'em went through there, Your Honor. Um, she tried to tell 'em
11 where, uh, what happened was they actually took the, uh, car
12 up to Lake Bowen, dumped in Lake Bowen which the victim's car,
13 uh, actually cleaned their items out of it, um, that's where
14 part a the notebook and things like that came from. Uh, they
15 tried to show where they had dumped the body in this case,
16 Your Honor, uh, she couldn't show but Mr., uh, Keenen did in
17 this case, Your Honor, and, um, it was a creek up in the
18 northern part a the county, Your Honor, you do have a picture
19 where that was ---

20 THE COURT: Oh, yeah.

21 MR. BARNETTE: --- in there and, Your Honor, that's one
22 reason I move all the exhibits in to make sure I cover
23 everything and it has all the details in there from ---

24 THE COURT: Right.

25 MR. BARNETTE: --- there and the two investigators can

1 fill any details I may have left out, Your Honor, if you need to
2 ask 'em any questions.

3 THE COURT: Certainly.

4 EXAMINATION BY THE COURT:

5 Q. Um, Ms. Foster, you heard of the facts as stated by the
6 solicitor as to the Indictment 2016-GS-42-4429 and 4429A,
7 murder and possession of a weapon during the commission of
8 violent crime, how do you plead, guilty or not guilty?

9 A. Guilty.

10 Q. Alright, and as to Indictment 2016-42, uh, GS-42-4423
11 possession of methamphetamine and 2016-GS-42-4427 unlawful
12 carrying of a pistol, how do you plead, guilty or not guilty?

13 A. Guilty.

14 THE COURT: Alright, Mr. Hall, I I I started talkin' to
15 Ms. Foster little bit about her mental health treatment and I
16 did not ask you do you feel like you've had enough time to
17 speak with your client about this?

18 MR. HALL: Yes, I have, Your Honor. She has made a
19 remarkable in some ways, uh, change in her understanding of
20 things and, uh, her responsibility and, um, over the past
21 several months, uh, she has, um, I think it's a combination of
22 that she did spend some time in mental health but, uh, takin'
23 the proper medic -- medications, uh, she went from
24 self-medicating when she was arrested ---

25 THE COURT: Sure.

1 MR. HALL: --- to, uh, mwa -- much more coherent person
2 acceptin' responsibility.

3 THE COURT: And and you feel like she's understood your
4 conversations and she been able to assist you in preparin' for
5 today?

6 MR. HALL: Uh, yes, yes, Your Honor, ---

7 THE COURT: Alright.

8 MR. HALL: --- the very start I did not think she was
9 able but she has, she's come around and, uh, recently, uh,
10 particularly after January, uh, she's, uh, made a great kind,
11 uh, turnaround and understands things.

12 THE COURT: And you heard the facts as stated by the
13 solicitor, that's what you anticipated the State to prove at
14 trial?

15 MR. HALL: That's correct, Your Honor.

16 THE COURT: And do you agree with her decision to plead
17 guilty?

18 MR. HALL: Absolutely do, Your Honor.

19 THE COURT: Alright. Alright then I'll accept your plea
20 as bein' freely and voluntarily made with the advice of
21 extremely competent counsel with whom she says she's
22 well-satisfied and the plea does have a substantial factual
23 basis; furthermore, I I'll note for the record Ms. Foster
24 seems to have understood my questions to her; in fact, she
25 seems to have thoughtfully responded to those questions, um,

1 she and seems to understand the nature of the proceedings
2 against her here today, understands the court process and, um,
3 based on what she's told me and what her lawyer's told me and
4 what I, uh, read in her evaluation she's been able to assist
5 her attorney in preparation of her defense and therefore I do
6 find that she's competent, uh, to enter into this plea here
7 today, um, and ---

8 MR. BARNETTE: And, Your Honor, if I can hand up the
9 fifteen ---

10 THE COURT: Yes, sir.

11 MR. BARNETTE: --- exhibits to ya.

12 THE COURT: And you said, uh, and and folks from law
13 enforcement were here today, I appreciate your bein' here and
14 I appreciate the outstanding investigation on behalf a the
15 community, uh, that you all, uh, have obviously done from from
16 what the solicitor was was saying. Um, is there anything you
17 all need to add or would like to add in any way?

18 SERGEANT LETTERMAN: Um, wanna say we're just here to
19 support the solicitor's office and any questions that you
20 might have 'bout the investigation we'd be more than happy to
21 answer.

22 THE COURT: Well I appreciate it, I think the solicitor's
23 been very thorough. Um, alright then, anything else from the
24 State?

25 MR. BARNETTE: Uh, yes, I think the victim's, uh, sister

1 would like to address ---

2 THE COURT: Sure.

3 MR. BARNETTE: --- the Court, that was Sergeant Letterman
4 that addressed the Court, Your Honor.

5 THE COURT: So note, absolutely.

6 (Whereupon, a woman came forward.)

7 MR. BARNETTE: And, Your Honor, this Amanda Hash.

8 THE COURT: Okay.

9 MS. HASH: Hello.

10 THE COURT: Hi there and, listen, take your time, okay?

11 MS. HASH: Okay, thank you. Thank you. My brother
12 would -- was murdered and left to rot under a bridge as if he
13 was some kind of animal, he was a loved human being. I can't
14 begin to tell you the emotions and feelin's that we all felt
15 durin' these times. She took the life of a father, he had a
16 daughter that will never get to know him. Can you imagine the
17 questions the young girl will have? She will never get the
18 opportunity to hear her dad say I love you, she will never get
19 a hug from her dad ever again, she'll never get to go to a
20 dance with her dad, go fishing and make small talk or anything
21 else because of what she did. Her actions will have a lasting
22 impact on her life. She took the life of a grandpa, he had a
23 grandson who absolutely adored him. She took the life of the
24 only male role model this little guy had in her life. He will
25 always have questions about his grandpa and what happened. We

1 will always have to explain things the best we can but again,
2 we have to do this because she chose to take someone's life.
3 In the eyes of a little boy he said grandpa went swimming and
4 a shark ate him, we will have to tell him the shark has a
5 name. Every time he goes across Lake Bowen, he'll be reminded
6 of this horrible incident. Her actions will have a lasting
7 impact on his life. The loss of a brother to murder is beyond
8 words: there'll be no more backyard gatherin's, no more
9 birthdays, no more holiday celebrations. She took the life of
10 the only close relative I had, the opportunities to laugh,
11 hug, say I love you are forever gone because of her actions.
12 We all have different walks in life, she chose a dark path
13 with no regards to the consequences. I forgive her but she
14 needs to ask the almighty God for forgiveness because she
15 broke one a the Ten Commandments. Words cannot express the
16 pain and anguish our family and friends have endured since
17 this murder: from the car being pulled outta the water, days
18 searching, looking and hoping he would be found safe to only
19 bein' told he was found murdered and thrown under a bridge in
20 the hopes he wouldn't be found. I want her to know he is now
21 resting in peace with his other children, her decision to take
22 the life of a human being with no regard for the effect it may
23 have on others is unimaginable. She doesn't deserve to be
24 around society, I hope she spends the rest of her life behind
25 bars so she can't hurt anyone else and I hope she thinks about

1 that night until the day she dies.

2 THE COURT: Thank you, ma'am, bein' here and I wanna just
3 tell you that I'm so sorry for you and your family's loss, I I
4 know nothin' I could say or do today is is gonna do anything
5 to give you any peace but hopefully just havin' today behind
6 you will, um, give you an opportunity to close at least some
7 small part a this, um, and I'm glad that his daughter and that
8 his grandson have you, uh, there to look out for 'em. Thank
9 you.

10 MS. HASH: Thank you.

11 THE COURT: Anything else from the State?

12 MR. BARNETTE: Nothin' else from the State, Your Honor.

13 THE COURT: Alright. Alright, Mr. Hall.

14 MR. HALL: May it please the Court, Your Honor, uh, you
15 have some a the background history for Ms. Foster, ---

16 THE COURT: Yes.

17 MR. HALL: --- um, unfortunately, um, that's a lotta the
18 people we see in this court is, uh, people like Brittany and
19 fortunately it's not, uh, very often this, uh, magnitude of
20 cases. Um, I can just address one comment that, uh, the
21 sister made I can assure her that this has been on Brittany's
22 mind. Uh, she was on drugs, uh, that's as I understand it how
23 she, uh, met Mr. Abernathy, uh, they were livin' with him and
24 would at times supply drugs to him and they were, they were
25 doin' drugs, uh, but as her hair -- head clea -- cleared from

1 the drugs, um, what she did has come home to her. Um,
2 when I ---

3 THE DEFENDANT: (Sobbing.)

4 THE COURT: Mr. Hall, why don't you let your client have
5 a seat, ---

6 MR. HALL: Yeah.

7 THE COURT: --- you think that'd be helpful?

8 MR. HALL: Yeah.

9 THE COURT: Okay, just let her have a seat.

10 MR. HALL: We can bring a chair around. Brittany, ---

11 THE COURT: Maybe just, ---

12 MR. HALL: Britt ---

13 THE COURT: --- maybe so I can, she's not right over the
14 microphone.

15 MR. HALL: Brittany, Brittany, move over here
16 (indicating), just have a seat ---

17 THE COURT: Okay.

18 MR. HALL: --- right here (indicating).

19 THE COURT: Okay, that's good.

20 MR. HALL: We're not usin' drugs to say that's why she
21 did it ---

22 THE COURT: Sure.

23 MR. HALL: --- but and nobody made her do drugs but she
24 started with drugs I think as a coping mechanism for other
25 issues in her life early on and it became an addiction, the

1 other problem she's had in her life is a a dependency we see a
2 lot on men, you say I love you, I care about you, I wanna be
3 with you, she'll do anything for you and that's with Mr., uh,
4 Hines, Keenen Hines was in that role, um, when this happened.
5 Uh, he, just prior to this, uh, implied to her or told her,
6 When you're passed out he's messin' with ya, we gotta do
7 sumtin' about it, and then they hooked up with him the next
8 mornin', uh, they're going down the road, he had a, I think it
9 was a .38, the other gun they found and, uh, handed the murder
10 weapon to her and said, Do it, and she did, she was, uh,
11 unfortunate all around, it's a tragedy, she has ruined the
12 lives of Mr. Abernathy's family, in a lotta ways she has
13 ruined her own life, she has two children that she will
14 probably, I mean, Biggerstaff, I'm sorry, apologize, ---

15 THE COURT: I ---

16 MR. HALL: --- uh, Biggerstaff, Mr. Biggerstaff's family,
17 uh, and her own family, her own children, that she, that she
18 has the grandmother her children's here in support of her
19 today, uh, and we had brief conversation, I said, You have to
20 decide are you going to take your grandchildren at any time to
21 Department a Corrections to see their mother who's gonna be
22 there for a long, long time, uh, it impacts all the way
23 around.

24 Um, when she got -- they got pulled over, she cooperated
25 with the police, uh, as much as she could, I understand, uh,

1 she got very frustrated when she couldn't exactly remember
2 where they had placed Mr. Biggerstaff, um, but she -- the
3 police stuck with her, they were able to find him and, um,
4 give that closure to the family. Um, I think but for
5 Mr. Harris, um, at least encouragement, he's the one gave her
6 the gun, said, Go ahead, do it, we probly wouldn't be here,
7 um, but, uh, she accepts responsibility, she, uh, she's the
8 one that pulled the trigger, um, uh, and she knows she's going
9 to have to pay for that for a long time and, um, Your Honor,
10 she, um, even when they put the car in the lake he had her in
11 the car, um, you know, makin' sure they get everything out, he
12 pushed the car on into the lake while she's in there, she had
13 to not quite swim out but practically swim out to get outta
14 the car, um, but she still, I guess love is blind especially
15 when you're involved drugs and everything, she still believed
16 in him and for some reason thought she had to protect him.
17 Uh, it took me probably two or three months to convince her
18 the idea she had in her mind that somehow this was a case that
19 he -- she could get probation on and she would be around her
20 children and, uh, she has come to where we are today where she
21 understands and has for a while that's not issue, she's gonna
22 be in prison for a long, long time. Um, in hindsight I think
23 she wishes she had been completely honest with the police from
24 the start instead of tryin' to protect, uh, Mr. Hines, uh,
25 she, uh, but that's another, uh, decision she made that she's

1 gonna have to live with. Uh, I did, that, uh, talk with the
2 solicitor's office several months ago, said, Do, if she wants
3 to come clean with everything, you want her cooperation, and I
4 understand they they have to look at what she said to begin
5 with and what she was possibly sayin' now and they have to
6 make a decision, I used to, I used to stand on that side a the
7 courtroom so I understand that but, uh, as her head cleared
8 she got the proper medication, she wanted do the right thing
9 and, Your Honor, um, that any sentence within the, uh,
10 limitations that you have, uh, given the environment she will
11 be in is almost a life sentence, uh, uh, under the best
12 conditions, uh, if you give her less than life, um, there's a
13 chance she will get out and have some kind of a life
14 afterwards, uh, but, um, even at 30 years, uh, a 52-year-old
15 in the Department a Corrections and been there for 30 years,
16 that there there's not many a those people there anymore.

17 THE COURT: Alright.

18 MR. HALL: Uh, we ask that you consider, uh, her remorse,
19 uh, that she has now that, uh, the, um, fact that she wants to
20 do the right thing even though it might be a bit late but she
21 did try to help as much as she could, uh, to cro -- co --
22 recover the victim in this case for the family for that
23 closure, she certainly is not asking for a trial to put
24 everybody through that, uh, and give her what consideration
25 you can, um, I unders -- it's my understanding that the

1 weapons, the weapons durin' a violent crime charge given the
2 severity a this case could run concurrent with the sentence or
3 it could be s -- stacked on top. Um, as far as the pistol and
4 the meth that, uh, certainly I think it would be appropriate
5 to have those as concurrent sentences 'cause she's gonna be at
6 best in Department a Corrections for a long time. Uh, Your
7 Honor, she just, uh, ask and she has, uh, several family
8 members, her mother Angela Estes, uh, the grandmother of her
9 children Joyce Miller, uh, her grandmothers Libby Foster and
10 Janet, uh, Peeler (phonetic) and, uh, and some other folks and
11 and her father Mr. Michael Foster here, um, in support of her,
12 um, and I've seen the anguish on their face knowin' what is
13 happening here, what, uh, Brittany did and that's that's why
14 we're all here, it's it's it's it's a tough time for
15 everybody. Your Honor, we ask you give her every
16 consideration, uh, be as lenient as possible, uh,
17 given those factors. Thank you.

18 THE COURT: Alright, does your client wanna say anything?

19 MR. HALL: You wanna say anything? Go ahead.

20 THE DEFENDANT: I just wanna say sorry to the family and
21 I'm sorry for their loss and I know I did, uh, somethin', a
22 tragedy, it's a tragedy on my behalf too, that I'm really
23 sorry.

24 THE COURT: Hmm, okay. Yes, sir.

25 MR. BARNETTE: Your Honor, just two things just to clear

1 clear up, uh, one, uh, I did find out where it was, the body
2 was dumped at Jordan Creek Road underneath the bridge a that
3 road there, Your Honor, the same thing is Mr. Hall did come to
4 me, asked me if she would cooperate and try and I talked to
5 the victim's family in this case with the sheriff's department
6 and they feel like she's the shooter, we didn't need to give a
7 break to the shooter in this case ---

8 THE COURT: Alright, I I, ---

9 MR. BARNETTE: --- so and ---

10 THE COURT: --- and I ---

11 MR. BARNETTE: --- I just ---

12 THE COURT: --- can understand that.

13 MR. BARNETTE: --- wanna make sure that was on the
14 record.

15 THE COURT: I understand that. Well, Ms. Foster, I'll
16 tell you that when I sentence somebody actually take a number
17 of things into consideration, a course I take into
18 consideration that you're young, you, uh, and I take into
19 consideration that I think, uh, it it sounds at least like you
20 may or may not, uh, have been acting in concert with someone
21 else, um, and I take into consideration I think you've, uh,
22 had some sufferin' and tragedy in your life in the past, I I
23 believe that that's probably true, I don't think anybody could
24 be capable of doing what you did, uh, unless you had gone
25 through some type of, um, trauma or tragedy in your life and,

1 uh, I take into consideration, um, your remorse, I I -- you at
2 least I guess seem like you are sorry here today for what
3 you've done, um, your apology was interesting but, um, but I I
4 I will add that in the plus column that I think you have at
5 least attempted to make an apology in this case, um, I take
6 into account that you have taken responsibility, pled guilty,
7 uh, and so I do need to give you some credit for that, I need
8 to give you some credit for your cooperation, whatever level
9 that cooperation might have been, uh, and I will say that your
10 decision to plead guilty and decision to, um, to have some
11 level of cooperation, uh, is going to give you at least an
12 opportunity one day to have some sort of a life, I don't know
13 how long you'll make it, I don't know how long you'll live in
14 the Department a Corrections, I know that Department of
15 Corrections, um, you know, I I know that any sentence there is
16 gonna be a tough one, um, I say all that to say the sentencin'
17 of the Court is 40 years, credit of course for any time that
18 you're statutorily entitled to, 3 years, 5 years and 1 year
19 all concurrent. Good luck, ma'am, to you and your family.
20 Thank you.

21 MR. BARNETTE: Thank Your Honor.

22

23

24

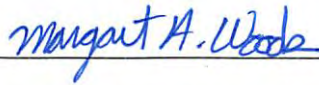
25

1
2 CERTIFICATE OF REPORTER
3

4 I, Margaret A. Woods, Court Reporter in and for the State
5 of South Carolina at Large, hereby certify that I reported the
6 preceding case on April 27, 2017 at the time and place
7 heretofore set forth; and that the foregoing pages numbered
8 from 4 through 27, inclusive, constitute a true and accurate
9 transcription of my stenographic notes of the said proceeding.

10 I further certify that I am neither attorney nor counsel
11 for, nor related to or employed by any of the parties
12 connected to the action, nor am I financially interested in
13 the action.

14 April 30, 2018

15
16 

17 Margaret A. Woods, Court Reporter
18 in and for the State of South Carolina at Large.
19
20
21
22
23
24
25

The South Carolina Court of Appeals

The State, Respondent,

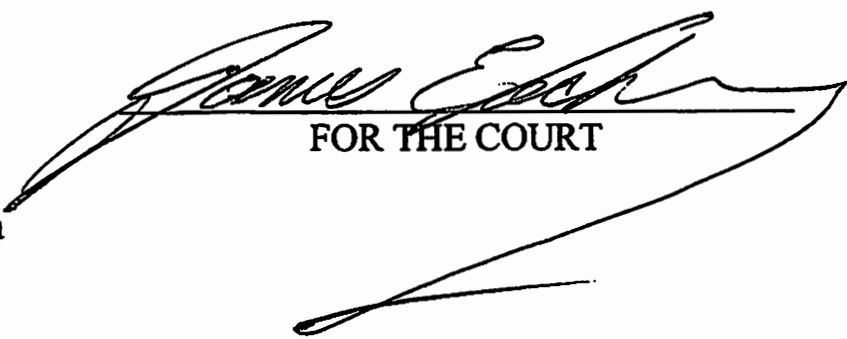
v.

Brittany Cassandra Foster, Appellant.

Appellate Case No. 2017-001114

ORDER

Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.



FOR THE COURT

Columbia, South Carolina

cc:

Robert B. Hall, Esquire

Robert Michael Dudek, Esquire

Barry Joe Barnette, Esquire

John Benjamin Aplin, Esquire

Alan McCrory Wilson, Esquire

FILED

July 17, 2017



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29201
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FAX: (803) 734-1839
www.sccourts.org

August 03, 2017

The Honorable M. Hope Blackley
PO Box 3483
Spartanburg SC 29304-3483

REMITTITUR

Re: The State v. Brittany Cassandra Foster
Lower Court Case No. 2016GS4204423, 2016GS4204427, 2016GS4204429
Appellate Case No. 2017-001114

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny A. Kitchings".

CLERK

Enclosure

cc: Brittany Cassandra Foster, 372413
Robert B. Hall, Esquire
Robert Michael Dudek, Esquire
Barry Joe Barnette, Esquire
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire

RECEIVED

AUG 04 2017

Referred to Zelenka/PR
Answered _____

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF)

IN THE COURT OF COMMON PLEAS

[REDACTED]
Brittany Foster 372413)

v.)

State of South Carolina)

2018CP4200711

APPLICATION FOR

POST-CONVICTION RELIEF

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 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 Spartanburg County
2. Name and location of Court which imposed sentence Spartanburg, County Court
3. Name(s) of co-defendant(s) (if any) Keenen LaBree Hines

4. [REDACTED]

- sentence was [REDACTED]
- (a) 2016GS4204423
 - (b) 2016GS4204427
 - (c) 2016GS4204429

5. [REDACTED]

- (a) MAY 4, 2017 Non violent 3 years 2016GS4204423
- (b) MAY 4, 2017 Non violent 1 year 2016GS4204427

Revised 3/2003

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2018 FEB 27 AM 8:39
H. HOPE BLACKLEY

- (a) ineffective Assistance Counsel, Counsel not prepared
for trial.
- (b) individual issues to be amended
- (c) individual issues to be amended

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

- (a) misrepresented, felt coerced to plea guilty
- (b) individual issues to be amended
- (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? yes
- (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: Direct Appeal

- i. NA
- ii. NA
- iii. NA
- iv. NA

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

- i. South Carolina Court of Appeals
- ii. NA
- iii. NA
- iv. NA

(c) the disposition thereof:

- i. dismissed
- ii. NA
- iii. NA

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M. HOPE BLACKLEY

iv. _____

(d) the date of each such disposition:

i. 7-17-2017

ii. _____

iii. _____

iv. _____

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

i. NAii. NAiii. NAiv. NA

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. NAii. NAiii. NA

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

i. NAii. NAiii. NA

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) Plea

(b) _____

(c) _____

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

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

- (a) your arraignment and plea? yes
- (b) your trial, if any? NA
- (c) your sentencing? NA
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NA
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NA

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. Robert B. Hall - 366 N Church Street, Sparta, NC 29383
- ii. _____
- iii. _____

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

- i. Plea Bargain
- ii. _____
- iii. _____

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SPARTANBURG COUNTY
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M. HOPE BLACKBERRY

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

Sentence reduction, New trial, or reconsideration

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

no

STATE OF SOUTH CAROLINA

VERIFICATION

County of

Brian Foster

I, Brian Foster, 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.

[Signature]

SWORN to and subscribed before me this 14th
day of February, 2018.

Sandra Beckett Hill (L.S.)

My Commission Expires: Jan. 8, 2023

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2018 FEB 27 AM 8:39
M. HOPE BLACKLEY

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

I, Brittany Foster, 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.


Applicant

SWORN or affirmed to and subscribed before me this
14th day of February, 2018.

Sandra K. Hester Hill

My Commission Expires: Jan. 8, 2023

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2018 FEB 27 AM 9:30
M. HOPE BRADLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
	)	
Brittany C. Foster,	)	Case No.: 2018-CP-42-00711
S.C.D.C. No. 372413,	)	
	)	
Applicant,	)	
	)	RETURN AND MOTION FOR A MORE
v.	)	DEFINITE STATEMENT
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

In response to the application for post-conviction relief filed by Brittany C. Foster (Applicant) on February 27, 2017, Respondent would show this Court:

I. Procedural History

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. During its August 2016 term, the Spartanburg County Grand Jury indicted Applicant for possession of methamphetamine (2016-GS-42-4423), unlawful carry of a pistol (2016-GS-42-4427), murder (2016-GS-42-4429), and possession of weapon during a violent crime (2016-GS-42-4429). These charges stem from two separate incidents, described as follows by the State at the plea proceeding:

On May 30th 2016, Your Honor, deputies Spartanburg County Sheriff's Office responded [REDACTED] Suttles Road in Inman, South Carolina in reference to a vehicle found floating in Lake Bowen, Your Honor. Upon arrival the vehicle was recovered, there was evidence in the vehicle indicated someone was injured in the back seat a the vehicle, found floating near the vehicle was spiral notebook indicating this may have been, uh, they found blood on it, they just figured it was involved with it, Your Honor, and found out that the victim this case, Anthony Biggerstaff, Your Honor, had two roommates that had recently moved out with him and those two roommates was the defendant Brittany Foster as well as the co-defendant Keenen Hines, Your Honor, um, basically sent a BOLO out tryin' to find those two individuals, Your Honor. Um, there was a traffic stop, Your Honor, goin' back State Exhibit 2, Your Honor, that was done on June 2nd 2016, the sheriff's department was already in the effort a tryin' to locate them and was found, there was a traffic stop made by Sergeant Henderson a the Spartanburg

County Sheriff's Office, Your Honor, it occurred, uh, on, near, on New Cut Road towards Business I-85, Your Honor, he saw a vehicle bein' drove an expired ta, uh, date on the tag, Your Honor, he made a traffic stop there, Your Honor, that was a Jessica Nesbitt that was drivin' the vehicle, Your Honor, in this case, she couldn't produce a driver's license, um, basically, uh, he started lookin', askin' for different things. Mr. Hines was in the passenger side, Ms. Nesbitt was in the front seat, the defendant was in the back seat. Mr. Hines appeared to reach under, Your Honor, they, uh, started doin' a search, from that they complete, asked Ms. Nesbitt 'bout her license, found maybe a purse in trunk, Your Honor, they looked through several purses in the trunk, they observed a baggy, corner of a plastic bag that was torn off, asked what it was and hand it to her, didn't have any contraband, Your Honor, then they saw a small black baggy consumed of a, uh, small baggy inside a purse, said it was her's, some crystal-like substance was found then, Your Honor, it was field test for meth, uh, then they asked Nesbitt is there anything in the car that was illegal, uh, she came up sentence said Hines had a pistol in the car, he placed Hines in handcuffs for officers' safety, Your Honor. Captain Metz (phonetic) res, uh, responded there as well as several officers, Your Honor, they found a black revolver in there, Your Honor, in this case and, uh, all three peoples arrested on charges, Your Honor. Um, Sergeant Letterman as well as Investigator Clark was also workin' the case, Your Honor, they'd actually, uh, been talkin' to different people, uh, they went to the, to the, uh, jail, uh, they actually interviewed the, uh, defendant this case, gave her Miranda warnings and she confessed to murdering, uh, Mr. Biggerstaff in this case, Your Honor. If I can read this to ya here, it appears to happen, the murder happened on May 29th 2016, Your Honor, that was found because they had actually went to the victim's, uh, residence and they found a Food Lion receipt from May 29th the day before, went and actually got him on tape then also went to the Exxon which is 'cross from where I think they were livin' at the time and and in Spartanburg County and the Exxon, uh, shows on videotape, shows the victim come back to his car, he'd actually went inside, they were waitin' on him, the victim actually gets in the back seat of his car, um, Mr. Hines goes in the driver, to be the driver the vehicle, the defendant went in the front passenger seat in this case and, uh, they went into, uh, talk to her, Your Honor, and basically she admitted, uh, shooting him and admitting shooting seven times a .380 that was actually get from Mr. Hines, is Mr. Hines's brother's gun I think, um, and she admits to shootin' him. He was actually shot four times, once through the head, once through the chest and twice through the arms, Your Honor, in this case and then that you saw the bullet hole, you'll see the pictures there in the back, one of 'em went through there, Your Honor. Um, she tried to tell 'em where, uh, what happened was they actually took the, uh, car up to Lake Bowen, dumped in Lake Bowen which the victim's car, uh, actually cleaned their items out of it, um, that's where part a the notebook and things like that came from. Uh, they tried to show where they had dumped the body in this case, Your Honor, uh, she couldn't show but Mr., uh, Keenen did in this case, Your Honor, and, um, it was a creek up in the northern part a the county, Your Honor[.]

(Plea Tr. 11-14).

Assistant Public Defender Robert B. Hall represented Applicant, and Seventh Circuit Solicitor Barry Barnette prosecuted the case. On April 27, 2017, Applicant appeared in the Spartanburg County Court of General Sessions before the Honorable Letitia H. Verdin, circuit court judge, where she pled guilty as indicted. Judge Verdin sentenced Applicant to imprisonment for three years for the drug offense, one year for the unlawful carry offense, forty years for murder, and five years for the weapon offense, with all sentences to be served concurrently.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Robert B. Hall. By order dated July 17, 2017, the South Carolina Court of Appeals dismissed Applicant's appeal due to his failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules. State v. Foster, S.C. Ct. App. Order filed July 17, 2017. The Remittitur was issued on August 3, 2017.

II. Allegations Raised

In his application for post-conviction relief, Applicant alleges she is being held in custody unlawfully based on the following claims of ineffective assistance of counsel:

1. "Ineffective assistance of counsel, counsel not prepared for trial."
2. "Individual issues to be amended."
3. "Misrepresented, felt coerced to plead guilty."

Attached to this return are the records from the Spartanburg County Clerk of Court regarding the subject convictions, the records from the South Carolina Department of Corrections, the records from Applicant's appeal, the transcript of the guilty plea proceeding, and the application for post-conviction relief. Respondent reserves the right to amend this return based on any additional materials received.

III. Response to Allegations

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit and are clearly refuted by the record.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her 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, the applicant 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. 668. 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, an 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 an 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, the 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).

In the present case, Applicant elected to plead guilty after informing the court numerous times that her guilty was freely and voluntarily made. Applicant informed the plea court that she had no complaints against the solicitor’s office, law enforcement, or her attorney.

Respondent submits Applicant can satisfy neither requirement of the Strickland test, as Applicant cannot establish he would not have pled guilty but for counsel’s alleged deficiencies, as he knowingly, intelligently, and voluntarily entered his guilty plea. However, the allegations of ineffective assistance of counsel probably raise 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. Motion for More Definite Statement

Applicant alleges she is being held in custody unlawfully based on vague allegations of ineffective assistance of counsel. However, Applicant fails to set forth with specificity the facts and circumstances upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must “. . . specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will

be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965).

Applicant has failed to state with any specificity the specific facts giving rise to these allegations. Additionally, this allegation is not supported by any other additional information in the application. Respondent moves pursuant to Rule 12(e), SCRCP, to require Applicant to provide a more definite statement of her allegations of ineffective assistance of counsel. The Uniform Post-Conviction Procedure Act requires applicants to “specifically set forth the grounds upon which the application is based.” S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Therefore, Respondent moves to require Applicant to file an amended application well in advance of the hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

V. Future Amendments

Applicant must specify any claims she 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 is represented by an attorney, her 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.

VI. Response as to all Other Allegations

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

VII. Request for an Evidentiary Hearing

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

May 4, 2018

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS
)
)
)
)

BRITTANY C. FOSTER,
S.C.D.C. No. 372413,

2018-CP-42-00711
)
)
)
)
)

Applicant,

vs

) AFFIDAVIT OF SERVICE BY MAIL
)
)
)
)
)

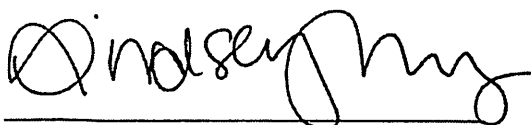
STATE OF SOUTH CAROLINA,

Respondent.

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 and Motion for a More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Susannah C. Ross, Esquire
Ross & Enderlin, PA
330 East Coffee Street
Greenville, South Carolina 29601**

DATED this the 4th day of May, 2018.



Lindsey McCoy, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	SEVENTH JUDICIAL CIRCUIT
	)	
BRITTANY C. FOSTER,	)	AMENDED APPLICATION
APPLICANT.	)	
v.	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	CASE # 2018-CP-42-00711
RESPONDENT.	)	
_____	)	

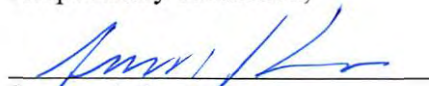
This matter comes before the Court by way of application of post conviction relief filed February 27, 2018, alleging ineffective assistance of trial counsel. A Return and Motion for a More Definite Statement was made on May 4, 2018. This application is intended to incorporate the allegations of the original application and add the following allegations:

1. Ineffective assistance of trial counsel for

- (a) failure to object to misstatement of facts during the guilty plea when the Solicitor states the car Applicant was a passenger in was pulled due to an expired tag when the car had an unexpired paper tag;
- (b) advising the Applicant to plea without explaining that she may have been able to get her confession suppressed as fruit of the poisonous tree or because it was not knowingly and voluntarily made due to the fact her statement was given when she was incompetent because of her mental health issues and the fact that she was actively under the influence of drugs;
- (c) failure to review discovery with applicant; and
- (d) failure to effectuate appeal.

2. Due Process violations because the plea was not knowingly and voluntarily made.

Respectfully submitted,



Susannah Ross
Attorney for the Applicant
330 E. Coffee St,
Greenville, SC 29601
(864) 242-0029

Greenville, South Carolina

This 7 day of June, 2018

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

BRITTANY C. FOSTER,
APPLICANT.

v.

THE STATE OF SOUTH CAROLINA,
RESPONDENT.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

AFFIDAVIT OF SERVICE
BY MAIL

CASE # 2018-CP-42-00711

1. I am the attorney for the Applicant in the above-captioned matter.
2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Reply to Conditional Order of Dismissal** in the above-captioned matter on the following person by depositing the same in the United States mail with proper postage affixed thereto:

Office of Attorney General Alan Wilson
P.O. Box 11549
Columbia, SC 29211


Attorney for Applicant

This 7 day of June, 2018

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

BRITTANY C. FOSTER,)
)
APPLICANT,)
)
-VS-)
)
STATE OF SOUTH CAROLINA,)
)
RESPONDENT.)
_____)

2018-CP-42-00711

TRANSCRIPT OF RECORD

NOVEMBER 8, 2018
SPARTANBURG, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. MARK HAYES, II

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

ATTORNEY FOR APPLICANT:

SUSANNAH C. ROSS, ESQ.

ATTORNEY FOR RESPONDENT:

JORDAN A. COX
ASSISTANT ATTORNEY GENERAL

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

INDEX**WITNESS****PAGE NO.**

BRITTANY FOSTER

DIRECT BY MS. ROSS ----- 7

CROSS BY MR. COX ----- 23

REDIRECT BY MS. ROSS ----- 35

STEPHANIE GOSNELL

DIRECT BY MS. ROSS ----- 37

CROSS BY MR. COX ----- 42

ROBERT HALL

DIRECT BY MR. COX ----- 46

CROSS BY MS. ROSS ----- 67

REDIRECT BY MR. COX ----- 74

RECROSS BY MS. ROSS ----- 76

REDIRECT BY MR. COX ----- 77

RECROSS BY MS. ROSS ----- 78

CERTIFICATE OF REPORTER ----- 80

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>

(No Exhibits Were Presented During This Hearing)

1 **MR. COX:** Your Honor, may it please the Court? The case
2 before you now is Brittany C. Foster versus the State of South
3 Carolina. The case number is 2018-CP-42-0711.

4 Ms. Foster filed an application for post conviction
5 relief on February 27th, 2017. She is currently confined in
6 the Department of Corrections pursuant to orders of commitment
7 from the Spartanburg County Clerk of Court.

8 During its August 2016 term the Spartanburg County Grand
9 Jury indicted the Applicant for possession of methamphetamine,
10 unlawful carry of a pistol, murder, and possession of a weapon
11 during a violent crime. Assistant Public Defender Robert B.
12 Hall represented the Applicant and Seventh Circuit Solicitor
13 Barry Barnette prosecuted the case.

14 On April 27th, 2017 the Applicant appeared in the
15 Spartanburg County Court of General Sessions before the
16 Honorable Letitia Verdin, Circuit Court Judge, where she pled
17 guilty as indicted. Judge Verdin sentenced the Applicant to
18 imprisonment for three years for the drug offense, one year
19 for the unlawful carry offense, 40 years for murder, and five
20 years for the possession of a weapon during the commission of
21 a violent crime with all sentences to be run concurrent.

22 The Applicant filed a timely notice of appeal. And the
23 direct appeal was perfected by Robert B. Hall by an order
24 dated July 17th, 2017.

25 The South Carolina Court of Appeals dismissed the

1 Applicant's appeal due to failure to provide a sufficient
2 explanation as required by Rule 203(d)(1)(b)(4) of the South
3 Carolina Appellate Court Rules. That appellate -- excuse me,
4 Your Honor. That order number is -- I apologize, Your Honor.
5 The appellate decision is State v. Foster, South Carolina
6 Court of Appeals order filed July 17th, 2017. The remittitur
7 was issued on August 3rd, 2017.

8 In her application for post conviction relief Ms. Foster
9 alleges that she is being held in custody unlawfully based on
10 the following claims; Ineffective assistance of counsel,
11 counsel was not prepared for trial. Number 2, individual
12 issues to be amended. Number 3, misrepresented, felt coerced
13 to plead guilty. Your Honor, the State interpreted that
14 allegation to be her guilty plea was involuntary.

15 We did receive an amended application from Ms. Foster on
16 September 4th, 2018 that amended the application as follows;
17 Ineffective assistance of trial counsel for (A) Failure to
18 object to misstatement of the facts during a guilty plea when
19 the solicitor states the car the Applicant was a passenger in
20 was pulled due to an expired tag when the car had an unexpired
21 paper tag.

22 (B) Advised the Applicant to plea without explaining that
23 she may have been able to get her confession suppressed as
24 fruit of the poisonous tree or because it was not knowingly
25 and voluntarily made due to the fact that her statement was

1 given when she was incompetent because of mental health issues
2 and the fact that she was actively under the influence of
3 drugs.

4 (C) Failure to review discovery with the applicant.

5 (D) Advising the Applicant to plead guilty or the court
6 would hang her after a trial.

7 (E) Advising the Applicant to plead guilty to murder
8 under a history of mental health issues and sexual assault
9 would mitigate her actions where she states -- which she
10 states were coerced by co-defendant Keenen Hines.

11 (F) Failure to interview witnesses.

12 (G) Failure to effectuate an appeal.

13 And the final amendment was due process violations
14 because the plea was not knowingly and voluntarily made and
15 fundamental unfairness that a co-defendant, Keenen Hines,
16 received a sentence of 12 years.

17 That is all for the allegations, Your Honor. I will turn
18 it over to Ms. Ross at this time.

19 **MS. ROSS:** Thank you, Your Honor. May it please the
20 Court? I would just add, as far as those allegations, the
21 part where the paper tag was mentioned -- or expired tag was
22 mentioned in the transcript on page 12, line 10.

23 And I would reference -- I handed up Taylor v. Alabama,
24 Lander v. South Carolina, State v. Butler for the argument
25 that an officer can't pull for a paper tag and the argument

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

7

1 that the search and seizure and confession then would be the
2 fruit of the poisonous tree.

3 And we'd also reference Beecher v. Alabama, which is 408
4 U.S. 234 for the argument that the confession was not
5 knowingly and voluntarily made, therefore, Ms. Foster waived a
6 strong Jackson v. Denno hearing when she pled guilty as well
7 as a search and seizure argument. And at this point we'd call
8 Brittany Foster to the stand.

9 **THE COURT:** Ma'am, just come on up here. Ma'am, if you
10 would, just place your left hand on the Bible, raise your
11 right hand.

12 **Brittany Foster**, being duly
13 sworn testified as follows;

14 **THE COURT:** Thank you, ma'am. Watch your step. And step
15 up there and have a seat in the red chair. And just pull the
16 red chair up to the microphone.

17 **Direct Examination by Ms. Ross:**

18 Q. Hey, Ms. Foster.

19 A. Hi.

20 Q. Do you understand that this is a PCR hearing here today?

21 A. Yes, ma'am.

22 Q. And do you know what the outcome can be or usually is in
23 a PCR hearing?

24 A. Yes, ma'am.

25 Q. What is that?

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

8

1 A. I'm sorry, can you say that again?

2 Q. Do you understand that if you prevail and get PCR relief,
3 the relief you get is being put back to the position you were
4 in ---

5 A. Yes. Yes, ma'am.

6 Q. And do you understand you could face more time?

7 A. Yes, ma'am.

8 Q. And is it your wish to still go forward?

9 A. Yes, ma'am.

10 Q. Okay. Now, why have you alleged ineffective assistance
11 of counsel?

12 A. I have -- I have ineffective assistance of counsel for
13 numerous of reasons. One of the reasons being that, like Ms.
14 Ross stated, that ...

15 (Pause)

16 Q. It's okay. Let's get back to -- can you -- did you go to
17 trial or plead guilty?

18 A. I pled guilty, but as we spoke, had I known that I was
19 waiving all of my rights, I wouldn't have pled guilty. I
20 would have took it to trial.

21 Q. Now did you meet with your lawyer -- did he advise you to
22 plead guilty?

23 A. Yes, he advised me to plead guilty. He said that would
24 be my best bet because if not, if I took it to trial, I would
25 have been hung in court.

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

9

1 Q. He told you those words that you'd ---

2 A. Yes.

3 Q. --- be hung in court?

4 A. Yes, ma'am. He stated those exact words.

5 Q. Now did he review discovery with you before you pled
6 guilty?

7 A. No, ma'am, he did not. He just handed it to me -- like
8 it was all thrown into my hands.

9 Q. All right.

10 A. He didn't go over it with me. He didn't tell me anything
11 that -- or give me any advice that I should do other than to
12 go ahead and plead guilty.

13 Q. Okay. And in advising you to plead guilty did he talk
14 about your confession?

15 A. Not really. He just said that it was enough evidence to
16 throw me in court. But I feel that those confessions should
17 have got suppressed considering that I was under the influence
18 of drugs, alcohol, numerous drugs and a lot of alcohol.

19 Q. Okay. Now let's talk about the confession a little bit.
20 When -- how were you arrested and then brought into custody
21 where you gave the confession?

22 A. Well, I was interrogated once where this all happened and
23 they let me go. When I got arrested and they brought me back
24 into the interview room to discuss matters with me, ---

25 Q. Okay. Let's do step-by-step. How did you get arrested?

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

10

1 A. Can you be more specific?

2 Q. Were you in a car and pulled over?

3 A. Yes, ma'am, I was.

4 Q. Who were you with?

5 A. I was with my co-defendant, Keenen Hines. And I was with
6 our drug dealer, Jessica Nesbitt.

7 Q. Okay. And was she driving or who was driving the car?

8 A. She was driving. He was in the passenger seat, and I was
9 in the backseat.

10 Q. Now after you were pulled over -- do you know why you
11 were pulled over?

12 A. No. They didn't even state why we were pulled over.

13 Q. All right. And after you were pulled over were you then
14 arrested?

15 A. No. Actually they were going to let me go. And then
16 they said that they wanted to take me down to Spartanburg
17 County anyways to the sheriff's office to ask me questions.
18 They didn't state precisely that it was to be interrogated,
19 but that's what happened.

20 Q. And then did they then ask you questions right after they
21 arrested you?

22 A. Yes, ma'am, right after -- right before I went in for a
23 bond hearing. As soon -- actually as soon as I got there,
24 after I -- after they signed me in and everything.

25 Q. And do you know what the charges were that the bond

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

11

1 hearing was for?

2 A. I do believe the murder charges. At that -- really, I
3 couldn't even tell you what happened in the interrogation room
4 because I was so high and ---

5 Q. So you ---

6 A. --- under the influence ---

7 Q. --- were still high from being in the car with your drug
8 dealer and your boyfriend?

9 A. Yes. Yes, ma'am.

10 Q. And they went ahead and questioned you at that point?

11 A. Yes, ma'am.

12 Q. Did they talk to you about whether you had been using any
13 drugs or ask you whether you had ---

14 A. No, they did not.

15 Q. Okay. Do you recall whether you signed any waiver of
16 your rights or anything like that?

17 A. To be honest with you, I couldn't tell you because I
18 don't remember that day at all. I remember that day very,
19 very vaguely. It's just -- I just -- I really didn't -- I
20 don't really remember anything.

21 Q. All right. Now did you get a chance to look at your
22 confession afterwards?

23 (Pause)

24 Q. Or your statement?

25 A. I did see it in the motion. However, I was not told what

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

12

1 I said or anything like that. It took me a while to realize
2 what I had said because I had seen what it said in the motion.

3 Q. Okay.

4 A. And I don't even remember saying or stating any of that.

5 Q. Okay. Now, as far as Keenen, your boyfriend, have you
6 stated any -- did you point the finger at him in any -- in any
7 way?

8 A. At first I did take up for -- I put it all on me because
9 I wanted to take the heat off of him so that they wouldn't go
10 and question him. So, no, I didn't ---

11 Q. Why did you do that?

12 A. I guess maybe because it was out of love because I didn't
13 want him to get in trouble. And I knew that he had been in
14 trouble numerous of times. And I guess I kind of wanted to
15 take all of the blame. Even though I was some of the blame, I
16 wasn't all of the blame.

17 Q. Okay. So you were willing -- you'd do anything for him,
18 ---

19 A. Yes. Yes, ma'am.

20 Q. Okay. Now, let's -- at this point did your lawyer talk
21 to you about -- mention anything like the Jackson v. Denno
22 hearing? Do you recall that?

23 A. No, ma'am.

24 Q. Do you recall hearing anything about the fact that
25 sometimes courts will keep out confessions in certain

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

13

1 circumstances?

2 A. No, ma'am, -- at all. None at all.

3 Q. Now, going back to the statements that you gave, can you
4 just briefly tell the Court what really happened?

5 A. I can -- I put it like this. Anything that happened was
6 not intentional. I felt obligation that I had to because if
7 it wouldn't have been me, it would have -- if it wouldn't have
8 been the way that it happened, it would have been me. And I
9 honestly believed that. And I know that for a fact.

10 Q. Had anyone told you anything to make you feel that way?

11 A. I just -- he was waiving a gun around telling me to do
12 it.

13 **MR. COX:** Objection, Your Honor. She's going into some
14 statements from -- an out-of-court statement from someone I'm
15 guessing is the boyfriend at the time.

16 **MS. ROSS:** Right, but she was there. This is just her
17 recollection ---

18 **THE COURT:** All right.

19 **MR. COX:** She's still -- sorry, Your Honor. I object to
20 hearsay for the boyfriend's statements.

21 **THE COURT:** I think so far she hasn't crossed into that
22 boundary, but I will let her go ahead. Go ahead.

23 **MS. ROSS:** Okay. And, Judge, before I ask anything wrong
24 I want to see whether -- I think it would be -- he would be a
25 party opponent in the original case such that she could say

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

14

1 what the co-defendant ---

2 **THE COURT:** I guess I'm struggling because I -- this is
3 all cold to me, and I don't know anything.

4 **MS. ROSS:** Okay.

5 **THE COURT:** And so ---

6 **MS. ROSS:** Well, let me try ---

7 **THE COURT:** And so far I don't even understand the
8 witness' response.

9 **MS. ROSS:** Okay.

10 **Direct Examination by Ms. Ross Continued:**

11 Q. You were accused of murder, correct?

12 A. Yes, ma'am.

13 Q. And that was for ...

14 **MS. ROSS:** I beg the Court's indulgence, ---

15 **THE COURT:** Um-hum (affirmative).

16 **MS. ROSS:** --- but I can't recall the victim's name.

17 Q. But that was for shooting a man, correct?

18 A. Yes, ma'am.

19 Q. And three people were in the car. It was you, and him,
20 and who when the shooting ---

21 A. It was me, Keenen, and Anthony.

22 Q. All right. Now, you said you felt -- you said earlier
23 that you felt like it was you or him. Why did you feel that
24 way?

25 A. Because it was my life on the line. And because there

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

15

1 was basically a gun pointed to my head telling me to do it.

2 **THE COURT:** Will the lawyers approach just a minute?

3 (Whereupon a bench conference was held off the record)

4 (Whereupon the bench conference was ended)

5 Q. All right, Brittany. You're talking about her and him.

6 Who's -- you said he was threatening me and it was him or me.

7 Who are the hims? What are their names?

8 A. Keenen and Anthony.

9 Q. Okay. Who was threatening you?

10 A. Keenen.

11 Q. And did he have a weapon?

12 A. Yes.

13 Q. And he was in the car with you threatening you?

14 A. Yes.

15 Q. And ---

16 A. Waiving the gun around, telling me that if I didn't, he
17 was going to do something to me.

18 Q. So you said he again.

19 A. Keenen.

20 Q. So he used words that made you feel immediate threat for
21 your life?

22 A. Yes. Yes.

23 Q. And what was he wanting you to do?

24 A. To kill Anthony.

25 Q. All right. Now, had Keenen accused you of having an ---

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

16

1 A. Yes.

2 Q. --- affair with Anthony?

3 A. Yes. Many times.

4 Q. And had, in fact, -- what had you done about that? Had
5 there been some issue with ---

6 A. Yes.

7 Q. Were you actually sleeping with Anthony?

8 A. I do believe that he was selling me.

9 Q. You believe who was selling you?

10 A. Keenen was selling me ---

11 Q. All right.

12 A. --- to Anthony.

13 Q. And for what?

14 A. For drugs and for staying in the house because we all
15 stayed together.

16 Q. All right. And would it be fair to say you were all
17 using a lot of drugs?

18 A. Yes, very much so.

19 Q. And you feel Keenen was selling you to Anthony for ---

20 A. Yes.

21 Q. --- rent and drugs?

22 A. Yes.

23 Q. Now, did he tell you -- why did you think that?

24 A. Actually, because one morning I woke up and I was

25 bleeding from both of my bottom parts, my bottom and my front.

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

17

1 I was bleeding and I didn't know why. I haven't had a period
2 in a while because I had birth control in my arm that caused
3 me not to have a period.

4 With that being said, I woke up and I was really hurting
5 really, really, really, really bad. I was in excruciating
6 pain. And I asked him what happened? Did ---

7 Q. Who's him?

8 A. Keenen. And I asked him did, you know, excuse me, did we
9 have some wild sex? And he said, no, me and you didn't do ---

10 **MR. COX:** Objection, ---

11 A. --- anything.

12 **MR. COX:** --- Your Honor. At this time I would object to
13 hearsay.

14 **THE COURT:** Okay. I'll sustain that objection.

15 Q. And what did you do as a result ...

16 **MS. ROSS:** And, Judge, I would argue that he was also
17 charged in the case, argue that he's a party opponent as well
18 and submit that this isn't necessarily for the truth of the
19 matter asserted, just for what her perception was, how she
20 felt.

21 **THE COURT:** All right. I'll take it just for that
22 purpose.

23 **MS. ROSS:** All right.

24 Q. And what did you think after talking to Keenen?

25 A. I felt that if me and him didn't do anything, I mean, me

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

18

1 and somebody else had to.

2 Q. Okay. And ---

3 A. And the only other person in the house was Anthony.

4 Q. And did you later feel that Keenen was angry at you?

5 A. Yes. Yes.

6 Q. And did you feel he was blaming you for having sex with
7 Anthony?

8 A. Yes, many of times.

9 Q. And was that part of Keenen threatening you in the car
10 and the whole car situation? Was he telling you ---

11 A. Excuse me. Can you say that again?

12 Q. In the car situation when the shooting happened, was
13 Keenen telling you anything about Anthony at that time?

14 A. He just -- he asked me if, you know, if I was just going
15 to let him do that to me.

16 Q. All right.

17 A. And he did tell me other things.

18 Q. Now, have you been raped before in your history?

19 A. Yes.

20 **MR. COX:** Objection, Your Honor. I'm going to object to
21 the relevance for history at this point. If we -- may we
22 approach, Your Honor?

23 **THE COURT:** Okay.

24 (Whereupon a bench conference was held off the record)

25 (Whereupon the bench conference was ended)

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

19

1 Q. Okay.

2 MR. COX: Your Honor, just -- overruling the objection,
3 if you don't mind, I'd like to place on the record ---

4 THE COURT: Yes.

5 MR. COX: Your Honor, I objected to this line of
6 questioning. I believe there was an irrelevant nature to it,
7 to this proceeding today, but Your Honor overruled the
8 objection.

9 THE COURT: All right. And I'm going to allow some
10 leeway. I've not quite -- I'm not disagreeing with you yet.

11 MR. COX: Yes, Your Honor.

12 THE COURT: I'm going to allow a little testimony to be
13 developed. It may be that it becomes completely irrelevant.
14 I'm just going to let her develop it ---

15 MR. COX: Yes, Your Honor.

16 Q. Okay, Brittany. Let me ask you, had you ever made
17 allegations that people have raped you or committed sexual
18 misconduct ---

19 A. I'm sorry. Can you word that differently, because I'm
20 not understanding.

21 Q. Okay. In your past had you ever -- did the State ever
22 question or did the police ever question anyone about ---

23 A. What has happened to me in my past?

24 Q. Yes. What ---

25 A. Yes, ma'am.

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

20

1 Q. --- has happened to you in your past. Can you just tell
2 the Court.

3 A. There was an incident with my father. There was an
4 incident with my best friend's father that did not get pushed
5 to court. And there was others that are not documented.

6 Q. Okay. Well, let's talk about the incident with your
7 father. How old were you?

8 A. I was 11 years old.

9 Q. And what -- did you go and did the police talk to you or
10 were you questioned ---

11 A. Yes. DSS got involved.

12 **MR. COX:** Your Honor, at this time I would make the same
13 objection of relevancy and -- just for the record. Your
14 Honor, I understand your ruling.

15 **THE COURT:** I am having difficulty understanding so far
16 how this is relevant, but ...

17 **MS. ROSS:** Well, Judge, I think it goes to potential
18 defenses she might have had if she had gone to trial and the
19 allegation of -- and being ineffective to advise her to plead
20 guilty in the case.

21 **THE COURT:** Okay. I'll allow it for now.

22 **MS. ROSS:** Okay.

23 Q. So there was a case with DSS when you were 11?

24 A. Yes.

25 Q. And then what was the case with your friend's father?

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

21

1 How old were you then?

2 A. I, you know, it's been so long I can't even remember how
3 old I was.

4 Q. Now, was a case made there?

5 A. It was documented, but there was never a case built, no.
6 There was never anything in court.

7 Q. So it was never investigated and you never felt like you
8 got any justice ---

9 A. No.

10 Q. --- for that? Okay. Now, let me get back to your advice
11 to plea. When -- before you pled guilty did your lawyer ever
12 tell you that there might be some question about the car pull
13 that led to your arrest and then your subsequent confessions?

14 A. I'm sorry. Can you say that one more time?

15 Q. Did your lawyer advise you before you pled guilty that
16 you may attempt to suppress your confessions by challenging
17 the pull ---

18 A. No. It was never stated that my -- that my confessions
19 could be suppressed, ever.

20 Q. So you never discussed that ---

21 A. No.

22 Q. --- at all? All right. Now, -- and do you feel like if
23 you had known that you could have challenged your confession
24 at trial ---

25 A. That I would have took it to trial, yes.

BRITTANY FOSTER - DIRECT EXAMINATION BY MS. ROSS

22

1 Q. And do you feel like you would have -- would have a
2 chance at winning at trial?

3 A. Possibly.

4 Q. Okay. Now, and he didn't discuss the fact that you could
5 possibly have the confession suppressed if you were on drugs
6 and it wasn't made in a knowing ---

7 A. No. There was never any -- any statements made or
8 anything telling me, you know, that my statements could have
9 been suppressed. Had I would have known that, I definitely
10 would have took it to trial because I feel like that would
11 have been -- there would have been a different -- there would
12 have been -- it would have been -- made a huge difference.

13 Q. All right. And did he ever tell you none of that could
14 be preserved for review if you pled guilty?

15 A. Excuse me. You're going to have to word that
16 differently.

17 Q. If you'd gone to trial, even if you'd lost the
18 suppression hearing, because you -- if you plead you don't get
19 to appeal any of that, appellate courts don't get to review
20 anything after a plea.

21 A. I'm sorry. I'm still not understanding.

22 Q. Okay. Did Mr. Hall appeal your case?

23 (Pause)

24 Q. Your plea?

25 A. I'm not sure.

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

23

1 Q. All right. Do you know what an appeal is?

2 A. Where you take your case back to court.

3 Q. And before your plea he didn't say you're giving up all
4 your appeal rights if we plea?

5 A. No.

6 Q. And is there anything else you would like to allege at
7 this point?

8 A. No, ma'am.

9 Q. Okay.

10 MS. ROSS: I've got no further questions.

11 THE COURT: Ma'am, answer any questions the attorney
12 general may have.

13 MR. COX: Your Honor, may I approach the area around the
14 witness and grab the podium?

15 THE COURT: (Affirmative nod).

16 MR. COX: Your Honor, may it please the Court?

17 THE COURT: Um-hum (affirmative).

18 **Cross-examination by Mr. Cox:**

19 Q. Good morning, Ms. Foster.

20 A. Good morning.

21 Q. You mentioned it on direct examination, but you are aware
22 if you are successful in your post conviction relief action
23 that you could potentially go back to trial?

24 A. Yes.

25 Q. And one of those charges against you was murder, correct?

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

24

1 A. Yes.

2 Q. So you would be facing a potential life sentence,
3 correct?

4 A. Yes. I'm willing to take that risk.

5 Q. Okay. You pled guilty to all the charges that were
6 brought against you, correct?

7 A. Yes.

8 Q. And Mr. Hall represented you during that guilty plea?

9 A. Yes.

10 Q. You remember pleading in front of Judge Verdin here in
11 Spartanburg County?

12 A. Yes.

13 Q. That was sometime in April of 2017, last year?

14 (Pause)

15 Q. To the best ---

16 A. Are you sure that wasn't May 4th?

17 Q. April 27th sound right? Near the end of April?

18 (Pause)

19 Q. If you don't remember, that's ---

20 A. No, I don't.

21 Q. --- fine.

22 A. I don't.

23 Q. At your guilty plea the judge asked you several
24 questions, correct?

25 A. Yes.

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

25

1 Q. And at your guilty plea you were not under the influence
2 of any drugs?

3 A. No.

4 Q. You were not under the influence of alcohol?

5 A. No.

6 Q. The judge asked you that, didn't she?

7 A. Yes.

8 Q. And you told her you were not?

9 A. Yes.

10 Q. You told her you understood what you were doing there?

11 A. Yes.

12 Q. The decision to plead guilty to these charges against
13 you, that was your decision, correct?

14 A. I didn't want to. I wanted to take it to trial.

15 Q. You wanted to take it to trial?

16 A. Yes.

17 Q. But the judge asked you if you were making this decision,
18 didn't she?

19 A. I don't remember that.

20 Q. You don't remember?

21 A. No.

22 Q. Okay. So it's possible she did?

23 A. It's possible considering that I don't remember.

24 Q. Do you remember during the guilty plea there was a court
25 reporter similar to the one that we have today?

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

26

1 A. Yes.

2 Q. Did you understand that she was taking down everything
3 that occurred in that courtroom?

4 A. Yes.

5 Q. Okay. So she was taking down all the questions that the
6 judge asked you at the hearing, right?

7 A. Correct.

8 Q. She was taking down your answers?

9 A. Correct.

10 Q. And she compiled a record of that plea hearing, right?

11 A. Excuse me?

12 Q. She would have compiled a record of that guilty plea
13 hearing, correct?

14 A. Correct.

15 Q. But you don't remember her asking you if you wanted to
16 plead guilty?

17 A. Maybe asked me if I wanted to plead guilty, if it was my
18 decision. That was -- I feel like that's a different
19 question.

20 Q. Okay. Do you remember the judge going over some rights,
21 some constitutional rights you had? The right to go to trial,
22 you remember her asking you about that?

23 A. No, sir.

24 Q. Do you remember the judge asking you if anyone had forced
25 you to plead guilty?

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

27

1 A. No. I remember her asking me if there was any promises
2 made if I did -- if I did plead guilty. But, again, I feel
3 like those were two different types of questions.

4 Q. Ms. Foster, is it fair to say that you don't remember a
5 lot about the guilty plea hearing? That's your testimony here
6 today?

7 A. Excuse me?

8 Q. Would it be fair to say that today you do not remember a
9 lot about the guilty plea hearing?

10 A. Possibly. I have a bad memory.

11 Q. But you remember that your attorney, Mr. Hall, did not go
12 over discovery with you?

13 A. Excuse me?

14 Q. You remember ---

15 A. Yes. Yes.

16 Q. You remembered that?

17 A. Yes, I do.

18 Q. Okay. Part of your allegations here today are that if
19 you had known you were waiving all your rights you would not
20 have pled guilty, ---

21 A. Right.

22 Q. --- correct?

23 A. Correct.

24 Q. You're saying that you would have demanded that you'd
25 gone to trial?

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

28

1 A. Trial. Right.

2 Q. Okay. But you don't remember going over any of those
3 rights with the judge at the guilty plea hearing? You don't
4 remember doing that?

5 MS. ROSS: I'd object. She said she remembered that --
6 the judge asking her some of the questions about whether ---

7 THE COURT: All right. I'm going to allow it. He's on
8 cross-examination. He's got a lot of leeway. Go ahead.

9 Q. Ms. Foster, but today you are saying you do not remember
10 going over those rights with Judge Verdin when you pled
11 guilty, correct?

12 A. I remember going over some of them.

13 Q. Some of them? Like the right to go to trial?

14 A. No, that wasn't one of them.

15 Q. That was not one of them?

16 A. No.

17 MR. COX: Your Honor, if I could have just one moment.

18 THE COURT: Um-hum (affirmative).

19 (Pause)

20 Q. Just so we're clear, Ms. Foster, you do not remember the
21 judge asking you the following question; You also give up
22 your right to a jury trial. At that trial your attorney could
23 call witnesses for you, could cross-examine witnesses against
24 you. The State -- the State would have to prove your guilt
25 beyond a reasonable doubt. But when you plead guilty you give

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

29

1 up your rights to a jury trial. Do you understand that? You
2 do not remember the judge asking you that question?

3 A. Now that you read it to me, I do. But ---

4 Q. Okay. You remember ---

5 A. --- at the time I did not understand what she was saying.

6 Q. You did not understand what she was asking?

7 A. No. I did not understand what she was asking.

8 Q. Do you remember what your answer to that question was?

9 A. I'm assuming it was yes.

10 Q. Do you -- you do not remember the answer? If it was yes,
11 do you remember saying yes to that answer? Or to that
12 question? Excuse me.

13 A. Yes. There was a lot that I said yes to that I didn't
14 understand because I was very nervous.

15 Q. You were nervous?

16 A. Yes, very.

17 Q. Ms. Foster, when you were pulled over by the police
18 during the incident in this case, you remember that event,
19 correct?

20 A. Bits and pieces, yes.

21 Q. Bits and pieces?

22 A. Yes.

23 Q. Okay. But you testified that you were under the
24 influence of drugs during ---

25 A. Yes, I was.

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

30

1 Q. Okay. But you don't remember your guilty plea or the
2 things you said, correct? Completely?

3 A. Excuse me?

4 Q. I can move on. Where were you sitting in the car when
5 you got pulled over by police?

6 A. In the backseat. What seat in the backseat, I do not
7 remember.

8 Q. You were asked to get out of the car, correct?

9 A. Yes.

10 Q. You were asked to -- for your ID, right?

11 A. I think so, but I didn't have one to give.

12 Q. You didn't have one to give?

13 A. No.

14 Q. Okay. Did you tell the police you didn't have one to
15 give?

16 A. Yes.

17 Q. And did you tell your -- did you tell your attorney
18 everything you knew about the traffic stop in your
19 conversations with the police?

20 A. I don't even think we went over that.

21 Q. You don't think you went over that?

22 A. No.

23 Q. Okay.

24 A. Really, it was just a question that he asked me of what
25 happened that caused the crime.

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

31

1 Q. Okay. So he asked you what caused the crime?

2 A. Yes.

3 Q. And it's your testimony that your attorney did not go
4 over the traffic stop with you?

5 A. No, he didn't.

6 Q. And you did not offer that information to him?

7 A. Not that I remember, no.

8 Q. Okay. Do you remember the prosecutor being at your
9 guilty plea? Do you remember there was an attorney
10 representing the State who was ---

11 A. Yes.

12 Q. --- there at your guilty plea?

13 A. Yes.

14 Q. Okay. You remember he told the court what the facts of
15 the case were, right? Do you remember him explaining that to
16 the court?

17 A. I -- I do remember him talking to the court. I don't
18 remember what he said.

19 Q. You don't remember ---

20 A. I couldn't ---

21 Q. --- what he said?

22 A. No. I couldn't tell you what he said. The only thing
23 that I remember was him showing pictures.

24 Q. Showing pictures?

25 A. Yes. That's all.

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

32

1 Q. And so if your attorney had never gone through discovery
2 with you, you would never have seen those pictures, right?

3 A. I never seen those pictures until I got to court.

4 Q. Until you got to court?

5 A. Yes, when the prosecutor had them. I never -- I didn't
6 see any photos, period, at all. No photos, no videos, no
7 audio recordings, nothing. And I did ask for that information
8 and was not given it.

9 MR. COX: Your Honor, at this time the witness has stated
10 that she just -- she does not recall the facts as the
11 solicitor gave them at trial. I'd just ask that the Court
12 take notice that on the guilty plea transcript beginning on
13 page 11, line 13, Solicitor Barnette is giving the facts --
14 presenting the facts to the court.

15 Q. Ms. Foster, I know you say that you do not remember what
16 the prosecutor told the court, do you remember the judge
17 asking you a question after the prosecutor told her what
18 happened?

19 A. If you told me what question I might remember.

20 Q. Okay. Do you remember the court asking you, Ms. Foster,
21 you heard the facts as stated by the solicitor as to
22 indictment 4429 and 4429A? And that was for murder and
23 possession of ---

24 A. I remember her calling off the warrant numbers. I do.

25 Q. Okay. Do you remember her asking you how do you plead to

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

33

1 that charge?

2 A. Yes, I pled guilty because I thought that's what me and
3 my lawyer at that time agreed to doing.

4 Q. Okay. Did you tell the court during your guilty plea
5 that you were only pleading guilty because that's what you and
6 your attorney agreed to do?

7 A. No, I did not. I kept it simple.

8 Q. You kept it simple?

9 A. Yes.

10 Q. And that was your decision to do that, right?

11 A. Yes, because I was nervous. Yes.

12 Q. Okay. Ms. Foster, do you remember near the end of your
13 guilty plea the judge asked you if there was anything that you
14 wanted to say?

15 A. Yes. And I'm -- I made an apology to the family.

16 Q. You made an apology to the family?

17 A. Yes, I did.

18 Q. Do you remember what you said?

19 A. I can't state it word for word. But I do recall saying
20 that I apologize for their loss.

21 Q. Do you remember saying I just want to say sorry to the
22 family, and I'm sorry for their loss -- for their loss, and I
23 know I did something, a tragedy? It's a tragedy on my behalf,
24 too. And I'm really sorry. Do you remember saying that?

25 A. I do.

BRITTANY FOSTER - CROSS-EXAMINATION BY MR. COX

34

1 Q. Okay. Ms. Foster, you spoke a little bit about some of
2 your prior history, some of the ---

3 A. Yes.

4 Q. --- trauma you've gone through.

5 A. Yes. I believe that's what led up to everything.

6 Q. And you believe that if your attorney had that
7 information you would not have pled guilty?

8 A. Excuse me. Can you say that one more time?

9 Q. Did you provide that -- your history, did you tell your
10 attorney about what had happened to you?

11 A. I did tell him some of the events that had took place of
12 my history in the past, yes.

13 Q. Okay. And you believe that could have been used as a
14 defense at trial, correct?

15 A. Yes, I do believe that.

16 Q. Do you remember Mr. Hall, your attorney, telling the
17 court about some of your history at your guilty plea hearing?

18 A. Maybe that Anthony was trying to mess with me. Other
19 than that, no. I don't recall him bringing up any of my past
20 history.

21 Q. Okay.

22 A. Besides that he had mental health files of mine.

23 **MR. COX:** Your Honor, I beg the Court's indulgence.

24 (Pause)

25 Q. Ms. Foster, do you remember the court telling you that

BRITTANY FOSTER - REDIRECT EXAMINATION BY MS. ROSS

35

1 they understood that you had suffered some tragedy in your
2 life in the past?

3 A. Yes.

4 Q. Okay. And do you remember that the court told you that
5 -- the judge said she was taking that into consideration when
6 sentencing, correct?

7 A. Yes.

8 Q. So the court was aware of some of your -- some of your
9 things that had happened in your life?

10 A. Not necessarily. Maybe about what Anthony, you know, was
11 trying to get with me. That's it.

12 Q. Ms. Foster, just to be clear, you believe today that your
13 statement to police, your confession, could have been
14 suppressed at trial?

15 A. Yes, I do.

16 **MR. COX:** Your Honor, that's all the questions I have for
17 this witness.

18 **THE COURT:** Any redirect limited to what he went into?

19 **MS. ROSS:** Just briefly.

20 **Redirect Examination by Ms. Ross:**

21 Q. On page 6 of the transcript you were asked whether you
22 had any type of mental health counseling, of your guilty plea
23 transcript. Do you recall what you said? And I'll refresh
24 your memory with the transcript, if that's okay.

25 (Pause)

BRITTANY FOSTER - REDIRECT EXAMINATION BY MS. ROSS

36

1 Q. Okay. And then ---

2 **MADAM COURT REPORTER:** I'm sorry, did she answer?

3 Q. Oh, answer so that the court reporter can hear you.

4 A. Yes.

5 Q. And do you recall yourself explaining what you had mental
6 health counseling for?

7 A. Yes.

8 Q. And what was that?

9 A. That my father molested me when I was 11 years old.

10 Q. And then she asked whether you had been diagnosed with
11 any mental health disorders. And do you recall what you said?

12 A. Yes.

13 Q. And what was that disorder that you'd been ---

14 A. Bipolar and depression.

15 Q. And you told your lawyer about this and that's why he had
16 you evaluated, is that correct?

17 A. Yes.

18 Q. All right.

19 **MS. ROSS:** I've got no further questions.

20 **THE COURT:** All right. Thank you, ma'am. Watch your
21 step as you're stepping down, ma'am.

22 **MS. ROSS:** At this point we'd briefly call Stephanie
23 Gosnell.

24 **THE COURT:** Just come right up here, ma'am. Place your
25 left hand on the Bible and raise your right hand.

STEPHANIE GOSNELL - DIRECT EXAMINATION BY MS. ROSS

38

1 counselor would come to the school. And they diagnosed her
2 with bipolar disorder or multiple -- not multiple personality,
3 but personality disorder -- personality disorder, something
4 like that.

5 Q. All right. And then was her father ever imprisoned or
6 punished for that?

7 A. No, he was not. It took three years to go to court. And
8 on the day of the trial, which was in this building, her court
9 appointed counselor did not show.

10 And she went through the guardian ad litem. Guardian ad
11 litem advised her that we could just, you know, ask that he
12 not come in contact with her, otherwise, we would have to
13 reschedule which could take up to a year. She was done at
14 that point.

15 She was just -- and they -- what came up with the case is
16 that he was ordered to pay a hundred dollar fine, which they
17 suspended because he did not have the money. He was ordered
18 not to come within so many feet of her, or call, or have any
19 contact with her. And that was all -- that was it.

20 Q. Okay. And then later did she become addicted to drugs?

21 A. She did when she was 15. Her mother was an addict, and
22 she left home. She lived with me, but we were not able to
23 obtain custody until she was 16. She left at 15 with her
24 mother. Not to say that her mother made her do it. You know,
25 these are our choices. But she chose to start doing drugs,

STEPHANIE GOSNELL - DIRECT EXAMINATION BY MS. ROSS

39

1 and she became very addicted.

2 And when she was 17 she went through treatment inpatient,
3 outpatient, rehab, 30 days inpatient. Well, a week at detox,
4 30 days inpatient, 60 days outpatient through SADAC here in
5 Spartanburg. And she also did NA.

6 The SADAC director said to me that they wished every
7 person coming through there was as dedicated to getting clean
8 as she was. And at that time she was clean and doing well,
9 trying to go back to school and became a mother. And ...

10 Q. And did you ever know Keenen?

11 A. He came to my home. Cassie introduced me to him. I knew
12 his family members. You know, we're a small community in
13 Inman. We pretty much know everybody.

14 And he seemed like a nice enough young man. I mean, you
15 could tell he'd been in trouble before, but I could already
16 tell she was back on drugs when she was with him.

17 She came to the door one morning and I asked her, you
18 know, she said, will you give me a ride to work? I said,
19 sure. One thing she always did was work. She was a good
20 worker. And I took her to work, and I could tell. I said,
21 please let me get you in treatment. She refused.

22 And I offered her to stay with me and let me help her
23 again. Back and forth, she -- when she had a boyfriend, there
24 was no talking to her. Those were her choices. I mean, she
25 did what they said. She went -- what they said to do.

STEPHANIE GOSNELL - DIRECT EXAMINATION BY MS. ROSS

40

1 She wore what they said to wear. She got tattoos where
2 they said to get a tattoo. She pretty much did what they
3 said. And there was no talking to her about anything.

4 Q. I've got no further questions. Thank you.

5 A. Thank you. And may I also -- may I address you?

6 Q. Oh, sure. Is there anything else you'd like to say?

7 A. Yeah, I would -- I would like to say that she has a
8 learning disability, comprehension issues. So if he showed
9 her anything and she read it, she wouldn't remember.

10 As the problem you saw, she has epilepsy seizures. When
11 she was -- there was a court hearing -- I'm sorry.

12 **MR. COX:** Your Honor, I'm going to object at this time
13 and move to strike that testimony that she just provided.
14 There is no way to authenticate at this time ---

15 A. Actually, it's documented through the School District 1.

16 **THE COURT:** Excuse me.

17 A. I'm sorry.

18 **MR. COX:** I ask that if there is some documentation of
19 this type of condition and diagnosis for the Applicant and Ms.
20 Ross offers that into evidence because that would be the best
21 evidence, not the testimony of a family member.

22 **THE COURT:** Did I not see that she was evaluated prior to
23 her plea?

24 **MS. ROSS:** She was. And Mr. Hall will have a lot of the
25 records of the mental health history. And that's why, again,

STEPHANIE GOSNELL - DIRECT EXAMINATION BY MS. ROSS

41

1 it would go to the voluntary nature of the plea.

2 **THE COURT:** All right. I'm going to -- the testimony is
3 presented. I'll give it the weight that it deserves.

4 **MR. COX:** Yes, Your Honor.

5 A. And also I would like to say I'm the one who took her to
6 the hospital when she was raped by her friend's father. It
7 was went through -- the police came. And they took her to --
8 she went through the whole kit.

9 And the prosecutor called me and said he didn't deny that
10 it happened, he just denied that it was forced and that she
11 just felt like that she wouldn't be able to get a conviction
12 even though they believed her. They just didn't feel like
13 they could convict him. And ---

14 Q. How old was Brittany at that time?

15 A. Eighteen. She was actually pregnant at the time. So
16 she's -- also documented that her children's father beat her.
17 It was a court case, which recently was dropped because she
18 was incarcerated.

19 Q. All right. And did Mr. Hall ever talk to you about
20 Brittany?

21 A. Yes. I called him a couple of times. And I offered to
22 go and get her medical records for him, any records that he
23 needed, that I'd be happy to do that. And he said, I think I
24 have what I need. Also, I offered to testify, but I was never
25 called to testify.

STEPHANIE GOSNELL - CROSS-EXAMINATION BY MR. COX

42

1 And also I said, well, you know, once we got the
2 diagnosis through the court appointed therapist to find out
3 what, you know, was mentally her issue, he called and spoke to
4 me. I said, well, is there any way we can get her into a
5 mental facility or something at least before she's put in
6 jail? And -- or at least somewhere that's not so bad? And he
7 said, everywhere she's going is going to be bad.

8 So I -- I don't know -- I'm not a lawyer, but I can speak
9 to children, and I can speak to that child because she was
10 with me a long time. And I bumped my head against the wall a
11 lot trying with her. It was like a brick wall. But I loved
12 her with all my heart.

13 And I tried very, very hard for her to have a good life.
14 And I wanted all her dreams to come true. But those drugs
15 just have such a hold. And once they get ahold, there's
16 nothing, I mean, once she went back on them, she went to
17 harder stuff, and there was no helping her from that point.
18 She wouldn't listen.

19 Q. Well, thank you.

20 **THE COURT:** Ma'am, answer any questions that the attorney
21 general may have.

22 A. Yes, sir.

23 **Cross-examination by Mr. Cox:**

24 A. Hi.

25 Q. Good morning. Ma'am, I am so sorry. I did not catch

STEPHANIE GOSNELL - CROSS-EXAMINATION BY MR. COX

43

1 your name.

2 A. My name is Stephanie Gosnell.

3 Q. Roswell?

4 A. Gosnell.

5 Q. Gosnell. Okay.

6 A. Yes. G-o-s-n-e-l-l, Gosnell.

7 Q. Thank you.

8 A. Sure.

9 Q. And I do appreciate that. Ms. Gosnell, you are Ms.
10 Foster's -- you're her aunt, correct?

11 A. I'm her biological aunt, yes. I've always ---

12 Q. You're ---

13 A. --- considered her my daughter.

14 Q. --- very close to her?

15 A. Well, since we got her at 11, I considered her my
16 daughter.

17 Q. Okay.

18 A. We obtained custody when she was 16.

19 Q. Okay. You mentioned that you spoke to Mr. Hall about Ms.
20 Foster ---

21 A. A couple ---

22 Q. --- a couple of times?

23 A. --- of times, yes.

24 Q. Okay. And you offered to testify?

25 A. I did.

STEPHANIE GOSNELL - CROSS-EXAMINATION BY MR. COX

44

1 Q. Okay. None of that's in this file, correct?

2 A. Well, like I said, I'm not an attorney. And I really
3 don't know how it works, but I offered to testify in any
4 capacity that, you know, would help them get justice, or
5 truth, or whatever they needed to do.

6 Q. Okay. Ms. Gosnell, you were not there the night of the
7 shooting, correct?

8 A. No, I was not.

9 Q. You were not there during Ms. Foster's interview with
10 police?

11 A. I was not. I didn't even know that she'd been arrested
12 until my sister called me the next morning and said she's on
13 the news. I had no idea. I was never questioned by the
14 police. No one except a reporter called our home.

15 Q. So your understanding of what happened at the heart of
16 this -- at the heart of the criminal charges came from Ms.
17 Foster, is that correct?

18 A. Yes and other people that came to me and told me things.

19 Q. Okay.

20 A. Which I didn't know what was true and what wasn't.

21 Q. Okay.

22 A. I honestly don't know how much she knows between her
23 being so high. And I've been around her when she's high
24 trying to, you know, even if it wasn't nothing but to say you
25 can't come in my house like that, you understand?

STEPHANIE GOSNELL - CROSS-EXAMINATION BY MR. COX

45

1 Q. Um-hum (affirmative).

2 A. But when she's high, she doesn't -- she don't remember
3 the next day what happened. She can't remember much.

4 And her seizures have caused her to have some brain
5 damage. So when you were questioning her and she didn't
6 understand, I have a hard time seeing that she would
7 understand a lot of the conversations she had.

8 Q. Now you said you did speak to Mr. Hall a few times ---

9 A. Yes, I did. He was always very nice when I spoke with
10 him.

11 Q. But you were never a part of any conversation he had with
12 Ms. Foster?

13 A. No, I was not. But I can tell you, if anybody can get on
14 your nerves, that one can. And I'm sure she tried his
15 patience.

16 Q. Did you attend the guilty plea?

17 A. I did not. I was taking care of my grandmother with
18 stage 4 cancer. And she's passed away.

19 Q. I'm sorry.

20 A. Thank you.

21 **MR. COX:** Your Honor, that's all the questions I have for
22 Ms. Gosnell.

23 **THE COURT:** Any redirect limited to what he went into?

24 **MS. ROSS:** No, Your Honor.

25 **THE COURT:** Thank you, ma'am. You may step down. Watch

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

46

1 your step as you're stepping down.

2 **MS. ROSS:** That's the Applicant's case, Your Honor.

3 **THE COURT:** All right. Let's take a short recess and
4 we'll reconvene.

5 (Whereupon court was in recess at 11:16 am)

6 (Whereupon court reconvened at 11:26 am)

7 **THE COURT:** I'm sorry. I want to be sure the record's
8 clear. Does the Applicant have any other witnesses?

9 **MS. ROSS:** No, Your Honor.

10 **MR. COX:** Your Honor, the State calls Mr. Robert Hall.

11 **THE COURT:** Sir, just come right up here and let the
12 Court swear you in.

13 **Robert Hall,** being duly
14 sworn testified as follows;

15 **THE COURT:** Thank you, sir. Watch your step. Have a --
16 step up and just have a seat in the red chair and pull the red
17 chair up to the microphone.

18 **Direct Examination by Mr. Cox:**

19 Q. Mr. Hall, what do you do for a living?

20 A. I'm a public defender for the Seventh Judicial Circuit.

21 Q. Now how long have you been with the public defender's
22 office?

23 A. A little over ten years.

24 Q. How long have you been practicing in criminal law?

25 A. Thirty -- well, 32 years, but 14 of it I was a

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

47

1 magistrate, which I do -- did criminal, civil, everything.

2 But basically my career has been criminal, either prosecuting
3 or defending.

4 Q. How many murder trials or how many murder cases have you
5 handled over the years?

6 A. On this side?

7 Q. As a public defender, yes.

8 A. At least half a dozen if not more. I just -- I can't
9 come up with a number. I've never thought about it.

10 Q. Do you have experience handling murder cases?

11 A. Yes. The first case I tried in 15 years, I was a
12 magistrate for 14 years, the first case I tried was a murder
13 case -- to the office.

14 Q. How do you know the Applicant to this case?

15 A. She became a client of ours in June of 2016. Soon after
16 that I was assigned the case. They put a file together, filed
17 a notice of representation and everything. Then I got the
18 case. And I met her not long after that. I went to the jail
19 in early July, July 5th and July 6th and spoke with her.

20 Q. When you spoke with her -- let me do it this way. Did
21 you file for discovery in this case?

22 A. Yeah, we filed for discovery -- at that point I did not
23 have discovery. I think it was in October when I finally got
24 the discovery. But I had gone over -- before I got the
25 discovery I'd spoken with her about the facts of the case.

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

48

1 Her initial interview with our investigator, our
2 interviewer, she said she did not give a statement to the
3 police. But I think before I even got there I knew that there
4 was a statement, at least an oral statement to the police.

5 And I went to the jail and spoke with a female deputy
6 while I was waiting for her to come out because they don't
7 allow male attorneys to go back to the female pods. And the
8 deputy said that she's covering for somebody. She's -- and
9 another guy charged, but she's covering for him.

10 Q. Okay. How did that -- how did that conversation with the
11 deputy affect your approach with Ms. Foster?

12 A. Well, I sat down with her. We had to talk in booking.
13 There wasn't a room to go to. So we had -- the pit at the
14 jail has two sections.

15 Q. Okay.

16 A. And once somebody's been booked in, they're in one
17 section waiting for a bond hearing or arraignment. And the
18 other section, I had to basically get that cleared so I could
19 have a place where I could talk to her in private.

20 And I said that -- I told her just right upfront, I said,
21 you told us that you didn't give a statement, but I understand
22 -- I think I had it from the solicitor's office and then the
23 jailers that she had given at least an oral statement
24 admitting that she did it and taking the blame for everything.

25 And I tried to go over with it -- with her that I needed

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

49

1 to know the truth. And that if she was covering for somebody,
2 she needs to come clean with me because I could do everything
3 I could for her. If she was trying to take the blame for
4 somebody, she needed to give that up, be honest with me and
5 tell me the truth. That way I could do more for her.

6 And it was clear from that conversation that she had in
7 her mind that even with the seriousness of the charges that
8 she could get probation. And I said, that is not going to
9 happen. At best, as you are charged, it would be 30 years
10 without parole, day-for-day.

11 Q. How did you come up with that number?

12 A. That ---

13 Q. Is that based off your experience?

14 A. That's murder, day-for-day, 30. It's day-for-day
15 whatever you get, but 30 is the minimum. And I -- and
16 normally in those cases I go over, you know, these are lesser
17 -- kind of lesser included offenses. I don't tell people
18 things that are going to give them false hope.

19 If I -- when I go over lesser included offenses, I'm
20 going to tell them, you know, based on what you've told me or
21 different times, because like I said, I didn't get discovery
22 for a couple of months, a few months. I don't say, oh, this
23 will be a manslaughter case. And maybe we can get 15 years or
24 20 years. I don't do that until I have enough facts to say
25 that.

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

50

1 Q. Okay.

2 A. And that was never the case in this -- this case.

3 Q. Well, let's go over it this way. This may actually kind
4 of help the record a little bit. Based on your review of
5 discovery, everything that you got from the police, and the
6 solicitor's office, and your additional conversations with Ms.
7 Foster, what was your understanding of the factual situation
8 that she was charged with?

9 A. That she and her boyfriend had been living with the
10 victim, Mr. Biggerstaff, I think it is, and on one evening
11 they decided to kill him.

12 Q. And who is they?

13 A. That would be Ms. Foster and her boyfriend, I think, Mr.
14 Hines. And the -- over my conversations with her and
15 discussing things over the months, who did what would vary
16 from time to time.

17 I think I had at one point -- I don't think I have the
18 number written down. I went through it a few times. And I
19 had probably six different versions of what happened.

20 From -- one of the things I had to dispel that it would
21 be self-defense if somebody was touching you in a sexual
22 manner as you're riding down the road and you would pull a gun
23 out and shoot them. I said, I just don't think that's going
24 to be self-defense at that point.

25 She -- it was very clear that the two of them, Mr. Hines

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

51

1 and Ms. Foster, were together and they shot Mr. Biggerstaff.
2 And depending on which version -- what time, which version she
3 was saying, she shot him because he'd touched her. She shot
4 him because Mr. Keenen Hines told her to to he put a gun to
5 her head and said you shoot him or I'm going to shoot you.
6 There were just varying stories over the months.

7 Q. How did Ms. Foster -- how did the police get involved
8 with this murder?

9 A. Well, they found the victim's car floating in the lake
10 and then started backtracking. And as I recall from the
11 incident reports and talking with the officers, they were
12 looking for Mr. Hines and Ms. Foster because they knew that
13 they had been staying with the victim. They happened upon
14 this more of happenstance.

15 As I recall, the deputy saw a car with a paper tag, which
16 is -- they're going to pay more attention to those. He said
17 he could not -- I think it was couldn't read the date on the
18 tag, tried to pull them over, they drove some more distance.
19 And I think his words were I attempted to stop them and then
20 finally they pulled -- they crossed over the interstate,
21 pulled on another road and then pulled over.

22 And he referred to the front passenger, who would be Mr.
23 Hines, making some movements and everything. So he
24 approached. I don't think there was actually anything wrong
25 with the tag, but he just asked the driver for a driver's

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

52

1 license and information on the car. She couldn't produce it.

2 She said, maybe it's in my trunk in my pocketbook.

3 Opened up the trunk, there's three -- two, three, or four

4 pocketbooks. And she looks through them and ---

5 Q. Mr. Hall, when you say she, you are referring to ---

6 A. Talking ---

7 Q. --- Ms. Foster?

8 A. Not Ms. Foster. I apologize. The driver of the car.

9 Q. Okay.

10 A. Ms. Foster was a passenger in the backseat.

11 Q. Okay.

12 A. She's looking through. There's a baggy with the corner

13 cut out of it, which is common for drug use. He said, what's

14 that? She handed it to him.

15 At that point he saw another baggy where she was looking.

16 And what's that? That's meth. Is there anything else in the

17 car? At that point the driver of the car said, he's got a

18 gun, meaning Mr. Hines, who I think they already had out of

19 the car because of the way he was acting.

20 And from there it went into identifying them. And I

21 think they ended up going to jail because they had been

22 looking for them for these charges -- this event where they

23 had a missing person.

24 Q. As far as the vehicle traveling -- they were traveling

25 in, you mentioned that it's your understanding that at that

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

53

1 time the officer couldn't read the dates?

2 A. That's what my -- that's, excuse me, recollection is that
3 he couldn't read the date, so he was going to pull it over to
4 look at it. And once he pulled it over, he just asked for the
5 information to see if it matched, I guess it's pretty much
6 normal procedure, let me have your driver's license and
7 information on the car to make sure it matches up. Most
8 people take those paper tags and get more than one and put
9 different dates on them.

10 Q. Okay. So you understand -- and the officer did an
11 incident report in this case?

12 A. Yes.

13 Q. Okay. And you remember reviewing that incident report?

14 A. Yes.

15 Q. For purposes of the vehicle and the tag, do you recall
16 what the incident report said about the tag on the car?

17 A. It said -- all I remember, it was a paper tag that he
18 couldn't read the date, so he was going to pull it over just
19 to check the date. And once he got the car to stop, Mr. Hines
20 was acting -- doing the -- like he was putting something under
21 the seat or beside the seat, under the seat and was -- made
22 the officer more suspicious.

23 And when the driver didn't have their -- her driver's
24 license, it just proceeded from there, to the trunk, to the
25 finding of the meth, to he's got a gun.

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

54

1 **MR. COX:** Your Honor, may I approach the witness?

2 Q. Mr. Hall, do you recognize that document?

3 A. Yes. That's part of the incident report from the -- I
4 think this stop.

5 Q. Okay. That incident report was admitted at the guilty
6 plea?

7 A. Yes, that's my -- that's my recollection, yes.

8 Q. Okay.

9 **MR. COX:** Your Honor, I understand our -- we had a
10 conversation about what's in front of you currently. I would
11 like to pass up one page of the incident report that is a part
12 of the record.

13 **MS. ROSS:** No objection. I have that.

14 **MR. COX:** Please let the record reflect, this is page 5
15 of 10 that I am passing up to Judge Hayes from the incident
16 report.

17 **THE COURT:** All right.

18 **MR. COX:** Your Honor, do you have a copy?

19 **THE COURT:** I believe Ms. Ross gave a copy to me, yes.

20 **MS. ROSS:** Yes, Your Honor.

21 **THE COURT:** Thank you.

22 **MR. COX:** Okay.

23 Q. Mr. Hall, what happened after Ms. Foster -- was Ms.
24 Foster arrested as a part of that traffic stop?

25 A. Yes. They charged, I think, everybody with possession of

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

55

1 -- unlawful possession of a pistol and possession of the
2 methamphetamine.

3 Q. Okay. What happened after her arrest?

4 A. She was booked into the jail on those charges because
5 they were -- Ms. Foster and Mr. Hines were people who had been
6 around this missing person, Mr. Biggerstaff. An investigator
7 went to talk to her and got her into the interview room.

8 And his report and, I think, conversations with them, he
9 said, I'm here investigating this car we found in the lake,
10 and we're looking for the owner. And she said, I shot him, I
11 shot the mother fucker and kept saying I shot him. And they
12 actually -- he got another deputy, a jail deputy, not a road
13 deputy or investigator, to come in and witness while he went
14 over her rights. And she was crying, she was upset, but she
15 kept saying that she had shot him.

16 Q. This statement by Ms. Foster, you were provided that in
17 discovery?

18 A. Yes.

19 Q. Okay. Did you provide discovery to Ms. Foster?

20 A. I don't recall if I gave her a copy of everything, but I
21 know I had the file and went over it. And I remember even
22 having my computer with a disk. Because when we print out
23 pictures, they're black and white, and they're not very --
24 oftentimes not very good, so I had the laptop. And where they
25 found the body, where the car was, I remember looking at those

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

56

1 with her.

2 But I know after the plea she wanted a copy of discovery
3 at some point. And I mailed everything to her including the
4 disk that the Department of Corrections allows people to have,
5 not have in their cell, but have in a file that they can look
6 at when they need to. I believe I gave her a copy of the
7 discovery, but I looked through, I don't have a note saying
8 that I did.

9 Q. Okay. Is it your common practice to review the entire
10 discovery with your clients without giving them a full hard
11 copy?

12 A. It depends on the client. Some clients don't want it.
13 When you're -- this is not -- I think there's some mental
14 health records, maybe, in here, too. But it's -- it's pretty
15 voluminous. And they limit how much they can have in their
16 cell. And they'll take it and put it in property.

17 Some clients don't want to have it because they don't
18 want to have to keep up with it. And I've had clients that
19 say I can't read it. I really can't read, so I don't need it.
20 But if they ask me for a copy, I give them a copy.

21 Q. During your representation of Ms. Foster, the facts of
22 what you believed to have happened or as you understood it,
23 how did you prepare to represent Ms. Foster?

24 A. Well, the first thing I tried to do was to, as I said, I
25 felt like based on my conversation with her -- with the

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

57

1 jailers that she was covering for a co-defendant. And I said,
2 these are not cases that people go home and have -- on
3 probation and take care of their children because she kept
4 talking about that.

5 I said, that's -- I mean, from the first meeting, that is
6 not something we can even think about at this point. We've
7 got to have the truth. If he's involved in this, right now
8 with what they have, you know, you are the focus because you
9 said, I did it, I did it. If he's involved, we need to know
10 so that we can look at our options.

11 You know, do we go to the solicitor and say I want to
12 cooperate against him because this is really what happened?
13 And she tried to stick with the -- the first meeting on the
14 5th of July, I felt like I had her dissuaded from this somehow
15 she's going to get probation and it's a self-defense case.
16 And when I went back the next day and spoke with her, she said
17 that it was -- she had to shoot him because Keenen put a gun
18 to her head and said shoot him.

19 And then there was -- in August it was a couple of
20 different stories at the same time. And it was well into
21 November, December when she was more consistent on what
22 happened. And then she, I think, finally started to decide
23 Keenen is involved in this. I don't need to take all the
24 blame.

25 But at that point Solicitor Barnette said, no, you know.

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

58

1 She made -- basically made her bed, she's going to lie in it.
2 She did not come clean with us, and we're going with what
3 we've got.

4 Q. Were you aware of any traumatic events in Ms. Foster's
5 personal history?

6 A. Yes, I was. I was aware from the first meeting with her
7 that she'd been involved with mental health for a while, that
8 she'd been molested. I think her mother told me that next
9 day, the July 6th, that she'd been molested. And I went back
10 on the 6th and she confirmed that. I know she had seizure
11 issues.

12 And it sounded like the whole issue with her father
13 somehow got mishandled, that the case was not prosecuted. I
14 don't know why. I don't know what the issues were. I don't
15 know if she was doing the same with them as she was doing with
16 me and changing the stories around or if -- what happened.

17 But she's like a lot of clients I see that are almost
18 just, you know, by the time they hit adolescence they're
19 thrown away by society. And even though some people, I think
20 her aunt tried to help, there's almost, you know, nothing that
21 can be done. They're on the wrong path, and they stay on it.

22 Q. How did you use this information of her personal history
23 when you were developing a defense, when you were handling her
24 case?

25 A. The first thing we did, we had an order for competency to

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

59

1 stand trial, which means that they're going to determine if
2 she understands the system and all that, but they also give a
3 diagnosis. And if the person is not competent to stand trial,
4 then they're not going to stand trial. They'll try to
5 rehabilitate the client, but if that's not possible, then that
6 person's not going to stand trial. So that's the first step.

7 They found her competent. They documented her history,
8 both the abuse, her medical history, and drug abuse. And it
9 pretty much came down to adjustment disorder, depressed mood.
10 And then everything else was pretty much alcohol and drug
11 abuse.

12 Q. So you -- not only were you aware of this traumatic
13 history in Ms. Foster's life, but so were the medical
14 professionals that evaluated her?

15 A. Yes. We got medical records and mental health records
16 and, I think, some medical records that they get and go down.
17 They have the ability sometimes to get additional records that
18 we don't even know exist. And oftentimes those records have
19 medical records in them, too.

20 Q. What was the result of her evaluation?

21 A. She was competent to stand trial. They did have to do a
22 second evaluation. I was there for the first one in January
23 of 2017. I think they did another one on February. And I
24 think I was in a trial or something. I couldn't -- I could
25 not be there, but I usually try to be there.

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

60

1 Q. How did this -- how did the results of the evaluation
2 affect your strategy in developing Ms. Foster's case?

3 A. Well, first of all, in a case like this, and if your
4 client's not competent, that's it unless the solicitor tries
5 to prove somehow they are competent that occurs sometimes in
6 this circuit.

7 But it gave me a different understanding of her diagnosis
8 because she'd always said I'm bipolar, I'm bipolar. I think
9 her aunt said she was bipolar, but they did not find that.
10 But they did find that she had the adjustment disorder and
11 depressed mood probably exasperated by alcohol and drug use.

12 And, you know, I'll deal with the person who, at this
13 point, is in jail, away from the drugs and everything for a
14 long time. And she did -- it was hard to get her to
15 understand things. And from one meeting to the next,
16 sometimes the next day she -- I'd have to go back over things
17 with her to make sure she understood them.

18 But she in November began writing things down. And I
19 think that helped her remember things. She wasn't writing
20 down what I told her, though. She was writing down what
21 happened in this -- in these events when Mr. Biggerstaff was
22 killed.

23 Q. After the evaluation did you -- did you find -- did you
24 believe there was any way to challenge the finding of her
25 competency?

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

61

1 A. No. I did not think there was any basis to try to
2 challenge. I thought they'd done a thorough job.

3 Q. When did you get an offer from the solicitor's office in
4 this case?

5 A. The offer -- the only offer in this case was you go to
6 trial or you can plea and beg the judge.

7 Q. Okay. There was not a negotiated sentence?

8 A. No.

9 Q. Okay. Did you explain that to Ms. Foster?

10 A. Yes.

11 Q. Did she understand that those were her options?

12 A. Yes.

13 Q. What was her response to her options at trial? Or in
14 this case?

15 A. Well, I note she said that -- said if you go to trial
16 you'll get hung or hanged. I think I would have said hanged.
17 But I don't know if I used any of those words, but I said, if
18 we could take this to trial, you're more likely to get life
19 than if we plea. If we plea, the best you would get is 30.
20 And that's day-for-day. There's no probation, none of that.
21 Any sentence you get for a murder would be day-for-day.

22 She -- and I talked about it. She wanted, like everybody
23 else, who -- which is the best judge for this? Who do we get
24 that's best? We had Judge Verdin coming in. And I don't know
25 if she's absolutely the best in this State, but what we were

1 looking at on the docket, she was our best option.

2 And she made the decision to plea in front of Judge
3 Verdin. And, quite frankly, Judge Verdin gave her a bit more
4 than I thought she would have given her given the history
5 contained in the forensic evaluation report and what we
6 presented at court, but still it could have been a lot worse.

7 Q. So Judge Verdin had a copy of the ---

8 A. Yeah. We typically ---

9 Q. --- forensic evaluation?

10 A. Anytime we have a mental health evaluation, we make a
11 copy and give it to the court.

12 Q. So Judge Verdin took into consideration her prior
13 history?

14 A. Yes. I think she referred to that in the sentencing that
15 she -- about her circumstances and condition.

16 Q. Going to the guilty plea itself, during the guilty plea
17 did you have any concerns about Ms. Foster's ability to
18 understand what was going on?

19 A. No, I did not.

20 Q. Did you believe that there was any -- that you would be
21 able to challenge the statement of facts from the solicitor?

22 A. No. I didn't see anything that was -- needed to be
23 challenged. I don't recall anything that needed to be
24 challenged. Solicitor Barnette likes to put in a lot.

25 Q. Okay.

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

63

1 A. But I didn't see anything that was really objectionable.

2 I think -- I noted he said an expired tag when it was actually
3 just a paper tag, but I don't know that that ...

4 Q. Would you have been able to object to that mistake in the
5 statement of the facts?

6 A. I guess I could have. I don't know that it would have
7 made any difference. I don't think it would have.

8 Q. Okay. Mr. Hall, I just have a few more questions. Let
9 me make sure I've covered the allegations.

10 (Pause)

11 Q. Did Ms. Foster ask you to file an appeal in her guilty
12 plea?

13 A. Yes. And we filed an appeal.

14 Q. And you did file a notice of appeal?

15 A. Yes. We filed it on May -- I heard her say May 4th.
16 That was the day we dated the appeal.

17 Q. Okay. Who handled her appeal?

18 A. Appellate Defense handles it from there.

19 Q. So Appellate Defense would have put forth any issues in
20 ...

21 A. The only thing I did after filing the appeal after it
22 gets -- and this could be a week after, it could be many weeks
23 after, they send a letter saying we have -- basically we have
24 an appeal from a plea. If you know of anything -- any issues
25 preserved on the record, let us know. If not, let your client

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

64

1 know that they have ten days from the date of your letter to
2 let us know about that. And we send all that to the client,
3 in the Department of Corrections in this case. And that was
4 my last contact with it.

5 Q. Did Ms. Foster provide you with any witnesses in this
6 case?

7 A. Not that I recall. She was -- I did talk to family
8 members. I think we -- was another or her aunt tried to find
9 some people. When I -- I think that was when we were getting
10 medical records. But I don't recall or have any notes of
11 witnesses that were going to be able to help us if we went to
12 trial.

13 Q. Your understanding of the case, what witnesses would have
14 -- what witnesses would have been at trial, I guess, if you
15 understand the question? I may need to rephrase ---

16 A. The only -- the only people there for the events were the
17 victims, Ms. Foster, and Mr. Hines. It was -- while other
18 people knew they were together at times and that Ms. Foster
19 and Mr. Hines were living with Mr. Biggerstaff, I don't think
20 there was a whole lot of interaction with other people.

21 I think there was -- I know she has a -- has children by
22 another person that we spoke about. And we talked -- and I
23 talked with the grandmother, the paternal grandmother of those
24 children about some things. And Mr. Hines had a cousin, or a
25 brother, or something that may have been able to add

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

65

1 something. I don't know that we ever were able to find him to
2 talk to him.

3 Q. Mr. Hall, did you ever advise Ms. Foster that she would
4 be hung in the courtroom if she went to trial?

5 A. No. I think I alluded to that before. I would have
6 said, I guess, something similar. If you go to trial and get
7 convicted, you're going to get life. I don't know that I
8 would have used the word hung.

9 I would have probably used -- if I was going to use that
10 term, they will hang you or they would -- you will be hanged.
11 But I just -- I don't think I used those terms. I mean, ---

12 Q. You don't ---

13 A. --- getting life ...

14 Q. You don't recall ---

15 A. No. I would have said you'd get life. And that's day-
16 for-day, life.

17 Q. I think the last issue we need to talk about, Mr. Hall,
18 is there's been some testimony about the possibility of
19 challenging her statement to the police. In your experience
20 and your view of the case file was there any challenge to her
21 statement to police, her confession?

22 A. Had we gone to trial, we definitely would have attempted
23 that. My opinion of the success was that it would not be
24 successful. The way the officer wrote it up, the way the
25 officer spoke of it, you know, I'm here to talk to you about

ROBERT HALL - DIRECT EXAMINATION BY MR. COX

66

1 Mr. -- we've got Mr. Biggerstaff, we're looking for Mr.
2 Biggerstaff, we want to talk to you, and she said, I shot him.

3 And the officer, according to his report and the way he
4 spoke about it, he did probably what he needed to do at that
5 point, he got somebody else in there to make sure they go
6 through the witness, the reading of the rights, and the
7 initial and signing everything. And then she just kept saying
8 she shot him.

9 Q. Mr. Hall, did you advise Ms. Foster to plead guilty to
10 these charges?

11 A. I told her that if she -- in my opinion, with everything
12 I have, and everything I understand, everything we've gone
13 over, she would get a better sentence at a plea than she would
14 after a trial and a conviction. And said I thought this case
15 would have, after a trial, more likely than not she would have
16 been convicted based on what they had. And there's a really
17 good chance at that point after going through a trial and all
18 the family goes through with that, victim's family, that she
19 would have a really good chance of getting a life sentence and
20 never leaving -- no chance of ever leaving prison.

21 Q. Did the fact that she was facing a life sentence play a
22 part in your discussions with her ---

23 A. Yes.

24 Q. --- pleading guilty? Who made the final decision to
25 enter the guilty plea?

ROBERT HALL - CROSS-EXAMINATION BY MS. ROSS

67

1 A. She made the decision.

2 MR. COX: Your Honor, that's all the questions I have for
3 Mr. Hall.

4 MS. ROSS: Thank you.

5 **Cross-examination by Ms. Ross:**

6 Q. All right. Mr. Hall, I just want to clarify this. I am
7 showing you -- this is part of the Court's record as well.
8 I'm going to show you a deputy report for incident 16060095.
9 What is -- do you know what that -- do you recognize that from
10 the file?

11 A. Yes.

12 Q. Okay. And what is it?

13 A. That is the traffic stop where she was taken into custody
14 along with Ms. Nesbitt and Mr. Hines.

15 Q. Okay. And that -- what is the date of that traffic stop?

16 A. That is June 7th.

17 Q. And, I guess, you've already discussed it a little bit,
18 but if I could approach. What was the expiration date of that
19 paper tag?

20 A. June 21st.

21 Q. So, in fact, the paper tag was not expired when ---

22 A. That's correct.

23 Q. And because normally in your experience when an officer
24 pulls someone over they approach from behind the car, correct?

25 A. That's correct.

ROBERT HALL - CROSS-EXAMINATION BY MS. ROSS

68

1 Q. And at that point he would get an opportunity to walk
2 closer to the paper tag and get a good look at it and
3 determine it's not expired?

4 A. That's correct.

5 Q. And at that point the purpose of his stop would in effect
6 be over, is that correct?

7 A. If there's nothing else, yes.

8 Q. All right. And at that point in his incident report he
9 didn't see the gun or anything, drugs, until later?

10 A. The drugs and everything later, I think Mr. Hines was
11 moving around under -- like under the -- like he was putting
12 something under the seat or something like that or beside the
13 seat, which is -- raises a suspicion to the officers of what's
14 going on.

15 Q. Okay. And that was the pull that she was arrested for
16 and then immediately questioned thereafter where she confessed
17 I shot him?

18 A. Yeah. Shortly after that, yeah, she was at the jail and
19 on the 2nd. -- June 2nd.

20 Q. Okay. Now, when the -- when you did the appeal -- I
21 forgot the Rule number, but when you appeal a plea you have to
22 give a basis for that, correct? In your ---

23 A. If I can. If I can't, I have to send my client a letter
24 saying you have ten days from the date of my letter. And we
25 send a copy of that letter to the Court of Appeals. And we

ROBERT HALL - CROSS-EXAMINATION BY MS. ROSS

69

1 send a copy -- the letter we sent to the client also has a
2 copy of the letter from the Court of Appeals.

3 Q. Now in that letter, this is a small point, but you did
4 not mention that on page 12, line 10 of the transcript Mr. --
5 the solicitor in the case said that the pull was based on an
6 expired ---

7 A. Expired tag.

8 Q. --- tag?

9 A. No, I did not.

10 Q. Okay. And so when the judge was given a factual basis
11 for the plea, the -- it was based on not completely perfect
12 information given by the solicitor?

13 A. I guess you could say that, but I don't think that was an
14 issue. And had we raised that issue in a trial, I don't think
15 they would have found that to be a bad stop given the other
16 actions of Mr. Hines.

17 Once you pull somebody over with a paper tag, if they --
18 it's pretty common, if he's going to say, okay, it's not
19 expired, could I just see the paperwork to make sure
20 everything matches up? But ---

21 Q. Well, was that just to -- was that preserved for review
22 by Appellate Court ---

23 A. No, it was not.

24 Q. Okay. And because it was a plea, ---

25 A. Correct.

ROBERT HALL - CROSS-EXAMINATION BY MS. ROSS

70

1 Q. --- it can't be preserved, that argument. And now -- but
2 my question is when the judge was given the factual basis of
3 the plea, she was told a statement was given after a pull for
4 an expired tag, correct?

5 A. Something along those lines. I don't -- I've not looked
6 at that part of the transcript for a while, but ---

7 Q. Okay.

8 A. It's not uncommon for ---

9 Q. On page 12, you want to see it?

10 A. I -- yeah, I don't have a copy.

11 Q. Okay. I think it was around line 10.

12 A. He said expired tag -- date on the tag. And I took that
13 as -- because I guess I was thinking you couldn't read the tag
14 when he pulled him over, and that's why he pulled him over.

15 But ---

16 Q. I understand.

17 A. Yeah.

18 Q. But the fact was that it was not an expired date on the
19 tag?

20 A. No, it was not.

21 Q. And so when the judge made a determination whether there
22 was a factual basis for the plea, she was given some false
23 information?

24 A. Yeah, that's -- that was not true.

25 Q. Okay. Now I just want to talk a little bit about the --

ROBERT HALL - CROSS-EXAMINATION BY MS. ROSS

71

1 I guess what we heard Brittany testify to regarding her
2 history. She'd written you letters about that and that was in
3 her file, correct?

4 A. Yes.

5 Q. And she had also, I think you said on direct, given you
6 some information eventually of a set of events where the --
7 Mr. Biggerstaff had touched her?

8 A. Yes.

9 Q. And hadn't she given you some information about how Mr.
10 Hayes [sic] was telling her Mr. Biggerstaff had been raping
11 her ---

12 A. Mr. Hines? Yes. At different times. It was -- I asked
13 her at one of the visits, do you think Keenen is getting you
14 high to pass out and let him have sex with you? And she said,
15 no. And the next time I talked to her she said, yes, he is
16 doing that.

17 Q. Okay.

18 A. I think -- I think he's doing that.

19 Q. And she ---

20 A. But her initial -- always her initial reaction was to
21 protect him.

22 Q. Right. And she wrote you, too, about the scenario I
23 think you testified to on direct that it was him, being Mr.
24 Biggerstaff, or you, Mr. Hines telling her that ---

25 A. Yeah.

ROBERT HALL - CROSS-EXAMINATION BY MS. ROSS

72

1 Q. --- and threatening her? Now did you ever approach the
2 solicitor about arguments for manslaughter in this case sort
3 of like ---

4 A. Yes. I talked to the solicitor about any lesser,
5 manslaughter, that they would do, that she was willing to tell
6 the truth about Mr. Hines' involvement. And the reply was --
7 basically it's way too late. You should have done that a long
8 time ago.

9 I don't know that even if when I went and talked to her
10 in July, if she had told me the truth, and I'd gone to the
11 State, I don't know that they would have backed off of what
12 they had. I think the only way they would have is if Mr.
13 Hines had started bucking them. But that's just based on not
14 quite 30 years of knowing Mr. Barnette.

15 Q. And so based on the solicitor not being willing to
16 negotiate and the choice being trial or plea, it was your
17 advice to plea?

18 A. Yes.

19 Q. And prior to asking for a plea did you explain to her
20 that she may have some arguments for manslaughter and
21 suppression issues that she could only argue if she went to
22 trial?

23 A. When she made her final decision, I don't know if we had
24 that discussion, but I know we talked about what -- from the
25 very start the lesser included offenses. And I know early on

ROBERT HALL - CROSS-EXAMINATION BY MS. ROSS

73

1 it was very hard to get her off the idea of self-defense. But
2 we did discuss those lesser included and that a jury and a
3 trial could find those, but I didn't think the probability of
4 that happening were very great.

5 Q. Okay. And so do you recall specifically discussing
6 manslaughter with her, whether that could be a potential?

7 A. No. Like I said, I think on the first -- my first
8 meeting with her we talked about those issues.

9 Q. So you did talk about lesser included, ---

10 A. Yes.

11 Q. --- those options?

12 A. I have -- I don't remember seeing the note where I had
13 manslaughter, 30, and all that -- I know that that's generally
14 what I do. Anybody that's charged with murder I'm going to go
15 over those things with them and try to explain the best I can,
16 particularly when, you know, when you don't have many facts.
17 It's kind of hard to say how a particular case may fit into
18 those, but we did -- I know we did talk about those things at
19 different times.

20 Q. All right. And that's the lesser included. How about
21 just the suppression issues? Do you recall specifically
22 discussing that she would waive the right to having evidence
23 -- her confessions suppressed or arguing that on appeal if she
24 tried -- if she pled to the case rather than going to trial?

25 A. Well, first of all, I didn't think we had a good

ROBERT HALL - REDIRECT EXAMINATION BY MR. COX

74

1 suppression issue. But I did say you're -- and I tell all my
2 clients you're going to be giving up any rights to challenge
3 any of the evidence, statements, or anything. And I think the
4 judge -- every judge goes through that very well in this
5 State.

6 Q. Okay.

7 MS. ROSS: I have no further questions. Well, I beg the
8 Court's indulgence one second.

9 THE COURT: Um-hum (affirmative).

10 (Pause)

11 MS. ROSS: Okay. I've got no further questions.

12 THE COURT: Any redirect limited to what she went into?

13 MR. COX: Very briefly, Your Honor.

14 THE COURT: Um-hum (affirmative).

15 **Redirect Examination by Mr. Cox:**

16 Q. Mr. Hall, you -- as part of your discovery to prep for
17 trial, you did review the discovery file, correct?

18 A. Yes.

19 Q. In that discovery file there was the incident report
20 prepared by the deputy that pulled the car over?

21 A. Yes.

22 Q. Okay. As you -- as your understanding -- well, let me do
23 it like this. In the incident report what was the reasoning
24 for pulling over the vehicle?

25 A. He couldn't see the date on the tag. And once he pulled

ROBERT HALL - REDIRECT EXAMINATION BY MR. COX

75

1 the vehicle over, the behavior of Mr. Hines of moving like
2 he's putting something in the car, heightens his suspicion.

3 Q. When you were preparing for trial -- I'm sorry. There
4 was some mention about whether you spoke to Ms. Foster about
5 possible defenses in her case. Did you explain to Ms. Foster
6 that any defense that she could raise at trial would be waived
7 by pleading guilty?

8 A. Absolutely.

9 Q. That was covered in her guilty plea?

10 A. I believe so, as I recall, yes.

11 Q. Based on your experience as a criminal defense attorney,
12 as a former prosecutor, do you believe that there was -- there
13 was reasonable suspicion to pull that vehicle over that night?
14 Or were there -- at trial -- I'll withdraw that question.

15 At trial do you believe that the officers could have
16 articulated facts that would have given rise or reasonable
17 suspicion to pull the vehicle over?

18 A. Yes, I do.

19 Q. And so any attempt at you to -- it was your belief that
20 any attempt to challenge the -- or to attempt to suppress her
21 statement based on the traffic stop, would that have been
22 successful?

23 A. I did not think so.

24 **MR. COX:** Thank you, Your Honor. No further questions.

25 **MS. ROSS:** Just briefly.

ROBERT HALL - RECROSS-EXAMINATION BY MS. ROSS

76

1 Recross-examination by Ms. Ross:

2 Q. And again, this incident report is all in the Court's
3 information. But I would refer you to page 3 of this incident
4 report where it says the narrative.

5 A. Yes, ma'am.

6 Q. Now in that there's no mention of the passenger shifting
7 around or putting anything under his seat?

8 A. It says the front passenger, Hines, appeared nervous and
9 continued to reach beside and under his seat.

10 Q. Okay. And that's after he's already gotten the license,
11 and approached, and ---

12 A. Well, he said he got to the -- walked up to the vehicle
13 and asked the driver to exit -- got out and she couldn't
14 produce a driver's license. He asked her to get out. And
15 like I said, Hines was acting suspicious because I think she
16 was going to her car -- her trunk to get her pocketbook.

17 Q. So by the time he noticed that, the purpose of his stop,
18 which was an unclear paper tag, was complete?

19 A. I think if she had had her ---

20 Q. Just yes or no.

21 A. --- driver's license -- I'm speculating. If she'd had
22 her driver's license and information, he would have said thank
23 you and gone on.

24 Q. Yet he -- by that point he knew it was not an expired
25 tag, so the purpose of his stop was complete, correct?

ROBERT HALL - REDIRECT EXAMINATION BY MR. COX

77

1 A. He doesn't state that he could see it, but at that -- but
2 in the full report he had an expiration date that was still
3 two weeks -- two, three weeks away, yes.

4 Q. Thank you.

5 MS. ROSS: No further questions.

6 MR. COX: Your Honor, just ---

7 THE COURT: Okay.

8 MR. COX: --- very briefly on recross [sic].

9 **Redirect Examination by Mr. Cox:**

10 Q. Mr. Hall, when you just reviewed the incident report did
11 you read the top paragraph?

12 A. No, I did not.

13 Q. Okay. Would it help refresh your memory of the incident
14 report if you looked at it?

15 MR. COX: Your Honor, ---

16 A. Yes.

17 MR. COX: --- may I approach?

18 THE COURT: Yes, sir.

19 Q. If you would, read ---

20 A. Yeah. While out on routine patrol in Spartanburg County
21 I observed a black in color Mirage being driven by a white
22 female on New Cut Road towards business 85. I could not see
23 the expiration date on the tag.

24 I attempted to conduct a traffic stop on New Cut Road and
25 the vehicle continued traveling on New Cut Road over 85.

ROBERT HALL - RECROSS-EXAMINATION BY MS. ROSS

78

1 Vehicle turned onto Broadcast Drive and came to a stop.

2 Q. Okay. So the evidence in this case, the evidence that
3 would have been presented at trial from this incident report
4 would have been that the officer could not see the expiration
5 tag, correct?

6 A. That's correct.

7 Q. And an inability to see information on the tag, would
8 that rise to reasonable suspicion to attempt to make a traffic
9 stop?

10 A. Yes.

11 Q. And then the car in this case continued going, according
12 to the officer, continued going after he attempted the stop?

13 A. That's correct.

14 Q. So the alleged attempted flee would have also played a
15 part pulling the vehicle over?

16 A. Yes.

17 **MR. COX:** Your Honor, I have no further questions.

18 **MS. ROSS:** Judge, just one thing.

19 **THE COURT:** Um-hum (affirmative).

20 **Recross-examination by Ms. Ross:**

21 Q. Did that incident report mention failure to stop for a
22 blue light in any manner?

23 A. No, it did not.

24 Q. And none of this -- your opinions on what you think would
25 be the outcome of a suppression hearing, we can't know how the

ROBERT HALL - RECROSS-EXAMINATION BY MS. ROSS

79

1 court would review that because it wasn't preserved for review
2 because it was a plea, correct?

3 A. That's correct. We would have had to gone to trial to do
4 that.

5 Q. Thank you.

6 **MR. COX:** Your Honor, I just ask that Mr. Hall be
7 released from his subpoena.

8 **THE COURT:** Sir, you may step down. Any objection to the
9 witness being excused?

10 **MS. ROSS:** No, Your Honor.

11 **THE COURT:** Sir, you may be excused. Thank you for
12 coming.

13 **MR. COX:** Your Honor, the State has no further witnesses.

14 **THE COURT:** Anything in reply?

15 **MS. ROSS:** No, Your Honor.

16 **THE COURT:** Okay. All right. I will let you know. Will
17 the lawyers approach?

18 (Whereupon a bench conference was held off the record)

19 (Whereupon the bench conference was ended)

20 **THE COURT:** All right. We'll -- ma'am, good luck to you.
21 Just speak with your lawyer. I'm going to take it under
22 advisement. All right. Thank you very much.

23 (Hearing Ended at 12:26 pm)

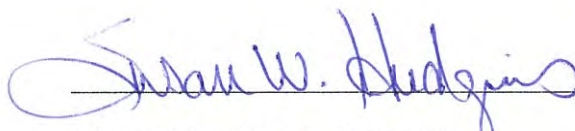
24 (End of Requested Transcript of Record)

Certificate of Reporter

I, The undersigned, Susan W. Hudgins, Official Court Reporter for the Seventh 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 Spartanburg County, South Carolina, on the 8th day of November 2018.

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

March 17, 2020


Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Brittany C. Foster, #372413
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2018-CP-42-0711

ORDER

This matter comes before the Court by way of an application for post-conviction relief filed by Brittany C. Foster ("Applicant") on February 27, 2018. An evidentiary hearing was held on November 8, 2018, in the Spartanburg County Courthouse. Applicant was present with her appointed attorney, Ms. Susannah Ross. Assistant Attorney General Jordan A. Cox was present on behalf of Respondent.

On April 27, 2017, Applicant pleaded guilty before the Honorable Letitia H. Verdin in Spartanburg County, South Carolina. As a part of this plea proceeding, fifteen exhibits were admitted as evidence. During the November 8, 2018, post-conviction relief hearing, the exhibits were referenced and are necessary for the Court to render a decision on this matter. The Court must review the referenced exhibits before making a factual finding in the current post-conviction relief action.

The specific evidence referenced is currently on file with the Spartanburg County Clerk of Court's office. Therefore, the Spartanburg County Clerk of Court's office is to provide a copy of each exhibit admitted during the guilty plea to the Court.

2018 NOV -9 PM 4:14
M. HOPE BLACKLEY
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA
Page 1 of 2

IT IS THEREFORE ORDERED:

1. The Spartanburg County Clerk of Court will make a copy of each exhibit admitted during the April 27, 2017 guilty plea proceeding for The State vs. Brittany Cassandra Foster, 2016-GS-424429; -4429A; -4423; -4427.
2. A copy of each exhibit will be provided to the judicial chambers of the Honorable J. Mark Hayes, II, located in the Spartanburg County Courthouse.

AND IT IS SO ORDERED this 9th day of November, 2018.



J. MARK HAYES, II.
Presiding Judge
Seventh Judicial Circuit

11/9, South Carolina

CLERK OF COURT
SPARTANBURG COUNTY
2018 NOV -9 PM 4:14
M. HOPE BLACKEY

Solicitors Office

Deputy Report for Incident 16051580

16051583
16051294

Nature: Homicide
Location: 19

Address: [REDACTED] SUTTLES RD
INMAN SC 29369

Offense Codes: HOMI

Received By:	How Received:	Agency: SCSO
Responding Officers: Peters S		
Responsible Officer: Peters S	Disposition: CAA 06/08/16	
When Reported: 06:47:00 05/30/16	Occurred Between: 19:00:00 05/29/16 and 06:47:00 05/30/16	

Assigned To: Clark T	Detail: VIO	Date Assigned: 05/31/16
Status: ARR	Status Date: 06/08/16	Due Date: **/**/**

Complainant: 70241

Last: LEDBETTER	First: RICHARD	Mid: JASON
DOB: [REDACTED]	Dr Lic: [REDACTED]	Address: [REDACTED] EDWARDS RD
Race: W Sex: M	Phone: [REDACTED]	City: INMAN, SC 29349

Offense Codes

Reported: **Observed:**
Additional Offense: HOMI Homicide

Circumstances

LT16 LOC-Lake or Waterway
VTR23 Vict Relationship Unknown: RU
WNONE W-No Weapon Used
BM99 Unknown Bias

Responding Officers: **Unit :**
Peters S

Responsible Officer: Peters S

Received By:
How Received:
When Reported: 06:47:00 05/30/16
Judicial Status:
Misc Entry:

Agency: SCSO
Last Radio Log: **.*.*.* **/**/**
Clearance: CI Cleared by Investigator
Disposition: CAA **Date:** 06/08/16
Occurred between: 19:00:00 05/29/16
and: 06:47:00 05/30/16

Modus Operandi: Scene	Description : Scene/Structure Type	Method : Passenger Car

Involvements

Date	Type	Description	
05/31/16	Law Incident	Missing Person 16051583	Related Incident
06/02/16	Name	HINES, KEENEN LA BREECE	Suspect
06/02/16	Name	FOSTER, BRITTANY CASSANDRA	Suspect
05/31/16	Name	STAGGS, DAVID EUGENE	Witness
05/30/16	Name	BIGGERSTAFF, ANTHONY NEIL	Victim
05/30/16	Name	LEDBETTER, RICHARD JASON	Complainant
05/30/16	Name	AYERS, JANET	Owner
05/30/16	Vehicle	SIL 2015 NISS SEN SC	Damaged
08/14/16	Property	SIL DVD + R 0	Evidence
08/12/16	Property	SIL DVD + R 0	Evidence
06/10/16	Property	DVD + R 0	Exxon Evidence
06/07/16	Property	Cell Phone Item #29 0	Evidence Item #29
06/07/16	Property	Cell Phone Item #30 0	Evidence Item #30
06/07/16	Property	Cell Phone Item #31 0	Evidence Item #31
06/07/16	Property	Cell Phone Item #32 0	Evidence Item #32
06/07/16	Property	Duffel Bag Item #33 0	Evidence Item #33
06/07/16	Property	Pants Item #34 0	Evidence Item #34
06/07/16	Property	Shorts Item #35 0	Evidence Item #35
06/07/16	Property	T SHIRT Item #36 0	Evidence Item #36
06/07/16	Property	TENNIS SHOES Item #37 0	Evidence Item #37
06/07/16	Property	Shoes ITEM 38 0	EVIDENCE
06/07/16	Property	Socks ITEM 39 0	EVIDENCE
06/07/16	Property	Shirt ITEM 40 0	EVIDENCE
06/07/16	Property	Shorts ITEM 41 0	EVIDENCE
06/07/16	Property	Underwear ITEM 42 0	EVIDENCE
06/07/16	Property	Blood in Vial ITEM 43 0	EVIDENCE
06/07/16	Property	Fired Bullet ITEM 44 0	EVIDENCE
06/03/16	Property	CD 0	Evidence
06/03/16	Property	DVD + R 0	Suspect Interview
06/03/16	Property	DVD + R 0	Suspect Interview
06/03/16	Property	SIL DVD + R 0	Evidence
06/02/16	Property	SIL DVD +R Verbatim 0	Evidence
06/01/16	Property	Cigarette Butt ITEM 6 0	Evidence
06/01/16	Property	Sunglasses ITEM 7 0	Evidence
06/01/16	Property	Cell Phone ITEM 8 0	Evidence
06/01/16	Property	Fired Cart.Case ITEM 9 0	Evidence

06/01/16	Property	Fired Cart.Case ITEM 10 0	Evidence
06/01/16	Property	Blood Swab ITEM 11 0	Evidence
06/01/16	Property	Unfired Cart ITEM 12 0	Evidence
06/01/16	Property	Fired Bullet ITEM 13 0	Evidence
06/01/16	Property	Cigarette Filte ITEM 14 0	Evidence
06/01/16	Property	Placard ITEM 15 0	Evidence
06/01/16	Property	Money ITEM 16 0	Evidence
05/31/16	Property	SWAB TOUCH DNA Item #25 0	Evidence Item #25
05/31/16	Property	SWAB TOUCH DNA Item #26 0	Evidence Item #26
05/31/16	Property	SWAB TOUCH DNA Item #27 0	Evidence Item #27
05/31/16	Property	SWAB TOUCH DNA Item #28 0	Evidence Item #28
05/30/16	Property	NOTE BOOK Item #1 0	Evidence Item #1
05/30/16	Property	NOTE BOOK Item #2 0	Evidence Item #2
05/30/16	Property	Beer Can Item #3 Bud lig 0	Evidence Item #3
05/30/16	Property	Pen Item #4 Bic 0	Evidence Item #4
05/30/16	Property	Blood Swabs Item #5 0	Evidence Item #5
05/30/16	Property	Paper Documents 0	Evidence Item #17
05/30/16	Property	NOTE BOOK Item #18 0	Evidence Item #18
05/30/16	Property	Receipt Item #19 0	Evidence Item #19
05/30/16	Property	Crack Pipe Item #20 0	Evidence Item #20
05/30/16	Property	Beer Bottle Item #21 Miller 0	Evidence Item #21
05/30/16	Property	Crack Pipe Item #22 0	Evidence Item #22
05/30/16	Property	Beer Bottle Item #23 0	Evidence Item #23
05/30/16	Property	Cell Phone Item #24 LG 0	Evidence Item #24
08/15/16	Evidence	DVD ON KEENEN HINES/CELL PHONE	Evidence Incident
08/15/16	Evidence	DVD/VICTIMS CELL RECORDS	Evidence Incident
08/15/16	Evidence	DVD CONVERSATION WITH KEENEN	Evidence Incident
08/12/16	Evidence	DVD/FOOD LION COLUMBUS NC	Evidence Incident
08/01/16	Evidence	DVD FROM EXXON VIDEO	Evidence Incident
08/01/16	Evidence	DVD INTERVEIW WITH KEENAN	Evidence Incident
08/01/16	Evidence	DVD INTERVEIW WITH BRITTANY	Evidence Incident
06/16/16	Evidence	CARD C/BLOOD SAMPLE	Evidence Incident
06/07/16	Evidence	black cellphone front pass sea	Evidence Incident
06/07/16	Evidence	white samsung phone	Evidence Incident
06/07/16	Evidence	black/grey lg cellphone	Evidence Incident
06/07/16	Evidence	lg black flip phone	Evidence Incident
06/07/16	Evidence	blue and yellow duffle bag	Evidence Incident
06/07/16	Evidence	black pants w/white writing	Evidence Incident
06/07/16	Evidence	red shorts xl	Evidence Incident
06/07/16	Evidence	med red tshirt tee tree	Evidence Incident
06/07/16	Evidence	red van tennis shoes 11	Evidence Incident
06/07/16	Evidence	notebook	Evidence Incident

06/07/16	Evidence	notebook	Evidence Incident
06/07/16	Evidence	bud light can	Evidence Incident
06/07/16	Evidence	bic pen	Evidence Incident
06/07/16	Evidence	swab from notebook 2	Evidence Incident
06/07/16	Evidence	cigarette butt	Evidence Incident
06/07/16	Evidence	sunglasses	Evidence Incident
06/07/16	Evidence	gray samsung smartphone	Evidence Incident
06/07/16	Evidence	380 casing	Evidence Incident
06/07/16	Evidence	380 casing	Evidence Incident
06/07/16	Evidence	swab from rear seat	Evidence Incident
06/07/16	Evidence	380 bullet	Evidence Incident
06/07/16	Evidence	fired bullet	Evidence Incident
06/07/16	Evidence	cigarette filter	Evidence Incident
06/07/16	Evidence	handicap placard	Evidence Incident
06/07/16	Evidence	\$13.00 dollars	Evidence Incident
06/07/16	Evidence	paper document	Evidence Incident
06/07/16	Evidence	notebook from bedroom closet	Evidence Incident
06/07/16	Evidence	foodlion receipt	Evidence Incident
06/07/16	Evidence	crack pipe	Evidence Incident
06/07/16	Evidence	miller lite beer bottle	Evidence Incident
06/07/16	Evidence	crack pipe living room	Evidence Incident
06/07/16	Evidence	miller lite bottle w/insul	Evidence Incident
06/07/16	Evidence	lg cellphone	Evidence Incident
06/07/16	Evidence	swab from #20	Evidence Incident
06/07/16	Evidence	swab from #21	Evidence Incident
06/07/16	Evidence	swab from #22	Evidence Incident
06/07/16	Evidence	swab from #23	Evidence Incident
06/07/16	Evidence	brown hush puppies 9 1/2	Evidence Incident
06/07/16	Evidence	socks	Evidence Incident
06/07/16	Evidence	brown faded glory shirt 3xl	Evidence Incident
06/07/16	Evidence	red/blue white plaid shorts	Evidence Incident
06/07/16	Evidence	burgundy underwear	Evidence Incident
06/07/16	Evidence	vial blood from victim	Evidence Incident
06/07/16	Evidence	fired bullet	Evidence Incident
06/06/16	Evidence	Crime Scene Photos	Evidence Incident
06/06/16	Evidence	Crime Scene Photos	Evidence Incident
06/03/16	Evidence	CRIME SCENE PHOTOS	Evidence Incident
06/03/16	Evidence	380 ruger lcp	Evidence Incident
06/03/16	Evidence	cd	Evidence Incident
06/03/16	Evidence	CRIME SCENE PHOTOS	Evidence Incident
06/02/16	Evidence	Crime Scene Photos	Evidence Incident
05/31/16	Evidence	Crime Scene Photos	Evidence Incident

05/30/16	Evidence	Crime Scene Photos	Evidence Incident
05/30/16	Evidence	Crime Scene Photos	Evidence Incident
05/30/16	Evidence	CRIME SCENE PHOTOS	Evidence Incident
05/30/16	Evidence	Crime Scene Photos	Evidence Incident
05/31/16		[No description]	Impounded

Narrative

On Monday, 5-30-16, I (Deputy Peters) responded to a submerged vehicle at [REDACTED] Suttles Rd at Lake Bowen in Spartanburg County. Upon my arrival I observed the vehicle, silver 2015 Nissan Sentra, bearing SC tag [REDACTED], approximately 150 feet from the bank of the lake. The vehicle appeared to have been powered into the lake and notes were found close to the bank. Lake Wardens, New Prospect Fire Department, EMS Rescue Unit, First Sergeant C. Bush, and High Way Patrol arrived on scene. Lieutenant W. Gary was notified and ID was called I-55 C. Stepp responded to process the scene. I started the crime scene log.

BWC was not activated

Responsible LEO:

Approved by:

Date

Supplement Knisely J

SUPPLEMENTAL REPORT:

On 5/30/16, I responded to assist Charlie Shift Deputies who were dispatched to a submerged vehicle at 06:47 which was located at [REDACTED] Old Suttles Rd, Inman, SC 29349 located in Spartanburg County. As the first supervisor on scene, I began to gather information regarding the vehicle and what if any persons or items were able to be seen inside the mostly submerged vehicle, as well as requesting the needed and necessary additional support units.

B-19, C. Smith, who was the first deputy on scene, had removed his uniform upon arrival and had swam out in the lake to the vehicle. Once it was determined that he was okay and not in any immediate danger, I gathered and secured the entire contents of his duty uniform and weapons into the back seat of his issued patrol vehicle and locked the doors. I then moved the vehicle from the lake access road onto the shoulder to allow access for the responding dive team members/equipment.

I then requested Deputy Smith to advise, if safe to do so, what if any tag was on or visible on the vehicle. He advised that the vehicle tag which was on the vehicle was SC Tag -- [REDACTED]. I advised Spartanburg County Communications Center regarding the tag on the vehicle and requested that a phone number be attempted to be located or attempt to send someone by the address to inquire about the vehicle.

I was then notified by C-39, TG Williams, that he along with some Fire and EMS personnel had located what appeared to be a "suicide note" on the shore near where the vehicle had left dry ground and entered into the lake. He advised that it made mention of something in reference to "cremation" and "getting money" although he advised that was as much as he could make out of the note. He was told to secure the letter and its location until it could be properly recovered.

I then called for ID to be notified and respond to the crime scene. At 07:47, I was relieved by Bravo shift supervisor, B-2, 1stSgt C. Bush. Upon briefing him regarding our current status, as well as what had been done, additional units already requested, and where all current deputies on scene were located; he advised me that he would take control of the crime scene, and advised me that I could end my tour of duty.

The crime scene being turned over to the on coming shift supervisor on duty, I left the incident location. This concludes my involvement in this case, and my BWC was not activated.

Supplement Smith C

On 05/30/2016 I, C.E. Skip Smith (B-19) was dispatched to [REDACTED] Suttles Road in Inman, South Carolina on Lake Bowen for a submerged vehicle. Upon my arrival I observed a vehicle floating in the lake with what appeared to be a silver vehicle with the trunk open. I advised dispatch that I was going swimming. I took my uniform off and began to swim to the vehicle, as I was swimming a small boat came to me and gave me a ride to the submerged vehicle. Upon arriving at the vehicle I dove in and felt that the vehicle windows were open on the drivers side. I dove under water and went inside the vehicle to feel if any one was inside. I was able to tell I was in the back seat area of the vehicle on my first dive. I then went back under water and went into the drivers side of the front of the vehicle. Again I did not feel any one inside the vehicle. I then moved around to the passenger side of the vehicle and was able to tell that the passenger side windows were open. I went under water again and felt into the back seat area and the front passenger seat area. I did not feel anything in the vehicle during my attempts to locate any person. I checked again to make myself feel good that no one was inside the vehicle. I was unable to see so I was only using touch to make sure no one was inside the vehicle. When I first arrived at the vehicle the water was calm, but as the morning progressed I was afraid the the bubble holding the vehicle afloat was going to pop out the window and the vehicle would sink. I stayed with the vehicle attempting to balance it so it would stay afloat. I could tell that the vehicle was moving so I attempted to swim towards shore and the vehicle was moving. I finally asked if anyone had a boat and could pull the vehicle to shore. A neighbor and one of the Fire Department Supervisors got into the boat and brought me a line and as they pulled the vehicle slowly towards shore it appeared that the vehicle got stuck on the bottom and stopped moving. I advised Officers on the shore the the vehicle was a Nissan with SC tag [REDACTED]. After just over an hour two (2) members from a near by dive team arrived and after one of them reached me, he confirmed to me that it appeared to him that no one was inside the vehicle. I then swam to the near by dock and returned to my vehicle and back to duty.

Supplement Stepp C

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016051580

Offense Type: Death Investigation

Victim:

Location: 8045 Howard St (SCSO LAB) Spartanburg SC

Forensic Ofc: Stepp, C

On 5-30-16 around 11:30 AM , I , Deputy Stepp arrived at 8045 Howard St (SCSO) located in Spartanburg County. The nature of the call was to re-test Evidence Item #2 Note Book for blood. I used Quick Check and the results were presumptive positive for the presence of blood. Results were photographed. I used two sterile cotton swabs moistened with distilled water to collect blood swabs from the area that tested presumptive positive using Quick Check. Both Evidence Item #1 Note Book and Evidence Item #2 Note Book were secured into the dry room located at the Sheriff's Office in order to dry out. These Items will be secured into Evidence located at the Sheriff's Office once they have dried out.

Supplement Stepp C

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016051580

Offense Type: Death Investigation

Victim:

Location: [REDACTED] Suttles Rd Inman SC

Patrol Ofc: Peters

Detective: Gary, W Lt. / Clark, T / Letterman, B Sgt.

Coroner: Batty

Forensic Ofc: Stepp, C

On 5-30-16 around 07:50 AM , I , Deputy Stepp arrived at [REDACTED] Suttles Rd (Inman SC) located in Spartanburg County. The nature of the call was a possible Death Investigation involving a submerged silver 2015 Nissan Sentra SC TAG [REDACTED]. The vehicle was submerged in Lake Bowen.

I observed and photographed the following: Note Book (Evidence Item #1 08:05 AM) placed on ground near water line prior to my arrival. Note Book (Evidence Item #2 08:06 AM) placed on ground near water line prior to my arrival. This item had a red liquid substance on the surface. Area was checked on scene with Quick Check for presence of blood with negative results. Results were photographed. An unopened Bud Light Beer can floating near the dock (Evidence Item #3 09:45 AM.) and a Bic Pen (Evidence Item #4 10:50 AM) collected from ground near shore line placed there prior to my arrival. I observed possible acceleration marks on the ground leading towards the water. This area of disturbed grass was photographed to scale and measured approximately 5 ft 8 in across. I photographed the exterior of the vehicle once it was removed from the water. There appeared to be a projectile through and through to the rear drive window glass pane. Vehicle was towed to Spartanburg County Shop pending a Search Warrant.

Photos will be loaded into the Spillman Database. Evidence Items #1 & #2 will be secured into the Evidence Dry Room located at the Sheriff's Office in order to dry out. Evidence Items #3 & #4 will be secured into Evidence storage located in the Lab. No other evidence items collected on scene.

Supplement Williams TG

On 05/30/16 I was dispatched to a submerged vehicle at [REDACTED] Suttles Rd. in Spartanburg County.

When I arrived on scene, Deputy Smith was just entering the water to check the vehicle for anyone inside of it. He reported back to the shore that he was not able to feel anyone in the vehicle. I continued to standby while Deputy Smith attempted to move the vehicle out of the water with the help of the homeowner at [REDACTED] Suttles Rd. and fire department personnel. As I was preparing to leave the scene after being relieved by Bravo shift deputies, one of the paramedics on scene found a notebook with what appeared to be a suicide note written on the first page. I notified Sergeant Knisely of this fact.

This concludes my involvement with this case.

My BWC was activated when I arrived on scene, then shut off when Deputy Smith did not find anyone in the vehicle.

Supplement Bush J Chris

On 05/30/2016 I responded to [REDACTED] Suttles Rd reference to a submerged vehicle. Upon arriving I relieved Sgt. Knisely and began coordinating response of resources to the scene . I remained on scene until the vehicle was removed and the scene was released. My issued BWC was not activated.

Supplement Duncan B

INVESTIGATION REPORT

Spartanburg County Sheriff's Department

Case Number: 16051580

Incident Type:

Victim: Anthony Biggerstaff

Location: ■■■ Shuttles Rd

Incident Date: 05/30/16

Patrol Officer: Sgt B Duncan

On 05/30/16 I responded to ■■■ Bridges St in reference to attempting to locate Anthony Biggerstaff due to his car being submerged into Lake Bowen. The radio was playing loud in a bedroom and all the windows were up in the house. Due to the nature of the call I decided entry into the house needed to be made. Deputy M Hayes was able to enter the house through a back bedroom window without causing any damage. My BWC was activated during entry and clearing the house. We did not find anyone in the house or any evidence that would indicate where Biggerstaff may be. We secured the house.

I then spoke with a neighbor (Betty Ravan) at ■■■ Bridges St. She stated she was woke up this morning around 3am to the sound of a car door slamming. Ravan stated when she looked out she saw Biggerstaff speaking with a white female in a small white car. Ravan stated a white male was sitting on Biggerstaff's porch. Ravan stated that Biggerstaff's car was not in the driveway at the time and she went back to bed. Ravan stated a black male usually drives Biggerstaff's car.

I was able to find Kennon Hines is the name of the black male who drives the car though a neighbor (Eric Pitts 431-0505). I was able to locate him at the Roadway Inn on New Cut Rd through his dad (Frank Hines 814-8815). Detective Clark responded to Roadway Inn with me and interviewed Hines and his girlfriend.

This concludes my involvement in this case.

Supplement Gaddy M

INVESTIGATION REPORT

Spartanburg County Sheriff's Department

Case Number:16051580

Incident Type:

Victim:

Location:

Incident Date:

Patrol Officer:

Investigator:Gaddy

5-30-16 1732

I participated in the service of a search warrant at ■ Bridges St. Inman, SC. Inv. Clark and I spoke with Betty Ravan at ■ Bridges St at 1740. Inv. Clark had already gotten a statement from her and wanted to go back over the details of that statement. Ravan said that Biggerstaff had woke up her neighbor around 0400. when asked what neighbor she was talking about she told us it was Diane Wyatt at ■ Bridges St. We went to speak with Mrs. Wyatt and we ask her about being woke up and she stated that that was a week or so ago. wyatt stated that she did not get woke up last night. She stated that she saw a car (White 4 door) with a man and a woman at the house about 1800 and then they left. She said that she thought they must have taken him to the grocery store because she saw them carrying what appeared to be grocery bags from the vehicle sometime later. She then mentioned that her son had seen the vehicle at the residence later in the day. Ricky came up and spoke with us and said that it was just before dark (He estimated somewhere just after 2000). That he saw the door open and he could hear Biggerstaff talking to someone but he could not make out the conversation. ID. Officer arrived at 1745 and he opened the search warrant just after he arrived. Inv. Clark made contact with the property owner and went to secure a key to the residence. we did a walk around of the residence and found several windows open. I made entry into a rear window (left of back door) into the laundry room. I then walked through the house announcing that I was with the sheriff's Office and that we were here executing a search warrant. I found no one home the TV in the living room was on but had no service and a radio was on in the bedroom in the front of the house just off the living room. I then unlocked the front door and allowed ID Officer Stepp and Sgt. Brandon Letterman into the residence. there were 2 glass pipes several opened beer bottles and evidence of marijuana and other drug use present in the living room. The way the bottles were arranged near a chair and near the couch suggested that there was more than 1 person at the residence. There were pills of different types found throughout the residence. Sgt. Letterman and I were able to find an example of Biggerstaff's handwriting and compared it to the note found at the scene. It appeared similar. Sgt. letterman called me to the back door and showed me a receipt from 5-29-16 at 1854 from the Foodlion at 250 West Mill St. in Columbus,NC. It was from Register 4 Cashier 226 Ticket #278 for \$31.29 (Inv. Clark made contact with the manager at 1914 and explained the investigation and asked for a copy of the video) A cell phone was found in the living room. Inv. Lux found some 380 bullets in the front bedroom in a cookie tin. Sgt. Letterman and I found some tire prints and some shoe prints in the front yard. All of the evidence found was collected by ID Officer Stepp and the warrant was closed at 1900.

I was asked by Sgt. Letterman to put out a bolo for a small 4 door car with a white male and white female (possibly blonde) and a doughnut spare on the front right side in reference to this case.

6-2-16 1650

When I arrived to work I was asked by Lt. Gary to assist Inv. Clark with his investigation. During the day A female by the name of Brittany Foster had been developed as a suspect in an investigation involving a missing man Anthony Biggerstaff.

It was relayed to me from Sgt. Letterman that Foster had made statements that she had shot Biggerstaff. We were attempting to recover the body of Biggerstaff, which Foster said had been put under a bridge. We rode the areas around Lakes Lyman and Cooley with Foster looking for the place that her and her boyfriend had dumped the body. We rode for a number of hours and checked a number of bridges. We did not find the body. It was determined that we would go back to the office and get a formal statement from Foster. When we arrived at the office Foster was put into an interview room and she was reminded of her Miranda rights that had already been read to her by Investigator Clark. Clark interviewed her while I took notes.

In the interview Foster stated that she had shot Biggerstaff. She said that she had shot him 7 times with a gun that had a slide on it. She said she thought it was a .380. Foster said that her and her boyfriend (Keenen Hines) met Biggerstaff at the store across the road from their hotel. When they left Hines was driving Foster was in the front passenger seat and Biggerstaff was in the back seat on the drivers side. She said that at first she was going to scare Biggerstaff, but that he started talking disrespectful to her and she shot him. She said that he said "ouch" and was yelling so she shot him until he got quite. She was asked where she got the gun and she would only say an acquaintance and not give a name. She then said that she and Hines went to dispose of the body, when they found a spot at a bridge, she said she got out and grabbed an arm and Hines helped her and they drug the body under a bridge and rolled him toward the water and that he ended up half in and half out of the water. She said that they then went to get their belongings out of the car and then went to Lake Bowen to dispose of the vehicle. She said that they found a place near the lake and rolled the windows down hit the gas and jumped out of the car. Foster said that Hines got rid of the gun because she told him to.

This interview was recorded both video and audio.

We then went to the Detention Center and Spoke with Keenen Hines. We informed him of the situation and that we had spoken with Foster and asked if he would talk to us. He said that he would. A Pre-Interrogation Waiver was done and he was asked if he would show us where the body was, he said yes. We went by the office and Lt. Gary and Sgt. Letterman followed us up Hwy 176 to Hwy 292 in Inman. We turned onto Hwy 292 toward Lyman and went to the intersection with Gibbs Rd. We turned left onto Gibbs Rd. and went to Jordan Creek Rd. just past Bright Blue Gill Pl. Hines stated when we came up to the bridge this was it. We stopped and officer got out and found Biggerstaff face down half in and half out of the water. We then went back to the office to obtain a formal statement. I audio recorded the trip back to the office, he asked questions about the night of the incident.

During the interview with Hines he was reminded of his Miranda rights. At this point Inv. Clark interviewed Hines and he was asked who shot Biggerstaff and he said Foster shot him. He was asked why and he said that he throught that Biggerstaff was trying to get with her and she did not like that. We asked Hines if she told him that and he said yes. He said that when they left the store he was driving and that Foster was in the front passenger seat and Biggerstaff was

in the back seat on the drivers side. Hines was asked if Biggerstaff and Foster were arguing when she shot him and he said that he did not recall that they were arguing. He was asked if he heard Biggerstaff say anything after he was shoot and he said ouch, ouch, ouch. Hines was asked what happened then and he said she shot him again 3 or 4 times he did not know. He was asked what happened then and he said they went to dump the body. Hines said that she told him to go to this bridge. Hines said that both of them took the body out of the car and dragged the body under the bridge. Hines then asked Foster what she wanted to do now and she told him to get rid of the car. She told him to go to Lake Bowen. He stated that his window was down but he could not remember about the rest of them. Hines was asked where Foster got the gun and he said that he was able to find the gun for her. Hines stated that she wanted to kill Biggerstaff before that night but he had talked her out of it. Hines stated that after Foster shot Biggerstaff she said "That Motherfucker deserved it". Hines stated that he and Foster started walking from Lake Bowen and he called someone to come get them but he did not get an answer. He then stated that a black person in a Green Honda just stopped and gave them a ride back to their hotel. Hines said that he gave them gas money. Hines was asked about what happened to the gun and he said that he had given it to his brother Jermaine McCoy.

This interview was recorded both video and audio.

Jermaine McCoy was contacted and was able to help us locate the weapon. He told us that he and his girl friend had picked Foster and Hines up and taken them back to their hotel. I asked him what kind of car his girl friend drove and he told me a Green Honda. This is the green honda that Hines said just stopped and picked them up.

After this Hines was taken back to the detention center for processing on charges from another incident and Investigator Clark signed warrants on Hines and Foster stemming from this incident.

Supplement Stepp C

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016051580

Offense Type: Death Investigation

Victim:

Location: ■ Bridges St Inman SC

Detectives: Letterman, B Sgt. / Gaddy, M / Clark, T / Lux, F

Forensic Ofc: Stepp, C

On 5-30-16 around 17:40 PM , I , Deputy Stepp arrived at ■ Bridges St (Inman SC) located in Spartanburg County. The nature of the call was to assist detective with execution of the search warrant of the residence. Search Warrant executed at 17:50 PM.

I observed and photographed the following: Exterior: No signs of forced entry. Detective Gaddy made entry to the residence through and unsecured rear window to the left of the rear door. Entry area photographed. Interior: Cluttered in areas. Beer bottles and various drug paraphernalia in the living room area. Various prescription bottles in the master bed room dresser drawer. four .380 bullets that were located in a tin in second bedroom closet. There were no areas that appeared where a struggle had taken place. Nothing appeared to be missing from inside. I also photographed some tire tread / shoe tread impressions in some loose sandy dirt in the front yard area (Non-Scaled / Scaled).

Photos will be loaded into the Spillman Database. The following Evidence Items were collected, loaded into the Spillman Database and secured into Evidence Storage located inside the SCSO Lab:

Evidence Item #17: Paper Documents (Master Bedroom Chair) 18:15 PM.

NOTE: I photographed item with placard #1 after finding out evidence sequence for this case is #17.

Evidence Item #18: Note Book (Bedroom Closet) 18:20 PM.

Evidence Item #19: Food Lion Receipt (Trash Bag Left Of Rear Door) 18:25 PM.

Evidence Item #20: Crack Pipe (Living Room Table) 18:30 PM.

Evidence Item #21: Miller Lite Beer Bottle (Living Room Floor) 18:31 PM.

Evidence Item #22: Crack Pipe (Top Of Plate) 18:32 PM.

Evidence Item #23: Miller Lite Beer Bottle With Insulator (Living Room Floor) 18:33 PM.

Evidence Item #24: LG Cell Phone (Living Room Table) 18:47 PM.

Search Warrant closed out at 19:00 PM. No other evidence items collected on scene.

Supplement Stepp C

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016051580

Offense Type: Death Investigation

Victim:

Location: 8045 Howard St Spartanburg SC

Forensic Ofc: Stepp, C

On 5-31-16 around 06:50 AM , I , Deputy Stepp arrived at 8045 Howard St (SCSO LAB) located in Spartanburg County. The nature of the the call was to collect the following Evidence Items:

Evidence Item #25: 2 Swabs Touch DNA: Crack Pipe (Item #20) 07:02 AM.

Evidence Item #26: 2 Swabs Touch DNA: Miller Lite Bottle (Item #21) 07:08 AM.

Evidence Item #27: 2 Swabs Touch DNA: Crack Pipe (Item #22) 07:15 AM.

Evidence Item #28: 2 Swabs Touch DNA: Miller Lite Bottle (Item #23) 07:22 AM.

NOTE: Each set of sterile cotton swabs were moistened with distilled water prior to collection from each item.

Photos will be loaded into the Spillman Database. All Evidence Items were loaded into the Spillman Database and were secured into Evidence located at the Sheriff's Office. No other evidence items collected on scene.

Supplement Letterman B

INVESTIGATION REPORT

Spartanburg County Sheriff's Department

05/30/2016

I responded to Lake Bowen in reference to a submerged car. Upon arrival I met with 1st Sgt C Bush who advised Dep C Smith had responded to the incident location in reference to a car in the water. Dep Smith jumped in the water and went out to the car and b/c it was floating was able to push it closer to shore. I was also advised that found against the retaining wall near where the car would have went in was what appeared to be a Suicide note written in a notebook. The note was laying on shore drying out and I noted that it was titled Anthony Biggerstaff. I was advised that deputies were able to speak to the owner of the car who stated that Anthony Biggerstaff was suppose to be in possession of the car. 1st Sgt Bush stated that Deputies were responding to Biggerstaff's house at [REDACTED] Bridges St, Inman to check to see if anyone was home. The vehicle was eventually recovered from the lake and was towed to the Spartanburg County Shop.

I made contact with Sgt D Burgess and requested the dive team come search the area, they did and found nothing.

I was provided a cell number of 864-597-6398 as a cell for Biggertsaff. I attempted to call the number but it went straight to a voicemail with the name Anthony Biggerstaff. I made contact with Verizon who confirmed they were the carrier. I explained to them the situation and they advised the last activity on his phone was on 05/30/2016 at 0211 hrs and the coordinates were 35.112233, -82.04584 which when plotted comes up in Lake Bowen near where the car was found.

I was advised that Deputies found no one home at Biggerstaff's house and the doors were locked and they had made entry in through a window to clear the house.

I secured a search warrant for the car and met with ID Officer Nix along with Coroner Investigator's Batty and Lathan at the county shop. All windows were down in the vehicle and from a visual check of the vehicle I observed the car to be in Drive and the key in the on position. I noted the passenger seat laid back and in the passenger floor board were a pair of sunglasses, a cell phone, and a cigarette butt. I also noted that in the back seat across the whole back seat was a large amount of what appeared to be coagulated blood. I also noted in the back driver side rear window was what appeared to be a bullet hole. Upon further examination it was determined that the bullet hole was created from the inside out with more "blowout" on the outside. ID Officer Nix began his processing of the vehicle and also found 2 spent shell casings in the passenger floorboard, one unspent round in the passenger floorboard and a fired projectile in the back seat.

I then had Inv T Clark secure a search warrant for Biggertsaff's house. I met with ID officer Stepp and Investigators M Gady, F Lux and T Clark at the residence. Upon entry into the residence it was noted that there was drug paraphernalia through out the house to includem two glass pipes in the living room, baggies in several parts of the house and straws found in several parts of the house. I did locate a notebook with the same style handwritting as the note found at the scene. The notebook was found in a bedroom closet. I also located a cell phone in the living room. I also found outside the backdoor in a trash bag, a Receipt from Food Lion in Columbus NC, dated 05/29/2016 at 1854 hrs for beer purchased. Id Officer Stepp collected several items from the residence for

03/21/17

processing. See his writeup.

While on scene I met and spoke with David Staggs (W/M DOB [REDACTED]) Staggs lives at [REDACTED] Bridges St and stated that on 05/29/2016 he saw Biggertsaff in his yard around 1300-1400 hrs. He further stated that he saw a W/M and W/F in small white 4 door car with a "donut" tire on the front right with Biggertsaff. He said that was the last time that he saw Biggerstaff.

05/31/2016

I secured a search warrant for the cell phone of the victim Biggerstaff. Judge Chumley found probable cause and issued the search warrant.

Search Warrant was then faxed to Verizon requesting all Cell Records from the previous 72 hours.

Inv T Clark went to the Food Lion and was able to get screen shots of the male and female that was with Biggerstaff. I had Lorena Pyhala create and BOLO and send it out to SCSO Units and Town Units.

06/01/2016

I received the text message contents from Verizon on the victims cell phone. The victim had been texting only 4 numbers since 05/27/2016. Numbers are listed below:

864-814-8822 - Keenan Hines
864-706-5133 - Robbie Dale Cash
828-817-7762 - Sherri Lynn Lee
864-504-5838 - Unknown

On 05/27/2016 the victim is texting 864-814-8822 (which is a number belonging to Keenan Hines - See Inv T Clark Report) the text is in reference to Hines pulling a gun on him. Later on 05/27/2016 the victim is texting Hines and asking for what appears to be drugs. Other text messages through out the 3 days is about getting drugs. On 05/29/2016 victim begins texting Hines asking to meet him to get some drugs. Texts are exchanged between the two and at 10:14 pm Hines tells victim to call him and at 1035 pm Hines tells the victim to come to Spartanburg. That is the final text between Hines and victim. The following texts after that time are from 864-706-5133 asking where the victim is at and that he has been waiting for him, and that he left around 1130 and has still been gone. The texts from 864-706-5133 also talk about being worried and that he gave him \$40 and eluding to getting his drugs. This information was passed on to Sr Inv Clark.

Inv Clark advised me that he had found Kennean Hines and his girlfriend Brittany Foster at the Rodeway Inn Hotel on New Cut and spoke to them the morning the vehicle was found. I then went to the Rodeway Inn Hotel located at 2070 New Cut Rd, Spartanburg, SC and spoke with Sanjay Savalia the manager. I requested video from 05/29/2016 when Hines and Foster checked and to see if the victim came to meet Hines at the hotel based on the last text that he had gotten from Hines. The video stamp on the video recovered is one hour slow/ Video was secured and showed Hines and Foster checking into the hotel at 1:40pm, they then leave and walk to the McDonalds across the parking lot and then they come back and walk around the entire building before going off camera. I also secured video from 11pm - 230pm to see if the victim comes to the hotel. That will be viewed later.

06/02/2016

Inv Clark advised me that he believes he had identified the white male and female seen with Biggerstaff at the Food Lion in Columbus NC. Inv Clark advised

he believed it to be Sherri Lynn Lee and Robbie Dale Cash. He stated he had checked several addresses in Spartanburg County for them but was unable to locate them. I made contact with Capt BJ Bayne of the Polk County Sheriff's Office and requested to meet with them b/c Inv Clark had found an address for Lee in Polk County, NC. Myself and Inv Clark met with Cpt Bayne and went to [REDACTED] Pheasant Lane, Mill Springs, NC and met with Sherri Lynn Lee. Lee stated she was the ex-wife of Biggerstaff and she wasn't the one in the video, but did state that the persons in the video was Dea O'Shields and Robbie Dale Cash. Inv Clark spoke with Lee.

We then went to an address on Kelly Rd in Polk County, NC and met with Robbie Dale Cash and Dea O'Shields. I met with Cash outside while Inv Clark spoke with O'Shields inside. I asked Cash did he know Biggerstaff and he said he did, I asked him was the last time he saw him and he told me it was Sunday. He said that he and O'Shields went down to Biggerstaff's house in Inman and met him there. He said they then went to the Bi-Lo in Inman and bought some chicken to make dinner with, they then went and stopped at a store for Cash to get some dip and they then went to Food Lion in Columbus to get some beer b/c it was Sunday and there was no beer sold in SC on Sunday. He said they went back to Biggerstaff's house and O'Shields cooked dinner and he and Biggerstaff watched the race on TV. At one point he said that Biggerstaff asked to borrow his phone so he could call some. Biggerstaff told him the guy was mad at him and he wouldn't answer if he saw Biggerstaff's number. Cash allowed him to borrow his phone and he called at 334-355-0874 at 5:58 pm. Cash said Biggerstaff talked to the guy for a while and hung up. He said later that night that Biggerstaff took a plate of food to his Aunt Janet and came back. He said around 1030 he called someone and he overheard the conversation and the guy on the other end asked him to meet him at the Sonic in Boiling Springs. Cash said Biggerstaff asked the guy on the other end if he could bring some friends, and the guy said no, to just meet him there b/c he needed a ride back to a hotel on New Cut Rd. He said that Biggerstaff then left and that he and O'Shields waited outside for him to come back but he never did. Cash said he and O'Shields then left around 0300-0330 and went back home. I asked him about the text messages that he had sent Biggerstaff that we read on the search warrant results. The text talk about letting Biggerstaff borrow \$40, Cash said that was b/c he sold Biggerstaff a cell phone for \$40 and he never paid him for it. He said that he actually came down to Biggerstaff's on 05/26/2016 to get his money when a black male answered the door, he said Biggerstaff slammed the door on him and he waited outside. He said the black male and a small white female emerged and he got into an argument with the black male and then the black male and white female left. He said that Biggerstaff later told him that he was kicking them out of the house. Cash said he believes that was the guy Biggerstaff was talking to on the phone. I then wrote a voluntary statement for Cash at his request.

Myself Inv Clark were on our way back from Polk County when we were advised that Sgt S Henderson had conducted a traffic stop on a vehicle and arrested Keenen Hines and Brittany Foster along with a Jessica Nesbitt for Drug and a stolen pistol. I made contact with Sgt Henderson who advised that they had found marijuana and methamphetamine in the vehicle. Sgt Henderson advised that all were charged and the handgun recovered was stolen from a car breaking and it was a Rossi .38 caliber.

Inv Clark then went to the SCDC to speak with Brittany Foster about Biggerstaff. Inv Clark then called me from the SCD and advised that Foster had confessed to him while he was talking to her. He advised me that she said she would take investigators to the body. Myself and Lt W Gary then went to the SCDC to assist Inv Clark and to escort Foster to show us where the body of Biggerstaff was. I

signed Foster out of the SCDC and escorted her to Lt Gary's vehicle. Foster was crying and upset. Lt Gary and myself escorted Foster to the Sheriff's Office, while en route I advised her of her Miranda Rights twice and she said he understood them. Lt Gary witnessed this advisement. Once at the Sheriff's Office she requested a cigarette and was given one. It was then decided we would let her take us to where the body was. I placed her in my vehicle and Inv Clark rode with me. She advised that the body was under a bridge and the body was half in and half out of the water. She told me to go towards Lyman Lake. We made our way over that way and stopped at several bridges she thought could be the bridge. After an exhaustive search we stopped at the Exxon on New Cur Rd near I-26 so she could use the restroom. While there she advised me that is where her and Hines met Biggerstaff before he was shot. While she was using the restroom, I went into Liquor Store connected to the Exxon at 2055 New Cut Rd. I requested to watch the video and they allowed me to. I checked the current time stamp on the video and found it to be accurate of the current time. I found on the video on 05/29/2016, at 11:14 pm that Biggertsaff arrives and parks in front of the Liquor Store Camera and walks into the store. At 11:18 you can see Foster come up to the car and look in the driver side windows, at 11:20 you can see Hine and Foster walking around Biggerstaff's car and a few seconds later you can see Biggerstaff and Hines walking back to the car. You can see Biggerstaff attempt to get in the front seat while Hines speaks with him, then you can see Hines then get in the front seat and Biggerstaff gets in the back seat, and Foster gets in the front passenger seat. Hines looks around the parking lot and then appears to reach under the front seat. At 11:22 the vehicle pulls off taking a left onto Pottery Road. Video was secured on a thumbdrive. Brittany was then taken back to the SCSO and asked if she was hungry and she said she was, I asked her what she wanted from McDonalds and she stated a double cheeseburger, fries, and a coke, she also requested extra mayonnaise for her fries. She was then interviewed by Inv Clark and Inv M Gaddy. Upon completion of the interview I gave her her food, she ate it and fell asleep in the interview room.

Inv Clark and Gaddy then went to the SCDC to speak with Hines. I received a text from Inv Clark who advised that Hines said he would take them to the body. I then escorted Foster back to SCDC and was advised by Clark that the body was located on Jordan Creek Rd. I then met with Coroner Investigators and ID at Jordan Creek Rd and stayed there till the body was removed and the scene processed.

06/08/2016

I transferred the video from the Exxon to a disc and gave it to Inv Clark to place in evidence.

Supplement Nix M

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016051580

Offense Type: DEATH INVESTIGATION

Victim: BIGGERSTAFF, ANTHONY

Location: 290 BROADCAST DR.

Patrol Ofc: INV. LETTERMAN

Forensic Ofc: S. NIX

ON 05-30-16, I RECEIVED A CALL FROM INV. LETTERMAN ABOUT PROCESSING A VEHICLE AT THE COUNTY SHOP. I ARRIVED AT 1210 HRS. AND WAS ADVISED THAT THE VEHICLE HAD BEEN FOUND SUBMERGED IN THE WATERS OF LAKE BOWEN. THE VEHICLE WAS PULLED OUT AND THROUGH INVESTIGATION IT WAS DETERMINED THAT IT WAS SUSPICIOUS IN NATURE. DEPUTY STEPP TOOK PHOTOS AND COLLECTED SOME EVIDENCE AT THE SCENE. SEE HIS REPORT FOR FURTHER.

A SEARCH WARRANT HAD BEEN OBTAINED FOR THE VEHICLE AND WAS OPENED AT 1214 HRS. I OBSERVED A SILVER IN COLOR NISSAN WITH SC TAG# [REDACTED]. THE FRONT GRILL ON THE VEHICLE WAS POPPED OUT AND CRACKED. THE FRONT BUMPER ON THE PASSENGER SIDE WAS POPPED OUT. THE REAR DRIVER SIDE BUMPER WAS POPPED OUT. THERE WAS A DENT NEAR THE DRIVER SIDE TRUNK OF THE VEHICLE. I WAS ADVISED BY INVESTIGATOR LETTERMAN THAT THE DENT WAS DONE WHILE LOADING THE VEHICLE UP FOR TOWING OUT OF THE LAKE. THERE WAS A HOLE IN THE REAR DRIVER DOOR VENT WINDOW GLASS THAT APPEARED TO BE THE RESULT OF BEING HIT WITH A PROJECTILE. ALL FOUR MAIN WINDOWS WERE DOWN. THE KEY WAS IN THE IGNITION OF THE VEHICLE AND THE GEAR SHIFT WAS IN DRIVE. THE VEHICLE HAD NO POWER. I TOOK PHOTOS OF ALL THIS.

THE INTERIOR OF THE VEHICLE WAS STILL WET OR DAMP IN PLACES. THE PASSENGER SEAT WAS FARTHER BACK THAN THE DRIVER SEAT. THERE WAS WET PAPER WITH WHAT APPEARED TO BE COAGULATED BLOOD ON IT IN THE FRONT PASSENGER FLOOR BOARD. NEXT TO IT WAS A CIGARETTE BUTT (ITEM 6). ALSO IN THE FRONT PASSENGER FLOOR BOARD WAS SUNGLASSES (ITEM 7). NEXT TO THE SUNGLASSES WAS A GRAY SAMSUNG SMART PHONE (ITEM 8). THERE WAS WHAT APPEARED TO BE COAGULATED BLOOD ALONG THE ENTIRE SEAM WHERE THE BACK SEAT REST AND CUSHIONS MEET. I TOOK PHOTOS OF THE ABOVE THINGS. I THEN COLLECTED THE AFOREMENTIONED ITEMS. WHEN I COLLECTED THE SMART PHONE, I OBSERVED THAT TWO FEDERAL 380 CAL. FIRED CARTRIDGE CASES (ITEMS 9 & 10) HAD BEEN IN THE FRONT PASSENGER FLOORBOARD UNDER THE PHONE. I TOOK PHOTOS OF THEM AND THEN COLLECTED THEM. I ALSO COLLECTED SWABS (ITEM 11) OF THE POSSIBLE BLOOD IN THE BACK SEAT. I CONTINUED TO CHECK THE VEHICLE FOR MORE EVIDENCE. WHEN I MOVED THE WET AND TORN PAPER IN THE FRONT PASSENGER FLOORBOARD, I OBSERVED A FEDERAL 380 CAL. UNFIRED CARTRIDGE CASE (ITEM 12). I TOOK PHOTOS OF IT AND COLLECTED IT. I THEN WENT THROUGH THE POSSIBLE COAGULATED BLOOD AND LOCATED A FIRED BULLET (ITEM 13) IN THE POSSIBLE BLOOD LOCATED ON THE REAR DRIVER SIDE SEAT. ALSO, A CIGARETTE FILTER (ITEM 14) WAS FOUND JUST UNDER THE FRONT DRIVER SEAT IN THE FLOOR. I TOOK PHOTOS OF THESE AND COLLECTED THEM. AT THIS POINT, I NOTICED A SMALL DEFECT ON THE REAR INTERIOR DRIVER DOOR PANEL. THIS SPOT IS NEAR THE REAR VENT WINDOW THAT HAS A HOLE IN THE GLASS. I TOOK PHOTOS OF THE DAMAGED PANEL. I THEN LOCATED A HANDICAP PLACARD (ITEM 15) IN THE PASSENGER SEAT MAP HOLDER ALONG WITH 13 DOLLARS CASH (ITEM 16). I TOOK PHOTOS OF THESE ITEMS AND COLLECTED THEM.

AT THIS POINT I PROCESSED THE VEHICLE FOR PRINTS. I WAS ABLE TO LIFT THREE PRINTS. ONE WAS FROM THE EXTERIOR DRIVER SIDE "C" PILLAR OF THE VEHICLE. ONE WAS FROM THE EXTERIOR REAR PASSENGER QUARTER PANEL. THE OTHER WAS FROM THE

EXTERIOR FRONT PASSENGER DOOR. A COPY OF THE WARRANT WAS LEFT WITH THE VEHICLE.
PHOTOS ENTERED INTO SPILLMAN. PRINTS SENT TO AFIS. ITEMS ENTERED INTO EVIDENCE.

Supplement Clark T

SUPPLEMENTAL REPORT:

Through further investigation Brittany Foster was interviewed in reference to the disappearance of Anthony Biggerstaff. During the interview Brittany admitted she shot and killed Anthony while riding in the car with Anthony and her boyfriend, Keenen Hines. Through further investigation Brittany gave a statement as to her involvement in shooting the (V) and she and Keenen disposing of the body. Through further investigation Keenen was interviewed and gave a statement admitting to getting the gun for Brittany and to helping her dispose of the body after she shot the (V). He further took us to the location where the body was disposed of. Warrants were then issued for Brittany Foster for Murder 2016A4210201985, Possession of a Weapon During a Violent Crime 1986 and 2016A4210201987 on Keenen Hines for Accessory After the Fact. The service of this warrant clears this case.

Supplement Marlowe L

SUPPLEMENTAL REPORT:

On June 2, 2016 I, Deputy L Marlowe, responded to Jordan Creek Rd and Bright Blue Gill Pl in reference to the recovery of the victim. Upon arrival, I spoke with LT G Satterfield who briefed me on the scene. I began a crime scene log and was in custody of the log until the scene was released. This concluded my involvement of this incident.

Supplement Burgess D

INVESTIGATION REPORT

Spartanburg County Sheriff's Department

Case Number: 16051580

Incident Type: HOMICIDE

Victim:

Location:

Incident Date: 05/30/16

Patrol Officer:

Investigator: SGT. DEANNA BURGESS

ON 05/30/16 AT 0730 HOURS I, SGT. DEANNA BURGESS WAS NOTIFIED THAT A VEHICLE WAS IN LAKE BOWEN OFF OF SUTTLES RD AND THE DIVE TEAM NEEDED TO BE ACTIVATED. I CALLED SEVERAL OF THE DIVE TEAM MEMBERS AND ADVISED THEM THAT I WAS ON THE WAY TO THE SCENE AND THAT I WOULD CALL BACK AFTER I ACCESSED THE SITUATION. I WENT TO [REDACTED] SUTTLES RD WHERE I SAW EMS DIVERS IN THE WATER. I SPOKE TO SEVERAL OFFICERS AND THE ON SCENE EMS DIVE SUPERVISORS. THEY ADVISED THAT THEY HAD THOROUGHLY SEARCHED THE AREA AND FOUND NO ON IN OR AROUND THE VEHICLE. I STAYED ON SCENE UNTIL THE VEHICLE WAS PULLED FROM THE WATER. ONCE THE VEHICLE WAS ON SHORE I LOOKED INTO THE REAR SEAT AND SAW WHAT APPEARED TO BE A LARGE AMOUNT OF BLOOD IN THE BACK SEAT. I SPOKE TO CID SUPERVISOR, LT. WILLIAM GARY, WHO REQUESTED THAT THE DIVE TEAM RESPOND TO THE SCENE WITH BOATS AND SONARS. OFFICERS CHRIS NEPPER, MARK FREEMAN, BILLY COLE, RON GARRETT AND I LAUNCHED 2 BOATS WITH SONARS IN THE WATER AND SEARCHED THE AREA. NO BODY WAS FOUND.

05/31/16 AT 0800 HOURS SPECIAL SERVICES CAPT. RAYMOND GIST REQUESTED THAT THE DIVE TEAM RETURN TO THE SCENE FOR A POSSIBLE WEAPONS SEARCH. I ALERTED THE TEAM AND WE ALL RESPONDED TO THE SCENE. WE SEARCHED THE SCENE FOR SEVERAL HOURS AND DID NOT FIND A BODY. WE LEFT ALL LINES IN PLACE TO RETURN ON 06/01/16.

06/01/16 AT 0830 HOURS THE DIVE TEAM RETURNED TO THE SCENE TO CONTINUE THE WEAPON SEARCH. THE SEARCH WAS COMPLETED AT [REDACTED] SUTTLES AND THE TEAM MOVED TO THE HWY 9 BRIDGE. A PORTION OF THE BRIDGE AREA WAS COMPLETED AND IT WAS DETERMINED THAT WE WOULD RETURN ON FRIDAY, 06/03/16 TO COMPLETE THE SEARCH.

06/02/16 AT 2300 HOURS I WAS NOTIFIED BY LT. WILLIAM GARY THAT THE SUSPECTS WERE IN CUSTODY AND THAT THE VICTIM AND THE WEAPON WERE IN DIFFERENT LOCATIONS, NOT CONNECTED TO THE LAKE BOWEN AREA. THE SEARCH FOR THIS CASE, BY THE DIVE, WAS STOPPED AT 2300 HOURS.

Supplement Lawson J

10:35:47 06/07/2016 - Lawson J

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016051580

Offense Type: Homocide

Victim: Anthony Biggerstaff

Location: 530 Southport Rd. Spartanburg, SC

Patrol Ofc:

Detective: T. Clark

Forensic Ofc: J. Lawson

On 06-06-16 at 0913 hours, I Deputy J. Lawson was arrived on scene at 530 Southport Rd. Spartanburg, SC at the request of Investigator T. Clark in reference to executing a search warrant on black vehicle. Upon arrival, Investigator Clark advised that this vehicle was the vehicle that the suspects were stopped in. I then photographed the exterior and interior of the vehicle. After taking the initial photographs of the vehicle, I conducted a search of the vehicle. Upon searching the vehicle, I located numerous items that were marked as evidence items to collect. These items were marked with evidence number placards and photographed in their current locations. The following items were collected:

Item 29 - Black LG SN# 511CYBD0562149 from the passenger side front seat.

Collected at 1045 hours.

Item 30 - White Samsung phone SN#R28GB5ESQGX from the passenger front seat.

Collected at 1046 hours.

Item 31 - Black and Grey LG phone SN#408CYA5768224 from the passenger front seat. Collected at 1046 hours.

Item 32 - LG black flip phone SN#409CYTB522201 from the passenger front seat. Collected at 1047 hours.

Item 33 - Blue and yellow duffel bag from the trunk. Collected at 1104 hours.

Item 34 - Black pants with white writing, located in the trunk. Collected at 1105 hours.

Item 35 - Red athletic works shorts size XL, located in the trunk. Collected at 1106 hours.

Item 36 - Tee Tree medium size t-shirt, located inside blue and yellow duffel bag in trunk. Collected at 1104 hours.

Item 37 - Red van tennis shoes size 11, located inside blue and yellow duffel bag in trunk. Collected at 1104 hours.

After collection of all items, I closed out the search warrant and left a copy inside the vehicle. I then responded to the Spartanburg County Sheriff's Office with all items collected. Upon arrival at the Sheriff's Office crime lab, I removed items from their packages and photographed them in detail. After photographing each items, I utilized Blue star, which is a reagent utilized to field test the presence of blood. Items 36 and 37 were placed separately on a clean surface and then sprayed with the blue star reagent. Both items resulted with a presumptive positive for the possibility of the presence of blood. These items were photographed in a low light setting to show the results. After completion of the field testing of these two items, I placed all items into evidence at the Spartanburg County Sheriff's Office. Nothing further collected. Photographs entered into Spillman.

Supplement Nix M

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016051580

Offense Type: HOMICIDE

Victim: BIGGERSTAFF, ANTHONY

Location: JORDAN CREEK RD.

Patrol Ofc:

Forensic Ofc: S. NIX

ON 06-02-16, I RECEIVED A CALL FROM SGT. HOGSED STATING THAT THE VICTIM IN THIS CASE HAD BEEN LOCATED. I WAS ADVISED TO RESPOND TO AN AREA ON JORDAN CREEK RD. I ARRIVED AT 2240 HRS. THE LOCATION WAS A BRIDGE ON JORDAN CREEK RD. NEAR THE INTERSECTION OF BRIGHT BLUE GILL PLACE. I WAS ADVISED THAT INVESTIGATORS HAD RECEIVED INFORMATION ON THE VICTIM'S LOCATION THROUGH THE COURSE OF THEIR INVESTIGATION. THE VICTIM WAS LOCATED UNDER THE BRIDGE.

THE VICTIM WAS LOCATED FACE DOWN AND MOSTLY IN THE WATER OF THE SMALL CREEK THAT RAN UNDER THE BRIDGE. THE VICTIM WAS ALREADY IN A STATE OF DECOMPOSITION AND THERE WAS ALREADY INSECT ACTIVITY. THE VICTIM'S FEET WERE ON THE NORTHERN BANK OF THE CREEK. THE CREEK IS VERY SHALLOW AND IN THIS AREA IT IS ONLY APPROXIMATELY ABOVE ANKLE DEEP. THE CREEK CAN BE EASILY ACCESSED ON BOTH SIDES OF THE BRIDGE BY WALKING DOWN OFF THE ROADWAY. THIS GOES FOR BOTH BANKS. THE HEIGHT FROM THE BED OF THE CREEK TO THE BOTTOM OF THE BRIDGE IS 3 FEET AND 8 1/2 INCHES. I TOOK A GPS COORDINATE OF THE VICTIM'S BODY. THE COORDINATES WERE 34 DEGREES 59'12" NORTH AND 82 DEGREES 5'28" WEST. I TOOK OVERALL PHOTOS OF THE VICTIM, THE AREA UNDER THE BRIDGE, THE MEASUREMENT, AND THE COORDINATES. SGT. HOGSED ALSO TOOK PHOTOS AT THE SCENE. SEE HIS REPORT FOR FURTHER.

THE VICTIM'S BODY WAS EVENTUALLY REMOVED FROM THE WATER. I TOOK MORE OVERALL PHOTOS OF THE VICTIM. A QUICK CHECK OF THE VICTIM'S BODY REVEALED WHAT APPEARED TO BE A WOUND ON THE LEFT WRIST AND ON THE RIGHT SIDE OF THE FACE. I TOOK PHOTOS OF THESE. THE VICTIM'S BODY WAS THEN TRANSPORTED TO THE MORGUE. PHOTOS ENTERED INTO SPILLMAN.

Supplement Nix M

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016051580

Offense Type: HOMICIDE

Victim: BIGGERSTAFF, ANTHONY

Location: 101 E. WOOD ST.

Patrol Ofc:

Forensic Ofc: S. NIX

ON 06-03-16, I RESPONDED TO THE SRMC MORGUE AT 101 E. WOOD ST. IN REFERENCE TO AN AUTOPSY IN THIS CASE. I ARRIVED AT 1400 HRS. UPON ARRIVAL, I OBSERVED THAT THE VICTIM WAS WEARING BROWN SHOES (ITEM 38), SOCKS (ITEM 39), A SHIRT (ITEM 40), SHORTS (ITEM 41), AND BURGUNDY UNDERWEAR (ITEM 42). THE SHIRT APPEARS BROWN IN COLOR BUT, IT IS HARD TO TELL SINCE IT HAS BEEN IN THE MUD. THE SHORTS ARE ALSO MUDDY BUT, THEY APPEAR TO BE RED, BLUE, AND WHITE PLAID WITH ORANGE TASSELED DRAW STRINGS. AS STATED IN A EARLIER REPORT, THE VICTIM IS IN A DECOMPOSED STATE AND THERE WAS INSECT ACTIVITY PRESENT. THE VICTIM HAS WHAT APPEARS TO BE A WOUND ON THE RIGHT SIDE OF THE FACE NEXT TO THE EAR. THE VICTIM ALSO HAS WHAT APPEARS TO BE A THROUGH AND THROUGH WOUND TO THE LEFT WRIST AREA. I TOOK OVERALL PHOTOS OF THE VICTIM AND OF THE WOUNDS. THE VICTIM'S CLOTHES WERE REMOVED AND I COLLECTED THEM. ONCE THE CLOTHES WERE REMOVED, I OBSERVED WHAT APPEARED TO BE A WOUND TO THE UPPER LEFT CHEST OF THE VICTIM. SEE DR. WREN'S REPORT FOR FURTHER ON THESE. I TOOK PHOTOS OF THAT WOUND AND ADDITIONAL PHOTOS OF THE VICTIM'S BODY. A CHECK OF THE SHIRT REVEALED A HOLE IN THE SAME APPROXIMATE AREA AS THE WOUND ON THE CHEST. I TOOK PHOTOS OF THIS. DR. WREN RAN RODS THROUGH THE LEFT WRIST AND INTO THE HEAD. I TOOK PHOTOS OF THIS AS WELL AS MORE PHOTOS OF THE WOUNDS AND VICTIM. I COLLECTED A VIAL OF THE VICTIM'S BLOOD FOR A VICTIM STANDARD (ITEM 43). A FIRED BULLET (ITEM 44) WAS ALSO COLLECTED FROM THE VICTIM'S BODY. SEE DR. WREN'S REPORT FOR FURTHER ON THIS. I COLLECTED THE BULLET. I RETURNED TO THE OFFICE AND PLACED THE VICTIM'S CLOTHES IN THE DRYING CABINETS. PHOTOS ENTERED INTO SPILLMAN. ITEMS ENTERED INTO EVIDENCE ONCE THE CLOTHES ARE DRY.

Supplement Roman M

AFIS Report

Case: 2016051580

Victim: Unknown

Date: 6/1/16

Submitted By: Nix, S.

Examined By: Marilyn Roman

The latent prints submitted were entered into AFIS with negative results.

Supplement Nix M

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016051580

Offense Type: HOMICIDE

Victim: BIGGERSTAFF, ANTHONY

Location: 8045 HOWARD ST.

Patrol Ofc:

Forensic Ofc: S. NIX

ON 06-15-16, I CHECKED OUT A VIAL CONTAINING THE VICTIM'S BLOOD (ITEM 43) FROM EVIDENCE FOR THE PURPOSE OF CARRYING IT TO THE CORONER'S OFFICE SO THAT A VICTIM STANDARD BLOOD SPOT COULD BE PREPARED. THIS WAS BEING DONE IN ORDER TO COMPLY TO THE STANDARDS OF THE GREENVILLE LAB. THE VIAL WAS GIVEN TO CORONER'S INVESTIGATOR RICK McCRAW WHO WAS PERFORMING THE TASK. AFTER GETTING THE NECESSARY AMOUNT HE NEEDED, THE VIAL WAS RETURNED TO ME. INVESTIGATOR McCRAW ADVISED THAT THE BLOOD SPOT WOULD BE READY THE NEXT DAY. I THEN RETURNED THE VIAL BACK TO EVIDENCE.

ON 06-16-16 AT 1049 HRS., INVESTIGATOR McCRAW ARRIVED AT THE OFFICE AND HANDED OVER THE BLOOD SPOT. I SIGNED HIS COPY OF THE CHAIN OF CUSTODY. I THEN TURNED IN THE BLOOD SPOT (ITEM 45) INTO EVIDENCE.

Supplement Rosenberg R

ON 06/16/16 OFFICER ROSENBERG RECEIVED A VICTIMS STANDARD BLOOD SPOT FROM OFFICER S.NIX. OFFICER ROSENBERG CHANGED THE ITEM NUMBER #45 TO #47 ON THE PROPERTY SHEET AND ENVELOPE TO CORRESPOND WITH THE COMPUTER SEQUENCE NUMBER. THE ID NUMBER IS 45. THE INTEGRITY OF THE PROPERTY SHEET OR EVIDENCE WAS NOT ALTERED OR COMPROMISED.

Supplement Clark T

INVESTIGATION REPORT

Spartanburg County Sheriff's Department

Case Number: 16051580

Investigator: Tom Clark

On 5/30/2016 at approx. 06:47 hrs. I was notified of this incident by Lt. Gary. Upon arrival I spoke with 1st. Sgt. Chris Bush. he advised they were dispatched in reference to a vehicle floating in Lake Bowen. I was advised Deputy Smith jumped in the water to confirm there was no one in the vehicle and once he was at the car he realized the vehicle could be pushed back towards the shore and if he did not he was afraid it would float out into deeper water and sink. I was advised there was a spiral bound note book and paper that appeared to be a suicide letter found near the retention wall near where it appeared the vehicle went into the water. Also, the trunk to the vehicle was open. The note was removed from the water and was lying out drying. The note had the name Anthony Biggerstaff on it. I was advised there was what looked like it could be blood in the back seat of the vehicle. I was told Deputies made contact with a relative who the vehicle is registered to who said Anthony drives the vehicle. The vehicle was able to be recovered from the lake and towed to the Spartanburg County Shop for processing. I was advised the owner of the vehicle was an Aunt of Anthony Biggerstaff's named Janet Ayer's and was provided a phone number of 472-9208. I was advised by Sgt. Bobby Duncan advised a B/M and a W/F named Keenen and Brittany were the B/M and W/F that have been living with the (V) and advised they checked into the Roadway Inn. We were able to locate Keenen and Brittany at the Roadway Inn as they were fixing to check out. They both said Anthony told them they had to move out because Anthony said the Landlord said they were not suppose to be there. Brittany made the comment that Anthony had made several sexual comments and advances towards her. The said they left the Friday before and had not talked with Anthony since. They were hesitant to talk with me. Keenen did give me his cell phone number of 864-814-8822. Keenen did give me his father's name of Frank Hines and a phone number of 864-814-8815 with an address if [REDACTED] Beechwood Dr. They said they believed Brittany was pregnant and would be staying with Keenen's father. I gave them my card.

Sgt. Letterman obtained a search warrant for the vehicle to be processed. present were Coroner's Investigator's Kelly Baty and Cindy Lathan. Forensic's Inv. Sean Nix served the search warrant and processed the vehicle. I responded to view the vehicle being processed. All of the windows were down, the vehicle's gear shifter was in drive and the key was in the ignition in the on position. The passenger seat was reclined. Along the crease in the bottom of the back seat was what appeared to be coagulated blood. There was what appeared to be a bullet whole in the driver side back window. During Inv. Nix processing of the vehicle he found 2 spent shell casings and an unspent shell casing in the passenger floor board. There was a fire projectile found in the back seat.

I then obtained a search warrant for the (V)'s residence at [REDACTED] Bridges St. Inman, SC 29349. Sgt. Letterman, Inv. M. Gaddy, Inv. Fred Lux. Forensics' Investigator C. Stepp served the search warrant and processed the residence. Sgt. Letterman found a note book that had what appeared to be the same hand writing as was in the suicide note found near the vehicle in the water at Lake Bowen. There was also a receipt from Food Lion in Columbus, NC for a purchase made on 5/29/2016 at 18:54 hrs. I was advised by Sgt. Letterman he spoke with neighbors at [REDACTED] Bridges St. that saw a W/M and a W/F leaving Biggerstaff's yard in a small white in color four door car spin out doing a donut, then speeding

away. Inv. Gaddy and I spoke with a Betty Ravan at [REDACTED] Bridges Rd. She said there. She said she observed a white in color car the night before in the drive way. She said there was a W/M on the front porch and a B/M in the car. She further said there was a W/F in the car. She provided a written statement.

On 5/31/2016 based on the receipt recovered from the (V)'s residence I went to the Food Lion at 200 Mills Rd. Columbus, NC. I was able to speak with Manager Chris Spain (828- 894-8286). I was able to get still photos from the video of the (V) with a W/F with blonde hair and a W/M. I requested a copy of the video. I provided my contact information. I was able to tentatively identify the W/M and W/F in the video with the (V) at Food Lion as a Sherri Lynn Lee and a Robbie Cash. I checked their local last known addresses in Spartanburg and could not find them. I was able to locate a possible address of [REDACTED] Pheasant Lane Mill Springs, NC.

On 6/2/2016 Sgt. Letterman and I went to Polk County and met with Capt. B.J. Bayne and went to [REDACTED] Pheasant Lane, Mill Springs, NC. We were able to meet with Sherri Lynn Lee. Sherri advised she was not the person in the video and in seeing her in person I was able to confirm that. She said The people in the video were going to be a Robbie Dale Cash and a Dea O'Shields. She said they drove a white in color Ford Focus four door. She said the car is in his mother's name. She gave a phone number for Robbie of 864-706-5533. She said he had gastric bypass surgery and would smoke marijuana and was suppose to have another surgery, but the Doctor would not do the surgery because they found marijuana in his system. She said he has made threats of suicide in the past. We then went to [REDACTED] Kelly Ln. Mill Springs, NC. We were able to speak with Robbie and Dea. Sgt. Letterman spoke with Robbie while I spoke with Dea. Sgt. Letterman was able to speak get a written statement from Robbie. I had to interview Dea and take notes because she said she had a stroke and has trouble with reading and writing. She said they saw Anthony at his house on Sunday. She said they got there about 4 PM. She said they took him to food line. She said Anthony left to run an errand to get money for a phone. She said Anthony has to smoke marijuana to eat because he had gastric bypass surgery. She said she made dinner. She said they told him they would stay outside while he was gone. She said they drove her car to take food to his aunt. She confirmed there was a black male and a white female but have been living with him. She said they acted very shady. She said the blackmail sold Anthony's medications. She said they sold him a phone that day for \$40. She said the phone was bought from Scott Edwards. She said that day Anthony had been drinking. She said Anthony stayed in the room with the bed. She said the blackmail and white female stayed in the front bedroom. She said that he had been very depressed because both of his kids had passed away but was very excited that they were there and that they were eating dinner. She said he did not have any guns but had knives and swords. She said he left after they return from taking his aunt Janet food. She said Anthony acted strange when she was there. She said Anthony could be very mean to Robbie. She said Anthony has two phones one that he had just bought that day. She further told me that Anthony told her Amanda, Anthony sister gave him \$10,000 a month or so ago from an inheritance and that the blackmail and white female knew this. She said Anthony never returned. She was went back and fourth on what she would say and would become confused. She did confirm it was their car in the front yard and she and Robbie left. Sgt. Letterman was able to obtain a written statement from Robbie.

While on our way back from Polk County Sgt. Letterman and I were advised Sgt. Henderson had arrested Keenen and Brittany in a traffic stop, along with a Jessica Nesbitt for drugs and a stolen pistol. Sgt. Letterman made contact with Sgt. Henderson. Sgt. Henderson advised the gun recovered was a Rossi .38 Cal. Revolver.

Once we returned I went to the SCDC to speak with Brittany. My feeling was she may have witnessed what happened to Anthony and wanted to talk with her to see if she would talk with me. Once we were in the interview room I began to tell her why I was there. Before I could continue she started crying and said she shot him, she shot the "mother fucker". She kept talking saying she shot him. I got Deputy Alvarado with the jail to come in and witness me advising Brittany of her Miranda Rights from a SCSO issued PRE-INTERROGATION WAIVER FORM. She read and signed the form. Alvarado witnessed Brittany sign the PRE-INTERROGATION WAIVER FORM. During this time Brittany kept repeating she shot him and he deserved it. She further said she and Keenen drove Anthony's car into the Lake. She said they dumped the body under a bridge and agreed to take me to the body. I then contacted Sgt. Letterman. Brittany was then transported to the SCSO. She was then transported to try to locate the (V)'s body. She advised the (V)'s body was lying under a bridge half in the water and half out. She took us to several locations, but we could not find the body. After searching for an extended period of time we stopped at the Exxon near the Roadway Inn she and Keenen had been staying at because she needed to use the restroom. Sgt. Letterman went into the liquor store to check the video. When he returned he advised both Keenen and Brittany were on video with the (V). He said they all left together in the Anthony's vehicle. Letterman subsequently recovered the video. We then went back to the SCSO with Brittany. Sgt. Letterman made arrangements to get Brittany food. He asked if she was hungry and she said she was. Inv. Gaddy and I interviewed Brittany in more detail about what happened. The interview was video and audio recorded. During the interview with Brittany she said she shot Anthony. She said she shot him seven times. She said the gun had a slide on it. She said she believed it was a .380 Cal. She would not say who they got the gun from. She said when they were driving down the road Anthony was talking and she leaned the seat back and shot him. She said Keenen was driving and she was in the front passenger seat and Anthony was in the back driver side seat. She said she was just going to scare Anthony at first, but he would not shut up. She said Anthony yelled "ouch". At one point she said she turned the radio up. I asked her when she stopped shooting. She replied until he shut up. She said they then took the body to a bridge and they carried him down beside the bridge and he rolled down to the waters edge and they left him half in and half out of the water. She said they then got their things out of the car and took it to Lake Bowen to dispose of the vehicle. She said they found a clear space and drove the car into the lake. She said they had rolled down the windows and hit the gas and jumped out of the car before it went into the lake. Note, while driving Keenen around Gaddy was recording the conversation and Keenen told us he got Brittany the gun because she wanted to get rid of Anthony. Note, Alvarado provided a written statement of what she witnessed.

Inv. Gaddy and I then went to the SCDC to interview Keenen. We advised him of our conversation with Brittany and asked if he was willing to talk with us. He said he was. He was read his Miranda Rights from a SCSO issued PRE-INTERROGATION WAIVER FORM. To which he read and signed. He then confirmed Brittany shot Anthony and they disposed of the body. He said he would take us to the body. Lt. Gary and Sgt. Letterman followed Inv. Gaddy and me as we transported Keenen as he directed us where to go to find the body. Keenen took us to a bridge on Jordan Creek Rd. near Blue Gill Pl. When we stopped I got out and went to look under the bridge. I found the (V) lying half in the water and half out. Lt. Gary and Sgt. Letterman was notified as was I.D. and the Coroner's Office. The body was subsequently recovered.

Anthony was then transported back to the SCSO to be interviewed. The interview was video and audio recorded. Keenen said Brittany shot Anthony. He said she

shot Anthony because he had been trying to get with her and that made her mad. He said when they left the store he was driving, Brittany was in the passenger seat and Anthony was in the back seat behind him. He could not remember if they were arguing when she shot Anthony. He said he thought Brittany shot three to four times. He said when she shot Anthony he kept saying ouch. He said he repeated that a few times, then he did not say anything. He said they went to dump the body. He said she told him to go to the bridge. He said they both carried the body under the bridge. He said she then told him they needed to get rid of the car. He said she told him to drive to Lake Bowen. He said they then drove the car into the lake. Keenen was asked where Brittany got the gun. He said he got the gun for her. He said she wanted to kill Anthony before, but he was able to talk her out of it. He said after she shot Anthony she made the comment "That Mother Fucker Deserved it". He said after they dumped the car they carted walking and called someone to come get them. He said they were picked up by someone in a green Honda and he gave them gas money. Keenen further said he gave the gun to his brother Jermaine McCoy. The interview was ended.

We then made contact with Jermaine McCoy. Jermaine was able to locate the weapon and turned it over to me. He told us he and his girlfriend picked up Keenen and his girlfriend and took them back to the hotel. When we first talked with McCoy he told us his girlfriend drove a green Honda. When he turned the gun over to us he was with his girlfriend in a green in color Honda. He said he got the gun for Keenen, but Keenen did not tell him why. McCoy would not provide a statement, but did sign the evidence sheet for me to recover the gun from him.

On 6/3/2016 I viewed the autopsy performed by Dr. Wren. There was a wound on the rights side of the (V)'s face close to his ear. There was what appeared to be a though and through wounds to the (V)'s left wrist. There was a wound to the (V)'s left upper chest. The shirt the (V) was wearing had a whole in it that was in the same area as the wound to the (V)'s chest. See Dr. Wren's report for a more detailed account of the (V)'s injuries.

On 6/6/2016 I obtained a search warrant for the Mitsubishi Keenen and Brittany were arrested in because it was found they had clothes in the vehicle and Keenen's phone was in the car. This information was found during his interview. Sr, Forensics' Inv. Lawson served the search warrant, processed the vehicle and recovered the evidence.

Note, I went over the evidence recovered through out this investigation with Forensics Case Deputy, Sr. Forensics' Inv. Sean Nix to determine what and how the items need to be processed. Nix handled having the items sent to be processed by the necessary outside agencies.

Note, I requested banking information for the (V)'s account with CPM Federal Credit Union. On 8/4/2016 I received the requested paper work. I was advised the (V) had filed a complaint against what he referred to as a B/M and a W/F living with him stealing and using his debit card. This portion of the investigation is ongoing to try to locate and recover any video of the debit card being used.

Supplement Hogsed D

Crime Scene Report
Spartanburg County Sheriff's Office

Case No: 16051580
Offense Type: Murder
Victim: Biggerstaff, A.
Location: Jordan Creek Rd. near Bright Blue Gill
Patrol Ofc:
CSU Ofc: D. Hogsed
Date: 06/02/16

On 06/02/16 I was notified by Inv. T. Clark to follow them while they looked for Mr. Biggerstaff. Upon arrival at a small bridge on Jordan Creek Rd near the intersection of Bright Blue Gill, I was informed that Mr. Biggerstaff was underneath the bridge deceased.

I observed the victim lying face down and mostly in the water/creek that the bridge covered.

I made contact with CSU Inv. S. Nix asking that he respond in order to process the crime scene. Due to it raining off and on, I started taking digital photographs of the area and of Mr. Biggerstaff's location. This was my only involvement with this incident.

Photos taken were down loaded into Spillman.

Vehicles**Vehicle Number:**

100310

License Plate: [REDACTED]

State: SC

Vehicle Year: 2015

Make: NISS Nissan

Color: SIL /

Vehicle Type: PCAR Passenger Car**License Type:** PC Regular Passenger Automobile**Expires:** 01/01/17**VIN:** 3N1AB7AP8FY347841**Model:** SEN**Doors:** 0**Value:** \$15,000.00**Owner:****Last:** AYERS**First:** JANET**Mid:****DOB:** [REDACTED]**Dr Lic:****Address:** [REDACTED] CHURCH ST**Race:** W**Sex:** F**Phone:** [REDACTED]**City:** INMAN, SC 29349**Agency:** SCSO Spartanburg County S.O.**Date Recov/Rcvd:** 05/30/16**Officer:** Peters S**Area:****UCR Status:** DDV Destroyed/Damaged/Vandalized**Wrecker Service:** CO County Rollback**Local Status:****Storage Location:** county impound**Status Date:** 05/30/16**Release Date:** **/**/****Comments:**

Property**Property Number:** 228032**Item:** DVD + R**Owner Applied Nmbr:****Brand:****Year:** 0**Meas:****Total Value:** \$0.00**Owner:****Agency:** SCSO Spartanburg County S.O.**Accum Amt Recov:** \$0.00**UCR:****Local Status:** EVI**Crime Lab Number:****Date Released:** **/**/****Released By:****Released To:****Reason:****Comments:** Keenen Hins's Cell Phone Reocrds**Property Number:** 227914**Item:** DVD + R**Owner Applied Nmbr:****Brand:****Year:** 0**Meas:****Total Value:** \$0.00**Owner:****Agency:** SCSO Spartanburg County S.O.**Accum Amt Recov:** \$0.00**UCR:****Local Status:** EVI**Crime Lab Number:****Date Released:** **/**/****Released By:****Released To:****Reason:****Comments:****Property Number:** 226912**Item:** DVD + R**Owner Applied Nmbr:****Brand:****Model:****Quantity:** 1**Serial Nmbr:****Color:** SIL**Tag Number:****Officer:** Clark T**UCR Status:****Storage Location:****Status Date:** **/**/****Date Recov/Rcvd:** 08/11/16**Amt Recovered:** \$0.00**Custody:** **:**:** **/**/**

Year: 0	Quantity:
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Clark T
UCR:	UCR Status:
Local Status: EVI	Storage Location:
Crime Lab Number:	Status Date: **/**/**
Date Released: **/**/**	Date Recov/Rcvd: 06/08/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **.*.*.* **/**/**
Reason:	
Comments:	
Property Number: 222200	
Item: Cell Phone	Owner Applied Nmbr:
Brand: Item #29	Model:
Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Lawson J
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 06/06/16
Date Released: **/**/**	Date Recov/Rcvd: 06/06/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **.*.*.* **/**/**
Reason:	
Comments: Black Lg phone SN#511CYBD0562149	
Property Number: 222202	
Item: Cell Phone	Owner Applied Nmbr:
Brand: Item #30	Model:
Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Lawson J

UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 06/06/16
Date Released: **/**/**	Date Recov/Rcvd: 06/06/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **.*.*.* **/**/**
Reason:	
Comments: White Samsung Phone SN#R28GB5ESQGX	
Property Number: 222203	
Item: Cell Phone	Owner Applied Nmbr:
Brand: Item #31	Model:
Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Lawson J
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 06/06/16
Date Released: **/**/**	Date Recov/Rcvd: 06/06/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **.*.*.* **/**/**
Reason:	
Comments: Black and Grey LG phone SN#408CYA5768224	
Property Number: 222204	
Item: Cell Phone	Owner Applied Nmbr:
Brand: Item #32	Model:
Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Lawson J
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 06/06/16
Date Released: **/**/**	Date Recov/Rcvd: 06/06/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **.*.*.* **/**/**

Reason:		
Comments: Lg Black flip phone SN# 409CYTB522201		
Property Number: 222205		
Item: Duffel Bag	Owner Applied Nmbr:	
Brand: Item #33	Model:	
Year: 0	Quantity: 1	
Meas:	Serial Nmbr:	
Total Value: \$0.00	Color:	
Owner:		
Agency: SCSO Spartanburg County S.O.	Tag Number:	
Accum Amt Recov: \$0.00	Officer: Lawson J	
UCR:	UCR Status:	
Local Status:	Storage Location:	
Crime Lab Number:	Status Date: 06/06/16	
Date Released: **/**/**	Date Recov/Rcvd: 06/06/16	
Released By:	Amt Recovered: \$0.00	
Released To:	Custody: **/**/** **/**/**	
Reason:		
Comments: Blue and yellow bag		
Property Number: 222206		
Item: Pants	Owner Applied Nmbr:	
Brand: Item #34	Model:	
Year: 0	Quantity:	
Meas:	Serial Nmbr:	
Total Value: \$0.00	Color:	
Owner:		
Agency: SCSO Spartanburg County S.O.	Tag Number:	
Accum Amt Recov: \$0.00	Officer: Lawson J	
UCR:	UCR Status:	
Local Status:	Storage Location:	
Crime Lab Number:	Status Date: 06/06/16	
Date Released: **/**/**	Date Recov/Rcvd: 06/06/16	
Released By:	Amt Recovered: \$0.00	
Released To:	Custody: **/**/** **/**/**	
Reason:		
Comments: Black pants with white writing		
Property Number: 222207		
Item: Shorts	Owner Applied Nmbr:	
Brand: Item #35	Model:	

Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Red athletic works shorts size xl
Property Number: 222208
Item: T SHIRT

Brand: Item #36
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Tee Tree medium red t-shirt
Property Number: 222209
Item: TENNIS SHOES

Brand: Item #37
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00

Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Lawson J
UCR Status:
Storage Location:
Status Date: 06/06/16
Date Recov/Rcvd: 06/06/16
Amt Recovered: \$0.00
Custody: **.*.* **/**/**
Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Lawson J
UCR Status:
Storage Location:
Status Date: 06/06/16
Date Recov/Rcvd: 06/06/16
Amt Recovered: \$0.00
Custody: **.*.* **/**/**
Owner Applied Nmbr:

Model:
Quantity: 2
Serial Nmbr:
Color:
Tag Number:
Officer: Lawson J

UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/
Released By:
Released To:
Reason:
Comments: Red Van tennis shoes size 11
Property Number: 222237
Item: Shoes

Brand: ITEM 38
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/
Released By:
Released To:
Reason:
Comments:
Property Number: 222238
Item: Socks

Brand: ITEM 39
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/
Released By:
Released To:

UCR Status:
Storage Location:
Status Date: 06/06/16
Date Recov/Rcvd: 06/06/16
Amt Recovered: \$0.00
Custody: **:*** **/**/
Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Nix M
UCR Status:
Storage Location:
Status Date: 06/03/16
Date Recov/Rcvd: 06/03/16
Amt Recovered: \$0.00
Custody: **:*** **/**/
Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Nix M
UCR Status:
Storage Location:
Status Date: 06/03/16
Date Recov/Rcvd: 06/03/16
Amt Recovered: \$0.00
Custody: **:*** **/**/

Reason:		
Comments:		
Property Number:	222239	
Item:	Shirt	Owner Applied Nmbr:
Brand:	ITEM 40	Model:
Year:	0	Quantity: 1
Meas:		Serial Nmbr:
Total Value:	\$0.00	Color:
Owner:		
Agency:	SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov:	\$0.00	Officer: Nix M
UCR:		UCR Status:
Local Status:		Storage Location:
Crime Lab Number:		Status Date: 06/03/16
Date Released:	**/**/**	Date Recov/Rcvd: 06/03/16
Released By:		Amt Recovered: \$0.00
Released To:		Custody: **.*.*** **/**/**
Reason:		
Comments:		
Property Number:	222240	
Item:	Shorts	Owner Applied Nmbr:
Brand:	ITEM 41	Model:
Year:	0	Quantity: 1
Meas:		Serial Nmbr:
Total Value:	\$0.00	Color:
Owner:		
Agency:	SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov:	\$0.00	Officer: Nix M
UCR:		UCR Status:
Local Status:		Storage Location:
Crime Lab Number:		Status Date: 06/03/16
Date Released:	**/**/**	Date Recov/Rcvd: 06/03/16
Released By:		Amt Recovered: \$0.00
Released To:		Custody: **.*.*** **/**/**
Reason:		
Comments:		
Property Number:	222241	
Item:	Underwear	Owner Applied Nmbr:
Brand:	ITEM 42	Model:

Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/
Released By:
Released To:
Reason:
Comments:
Property Number: 222242
Item: Blood in Vial

Brand: ITEM 43
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/
Released By:
Released To:
Reason:
Comments:
Property Number: 222243
Item: Fired Bullet

Brand: ITEM 44
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00

Quantity: 1
Serial Nbr:
Color:
Tag Number:
Officer: Nix M
UCR Status:
Storage Location:
Status Date: 06/03/16
Date Recov/Rcvd: 06/03/16
Amt Recovered: \$0.00
Custody: **:**:** **/**/
Owner Applied Nbr:

Model:
Quantity: 1
Serial Nbr:
Color:
Tag Number:
Officer: Nix M
UCR Status:
Storage Location:
Status Date: 06/03/16
Date Recov/Rcvd: 06/03/16
Amt Recovered: \$0.00
Custody: **:**:** **/**/
Owner Applied Nbr:

Model:
Quantity: 1
Serial Nbr:
Color:
Tag Number:
Officer: Nix M

UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/
Released By:
Released To:
Reason:
Comments:
Property Number: 221939
Item: CD

Brand:
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/
Released By:
Released To:
Reason:
Comments:
Property Number: 226915
Item: DVD + R

Brand:
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status: EVI
Crime Lab Number:
Date Released: **/**/
Released By:
Released To:

UCR Status:
Storage Location:
Status Date: 06/03/16
Date Recov/Rcvd: 06/03/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/
Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Gaddy M
UCR Status:
Storage Location:
Status Date: **/**/
Date Recov/Rcvd: 06/02/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/
Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Clark T
UCR Status:
Storage Location:
Status Date: 06/03/16
Date Recov/Rcvd: **/**/
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/

Reason:
Comments:
Property Number: 226922
Item: DVD + R

Brand:
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status: EVI
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments:

Property Number: 228037
Item: DVD + R

Brand:
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status: EVI
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments:

Property Number: 228033
Item: DVD +R

Brand: Verbatim

Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:

Tag Number:
Officer: Clark T
UCR Status:
Storage Location:
Status Date: 06/03/16
Date Recov/Rcvd: **/**/**
Amt Recovered: \$0.00
Custody: **.*.*** **/**/**

Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color: SIL

Tag Number:
Officer: Clark T
UCR Status:
Storage Location:
Status Date: **/**/**
Date Recov/Rcvd: 06/03/16
Amt Recovered: \$0.00
Custody: **.*.*** **/**/**

Owner Applied Nmbr:

Model:

Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color: SIL
Owner:	Tag Number:
Agency: SCSO Spartanburg County S.O.	Officer: Clark T
Accum Amt Recov: \$0.00	UCR Status:
UCR:	Storage Location:
Local Status:	Status Date: **/**/**
Crime Lab Number:	Date Recov/Rcvd: 06/03/16
Date Released: **/**/**	Amt Recovered: \$0.00
Released By:	Custody: **.*.*.* **/**/**
Released To:	
Reason:	
Comments: Recording of Keenen Hines conversation	
Property Number: 221793	
Item: Cigarette Butt	Owner Applied Nmbr:
Brand: ITEM 6	Model:
Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	Tag Number:
Agency: SCSO Spartanburg County S.O.	Officer: Nix M
Accum Amt Recov: \$0.00	UCR Status:
UCR:	Storage Location:
Local Status:	Status Date: 05/30/16
Crime Lab Number:	Date Recov/Rcvd: 05/30/16
Date Released: **/**/**	Amt Recovered: \$0.00
Released By:	Custody: **.*.*.* **/**/**
Released To:	
Reason:	
Comments:	
Property Number: 221794	Owner Applied Nmbr:
Item: Sunglasses	
Brand: ITEM 7	Model:
Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	Tag Number:
Agency: SCSO Spartanburg County S.O.	Officer: Nix M
Accum Amt Recov: \$0.00	

UCR:
 Local Status:
 Crime Lab Number:
 Date Released: **/**/**
 Released By:
 Released To:
 Reason:
 Comments:
 Property Number: 221795
 Item: Cell Phone

Brand: ITEM 8
 Year: 0
 Meas:
 Total Value: \$0.00
 Owner:
 Agency: SCSO Spartanburg County S.O.
 Accum Amt Recov: \$0.00
 UCR:
 Local Status:
 Crime Lab Number:
 Date Released: **/**/**
 Released By:
 Released To:
 Reason:
 Comments:
 Property Number: 221796
 Item: Fired Cart.Case

Brand: ITEM 9
 Year: 0
 Meas:
 Total Value: \$0.00
 Owner:
 Agency: SCSO Spartanburg County S.O.
 Accum Amt Recov: \$0.00
 UCR:
 Local Status:
 Crime Lab Number:
 Date Released: **/**/**
 Released By:
 Released To:

UCR Status:
 Storage Location:
 Status Date: 05/30/16
 Date Recov/Rcvd: 05/30/16
 Amt Recovered: \$0.00
 Custody: **.**.**. **/**/**
 Owner Applied Nmbr:

Model:
 Quantity: 1
 Serial Nmbr:
 Color:
 Tag Number:
 Officer: Nix M
 UCR Status:
 Storage Location:
 Status Date: 05/30/16
 Date Recov/Rcvd: 05/30/16
 Amt Recovered: \$0.00
 Custody: **.**.**. **/**/**
 Owner Applied Nmbr:

Model:
 Quantity: 1
 Serial Nmbr:
 Color:
 Tag Number:
 Officer: Nix M
 UCR Status:
 Storage Location:
 Status Date: 05/30/16
 Date Recov/Rcvd: 05/30/16
 Amt Recovered: \$0.00
 Custody: **.**.**. **/**/**

Reason:	
Comments:	
Property Number: 221797	
Item: Fired Cart.Case	Owner Applied Nmbr:
Brand: ITEM 10	Model:
Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Nix M
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 05/30/16
Date Released: **/**/**	Date Recov/Rcvd: 05/30/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **.*.*.* **/**/**
Reason:	
Comments:	
Property Number: 221799	
Item: Blood Swab	Owner Applied Nmbr:
Brand: ITEM 11	Model:
Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Nix M
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 05/30/16
Date Released: **/**/**	Date Recov/Rcvd: 05/30/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **.*.*.* **/**/**
Reason:	
Comments:	
Property Number: 221801	
Item: Unfired Cart	Owner Applied Nmbr:
Brand: ITEM 12	Model:

Year: 0
 Meas:
 Total Value: \$0.00
 Owner:
 Agency: SCSO Spartanburg County S.O.
 Accum Amt Recov: \$0.00
 UCR:
 Local Status:
 Crime Lab Number:
 Date Released: **/**/**
 Released By:
 Released To:
 Reason:
 Comments:
 Property Number: 221802
 Item: Fired Bullet

Quantity: 1
 Serial Nmbr:
 Color:
 Tag Number:
 Officer: Nix M
 UCR Status:
 Storage Location:
 Status Date: 05/30/16
 Date Recov/Rcvd: 05/30/16
 Amt Recovered: \$0.00
 Custody: **.*.*.* **/**/**
 Owner Applied Nmbr:

Brand: ITEM 13
 Year: 0
 Meas:
 Total Value: \$0.00
 Owner:
 Agency: SCSO Spartanburg County S.O.
 Accum Amt Recov: \$0.00
 UCR:
 Local Status:
 Crime Lab Number:
 Date Released: **/**/**
 Released By:
 Released To:
 Reason:
 Comments:
 Property Number: 221804
 Item: Cigarette Filte

Model:
 Quantity: 1
 Serial Nmbr:
 Color:
 Tag Number:
 Officer: Nix M
 UCR Status:
 Storage Location:
 Status Date: 05/30/16
 Date Recov/Rcvd: 05/30/16
 Amt Recovered: \$0.00
 Custody: **.*.*.* **/**/**
 Owner Applied Nmbr:

Brand: ITEM 14
 Year: 0
 Meas:
 Total Value: \$0.00
 Owner:
 Agency: SCSO Spartanburg County S.O.
 Accum Amt Recov: \$0.00

Model:
 Quantity: 1
 Serial Nmbr:
 Color:
 Tag Number:
 Officer: Nix M

UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments:
Property Number: 221806
Item: Placard

Brand: ITEM 15
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments:
Property Number: 221807
Item: Money

Brand: ITEM 16
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:

UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**

Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:

Tag Number:
Officer: Nix M

UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**

Owner Applied Nmbr:

Model:
Quantity: 4
Serial Nmbr:
Color:

Tag Number:
Officer: Nix M

UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**

Reason:	
Comments:	
Property Number: 221588	
Item: SWAB TOUCH DNA	Owner Applied Nmbr:
Brand: Item #25	Model:
Year: 0	Quantity: 2
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Stepp C
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 05/31/16
Date Released: **/**/**	Date Recov/Rcvd: 05/31/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **:**:** **/**/**
Reason:	
Comments: Item #20	
Property Number: 221590	
Item: SWAB TOUCH DNA	Owner Applied Nmbr:
Brand: Item #26	Model:
Year: 0	Quantity: 2
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Stepp C
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 05/31/16
Date Released: **/**/**	Date Recov/Rcvd: 05/31/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **:**:** **/**/**
Reason:	
Comments: Item #21	
Property Number: 221591	
Item: SWAB TOUCH DNA	Owner Applied Nmbr:
Brand: Item #27	Model:

Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Item #22
Property Number: 221592
Item: SWAB TOUCH DNA

Brand: Item #28
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Item #23
Property Number: 221541
Item: NOTE BOOK

Brand: Item #1
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00

Quantity: 2
Serial Nmbr:
Color:
Tag Number:
Officer: Stepp C
UCR Status:
Storage Location:
Status Date: 05/31/16
Date Recov/Rcvd: 05/31/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**
Owner Applied Nmbr:

Model:
Quantity: 2
Serial Nmbr:
Color:
Tag Number:
Officer: Stepp C
UCR Status:
Storage Location:
Status Date: 05/31/16
Date Recov/Rcvd: 05/31/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**
Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Stepp C

UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Ground
Property Number: 221542
Item: NOTE BOOK

Brand: Item #2
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Ground
Property Number: 221543
Item: Beer Can

Brand: Item #3 Bud lig
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:

UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**

Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:

Tag Number:
Officer: Stepp C

UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**

Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:

Tag Number:
Officer: Stepp C

UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**

Reason:	
Comments: Water	
Property Number: 221544	
Item: Pen	Owner Applied Nmbr:
Brand: Item #4 Bic	Model:
Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Stepp C
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 05/30/16
Date Released: **/**/**	Date Recov/Rcvd: 05/30/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **:**:** **/**/**
Reason:	
Comments: Ground	
Property Number: 221545	Owner Applied Nmbr:
Item: Blood Swabs	
Brand: Item #5	Model:
Year: 0	Quantity: 2
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Stepp C
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 05/30/16
Date Released: **/**/**	Date Recov/Rcvd: 05/30/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **:**:** **/**/**
Reason:	
Comments: Item #2 Note Book	
Property Number: 221574	Owner Applied Nmbr:
Item: Paper Documents	
Brand:	Model:

Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Master Bedroom
Property Number: 221575
Item: NOTE BOOK

Brand: Item #18
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Bedroom
Property Number: 221576
Item: Receipt

Brand: Item #19
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00

Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Stepp C
UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**
Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Stepp C
UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**
Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:
Tag Number:
Officer: Stepp C

UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Inside Trash Bag
Property Number: 221577
Item: Crack Pipe

Brand: Item #20
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:
Reason:
Comments: Living Room Table
Property Number: 221578
Item: Beer Bottle

Brand: Item #21 Miller
Year: 0
Meas:
Total Value: \$0.00
Owner:
Agency: SCSO Spartanburg County S.O.
Accum Amt Recov: \$0.00
UCR:
Local Status:
Crime Lab Number:
Date Released: **/**/**
Released By:
Released To:

UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**

Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:

Tag Number:
Officer: Stepp C
UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**

Owner Applied Nmbr:

Model:
Quantity: 1
Serial Nmbr:
Color:

Tag Number:
Officer: Stepp C
UCR Status:
Storage Location:
Status Date: 05/30/16
Date Recov/Rcvd: 05/30/16
Amt Recovered: \$0.00
Custody: **.*.*.* **/**/**

Reason:		
Comments:	Living Room Floor	
Property Number:	221579	
Item:	Crack Pipe	Owner Applied Nmbr:
Brand:	Item #22	Model:
Year:	0	Quantity:
Meas:		Serial Nmbr:
Total Value:	\$0.00	Color:
Owner:		
Agency:	SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov:	\$0.00	Officer:
UCR:		UCR Status:
Local Status:		Storage Location:
Crime Lab Number:		Status Date:
Date Released:	**/**/**	Date Recov/Rcvd:
Released By:		Amt Recovered:
Released To:		Custody:
Reason:		
Comments:	On plate	
Property Number:	221580	Owner Applied Nmbr:
Item:	Beer Bottle	
Brand:	Item #23	Model:
Year:	0	Quantity:
Meas:		Serial Nmbr:
Total Value:	\$0.00	Color:
Owner:		
Agency:	SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov:	\$0.00	Officer:
UCR:		UCR Status:
Local Status:		Storage Location:
Crime Lab Number:		Status Date:
Date Released:	**/**/**	Date Recov/Rcvd:
Released By:		Amt Recovered:
Released To:		Custody:
Reason:		
Comments:	Living Room Floor	
Property Number:	221581	Owner Applied Nmbr:
Item:	Cell Phone	
Brand:	Item #24 LG	Model:

Year: 0	Quantity: 1
Meas:	Serial Nmbr:
Total Value: \$0.00	Color:
Owner:	
Agency: SCSO Spartanburg County S.O.	Tag Number:
Accum Amt Recov: \$0.00	Officer: Stepp C
UCR:	UCR Status:
Local Status:	Storage Location:
Crime Lab Number:	Status Date: 05/30/16
Date Released: **/**/**	Date Recov/Rcvd: 05/30/16
Released By:	Amt Recovered: \$0.00
Released To:	Custody: **:***:** **/**/**
Reason:	
Comments: Living Room Table	

Name Involvements:**Complainant : 70241****Last:** LEDBETTER**First:** RICHARD**Mid:** JASON**DOB:** [REDACTED]**Dr Lic:** [REDACTED]**Address:** [REDACTED] EDWARDS RD**Race:** W **Sex:** M**Phone:** [REDACTED]**City:** INMAN, SC 29349**Witness : 57634****Last:** STAGGS**First:** DAVID**Mid:** EUGENE**DOB:** [REDACTED]**Dr Lic:** [REDACTED]**Address:** [REDACTED] BRIDGES ST**Race:** W **Sex:** M**Phone:** [REDACTED]**City:** INMAN, SC 29349**Victim : 60865****Last:** BIGGERSTAFF**First:** ANTHONY**Mid:** NEIL**DOB:** [REDACTED]**Dr Lic:** [REDACTED]**Address:** [REDACTED] CHURCH ST**Race:** W **Sex:** M**Phone:** [REDACTED]**City:** INMAN, SC 29349**Suspect : 93855****Last:** HINES**First:** KEENEN**Mid:** LA BREECE**DOB:** [REDACTED]**Dr Lic:** [REDACTED]**Address:** [REDACTED] BEECHWOOD DR**Race:** B **Sex:** M**Phone:** () -**City:** INMAN, SC 29349**Suspect : 159431****Last:** FOSTER**First:** BRITTANY**Mid:** CASSANDRA**DOB:** [REDACTED]**Dr Lic:** [REDACTED]**Address:** [REDACTED] F ST**Race:** W **Sex:** F**Phone:** [REDACTED]**City:** INMAN, SC 29349**Owner : 229069****Last:** AYERS**First:** JANET**Mid:****DOB:** [REDACTED]**Dr Lic:****Address:** [REDACTED] CHURCH ST**Race:** W **Sex:** F**Phone:** [REDACTED]**City:** INMAN, SC 29349

Spillman Data Systems, Inc.

Deputy Report for Incident 16060095

16051580

Nature: Traffic Stop

Address: INTERSTATE 85(BUSINESS) &
NEW CUT RD; SB
SPARTANBURG SC 29303

Location: 31

Offense Codes: WOFF, NPD, NPWI, NPWS

Received By: Henderson S

How Received: P

Agency: SCSO

Responding Officers:

Responsible Officer: Henderson S

Disposition: CAA 06/02/16

When Reported: 13:56:00 06/02/16

Occurred Between: 13:56:00 06/02/16 and 13:57:00 06/02/16

Assigned To: Henderson S

Detail: PATR

Date Assigned: 06/06/16

Status: ARR

Status Date: 06/06/16

Due Date: **/**/**

Complainant:

Last:

First:

Mid:

DOB: **/**/**

Dr Lic:

Address:

Race:

Sex:

Phone:

City: ,

Offense Codes

Reported:

Observed:

Additional Offense: WOFF Weapons Offense

Additional Offense: NPD Drugs, Possession of

Additional Offense: NPWI Drugs, Poss w/intent Distribut

Additional Offense: NPWS Drugs, PWID 1/2 Mile of
School

Circumstances

BM88 No Bias

LT13 LOC-Highway, Road, Alley

VTR23 Vict Relationship Unknown: RU

WNONE W-No Weapon Used

Responding Officers:

Unit :

Responsible Officer: Henderson S

Agency: SCSO

Received By: Henderson S

Last Radio Log: **.*.*** **/**/**



06/24/16

Deputy Report for Incident 16060095

Page 2 of 10

How Received: P In Person	Clearance: CRO Cleared by Responding Officer
When Reported: 13:56:00 06/02/16	Disposition: CAA Date: 06/02/16
Judicial Status:	Occurred between: 13:56:00 06/02/16
Misc Entry:	and: 13:57:00 06/02/16

Modus Operandi:	Description :	Method :
Day of Week	Preferred Day of Week	Thursday

Involvements

Date	Type	Description	
06/02/16	Name	NESBITT, JESSICA DANIELLE	Suspect
06/02/16	Name	HINES, KEENEN LA BREECE	Suspect
06/02/16	Name	FOSTER, BRITTANY CASSANDRA	Suspect
06/02/16	Vehicle	BLK 1998 MITS MIR	Involved
06/03/16	Evidence	green plant material	Evidence Incident
06/03/16	Evidence	scale, blue tablets, condom	Evidence Incident
06/03/16	Evidence	green plant material	Evidence Incident
06/03/16	Evidence	best bag s164642	Evidence Incident
06/03/16	Evidence	38 bullets from item 1	Evidence Incident
06/02/16	Evidence	CRIME SCENE PHOTOS	Evidence Incident
06/02/16	Evidence	38 cal revolver	Evidence Incident
06/02/16	Evidence	best bag s164601	Evidence Incident
06/02/16	Evidence	38 cal cases and green bag	Evidence Incident
06/02/16	Evidence	scdl	Evidence Incident
06/02/16	Evidence	temp auto tag	Evidence Incident

06/24/16

Narrative

While on routine patrol, in Spartanburg county, I observed a black in color Mirage being driven by a white female on New Cut Rd towards business 85. I could not see the expiration date on the tag. I attempted to conduct a traffic stop on New Cut Rd, the vehicle continued travelling on new Cut over 85. The vehicle then turned onto Broadcast Dr and came to a stop. I made contact with the driver/Nesbitt, who could not produce a SC drivers license. Nesbitt could not produce any vehicle information either. I asked Nesbitt to exit the vehicle after obtaining identification from the other two occupants. The front passenger/Hines, appeared to be nervous and continued to reach bedside and under his seat. For officer safety, I asked the passenger to step out of the vehicle and conducted a Terry frisk of his outer clothing. I then directed him to have a seat on the ground until the traffic stop was complete. I began asking Nesbitt about her license. She stated he may be in a purse in the trunk. As Nesbitt was looking through several purses in the trunk, I observed a plastic baggy with the corner torn off. I asked her what it was and she handed it to me. The baggy had no contraband. I then observed a small black baggy containing a small plastic baggy inside the purse, which she stated was hers. The baggy contained some small crystal like substances, which field tested positive for methamphetamine by Narcotics Investigators.

I asked Nesbitt if there was anything in the car illegal. Nesbitt became upset and stated that Hines had a pistol in the car. I then placed Hines in handcuffs for officer safety. Captain Metz looked under the passengers seat, where Hines was seated and observed a black revolver, loaded with the hammer back. The pistol was removed and rendered safe. ID Officer Nix responded, took photos and recovered the pistol. The pistol was checked via NCIC and showed stolen. Nix removed the pistol from NCIC.

At this time Inv Hancock and Sgt Pharis/SCSO Narcotics Unit arrived and took over the investigation. (See supplementals)

Elite towing (next on the list) responded and towed the vehicle.

Responsible LEO:

Approved by:

Date

Supplement Hancock K

On 06/02/2016, I Investigator Hancock along with Sgt. Pharis responded to the scene where Sgt. Henderson with the Spartanburg County Sheriff's Office had stopped a vehicle at the intersection of New Cut and Broadcast Dr. in Spartanburg, SC. When we arrived Sgt. Henderson had three subjects in custody, we identified the subjects as:

white female Jessica Nesbitt

white female Brittany Foster

black male Keenen Hines

Henderson was searching the car and we begin to assist with the search and the following items were found:

1. A Rossi 38 cal. pistol with 5 rounds serial number D791607 under the passenger seat.
2. A small bag of methamphetamine was found in a pink pocketbook in the trunk of the car. Approx. weight on the bag was 1.0 grams. The substance was field tested by Investigator Hancock using a 902 Narco pouch and it tested positive for Methamphetamine.
3. A plastic bag of Marijuana was found inside a blue bankers bag inside a black backpack in the passengers floor board. Approx. weight on the marijuana was 3.9 grams.
4. A set of digital scales was found inside the vehicle.
5. Inside a beige wallet in the trunk of the vehicle was a package containing 1 suboxone strip a schedule IV controlled substance.
6. Inside a beige pocketbook in the trunk of the vehicle was a blue metal pill container that contained 2 yellow pills with R039 inscribed on the side. The pills were identified by Investigator Hancock using the pill identifier app on his cellphone as being Alprazolam a schedule IV controlled substance.

After the search this Investigator asked Nesbitt who the pocket book and the wallet belonged to and she said it was hers. I walked over and begin to talk with Nesbitt and notice that she had a white plastic bottle in her hand. I asked her what was the bottle for and she said it had pills for pain relief. I asked her to hand it to me and she complied. I opened the bottle, inside was numerous blue tablets (not controlled) and a plastic bag that contained a crystal like substance. Approx. weight on the substance was 1.8 grams and it was field tested by Investigator Hancock using a 902 Narco pouch, the substance tested positive for Methamphetamine.

The handgun that was in the car was checked through NCIC and it came back stolen.

All three subjects were placed under arrest for Poss. of Marijuana, Poss. of a stolen handgun. Ms. Nesbitt was charged with PWID Methamphetamine, and PWID with half mile of a school (the school being Spartanburg Community College 107 Community College Dr. Spartanburg, SC).

All the items that were found except for the gun and rounds were recovered by Investigator Hancock. The gun and rounds were recovered by Dep. Nix with the Spartanburg County ID Division who also took photos at the scene. The pills and Methamphetamine were placed inside a best bag the number being S164601 and along with the other items were turned in at the Spartanburg County Sheriff's Office.

All three subjects were transported to the Spartanburg County jail. Once at the jail Ms. Nesbitt was strip search by a female Deputy and the following items were found:

Inside her bra was a brown pill bottle with the name Bobby Pugh on the label. The bottle contained approx. 2 grams of Marijuana, and 2 white tablets with TV58 inscribed on the side.

The pills were identified as being Tramadol a schedule IV controlled substance by Investigator Hancock using the pill identifier app. on his cell phone.

Inside side her Vagina was a off yellowish condom that contained a plastic bag that contained a crystal like substance. Approx. weight on the substance was 3.8 grams. The substance was field tested by Investigator Hancock using a 902 Narco pouch and it tested positive for Methamphetamine. Deputy Riddle recovered the items and turned them over to this Investigator by way of the chain of custody form. The Methamphetamine was placed inside a best bag by Investigator Hancock the number being S164642 and then turned into evidence at the Spartanburg County Sheriff's Office.

Ms. Nesbitt will receive another charge for PWID Methamphetamine, Poss. of Sch. IV, and Bring contraband into a jail facility.

Supplement Nix M

FORENSIC REPORT

Spartanburg County Sheriff's Office

Case No: 2016060095

Offense Type: TRAFFIC STOP

Victim: SOCIETY

Location: NEW CUT RD. & BROADCAST DR.

Patrol Ofc: HENDERSON

Forensic Ofc: S. NIX

ON 06-02-16 AT 1420 HRS. AT THE REQUEST OF DEPUTY HENDERSON, I RESPONDED TO A TRAFFIC STOP AT NEW CUT RD. AND BROADCAST DR. UPON ARRIVAL, I WAS ADVISED THAT DEPUTY HENDERSON NEEDED PHOTOS OF A WEAPON THAT HE HAD RECOVERED ON A TRAFFIC STOP OF A BLACK IN COLOR MITSUBISHI WITH A BENSON AUTOMOTIVE TAG AND THAT HE ALSO WANTED IT PROCESSED FOR PRINTS AT SOME POINT. THE WEAPON WAS A ROSSI 38 CAL. REVOLVER WITH SERIAL# D791607. THAT CONTAINED 5 SPEER 38 CAL. UNFIRED CARTRIDGE CASES. I TOOK PHOTOS OF THE WEAPON AND COLLECTED IT. OTHER DEPUTIES/INVESTIGATORS WERE SEARCHING THE VEHICLE AND LOCATED SEVERAL ITEMS THAT APPEARED TO BE NARCOTICS. THEY ASKED THAT I TAKE PHOTOS OF THE POSSIBLE NARCOTICS TO DOCUMENT THEM. NARCOTIC INVESTIGATORS ARE COLLECTING THEM. IN ADDITION TO THIS, I WAS ASKED TO TAKE INTO SAFE KEEPING THE FOLLOWING ITEMS: A GREEN BAG CONTAINING 9 SPEER 38 CAL. UNFIRED CARTRIDGE CASES, 2 SCDLs BELONGING TO MINNIE MILLER AND HOSEA WILSON, 3 SOCIAL SECURITY CARDS BELONGING TO MINNIE WILSON AND HOSEA WILSON AND CHARLIE WILSON, AND THREE TEMPORARY AUTO TAGS. I THEN RETURNED TO THE OFFICE AND CHECKED THE WEAPON TO SEE IF IT WAS STOLEN. THE WEAPON DID COME BACK STOLEN ON SPARTANBURG COUNTY CASE# 16051623. THE WEAPON WAS CLEARED NCIC. A SUPPLEMENTAL WAS DONE TO THE ORIGINAL THEFT REPORT. I FUMED THE WEAPON FOR PRINTS. NO PRINTS WERE FOUND. PHOTOS ENTERED INTO SPILLMAN. ITEMS ENTERED INTO EVIDENCE.

Supplement Hancock K

On 06/03/2016 I Investigator Hancock spoke with Judge D. Smith with the Spartanburg County Magistrates Court and obtained the following warrants:

Jessica Danille Nesbitt

2016A4210201968 Possession with Intent to Distribute Methamphetamine

2016A4210201970 Bringing Contraband into the County Jail

2016A4210201971 Possession of Schedule IV

2016A4210201973 Possession of Methamphetamine

2016A4210201974 Unlawful Carrying of a Firearm

2016A4210201975 Possession of a Stolen Handgun

Keenen La'Breece Hines

2016A4210201976 Possession of Methamphetamine

2016A4210201979 Unlawful Carrying of a Firearm

2016A4210201981 Possession of a Stolen Handgun

Brittany Cassandra Foster

2016A4210201977 Possession of Methamphetamine

2016A4210201978 Unlawful Carrying of a Firearm

2016A4210201980 Possession of a Stolen Handgun

The warrants were turned over to the Spartanburg County Sheriff's Office Warrant Division for service.

Supplement Metz T

11:03:44 06/03/2016 - Metz T

On June 2, 2016 at approximately 1400 hours, I responded to Sergeant S. Henderson who had initiated a traffic stop on Broadcast Drive in Spartanburg County. Upon my arrival, I stood at the passenger side of the stopped vehicle and maintained visual observation of an adult black male seated in front passenger seat and an adult white female seated in the rear of the vehicle. The driver of the vehicle, Jessica Nesbitt was standing outside the vehicle, near the trunk discussing her license/registration paperwork with Sergeant Henderson.

After a few moments, I was relieved by Deputy S. Powell who took my position on the passenger side of the vehicle and continued to observe the individuals still inside the car. During this time, I asked the Ms. Nesbitt if I could speak with her and she agreed. During our conversation, I asked about the identity of her passengers, their travel destination, if any stops had been made and if there was anything of concern in the vehicle. Ms. Nesbitt stated to me that, "he had a gun". I immediately reapproached the vehicle and the black male subject that was now sitting in the grass beside the vehicle. Sergeant Henderson and I applied a set of handcuffs to the male (identified as Hines) and verbally informed him that he was being placed into investigative detention. Once Hines was secured in handcuffs, I approached the open passenger side door, knelt down and looked directly under the passenger seat. I observed a revolver style handgun with wood grips. I determined through visual inspection that the hammer was in a cocked position. I removed the handgun from under the seat and placed it, barrel facing away from Hines, on the front passenger seat. Since the hammer was cocked I requested that Lt. Hopkins who had arrived on scene to render the gun safe. Once the gun was secure, I returned to Ms. Nesbitt and began speaking to her again. Prior to asking about the gun, I had Deputy Powell read Ms. Nesbitt her Miranda warnings and asked if she understood. Ms. Nesbitt stated that she did. I asked Ms. Nesbitt a series of questions regarding who possessed the gun, when she saw it, if anyone changed seats or location in the vehicle, and why she hesitated to stop immediately when signaled by police. I also spoke to the third subject in the vehicle, a 21 year old white female (identified as Brittney Foster). I asked Ms. Foster about the gun and who had it in their possession. Ms. Foster denied having any knowledge of the gun. I asked also her about the identity of the black male subject. She stated it was her boyfriend of several months and a friend for years. After speaking with the officers on scene, I concluded my involvement with this case. BWC activated.

Supplement Hopkins W

On June 2 2016 I at 2:14 PM, Lt. W. Hopkins, responded to the intersection of Broadcast Dr. and New Cut Rd. in Spartanburg County to assist Sgt. S. Henderson on a traffic stop for which the driver initially failed to stop when signaled to do so. When I arrived I observed several officers out already and I got out to assist with security of several subjects that were being removed from the vehicle. After a while I was asked by Capt. Tim Metz to render a weapon safe that was located inside the vehicle. I went to the passenger side and observed a blued short barrel revolver with wood grips on the seat. I could see the weapon had several rounds in the cylinder and the hammer cocked to the rear. I released the hammer and opened the cylinder which was fully loaded. I then placed the gun back on the seat. As officers were talking with the subjects I assisted with placing subject Hines in the rear of Deputy D. Littletons patrol vehicle and he was transported to SCSO Detention. I stayed with the scene and assisted Sgt. R. Miller with securing the two female subjects in his patrol vehicle and they too were transported to Detention. I stayed for a little while longer while Narcotics Officers continued their investigation. I then left the scene and this concluded my involvement in this case.

Vehicles**Vehicle Number:****100531****License Plate:** PAPER TAG**State:****Vehicle Year:** 1998**Make:** MITS Mitsubishi**Color:** BLK /**Vehicle Type:** PCAR Passenger Car**License Type:** PC Regular Passenger Automobile**Expires:** 06/21/16**VIN:** JA3AY11A3WU032158**Model:** MIR**Doors:** 4**Value:** \$2,500.00**Owner:****Last:** NESBITT**First:** JESSICA**Mid:** DANIELLE**DOB:** [REDACTED]**Dr Lic:** [REDACTED]**Address:** [REDACTED] INDY LN**Race:** W**Sex:** F**Phone:** [REDACTED]**City:** INMAN, SC 29349**Agency:****Date Recov/Rcvd:** **/**/****Officer:****Area:****UCR Status:****Wrecker Service:****Local Status:****Storage Location:****Status Date:** **/**/****Release Date:** **/**/****Comments:**

Name Involvements:**Suspect :** 93855**Last:** HINES**First:** KEENEN**Mid:** LA BREECE**DOB:** [REDACTED]**Dr Lic:** [REDACTED]**Address:** [REDACTED] BEECHWOOD DR**Race:** B **Sex:** M**Phone:** () -**City:** INMAN, SC 29349**Suspect :** 41154**Last:** NESBITT**First:** JESSICA**Mid:** DANIELLE**DOB:** [REDACTED]**Dr Lic:** [REDACTED]**Address:** [REDACTED] INDY LN**Race:** W **Sex:** F**Phone:** [REDACTED]**City:** INMAN, SC 29349**Suspect :** 159431**Last:** FOSTER**First:** BRITTANY**Mid:** CASSANDRA**DOB:** [REDACTED]**Dr Lic:** [REDACTED]**Address:** [REDACTED] F ST**Race:** W **Sex:** F**Phone:** [REDACTED]**City:** INMAN, SC 29349

SPARTANBURG COUNTY SHERIFFS DEPARTMENT
Spartanburg, South Carolina

ORIGINAL

PRE-INTERROGATION WAIVER FORM

CASE NUMBER

16051580

Name Brittney Foster Address Homeless

Age 21 years Date 4:30 p.m. Time 6/2/12

Location Spartanburg County Jail

1. I have the right to remain silent.
2. Anything I say can and will be used against me in a court of law.
3. I have the right to talk to a lawyer and to have him present with me while I am being questioned.
4. If I cannot afford to hire a lawyer, one will be appointed to represent me before any questioning, if I so wish.
5. I have the right to stop answering questions at any point in the questioning.

The above rights have been read to me by Tan Clark

I have read same and I understand my rights fully.

Witness Alvarado Signed Brittney Foster

I waive (give up) my rights as explained above and agree to talk to officer Tan Clark
in reference to Anthony Bischoff (CASES OR CHARGES), and my statement that I may
make is of my own free will, without fear, threat or promise or favor or reward of any kind.

I am able to read and write the English Language and finished 10 years in school.

Witnessed Alvarado Signed Brittney Foster

Notarized _____

Expiration Date _____

CASE # 2016051580	VOLUNTARY STATEMENT	PAGE 1 OF 7
STATEMENT OF: Keenen La Breece Hines	AGE:	DATE: 6-2-14 10:54pm
ADDRESS: [REDACTED] Beechwood Dr., Inman, SC 29349		
PHONE #	DOB: [REDACTED]	SSN: [REDACTED]

Investigators: Mark Gaddy & Tom Clark

Suspect: Keenen La Breece Hines

Date: 6/2/16

Time: 10:54pm

Car Door opens

KH: You got to get that other drink right there.

MG: Yeah, it's right here.

TC: Your blue lights are still on.

MG: Yeap.

TC: Hey, you make it home okay? Oh, no problem.

KH: S

MG: Well, I mean she's gotta.

KH: Honestly, I don't.

MG: Well, she's gotta bigger part of this to tote than you do, that's for sure.

KH: She has a bigger.

TC: (laughing)

MG: She's got, I mean, she's, you know, we've been talking, she's, I mean, you know this what'n, this what'n your doing.

KH: It really wasn't. Yes, Anthony Biggerstaff.

MG: Yes.

Other: Ya'll good.

TC: All right, I just wanna know you made it home okay.

KH: I just don't know why she would, I don't why she would just wanna do that.

MG: She didn't nothing about why she wanted to?

KH: Man, I honestly don't know, I don't know why she shot that man. Only think I know is.

MG: Did she, she didn't say nothing about anything he did to her I mean she just all of a sudden just?

KH: Unless it's something she didn't tell me that Anthony did to this woman, to this girl.

MG: Right.

— KH: To the reason she shot this man, I don't know.

TC: What, why did you guys get the gun?

KH: Me, I wasn't intentionally getting the gun cause I'm a felon. My brother

TC: Why did she tell you she wanted the gun?

KH: She told me, she didn't, that's something that you would have to ask her. I mean I honestly don't know I said.

TC: Wait a minute, she told you she wanted the gun?

KH: She told me she was gonna get rid of him.

TC: She told you she what?

KH: She told me she wanted to get rid of him or whatever but, but I had no intentions of her of already having and wanting to shoot this man. Not like, right whenever we had all got together, like, it just happened so, it happened quick. The only thing I know I wasn't trying to get myself shot and I was man enough to let ya'll know where she had killed this man. So what did she say about parking the car in the lake, what, shouldn't even?

— MG: Well, I mean, she, she said that, that that's you know like I was trying to, I was getting to asking you about that when were standing at the back of the truck.

KH: Yeah.

MG: You know, when ya'll left here, ya'll went straight up there and did that or did something else, did you go somewhere else or what?

KH: We went straight there.

MG: You went straight to Lake Bowen?

KH: Yeah.

MG: So how did you know about that, did, did you just find that place or did she know about that place or what?

KH: What place, talking about the lake?

MG: No, no, no, no, everybody knows where the lake is. I'm talking about that place that you used to run the car down into the lake.

KH: Uh I ain't, I ain't know, I don't, I didn't know anything about that.

TC: So she?

— MG: So she?

TC: She directed, did she direct you where to go?

KH: Yeah but she said Lake Bowen. Only thing I knew was Lake Bowen and I didn't know she had, I didn't know she had any intentions on shooting me or what, ya'll, you hear what I'm saying?

TC: But I mean, where the car was, the car, where the car was at?

KH: Mmm (yes).

TC: Where the car was pushed off into the water or drove off into the water?

KH: Right.

TC: How did you get to that particular spot? Did she tell you to go there or?

KH: Yes, she told me to go to Lake Bowen.

TC: But I mean that particular spot in that yard? In that grassy area, where the, you know where I'm talking about? Like did she tell you, did she give you turn by turn directions where to go?

KH: Yes, I mean.

TC: Hm?

KH: Yes sir.

TC: Okay, that's what I was just trying to find out if she gave you turn, how you got to that point if she gave you turn by turn directions.

KH: Yeah cause I didn't want nobody to get shot I mean which I didn't know if she would shoot me or not but it wasn't my intentions. None of this, none of this is my intentions. It's really my safety.

TC: I understand.

KH: So I didn't murder the man.

TC: Is your phone, did they leave your phone and stuff in that car didn't they?

KH: No sir I don't think so.

TC: Where did they put your phone?

KH: My phone is in the car I got arrested in.

TC: That's what I'm saying. Did the police leave it in the car today?

KH: They had, must have. The phone is not in there?

TC: What now?

KH: Is my phone in there?

TC: There's some phones in the car. I just didn't understand why the, why the phones are still in the car.

MG: What kind of phone you got?

KH: That's what I'm saying, they didn't even give, they didn't even uh.

MG: What kind of phone do you have Keenen?

KH: T Mobile.

TC: Is it like a Samsung or is like uh?

KH: Yeah, Samsung T Mobile phone.

MG: What's your phone number?

KH: 864-814-8822.

MG: 8822.

TC: Yeah, I've got that. He gave that to me the other day. Did your daddy come pick you up that day?

KH: Uh, no sir. My dad brought us to that hotel at.

TC: No, you remember when I talked to you when guys were checking out, you were gonna try to get in touch with your dad, did he come and pick you up?

KH: No, no sir. I actually got uh, one of my friend girl because.

MG: When ya'll, let me, let's go back to the car at the lake Keenen, when ya'll, what, how did you, I mean, did you just, did it just roll off, did you push it, how did it, how did it get in the water?

KH: It rolled off in there, I guess.

MG: Did, so you just got out, left everything like it was and it, and it took off and it rolled?

KH: Yes sir.

TC: Was the car running, was it in gear, I mean tell us, how did that happened?

KH: I wanna say it was still running. I honestly can't remember. I honestly can't remember.

MG: Do you remember if the windows were up or down?

TC: What did she, what did she tell you to do Keenen?

KH: She told me to take it to the lake.

TC: When you got to the lake, what did she tell you to do?

KH: Let it roll in there.

TC: Okay.

KH: I believe the windows were down.

TC: Hm?

KH: Yes sir, I believe the windows were down.

TC: Okay.

MG: Did she tell you to do anything else with the car?

KH: No sir, not as far as I remember.

MG: Okay, was she, was she wanting the car to sink as quickly as it could? I mean, was there anything that she was thinking about trying to get the?

KH: Yeah I believe, yeah she was trying to get rid of everything she could get rid of.

TC: Let me ask you this Keenen. You said the windows were down, how did the window get, did she tell you to put the windows down or were the windows already down or were they?

KH: I know my window was down. I don't know if all the other windows were down.

TC: Okay.

KH: That's what I'm saying, that's what I'm saying, I can't remember everything from detail to detail.

TC: Okay.

KH: But I do remember her wanting, wanting that car to roll into that lake, that's what she wanted.

TC: Well and that's understandable, you were with, I mean it was pretty traumatic deal.

KH: And she had the gun, you know I mean.

TC: It was a pretty traumatic deal.

MG: How many magazines or clips did she have with that gun?

KH: It was just one magazine clip, not many bullets as far as I know. That's as far as I know, I don't know.

MG: How did ya'll.

KH: Honestly I don't know man because like I said, I didn't know she had any intentions on shooting me or something.

MG: Yeah, now I know you gave Lieutenant the name of the guy that you gave the gun to or sold it to or whatever, uh, but that'll be part of the statement when we go down here but one thing was is I wanting to ask is when you put the car in the lake, what did ya'll do then? Did ya'll walk?

TC: How did you get back to the hotel?

KH: Got a ride.

TC: You got a ride?

KH: I thought we, we was walking.

MG: Did you call somebody?

KH: Yeah, I tried calling somebody but I never didn't get a pickup and then eventually somebody picked us up and we got back to the hotel.

TC: Did you say a friend picked you up or just someone passing by?

KH: Someone passing by and me more than anything, so what do ya'll think about it?

MG: I told you that I think telling the truth says a lot and I still, I stand by that. I think you are, you are showing what kind of man you are by telling the truth, by helping us do what you've done so far and as soon as we get this we're going up here and we're gonna you know. The reason why we're trying to talk about all of this stuff is so that when we, when we talk about this and get your statement so that I mean it's.

TC: We don't miss anything.

MG: We don't miss anything.

TC: We don't miss anything and it doesn't look like you're holding back anything, you know what I'm saying?

KH: Right.

TC: So that we know we have all the truth and everything's there?

KH: I mean it is so far I mean it's, the truth is what you told you right, I mean?

TC: I'm sorry, say that again?

KH: I mean as far as I know is everything I've told ya'll is what she's told ya'll right?

MG: The story, your, your versions of the accounts of that night are similar.

TC: Of course, some people like you don't remember certain things because you were upset, you know what I'm saying?

KH: Mmm (yes).

TC: Like you don't remember if all the windows were down or this and this? She's not gonna remember certain things because she was upset, you know what I'm saying?

KH: Right.

TC: And it's not that we expect every little minute detail to be exactly the same, you know what I mean but as far as the nuts and bolts of it are concerned it's consistent? Does that make sense to you?

KH: Right, right, both ways for us?

TC: Both of your stories are consistent with each other, that's what I'm saying.

KH: Right. Did I put out that cigarette? Yeah, I've already smoked that.

MG: No, you already smoked it.

TC: There's some up here.

KH: May I have another one?

TC: Yeah, come on up here. We'll get you right up here.

Typed by: Tawane Johnson

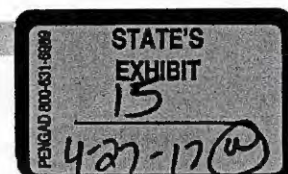
Date: June 6, 2016

**Spartanburg County Sheriff's Office
Criminal Investigations Division**

PROPERTY REPORT[illegible]

SCDMH South Carolina Department of Mental Health

DMH South Carolina Department of Mental Health		<u>DMH Mailing Address -</u> Forensic Evaluation Services/CBHS 7901 Farrow Rd., Building 6, Columbia, SC 29203 (803) 935-5600 (803) 935-5599 Fax	
HIPAA (PHI) FAX COVERSHEET			
To: Barry Barnette, Esq.,	TELEPHONE	FAX	
From: Tamika Lee		(864) 596-2386	
Date: 02/27/2017	NO. PAGES INCLUDING THIS PAGE	TIME See Date Stamp	
☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle			
SUBJECT: Report: B. Foster			
MESSAGE: Please see attached report. cc: Robert Hall, Esq., Fax: (864) 596-2284			
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SCDMH FORM
DEC. 2005 (REV AUG 2012) A-6



State of South Carolina
Department of Mental Health

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John H. Magill

February 27, 2017

Division of Inpatient Services
G. Werber Bryan Psychiatric Hospital
Forensic Evaluation and Treatment Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-0500

Barry Barnette
Solicitor
180 Magnolia Street, 3rd Floor
Spartanburg, SC 29306

Re: The State of South Carolina vs. Foster, Brittany
DMH #: 1022-0209
Spartanburg County, Court of General Sessions

Dear Solicitor Barnette:

In accordance with the court order issued by the Honorable R. Keith Kelly, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 12 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

2/27/17
Date

Allyson M. Sipes, Psy.D
Clinical Director
Forensic Evaluation Services
Department of Mental Health

cc: Robert Hall, Attorney at Law, 366 N. Church Street, #3000,
Spartanburg, SC 29303

AS/tl

MISSION STATEMENT
To support the recovery of people with mental illnesses.



REPORT ON COMPETENCE TO STAND TRIAL
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH

Name: FOSTER, Brittany Cassandra

Dates of Evaluation: 01/09/17 and 02/14/17

Date of Report: 02/24/17

Presiding Examiner: Marla L. Domino, Ph.D., ABPP (Forensic)

Second Examiner: Marsha DeRosier, LISW-CP

Others Present: Robert Hall, Esquire (Ms. Foster's attorney), on 01/09/17

Diagnoses: Adjustment Disorder with Depressed Mood
(rule out) Other Specified Personality Disorder
Alcohol Use Disorder, Moderate, In a Controlled Environment
Amphetamine Use Disorder, Severe, In a Controlled Environment
Cannabis Use Disorder, Severe, In a Controlled Environment

Opinion on Competence [Fitness] to Stand Trial: Competent to stand trial.

Identifying & Referral Data: Brittany Cassandra Foster is a 22-year-old (date of birth: [REDACTED]/85) female. Subsequent to charges of Murder, Weapons/Sale or Delivery of Pistol to and Possession by Certain Person Unlawful, Stolen Pistol, Unlawful Carrying of Pistol, Possession of Firearm or Ammunition by Person Convicted of Violent Felony, and Drugs/Possession of Less than One Gram of Meth or Cocaine Base - First Offense (which allegedly occurred on or about 05/29/16 and 06/02/16), Ms. Foster was ordered by the Spartanburg County Court of General Sessions to undergo an evaluation of her competence to stand trial because, "Brittany Foster has a history of treatment for Depression [sic] and Suicide Ideations [sic] for over five years at Spartanburg Mental Health. She has also been diagnosed with Epilepsy and has a long history of seizures. She has been on several medications over the years for she [sic] mental and physical problems. When speaking with her attorney she seems confused about the events that led to her arrest and does not understand the consequences if convicted." She was evaluated on an outpatient basis on 01/09/17 and 02/14/17 by the above examiners at the South Carolina Department of Mental Health's Forensic Evaluation Service pursuant to *State v. Blair*, 275 S.C. 529, 273 S.E. 2d 536 (1981) and

S.C. Code Ann. 44-23-410 (1976). Ms. Foster is awaiting adjudication at the Spartanburg County Detention Center.

Sources of Information:

1. Interview with Ms. Foster on 01/20/17 for approximately 2 hours.
2. Interview with Ms. Foster on 02/14/17 for approximately 1 hour 5 minutes (not including psychological testing).
3. Psychological testing on 02/14/17:
 - a. Inventory of Legal Knowledge (ILK)
 - b. Test of Memory Malinger (TOMM)
4. State of South Carolina, County of Spartanburg, Court of General Sessions, Order for Competency to Stand Trial Evaluation Pursuant to *State v. Blair* (received 12/05/16).
5. Review of Ms. Foster's current South Carolina Department of Mental Health (SCDMH) Forensic Evaluation Service outpatient chart, including a Social Work Assessment conducted by Marsha DeRosier, LISW-CP, with Ms. Foster's aunt.
6. Information pertaining to Ms. Foster's current charges including:
 - a. Arrest Warrants 2016A4210201977, 2016A4210201978, and 2016A4210201980
 - b. Indictments for Possession of a Stolen Pistol, Weapons/Unlawful Possession (Carrying) of Pistol, and Possession of Methamphetamine
 - c. Deputy Report for Incident 16060095
 - d. Spartanburg County Sheriff's Department Property Report (Case #2016060095)
 - e. Spartanburg County Sheriff's Towed Vehicle Information (Case #2016060095)
 - f. Indictment for Murder and Possession of Firearm During Commission of a Violent Crime
 - g. Arrest Warrants 2016A4210201985 and 2016A4210201986
 - h. Spartanburg County Sheriff's Office Case Synopsis
 - i. Deputy Report for Incident 16051580
 - j. Maps of incident location
 - k. UCI Dive Reports
 - l. Spartanburg County Sheriff's Office crime scene log
 - m. Spartanburg County Sheriff's Office evidence list (Case #2016051580)
 - n. Spartanburg County Sheriff's Office property reports (Case #2016051580)
 - o. County of Greenville Department of Public Safety Laboratory Analysis Request (Case #2016051580)
 - p. County of Greenville Department of Public Safety Firearms/Tool Mark Report (Case #2016051580)
 - q. State of South Carolina Search Warrants
 - r. State of South Carolina Affidavit
 - s. Return
 - t. Fax Cover Sheets from Spartanburg County Sheriff's Office to Verizon Wireless Legal Compliance (dated 05/31/16)
 - u. Spartanburg County Sheriff's Department Pre-Interrogation Waiver Forms

- v. Fax Cover Sheets from Spartanburg County Sheriff's Office to T-Mobile Law Enforcement Compliance (dated 06/01/16)
 - w. Rodeway Inn receipt (reg.# 8470)
 - x. Food Lion receipt
 - y. Statement of Robbie Dale Cash
 - z. Statement of Aisha Alvarado
 - aa. Voluntary Statement of Betty Ravan
 - bb. Voluntary Statement of Keenan Le Breece Hines
 - cc. McAfee Encryption Console
 - dd. Financial documents regarding Anthony Biggerstaff
 - ee. Cardholder Dispute Form (Fraud), dated 05/27/16
 - ff. Document entitled "Transaction Search Results"
 - gg. Documents entitled "Transaction Detail"
 - hh. Request for hearing (dated 06/03/16)
 - ii. Photograph of Anthony Neil Biggerstaff
 - jj. Criminal history of Anthony Biggerstaff
 - kk. Document entitled "More Name Involvements: Biggerstaff, Anthony Neil"
 - ll. Mr. Biggerstaff's adult criminal history (NCIC)
 - mm. Equifax TotalView Report
 - nn. Photo of Keenen La Breece Hines
 - oo. Criminal history of Mr. Hines
 - pp. Document entitled "More Name Involvements: Hines, Keenen La Breece"
 - qq. Mr. Hines' adult criminal history (NCIC)
 - rr. Homicide Crime Scene Check List
 - ss. Scene Investigation
 - tt. Victim's Information
 - uu. Suspect's Information
 - vv. Weapon Data Form
 - ww. Male Victim Diagram
 - xx. Spillman Data Systems, Inc. Deputy Report for Incident 16051580
 - yy. Name Photo: Foster, Brittany Cassandra
 - zz. Ms. Foster's criminal history
 - aaa. Ms. Foster's adult criminal history (NCIC)
- 7. Spartanburg County Detention Center records (dated 06/03/16 - 12/12/16), to include progress notes by SCDMH staff.
 - 8. Spartanburg Regional Healthcare System records (dated 02/03/14, 02/11/14, 10/04/15, 04/19/15, and 09/29/15).
 - 9. Spartanburg Mental Health Center records (dated 02/21/11 - 02/06/12).

Records from Spartanburg Neurological Center and Three Rivers Behavioral Health were requested but not received.

Notification: At the outset of this evaluation (02/14/17), Ms. Foster was notified of these examiners' role, the purpose of this evaluation, and the limits on confidentiality. Specifically, she was informed about these examiners' neutrality; that she was present for a court-ordered evaluation of her competence to stand trial; that a report would be issued to her attorney, the solicitor, and the judge about this evaluation; and that these examiners may be called to provide testimony about this exam. Upon inquiry, she noted this evaluation to be ordered by "the judge." She could not recall the nature and purpose of this exam, and so was informed again. She identified the "lawyer, the solicitor, and the judge" as recipients of the resulting report. She noted these examiners to be on "neither" side. She declined an offer to telephone her attorney prior to initiating this exam and then indicated a willingness to proceed.

Personal History:

Family and Social History

According to Ms. Foster, she was born in Spartanburg, South Carolina, and raised in the same by "a lot of people" to include her aunt and grandmother. Ms. Foster reported a history of physical abuse by a step-father and sexual abuse beginning at age 5 years by her biological father. Ms. Foster noted that around age 12 or 13 years, she was removed from her home when her mother was "pulled over with crack and went to jail." SCDMH records note that Ms. Foster's mother "tried to 'hang herself' once (possibly for attention). Cassie found her." Ms. Foster denied ever being married and noted giving birth to two children, ages two and three years old; per records, these children are in the care of their paternal grandmother. According to Ms. Foster, she was homeless around the time of her arrest.

Education History

Ms. Foster stated she was expelled during 10th grade for fighting. She noted achieving poor to average grades and acknowledged repetition of the 5th grade when she changed schools. She reported attending special education classes throughout her education "because I'm slow." She acknowledged disciplinary action while in school for fighting, truancy, and smoking cigarettes in the parking lot. According to Ms. Foster's aunt to SCDMH examiner Ms. DeRosier, her niece was diagnosed with attention deficit-hyperactivity disorder in the first grade and also attended special education classes for "perceptual problems," a learning disability, and due to epilepsy. Her aunt noted that Ms. Foster attended an alternative school in 10th grade due to "cussing and fighting."

Employment History

Ms. Foster reported past employment at a fast food restaurant, a warehouse, a paper company, and an "inventory place." She denied receipt of disability and service in the military. According to Ms. Foster's aunt to SCDMH examiner Ms. DeRosier, Ms. Foster is a "hard worker" although was either fired or had difficulties on the job due to her anger and "flirting with a lot of men."

Medical History

According to Ms. Foster, her medical history is positive for grand mal seizures which began when she was 12 or 13 years of age; although she could not recall when she last had a seizure, she reported that her seizures have decreased in frequency as she has aged and "it's been a while" since she had taken medication for seizures. Per Spartanburg County Detention Center records, Ms. Foster reported that she has not had a seizure in three years and has not taken associated medication for five years. She noted having asthma as a child. She reported being hospitalized for less than a day after she suffered "whiplash" and knee and foot injuries in a motor vehicle accident. She denied a history of head trauma. Ms. Foster's aunt reported to SCDMH examiner Ms. DeRosier that her niece has been diagnosed with epilepsy and Factor V Leiden (a blood clotting disorder). Spartanburg Regional Healthcare System records document treatment for injuries related to a car accident and injuries related to abuse by a boyfriend, and for childbirth.

Substance Abuse History

According to Ms. Foster, she began drinking alcohol at age 12 years and most recently consumed "pretty frequently ... I would drink but not to get drunk ... I was drinking day to day" noting she would "sip" on alcohol, beer, and hard liquor. She acknowledged that she would become intoxicated three to four days per week on average. Per Ms. Foster, she began using marijuana at age eight years and last used before her arrest; she noted an addiction to marijuana which she used every day. Ms. Foster stated that she began using "meth" at age 15 years and most recently used on a daily basis, acknowledging dependence. She noted that she "just recently" starting using heroin, although had difficulty quantifying the amount she would use because "we would mix it [with] meth and drinks." She reported use of various "pills" beginning in her mid-teens. According to Ms. Foster's aunt to SCDMH examiner Ms. DeRosier, Ms. Foster began using methamphetamine at 16 years of age, concurrent with the start of aggressive behavior. Her aunt also noted use of marijuana and stated her niece has attended several "detox" programs, which was corroborated by Ms. Foster.

Psychiatric History

According to Spartanburg Mental Health Center records, Ms. Foster was initially seen in February 2011 for symptoms ultimately diagnosed as indicative of depressive disorder, not otherwise specified, and polysubstance dependence. Those records note a history of significant self-mutilation (e.g., via cutting and burning) and physical aggression. Her case was closed a year later for noncompliance and being "not responsive to treatment suggestions."

Spartanburg Regional Healthcare System records indicate that in February 2014, Ms. Foster was seen in the emergency department after she cut herself with a knife. To this effect, those records note, "Pt states she has been stressed out lately and cutting herself relieves the stress ... Pt states, 'It just a way for me to release stress. I just had a baby and I am pregnant again and I only work at subway.' Pt states she has been depressed since she had her baby, and has

been using cutting as coping mechanism. Pt states she has a 4 month history of cutting herself with [visible] healing wounds and scars."

Spartanburg County Detention Center records (dated 06/03/16 - 12/12/16) indicate that during her current incarceration, Ms. Foster has reported a history of seizures; anxiety; use of methamphetamines, marijuana, heroin; and sexual molestation by her father. About two weeks after her initial incarceration, Ms. Foster was observed to be screaming and yelling, "she raped me. I paid him, his rent and they just watched' ... Then inmate demeanor change and she had no clue how she arrived to medical ... Inmate yelling in cell acting out a traumatic event in her life as if she was reliving it. Inmate was sleep[ing]. Called out to her inmate was unaware I was calling her this occurred for over 30 mins." It was noted that she was "disoriented and crying" and that it "sounds like a night terror episode." On this same day, Ms. Foster was observed to be talking to an unseen other, hitting the wall (which was hypothesized to be during a "sleep walking" episode), crying on the floor, rolling back and forth, being "vague with all answers," and becoming "agitated with questioning." Ms. Foster was placed on the waiting list to be seen by mental health and was prescribed Haldol (antipsychotic) and Vistaril (sometimes used to treat anxiety and/or sleep problems). She was subsequently placed on suicide watch. A note by SCDMH staff on that day indicates that Ms. Foster was "refusing" to provide specific details about her mental health history, was able to engage in appropriate conversation, and presented as guarded; it is noted that the clinician was "unable to determine if she is psychotic."

Approximately one month later, Ms. Foster reported "seeing things" and hearing "a voice in [and] outside of my head. Tells me to get a tray." She was noted to be staring and "disassociating" [no details provided]; diagnoses of psychosis and "PTSD severe" were listed. The following day she reported hearing several voices of "'people I know' ... both in and outside head ... Sometimes we play games like ring around the rosey." She was described as displaying a bizarre affect. In October 2016, she was discovered to be passing her Vistaril to another inmate. It appears that month that Lexapro (antidepressant) was added. In September 2016, it is noted that Ms. Foster reported that she has "a vision before something happens." In October 2016, her diagnoses were listed as recurrent major depressive disorder with psychotic features; PTSD; likely Cluster B (mixed personality)/Borderline Personality Disorder; and substance use disorder (THC, cocaine, meth, heroin). In December 2016, she reported biting her fingernails and difficulty sleeping due to worries about her legal case.

Ms. Foster's aunt described Ms. Foster to SCDMH examiner Ms. DeRosier as being "highly sexualized" and noted that Ms. Foster "flirted at a very young age." She described her niece as sneaky, defiant, dishonest, and having anger issues. She also noted Ms. Foster to have a history of "wide mood swings," staring into space, crying for hours, excessive sadness, self-injurious behaviors (e.g., cutting) "for attention," excessive energy, and becoming "consumed" with whomever she is dating.

Psychological Testing: Due to some indications during an initial exam that Ms. Foster was not putting forth maximum effort, testing was conducted to assess feigning of court knowledge and memory deficits; results of testing (ILK and TOMM, respectively) did not suggest feigning of either.

Current Mental Status: A mental status examination performed today (02/14/17) revealed a 22-year-old, Caucasian female who presented with adequate, personal hygiene and clean attire. No auditory, visual, or motor abnormalities were noted. She exhibited good eye contact and her use of mannerisms and gestures was within normal limits. She was cooperative with the evaluation.

Ms. Foster did not exhibit significant deficits in her memory, attention, concentration, or fund of knowledge. She provided a literal translation to a proverb, although accurately identified the similarities between objects and concepts, suggesting mild deficits in her ability to think in the abstract. At times she presented as having difficulty processing the question asked, and asked it to be repeated. She correctly identified the date, day of the week, location, approximate time, and situation. Ms. Foster's speech was clear, of normal volume, and of average rate. She presented with goal-directed, linear thinking.

When asked, Ms. Foster described her current mood as "okay" and her typical mood as "all kinds of moods ... just missin' my kids." She denied current thoughts of wanting to hurt herself or others. She noted sleeping "all day long" because there is "nothing else to do and [to] try knock my depression away." Per Ms. Foster, her energy level is adequate. She described her appetite as "moody" noting she has "probably gained" weight since incarcerated, due to eating more. She described adequate relationships with jail staff and positive relationships with peers. She noted being placed on "lock down" yesterday "for talking to someone on another rotation." During today's exam, Ms. Foster's affect [observed emotional expression] appeared slightly irritable and she began crying when discussing the seriousness of her charges. She reported current prescription of medications for "depression and anxiety" noting some benefit although reported that she remains depressed, commenting, "sometimes it's my mood and I cry and I'll get stuck up in my head."

Diagnostic Impressions: Based on the available data, it appears that Ms. Foster's symptoms are best characterized by diagnoses of adjustment disorder with depressed mood and (rule out) Other Specified Personality Disorder.

According to the Diagnostic and Statistical Manual of Mental Disorders - Fifth Edition, adjustment disorder describes an individual who reacts to a specific stressor with emotions and/or behaviors in excess of what would be expected and/or that causes significant impairment. These reactions appear within three months of the stressor and abate within six months of the removal of the stressor. The subtype, "with depressed mood," indicates that the emotional disturbance is primarily characterized by depressive symptoms such as sadness,

tearfulness, or feelings of hopelessness. Although Ms. Foster has a history of depressive symptoms (e.g., prior to her current incarceration), it appears a number of these symptoms were related to dysfunctional personality traits (see below). During her current incarceration, she has reported some symptoms of depression which appeared to have initiated upon her incarceration.

In addition, a diagnosis of (rule out) other specified personality disorder is offered. According to the Diagnostic and Statistical Manual of Mental Disorders - Fifth Edition, "other specified personality disorder" describes an individual with some traits of a personality disorder that cause significant distress or impairment but do not meet the full criteria of any personality disorder. The "other specified" category is used when the clinician specifies why the person does not meet full criteria. A "rule out" diagnosis is one in which there is not sufficient information to conclusively offer that diagnosis, although available data suggest the specified disorder should be considered. In Ms. Foster's case, this diagnosis is offered as she displays a pervasive pattern of features of antisocial personality disorder (e.g., disregard for and violation of the rights of others) and borderline personality disorder (e.g., impulsivity, suicidal ideation, affective instability, intense anger).

In addition, diagnoses of Alcohol Use Disorder, Moderate, In a Controlled Environment; Amphetamine Use Disorder, Severe, In a Controlled Environment; and Cannabis Use Disorder, Severe, In a Controlled Environment. The "in a controlled environment" descriptor indicates that Ms. Foster theoretically does not have access to these substances secondary to her current incarceration.

Information Relevant to Competence to Stand Trial: According to Ms. Foster, she is currently charged with "murder, possession of a firearm during a violent crime, possession of marijuana, possession of meth" and additional "firearm" charges that she could not recall. She noted that her charges of murder and possession of a firearm during a violent crime allegedly occurred on "May 29th" of last year, and the remaining charges allegedly occurred "June 2nd," also of last year. She noted incurring these charges because she is accused of "murder[ing] someone ... Anthony Biggerstaff," noting that it is alleged "that I shot him." Regarding her other charges, she stated it is alleged that "during a traffic stop" with her boyfriend and a female acquaintance, the officer found marijuana and methamphetamine "in the car [and] nobody would claim it." Per her account, she received a charge of "possession of a firearm of a felon" because "I didn't know but my boyfriend had a felony charge." She acknowledged her charges to be "very serious" and provided logical reasoning to support this assertion. She identified her charges as "felonies" and noted "felonies" to be more serious than misdemeanors. Ms. Foster identified the maximum penalty for her charges to be "30 to life ... my lawyer told me." She could not identify a charge more serious than "murder" and noted "child support" to be a charge less serious than her own.

When asked, Ms. Foster identified pleas of "guilty" and "not guilty." She defined guilty as meaning "that they did it" after which "they get sentenced." She noted not guilty to mean "that they didn't do the crime"; although she was unsure of what followed next, she did state later in the exam that she would have to plead "not guilty" should she wish to proceed to trial. She voiced a vague awareness of a plea relating to mental illness (Not Guilty by Reason of Insanity) but stated she could ask "my lawyer" should she wish for more information. According to Ms. Foster, a plea bargain is "a deal, basically" offered by the "solicitor" noting, "if you plead guilty then you get lesser time." She acknowledged her loss of a right to trial when agreeing to a plea bargain and also acknowledged her ability to reject any plea bargain offered. In discussing her case today, Ms. Foster voiced several plea preferences and supported these choices with rational and logical reasoning. She appeared motivated to resolve her charges.

Ms. Foster identified the "judge, solicitor, both lawyers [referencing her co-defendant's lawyer], and my family" as individuals typically present in the courtroom. She identified herself as the defendant. According to Ms. Foster, "my lawyer" is her advocate whose job it is "to be there for me [and] to fight for me" and attempt to prove she is "not guilty" in a trial. She acknowledged her ability to reject her attorney's recommendations but voiced a desire to follow counsel's recommendations because "he knows the law and the system and he can tell me better what to do." Ms. Foster identified her attorney as "Robert Hall" and stated they have spoken "a few times." When asked of her impressions of counsel, Ms. Foster stated "I've heard people told me he's a good lawyer but I'm not going to trust it until the end" and voiced several complaints about Mr. Hall that appeared rationally-based. Ms. Foster identified "the solicitor" as against her whose job it is find her "guilty" at trial and who will advocate for "a long [versus short] sentence" for the defendant; Ms. Foster then began crying. Per Ms. Foster's account, the solicitor represents "the State." She identified "the judge" as in charge of the courtroom whose job it is "to see who's guilty and not guilty" and is on "neither" side.

Should she wish to proceed to trial, Ms. Foster asserted she would have to plead "not guilty." After education and when asked at the end of the exam, Ms. Foster stated the jury determines "if I'm guilty or not" and is on "no one's" side. She noted there to be "12" jurors on a jury and "all of them" must agree on the verdict. Ms. Foster agreed that judges and juries use "evidence" to decide guilt when suggested and provided examples of evidence such as "testimony" and "a gun." Per her account, a witness is "somebody who was there"; after education and when asked at the end of the exam, she noted "my lawyer, the judge and the solicitor" and call witnesses to testify in court. Ms. Foster provided a logical assessment of the strength of the solicitor's case against her but stated she could "ask my lawyer" about this. If found not guilty in a trial, per her account, the defendant will go "home"; if found guilty, the defendant will go "to prison" for a length of time typically determined by "the judge." Ms. Foster was unable to generate possible penalties other than incarceration when asked. She agreed probation to be one such possibility when suggested and defined probation as "where

you report every week, to get drug tested" which an individual may "go back to jail" for violating.

Ms. Foster was asked to comment on several hypothetical situations that might arise during the adjudication of her charges. For example, if confused at any time during courtroom proceedings, Ms. Foster stated (after some prompting) that she would "tell my lawyer." If a witness lied about her in court, Ms. Foster stated, "I would tell my lawyer." Should the solicitor approach her in the absence of her attorney, Ms. Foster stated, "I wouldn't talk to him [because] they might talk me into saying something that might harm my case." Per Ms. Foster's account, people in court should behave "with manners and proper" or possibly receive a charge of "contempt of court." She denied having difficulty controlling her behavior in court.

Opinion Regarding Competence to Stand Trial: Pursuant to S.C. Code Ann. §4423410, the legal criteria for determining fitness (competence) to stand trial is as follows: "[a person] ... is not fit to stand trial because the person lacks the capacity to understand the proceedings against him [her] or to assist in her [her] own defense as a result of a lack of mental capacity ..."

Based on the available data, it appears Ms. Foster does not currently lack the capacity to understand the proceedings against her or to assist in her own defense as a result of a lack of mental capacity.

Regarding her capacity to understand the legal proceedings, the current exam revealed a few deficits in Ms. Foster's factual knowledge of the legal system. She appeared to appreciate corrective information when offered and accurately recalled such information later in the interview, demonstrating an ability to retain newly learned material. Ms. Foster may need education and/or review regarding some aspects of the legal process as her case proceeds; however, she has the capacity to understand, acquire, recall, and apply this information if it is provided to her.

Regarding her capacity to assist in her defense, Ms. Foster's thought processes and speech were logical, coherent, and organized, indicating she should have no difficulties communicating rationally with her attorney, to include disclosure of relevant case-specific information. She demonstrated the ability to reason logically about options related to her case and should be able to do so with counsel. Ms. Foster voiced several plea preferences and supported these choices with rational and logical reasoning. Her responses to hypothetical situations indicate she would be able to utilize counsel effectively should she become confused or distressed with legal proceedings. She voiced motivation to work with her lawyer to resolve her charges. She acknowledged appropriate courtroom behavior and her demeanor during today's exam suggests she would be able to exhibit such behavior in the courtroom and attend adequately to related proceedings. Her expectations of her attorney, herself, her case's outcome, and the legal system appeared reasonable and logical. Her presentation during today's evaluation indicated Ms. Foster would likely testify coherently, should her case proceed to trial. At no

time did Ms. Foster demonstrate any delusional beliefs about her charges, legal processes, and/or members of the Court.

In summary, based on the above data, it is my clinical opinion Ms. Foster does not currently lack the capacity to understand the proceedings against her or to assist in her own defense as a result of a lack of mental capacity.



Marla L. Domino, Ph.D., ABPP (Forensic)
Licensed Clinical Psychologist

02/24/17

Date

**SPARTANBURG MEDICAL CENTER
AUTOPSY REPORT**

Spartanburg Co. Coroner's Office

FA-16-109 BIGGERSTAFF, ANTHONY NEIL
AGE: 45 SEX: MALE RACE: WHITE
SMC MEDICAL RECORD #04-15-94
CORONER/PETTITT
DR. J. DAVID WREN, PATHOLOGIST
DATE OF AUTOPSY: 6/3/2016 @ 3:45PM
DATE OF TRANSCRIPTION: 6/6/2016

JUN 18 2016

RECEIVED

DATE OF DICTATION: 6/3/2016

BRIEF HISTORY: This history was partially provided by Spartanburg County Coroner's Investigator, Mr. Steve Pettitt. According to Mr. Pettitt, this 45 year old white male was shot by a couple who dumped his body off Jordan Creek Road. He was found after approximately four days partially in the water and partially on the bank. The assailants have been charged.

DESCRIPTION OF CLOTHING: The decedent is fully clothed in a wet and soiled pullover T-shirt of unrecognizable color containing fish insignias and "Lake George Rod and Reel Club" in letters on the front, a pair of plaid Bermuda shorts, a pair of red knit boxer shorts with gray waistband, a pair of brown lace-up shoes, and a pair of dirty white socks. All of the clothing is extremely wet. There is a gunshot defect in the left upper T-shirt beneath which there is a gunshot wound to the left upper chest near the shoulder. There are nametags present on the left wrist and right ankle.

EXTERNAL DESCRIPTION: This is the body of a normally developed, decomposing white male appearing older than stated age measuring 72 inches in length with a weight of 184 pounds. There is no remaining rigor mortis of the body, and there is no recognizable livor mortis. There is extensive sloughage of the skin with focal areas of marbling. There are maggot larvae crawling about the body. The decedent has closely cut brownish hair with no obviously palpable skull trauma. There is a gunshot wound to the right temporal area almost directly in front of the tragus to be described subsequently. The irides are brown in color with the pupils of unrecognizable size with bulging of the eyes bilaterally. There is slight periorbital hemorrhage around the right eye. The nose and ears are unremarkable except for some blood draining from the right ear. The decedent has a gray and brown moustache and goatee with short growth of hair remaining on the neck. The teeth are in poor state of repair with congestion of the mucosa but no lesions. The neck is freely movable. The chest and abdomen contain no evidence of acute injuries other than a gunshot wound to the left upper chest with surrounding hemorrhage up to 6.0 centimeters in diameter. There is slight flaring of the ribcage, and the abdomen is slightly scaphoid. The external genitalia are those of circumcised male with bilaterally descended testicles. The back is without acute injuries with a tattoo of a cross in red, yellow, and

30

Spartanburg Medical Center (444-462)

COPY



**SPARTANBURG MEDICAL CENTER
AUTOPSY REPORT**

FA-16-109 BIGGERSTAFF, ANTHONY NEIL
Page 2

blue colors along the posterior left shoulder. There also appears to be hemorrhage along the left lateral neck extending posteriorly to the nape of the neck. The left arm contains a tattoo of a cross on the left shoulder with a through-and-through gunshot wound to the distal radial surface appearing approximately 1.5 inches superior to the wrist with the wound separated by approximately 1.2 inches with the gunshot wounds each approximately 0.35 inches in diameter. The entrance appears to be dorsally and the exit more posteriorly on the volar surface. The right arm contains a tattoo of barbed wire around the upper arm and tattoo of praying hands with the names "Kristle" and "Tyler" in script inferior to the praying hands tattoo. The hands are extremely wrinkled and leathery consistent with immersion in watery with no defense wounds. The lower extremities contain sloughage of the skin as well as rugated skin along the soles of the feet and toes as well as the knees. There is slight evidence of congestion of the tissues. No gunshot wounds are identified.

INTERNAL DESCRIPTION: The body is opened with a Y-shaped incision to reveal decomposition changes with an area of severe hemorrhage in the left upper chest with an extensive search necessary in order to retrieve a full copper jacketed bullet from the posterior chest in the area of the scapula superiorly with the bullet measuring 0.35 by 0.34 inches at the base and 0.44 inches in length. The bullet is slightly distorted along the base, and there appears to be an artefactual saw mark from removing bone. There are no other injuries to the soft tissues of the thorax and abdomen. The left lateral neck contains a small area of hemorrhage near the angle of the jaw. The hyoid bone is intact. There are no rib or sternal fractures, and there are no pleural effusions or adhesions. The lungs bilaterally are moderately severely involved with anthracosis and contain areas of grayish to dark blue discoloration over the pleural surfaces. There is bilateral apical emphysema of the lungs which are slightly hyperinflated. There is approximately 10 cc's of slightly blood tinged serous fluid within the pericardial sac with the heart slightly contracted but with a soft flabby consistency. Inspection of the peritoneal cavity reveals calcification and apparent mesh material in the midline of the abdomen with the intestines distended with gaseous contents. There is a prior bypass procedure involving the stomach. There is mild splenomegaly with mild perisplenic adhesions and focally mild anterior peritoneal adhesions.

SPARTANBURG MEDICAL CENTER AUTOPSY REPORT

FA-16-109 BIGGERSTAFF, ANTHONY NEIL

Page 3

DESCRIPTION OF ORGAN SYSTEMS:

THYROID: The thyroid gland is symmetrical weighing only approximately 15 grams with reddish brown decomposing cut surfaces without masses.

CARDIOVASCULAR SYSTEM: The heart is very mildly enlarged and slightly contracted with soft flabby consistency weighing 380 grams. Sectioning of the coronary arteries reveals only mild atherosclerosis with very little blood remaining in the vasculature. There is focal calcification of both the left anterior descending and right coronary arteries. No mural hemorrhages or luminal thrombi are identified. Valves and valve cusps appear normal. Sectioning of the myocardium reveals softened reddish tan cut surfaces with no areas of scarring or evolving infarctions. The aorta contains only mild atherosclerosis with reddish discoloration of the intima.

RESPIRATORY SYSTEM: There is a moderate amount of aspirated blood within the trachea extending into the major and peripheral bronchi bilaterally. The right and left lungs weigh 410 and 340 grams, respectively, with no masses on sectioning but with congestion and accumulation of blood within cut surfaces.

GASTROINTESTINAL SYSTEM: There is a small amount of aspirated blood within the esophagus which contains a sloughing mucosa and irregular indistinct gastroesophageal junction. There is a bypass procedure intact with thick brownish tan contents within lumen connecting within the esophagus whereas the other pouch contains a small amount of tan granular contents. There are similar thick brownish contents within the duodenum with a congested mucosa. The remainder of the small intestine is distended with gaseous contents with the appendix present. The large intestine is redundant distally but contains no identifiable palpable masses.

LIVER AND GALLBLADDER: The liver has a smooth reddish tan serosa weighing 1,400 grams. Sectioning reveals a reddish tan to reddish brown soft cut surface without masses. The gallbladder contains less than 5 cc's of orange colored bile with no mucosal lesions or stones.

PANCREAS: There are decomposition changes of the pancreas which weighs approximately 100 grams with no lesions on sectioning.

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**SPARTANBURG MEDICAL CENTER
AUTOPSY REPORT**

FA-16-109 BIGGERSTAFF, ANTHONY NEIL
Page 4

SPLEEN: The spleen weighs 200 grams and has a dark blue capsule with perisplenic adhesions and prominent diffuency on sectioning.

ADRENAL GLANDS: Each adrenal gland weighs approximately 5 grams with thin yellow cortex and dark reddish congested medulla with focal autolysis.

GENITOURINARY SYSTEM: The right and left kidneys weigh 110 and 150 grams, respectively, with easily strippable capsules, smooth reddish tan cortical surfaces with persistent fetal lobulations and congested medulla without masses. There is replacement of the hilar region with fat. The ureters are unremarkable. The bladder contains approximately 75 cc's of slightly cloudy yellow urine with no mucosal lesions. The prostate weighs approximately 20 grams with glistening tan cut surfaces. The testicles are without palpable masses.

LYMPHOID SYSTEM AND BONE MARROW: Unremarkable.

CENTRAL NERVOUS SYSTEM: Reflection of the scalp reveals a small amount of hemorrhage surrounding the gunshot wound to the right temporal area but no other injuries. The calvarium is intact. On removal of the calvarium, there is a small amount of subdural hemorrhage in the right middle fossa with a gunshot wound coursing through the fossa with some maceration of the inferior surface of the right temporal lobe and subarachnoid hemorrhage of the lobe itself. The brain has a diffusely bluish congested edematous appearance and weighs 1,600 grams. Sectioning reveals no additional lesions with no internal masses or other lesions.

DESCRIPTION OF GUNSHOT WOUNDS: There are four gunshot wounds to the body as listed below. These wounds are numbered arbitrarily and do not necessarily indicate order of infliction.

GUNSHOT WOUND #1: This gunshot wound appears in the right temporal region anterior to the tragus appearing 5.0 inches from the top of the head, 3.25 inches to the right of midline, and 5.75 inches circumferentially from the midline anteriorly. The wound measures 0.35 inches in diameter and contains no powder stippling or tattooing with no abrasion borders. The path of this gunshot wound passes slightly forward, downward at approximately 20 degrees, and right to left with through-and-through

**SPARTANBURG MEDICAL CENTER
AUTOPSY REPORT**

FA-16-109 BIGGERSTAFF, ANTHONY NEIL

Page 5

penetration of the right middle fossa of the basilar skull to communicate through the oropharynx. X-rays do not reveal a bullet associated with this wound with apparently this bullet being expelled from the mouth.

GUNSHOT WOUND #2: This gunshot wound appears in the left upper chest 11.5 inches from the top of the head and 4.5 inches to the left of midline. The wound is slightly oval in shape measuring 0.40 by 0.29 inches in overall dimensions. The path of this bullet appears to be front to back, slightly downward, and slightly laterally to pass within the soft tissues to come to rest behind the acromion process in the soft tissues of the back. The bullet tract does not enter the thoracic cavity. There is abundant hemorrhage associated with the wound. In the left posterior shoulder, a full copper jacketed lead bullet with visible lands and grooves with slight distortion of the base measuring 0.35 by 0.34 by 0.44 inches in overall dimensions is recovered. This bullet is forwarded to Officer Michael Sean Nix of the Spartanburg County Police Department.

GUNSHOT WOUNDS #3 & #4: This gunshot wound is a through-and-through gunshot wound to the left distal forearm and has been described previously. No vital structures appear to be penetrated with no bullet recovered. Because of decomposition changes, entrance and exit cannot be completely delineated although the dorsal forearm is more likely the entry wound.

FINAL SUMMARY: This autopsy was done at the request of and after due authorization of the Spartanburg County Coroner's Office in the Spartanburg Medical Center Autopsy Room on 6/3/2016 beginning at approximately 3:45PM.

Postmortem examination and autopsy of the body of Anthony Neil Biggerstaff, decomposing 45 year old white male, revealed three gunshot wounds to the body as described under "Description of Gunshot Wounds." Gunshot Wounds #3 & #4 were only potentially fatal, Gunshot Wound #2 was apparently fatal if not treated, and Gunshot Wound #1 appeared to be the more immediately fatal gunshot wound. Although there were decomposition changes, no additional injuries were definitely identified, and there

**SPARTANBURG MEDICAL CENTER
AUTOPSY REPORT**

FA-16-109 BIGGERSTAFF, ANTHONY NEIL

Page 6

were no significant disease processes leading to the demise of this individual. In absence of blood, liver was sampled for toxicology examination with results pending. Nevertheless, the cause of death appears to be unequivocal.

Based on the history and autopsy findings as stated in this protocol, it is therefore my opinion that this individual died as the result of a gunshot wound to the head. Contributing factors were gunshot wounds to the left upper chest and left forearm. The manner of death will be assigned by the Coroner's Office.

FINAL AUTOPSY DIAGNOSES:

- 1) Single, fatal, medium caliber gunshot wound to right temporal area with through-and-through penetration of right middle fossa and penetration into oropharynx; accompanying subdural and subarachnoid hemorrhage with maceration of inferior right temporal lobe.
- 2) Single, potentially fatal gunshot wound to left upper chest with abundant soft tissue hemorrhage in left side; negative for penetration of vital structures.
- 3) Single, potentially fatal, through-and-through gunshot wound to right distal forearm; accompanying mild external hemorrhage.
- 4) Aspiration of blood into lungs and esophagus secondary to gunshot wound to head.
- 5) Mild cardiomegaly with minimal coronary atherosclerosis.
- 6) Acute aspiration into lungs bilaterally with diffuse acute passive congestion.
- 7) Peritoneal and perisplenic adhesions – mild to moderate; intact prior gastric bypass procedure; mild congestive splenomegaly.
- 8) Liver toxicology pending.

J.D. Wren
J. David Wren, MD, Ph.D.
Pathologist

JDW/lsw

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Spartanburg Medical Center
Anatomic Pathology
❖ Morgue

Form # FORM.MORG.0014

CAUSE OF DEATH

TO: Office of the Coroner
Spartanburg County, SC

REF: BIGGERSTAFF, ANTHONY NEIL

FROM: Dr. J. D. WREN

AUTOPSY NO. FA- 16-109

DATE OF DEATH: 5/29/16

SUBJECT: CAUSE OF DEATH

IN ORDER TO EXPEDITE THE SIGNING OF DEATH CERTIFICATES WITH ACCURATE CAUSES OF DEATH, THE INFORMATION BELOW IS SUBMITTED FOR YOUR CONVENIENCE. IF AN AUTOPSY IS PERFORMED, A DETAILED REPORT WILL FOLLOW IN THE NEAR FUTURE.

IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE A. B. C. D)

PART I.

A. GSH TO Head

DUE TO (OR AS A CONSEQUENCE OF):

B. _____

DUE TO (OR AS A CONSEQUENCE OF):

C. _____

DUE TO (OR AS A CONSEQUENCE OF):

D. _____

PART II. OTHER SIGNIFICANT CONDITIONS:

DATE:

6/3/16

SIGNATURE:

[Signature]

M.D.

Spartanburg Medical Center

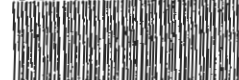
000-041594

UNRECEIVED

COPY

1615500012 000-041594 06/03/16
BIGGERSTAFF, ANTHONY N 07/11/70 M 4

CONTRACT PATIENT





Spartanburg County Coroner

Case Report

Rusty Clevenger
Coroner

Office Of The Coroner
366 N Church St
Spartanburg, South Carolina
29303

Primary Coroner

Coroner Name	Arrival Date/Time	Miles	Clear Scene Date/Time	Attended Autopsy
Steve Pettit	6/2/2016 11:01:00PM		6/3/2016 12:31:00AM	True

General Information

Case Number	Notify Date/Time	Case Type	County
C-16-05-212	5/30/2016 6:54:00AM	Scene Response	Spartanburg

Agency	Called By	Department	Phone #	Agency Case #
SC Dept. of Natural Resources	Spartanburg Communications/91	SCSO	(864)596-2222	16051580

Demographic Data

Name	Sex	Also Known As	Marital Status
Anthony Nell Biggerstaff	M		Single

Address	Ethnic Group	Religion	Affiliation
■ Bridges st Inman, SC 29349	Caucasian		Investigators

Phone	DOB	Age
	■	045YR10MO18DAY

Identified By	Means of Identification	Identification Date
SCSO	Tattoo indifaction	6/3/2016 12:20:00AM

Inmate Number	Facility

Next of Kin

Relationship	Name	Ethnic Group	Phone	Address
Sister	Amanda Hash	Caucasian	■	■ Lake Bowen Dam Road Inman, SC 29349

Date/Time Notified	Notified By	Affiliation
6/3/2016 1:20:00AM	SCSO/Coroners office	Investigators

How Notified	Location
In Person / on scene	Residence

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PO Box 771

Spartanburg, South Carolina 29303

Print Date/Time: 6/14/2016 9:00:04AM

(864)596-2509

Page 1 of 13



Rusty Clevenger
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Spartanburg County Coroner

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Funeral Home

Funeral Home
*N/A

Permit Number
237052

Removal Service
Griffith Removal Services

Removal Attendants
White/Davis

Taken To
Spartanburg Regional Medical Center Morgue

Pronouncement of Death

Date/Time
6/2/2016 11:01:00PM

Pronounced By
Steve Pettit

Pronounced Location
Under Bridge in Creek (Jordan Creek Rd)

Time and Location of Death

Proximity
in Creek Under Bridge

☒ **Estimate**

Date/Time
5/29/2016 11:15:00PM

To Date/Time
6/2/2016 11:01:00PM

Street Type
Street

Street Name
Jordan Creek Road

Street Number

Zip Code
29349

Time and Location of Incident

Proximity
in Vehicle

☒ **Estimate**

Date/Time
5/29/2016 11:15:00PM

To Date/Time
6/2/2016 11:01:00PM

Street Type
Street

Street Name
Suttles Road

Street Number

Zip Code
29349

Cause of Death

Manner
Homicide

Cause of Death
Gunshot Wound to the Head

Secondary To

Other Significant

Tox/Drugs
Sled

Tox/Alcohol

Certifier

Certified By
Dr. David Wren

Phone Number

Confirmed By

Phone Number

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Case Report

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Pending

☒ Autopsy	Autopsy By Dr David Wren	Location SMC Morgue	Autopsy Number FA-16-109
☐ External Exam - Performed By	Location		
☐ Other	Description of Other		

If Death Occurred in Hospital

☐ Urine Drawn	☐ Blood Drawn	Held Location
☐ Other -		
☐ Quarantined	Hospitalized Date/Time	Trauma/Patient Number

Per Conversation With**Conversation Date/Time****Investigator**

Name	Arrival Date/Time	Miles	Clear Scene Date/Time	Attended Autopsy
Steve Pettit	6/2/2016 11:01:00PM		6/3/2016 12:31:00AM	True
Cindy Lathan	5/30/2016 8:50:00AM		5/30/2016 1:42:00PM	False
Kelly Baty	5/30/2016 8:12:00AM		5/30/2016 1:42:00PM	False
Rusty Clevenger	6/2/2016 11:01:00PM		6/3/2016 12:31:00AM	False

Law Enforcement Agencies

Agency	Rank/Name/Badge #	Department	Phone	Arrival Date/Time
Spartanburg County Sheriffs Office	Inv T Clark	SCSO		
Spartanburg County Sheriffs Office	Inv B Letterman	SCSO		
Spartanburg County Sheriffs Office	ID Inv. C Stepp	SCSO		
Spartanburg County Sheriffs Office	ID Inv. J Nix	SCSO		

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Scene

Weather Conditions

Overcast

Time of Day

Night Time

Body Position

Face Down

Description of Body Position

Lying in water face down, with the back of his head exposed from the water, left arm is extended out and slightly away from the body, right arm is tucked under stomach, right leg is extended out in line with body where the left leg is bent slightly at the knee and is lying under the left leg crossed at the ankle of right leg., both right leg and left leg are out of the water on the bank

Exact Location

under Bridge

Surface Type

Water , Mud and red dirt

Temperature

Inside

Outside

Inside Conditions

☐ Estimated Temp

0.00

68.00

☐ Air Conditioning in Use

☐ Heating in Use

Thermostat

Fingerprint

Photographed By

Steve Pettit

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Clothing**Clothing Description**

Plaid shorts, red rope type belt, short sleeve brown T-shirt matching white socks, and matching brown shoes

☒ **Clothing in Disarray - Description**

Wet muddy and appears to have a hole in left shoulder of shirt

Property and Evidence**Property**

Taken By Spartanburg County Coroners Office

Medication

None Taken

Evidence

None Taken

Body Actualization**Date/Time**

6/2/2016 11:01:00PM

Body Temperature

0

Body Condition Early Decomposition

☐ **Insect present - Description****Rigor Mortis**

Fully Set

Lividity

Moderate

Mucous Membrane

*N/A

Rigor Mortis Description

Early stages of decomposition

Lividity Description**Mucous Membrane Description**

Body Region	Body Feature	Description	Shape/Size	Trauma	Clothing Involved

JPY



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Scene Environment

☐ Location Secure Upon Discovery

☐ Weapons Nearby

☐ Pets Found

Describe Locks on Doors

Describe Disarray

Weapon

Manufacturer

Model

Caliber

Serial Number

*N/A

*N/A

*N/A

Describe Weapon and its Location

Additional Scene Information

☐ Blood Found at Scene

Blood Beneath the Body

Surface Type

Dimension of Blood or Estimated Quantity

Wetness of Blood

Supplement A

Structure Outdoors

☐ Mail in Mailbox

☐ Lights Left on

☐ TV on

☐ TV Guide Open

☐ Food

☐ Valuables

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Emergency Services Personnel

Agencies *N/A	Crew	☐ Resuscitative Efforts
Dispatch Time	Scene Arrival Time	Hospital Arrival Date/Time
Record Names	Resuscitative Efforts	

Vehicle

Vehicle Type Vehicle	Manufacturer Nissan	Model Sentra	Year 2015	State SC	Tag
Position *N/A	Number of Vehicles 1	Number of Tires 4	Ejected in Feet 0	☐ Rollover	
Wrecker (1 - 2) County Rollback *N/A	Restraints (1 - 4) *N/A *N/A *N/A *N/A		Called By Spartanburg County Sheriff's Office		
☐ Object Hit		☐ Criminal/DUI Charges Pending			

Describe Damage
Found submerged in Lake
Bowen. Other damage created
from removing the vehicle
from the water.

Explain Object Hit**Type of Charges**

Prescription History

Physician	Prescription Number	Date Filled
Drug	Dosage	Times Per Day
		Prescribed/Remaining

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Medical History

Treatment Center	Medical Specialty	Facility	Treatment Date	
Physician	Address	Zip Code	Phone	Length of Stay
Diagnosis		Treatment		
☐ Place of Death	☐ Alcohol	☐ Psychiatric Care	☐ Depression	
Substance	Drug Category	Trauma Number	☐ Drug Related	

General

☒ When was Subject Last Seen Alive?	Date/Time	5/29/2016 12:00:00AM	By Whom	Brittany Foster
Where was Subject Last Seen Alive?	Passenger in Car			
☐ Complained of Illness? - Describe				

Lifestyle

☐ Subject Appeared to be Under the Influence of Alcohol/Drugs - Describe
☐ There is Evidence of Alcohol/Drug Use - Describe
☐ There is a History of Alcohol Abuse Length of Time
☐ There is a History of Drug Abuse - Describe Length of Time
☐ Deceased was an Alcoholic - Per Whom? How Long

Suspected Self-Inflicted Injury

	Explanation
☐ Deceased Depressed - Per Whom? How Long?	
☐ Note Found at Scene ☐ Was Note Signed	
☐ Previous Attempts - Date of Attempt	
☐ Previous Threats - Date of Threat	
☐ Date was Significant - Explain	
☐ Routine was Changed - Explain	

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Recent Loss

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Case Notes

Case Summary

On June 2nd 2016, I was contacted by Coroner Rusty Clevenger at 10:00pm to assist the SCSO on Jordan Creek Road and Bright Blue Gill Place in Inman. Arriving on scene at 11:01pm and speaking with the Coroner, I'm advised that the body of a 45 year old male by the name of Anthony Neil Biggerstaff was located under the bridge on Jordan Creek Rd. Investigators with SCSO Brandon Letterman, William Gary along with ID Officers David Hogsd and Shawn Nix are on scene and I began photographing the area. In speaking with investigators it is revealed that Keenan Hines (a suspect in this case) took investigators to this location where the body had been placed. Investigators said that Brittany Foster (also a suspect in this case) and Hines were roommates with Biggerstaff. Biggerstaff's clothed body was lying on the edge of a creek below a bridge. The body was lying slightly to the right away from the bank, face down in the water with the back portion of his body above the waterline. The decedent's left arm is extended out and slightly away from body and the right arm is tucked under his stomach. The right leg is extended out in line with body, the left leg is bent slightly at the knee and is lying under the right leg and the leg is crossed at the ankle of right leg. Both calves are lying out of the water on the edge of the bank, the upper legs are partially submersed in the water. The decedent is dressed in a pair of plaid shorts, a brown short sleeve shirt and matching brown leather shoes and a matching pair of low cut white socks. Removal of the body from the water was at approximately 12:10am and we placed the decedent in a yellow water bag. Upon getting the entire body to the bank of the creek the bag was opened and the body was photographed in its current state only. Further examination showed a tattoo on the left back shoulder of a red colored cross and a tattoo of barbed wire on the upper right arm that was around the bicep. Investigators with SCSO mentioned that he had a tattoo on his right forearm with praying hands and the names of Kristle and Tyler, from previous Spartanburg County Detention records, this was verified as well. Due to the nature of the incident and body positioning/location we didn't reposition or alter more that necessary and prepared to transport 'as is.' The body was sealed up in water bag and placed in white bag and locked with tag # 002663, Griffith Removal transported to SMC morgue for further examination. I cleared this scene at 12:34am. I along with Coroner Clevenger and Brandon Letterman travel to the Ayers residence at # [REDACTED] Church St. Inman to make notification; we arrived at 12:55am. Janet Ayers, who is the deceased's aunt and only known next of kin at the time informed us that Mr. Biggerstaff has a sister, Amanda, that lives at [REDACTED] Lake Bowen Dam Rd. We proceeded to Lake Bowen Dam Road to make notification with Amanda at 1:20am. Amanda is informed of the situation and was given information on who to contact for any questions.

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Case Report

Rusty Clevenger
Coroner

Office Of The Coroner
366 N Church St
Spartanburg, South Carolina
29303

Case Comments

06/02/2016

On May 30, 2016 at 06:48pm, this Deputy Coroner Investigator (Baty) was requested to respond to [REDACTED] Suttles Road in reference to a submerged vehicle in a lake. Unknown if there was a body or not associated with the car. Upon arrival at 08:12am this investigator observed Spartanburg County Sheriff's Deputies, Spartanburg County EMS, New Prospect Fire Department and the South Carolina Department of Natural Resources Lake Wardens on scene. This investigator also observed a submerged vehicle about 100' off the from a retaining wall at the edge of the water. The observation was that I could barely observe the roof of the vehicle and the trunk deck lid was up. There were divers in the water looking to find a possible submerged decedent.

This investigator was advised upon arrival by the Spartanburg County Sheriff's Office, that a body had not been found nor anyone nearby to claim the vehicle. The vehicle came back to a Janet Ayers of 411 Church St., Inman, SC 29349. Investigator Tommy Clark and Lt. William Gary of the Spartanburg County Sheriff's Office advised this investigator that the divers had recovered two binders, one of which appeared to have a suicide note inside of it.

This investigator spoke with EMS and the divers were working a grid for the search and had already searched a 20' radius of the vehicle.

This investigator began taking photographs of the area and the process of events taking place. This investigator photographed the two binders. One contained what appeared to be a suicide letter by an Anthony Biggerstaff. The other contained information of an address that matched the vehicle registration information. The smaller binder with the address information had what appeared to be a reddish type substance; believed to be possibly blood.

Upon completing the grid by the divers for the search and no recovery of a body; the Spartanburg County EMS began clearing up. The Spartanburg County Sheriff's Department pulled the vehicle back toward the retaining wall and awaited the Spartanburg County rollback tow truck to respond and remove the vehicle from the Lake. At the time the vehicle was pulled back to the wall; it was discovered that a window on the driver's side rear passenger door had what appeared to be a bullet hole in it. Closer examination from the outside of the vehicle also reveal a reddish substance believed to be possibly blood. This investigator notified my supervisors. I was advised, that because we did not have a body at the time, to photograph the vehicle as is and to also go with the Spartanburg County Sheriff's Office investigator's to were ever they are going to take the vehicle, to search it out and investigate it upon completion of a Search Warrant. Take additional photographs as they conduct the search of any possible evidence and to collect the possible blood and matter that was observed in the vehicle.

The vehicle was transported to the Spartanburg County shop where it was processed by the Spartanburg County Sheriff's Office. Two 380 Caliber spent shell casings were found along with a projectile from one of the bullets found in the substance believed to be blood. There were indications of damage by two separate projectiles on the rear driver's side door. Also found was one 380 caliber live round. The two casings and the live round was found on the passenger side front floor board. The spent projectile was found lying in the possible blood in the crevice of the rear seat near the rear passenger driver's door. The Spartanburg County Sheriff's IO unit collected their evidence and this investigator collected the reddish substance believed to be blood and what appeared to be body matter in other parts of the vehicle. The binders back at the scene were collected by the Spartanburg County Sheriff's office as well. Further investigation pending.

06/02/2016

Possible Blood and Tissue taken from back seat, rear & front floor boards as evidence. Blood was placed in refrigeration and the tissue was placed into the freezer in evidence on May 31, 2016.

06/06/2016

COD sheet scanned and entered into the server on 6/6/16 ccd

06/07/2016

Sympathy card sent.

06/13/2016

Autopsy scanned and entered into the server on 6/13/16 ccd

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Rusty Clevenger
Coroner

Spartanburg County Coroner

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366 N Church St
Spartanburg, South Carolina
29303

Check List

☐ Decedent has not Been Identified	☐ Secure Property/Evidence in SCCO Evidence Room
☒ Notify Next of Kin	☐ Notify Law Enforcement of Autopsy Time
☐ Notify Decedent's Physician	☐ Complete Sled Child Fatality Protocol
☒ Schedule Autopsy	☐ Schedule External Exam
☒ Notify Law Enforcement - Contact Tommy Clark , J Nix	☐ Serve Subpoena for Blood/Urine at
☐ Serve Subpoena for Medical Records at	☐ Other - Explain
☐ Copy of Report Received by Next of Kin	☐ Copy of Report Received by Law Enforcement
☐ Copy of Report Received by Prosecution	☐ Copy of Report Received by Other

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Investigator's Signature _____ **Initials** _____

Print Name Steve Pettit

Investigator's Signature _____ **Initials** _____

Print Name Cindy Lathan

Investigator's Signature _____ **Initials** _____

Print Name Kelly Baty

Investigator's Signature _____ **Initials** _____

Print Name Rusty Clevenger

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Rusty Clevenger
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Spartanburg County Coroner

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Office Of The Coroner
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Spartanburg, South Carolina
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Primary Coroner

Coroner Name	Arrival Date/Time	Miles	Clear Scene Date/Time	Attended Autopsy
Steve Pettit	6/2/2016 11:01:00PM		6/3/2016 12:31:00AM	True

General Information

Case Number	Notify Date/Time	Case Type	County
C-16-05-212	5/30/2016 6:54:00AM	Scene Response	Spartanburg

Agency	Called By	Department	Phone #	Agency Case #
SC Dept. of Natural Resources	Spartanburg Communications/91	SCSO	(864)596-2222	16051580

Demographic Data

Name	Sex	Also Known As	Marital Status
Anthony Neil Biggerstaff	M		Single

Address	Ethnic Group	Religion	Affiliation
■ Bridges st Inman, SC 29349	Caucasian		Investigators

Phone	DOB	Age
	■	045YR10MO18DAY

Identified By	Means of Identification	Identification Date
SCSO	Tattoo indifaction	6/3/2016 12:20:00AM

Inmate Number	Facility

Next of Kin

Relationship	Name	Ethnic Group	Phone	Address
Sister	Amanda Hesh	Caucasian	■	■ Lake Bowen Dam Road Inman, SC 29349

Date/Time Notified	Notified By	Affiliation
6/3/2016 1:20:00AM	SCSO/Coroners office	Investigators

How Notified	Location
In Person / on scene	Residence

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Case Report

Rusty Clevenger
Coroner

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Spartanburg, South Carolina
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Funeral Home

Funeral Home
Spartanburg County Indigent Services

Permit Number
237052

Removal Service
Griffith Removal Services

Removal Attendants
White/Davis

Taken To
Spartanburg Regional Medical Center Morgue

Pronouncement of Death

Date/Time
6/2/2016 11:01:00PM

Pronounced By
Steve Pettit

Pronounced Location
Under Bridge in Creek (Jordan Creek Rd)

Time and Location of Death

Proximity
in Creek Under Bridge



Estimate

Date/Time
5/29/2016 11:15:00PM

To Date/Time
6/2/2016 11:01:00PM

Street Type
Street

Street Name
Jordan Creek Road

Street Number

Zip Code
29349

Time and Location of Incident

Proximity
in Vehicle



Estimate

Date/Time
5/29/2016 11:15:00PM

To Date/Time
6/2/2016 11:01:00PM

Street Type
Street

Street Name
New Cut Rd

Street Number

Zip Code
29349

Cause of Death

Manner
Homicide

Cause of Death
Gunshot Wound to the Head

Secondary To

Other Significant
Gunshot wound to the left upper chest and left forearm

Tox/Drugs
Liver to SLED.

Tox/Alcohol

Certifier

Certified By
Dr. David Wren

Phone Number

Confirmed By

Phone Number

COPY



Rusty Clevenger
Coroner

Spartanburg County Coroner

Case Report

Office Of The Coroner
366 N Church St
Spartanburg, South Carolina
29303

Pending

☒ Autopsy	Autopsy By Dr David Wren	Location SMC Morgue	Autopsy Number FA-16-109
☐ External Exam - Performed By	Location		
☐ Other	Description of Other		

If Death Occurred in Hospital

☐ Urine Drawn	☐ Blood Drawn	Held Location SMC Morgue
☐ Other - Liver		
☐ Quarantined	Hospitalized Date/Time	Trauma/Patient Number

Per Conversation With

Conversation Date/Time

6/3/2016 4:00:00PM

Investigator

Name	Arrival Date/Time	Miles	Clear Scene Date/Time	Attended Autopsy
Steve Pettit	6/2/2016 11:01:00PM		6/3/2016 12:31:00AM	True
Cindy Lathan	5/30/2016 8:50:00AM		5/30/2016 1:42:00PM	False
Kelly Baty	5/30/2016 8:12:00AM		5/30/2016 1:42:00PM	False
Rusty Clevenger	6/2/2016 11:01:00PM		6/3/2016 12:31:00AM	False

Law Enforcement Agencies

Agency	Rank/Name/Badge #	Department	Phone	Arrival Date/Time
Spartanburg County Sheriffs Office	Inv T Clark	SCSO		
Spartanburg County Sheriffs Office	Inv B Letterman	SCSD		
Spartanburg County Sheriffs Office	ID Inv. C Stepp	SCSO		
Spartanburg County Sheriffs Office	ID Inv. J Nix	SCSO		

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Scene**Weather Conditions**

Overcast

Time of Day

Night Time

Body Position

Face Down

Description of Body Position

Lying in water face down, with the back of his head exposed from the water, left arm is extended out and slightly away from the body, right arm is tucked under stomach, right leg is extended out in line with body where the left leg is bent slightly at the knee and is lying under the left leg crossed at the ankle of right leg., both right leg and left leg are out of the water on the bank

Exact Location

under Bridge

Surface Type

Water , Mud and red dirt

Temperature**Inside****Outside****Inside Conditions**☐ Estimated Temp

0.00

68.00

☐ Air Conditioning In Use☐ Heating in Use**Thermostat****Fingerprint****Photographed By**

Steve Pettit

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Clothing

Clothing Description

Plaid shorts, red rope type belt, short sleeve brown T-shirt matching white socks, and matching brown shoes

☒ Clothing in Disarray - Description

Wet muddy and appears to have a hole in left shoulder of shirt

Property and Evidence

Property

Taken By Spartanburg County Coroners Office

Medication

None Taken

Evidence

None Taken

Body Actualization

Date/Time

6/2/2016 11:01:00PM

Body Temperature

0

Body Condition Early Decomposition

☐ Insect present - Description

Rigor Mortis

Fully Set

Lividity

Moderate

Mucous Membrane

*N/A

Rigor Mortis Description

Early stages of decomposition

Lividity Description

Mucous Membrane Description

Body Region	Body Feature	Description	Shape/Size	Trauma	Clothing Involved

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Scene Environment

☐ Location Secure Upon Discovery☐ Weapons Nearby☐ Pets Found

Describe Locks on Doors

Describe Disarray

Weapon
*N/A

Manufacturer
*N/A

Model
*N/A

Caliber

Serial Number

Describe Weapon and its Location

Additional Scene Information

☐ Blood Found at Scene

Blood Beneath the Body

Surface Type

Dimension of Blood or Estimated Quantity

Wetness of Blood

Supplement A

Structure Outdoors

☐ Mail in Mailbox☐ Lights Left on☐ TV on☐ TV Guide Open☐ Food☐ Valuables

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Emergency Services Personnel

Agencies *N/A	Crew	☐ Resuscitative Efforts
Dispatch Time	Scene Arrival Time	Hospital Arrival Date/Time
Record Names	Resuscitative Efforts	

Vehicle

Vehicle Type Vehicle	Manufacturer Nissan	Model Sentra	Year 2015	State SC	Tag
Position *N/A	Number of Vehicles 1	Number of Tires 4	Ejected in Feet 0	☐ Rollover	
Wrecker (1 - 2) County Rollback *N/A	Restraints (1 - 4) *N/A *N/A *N/A *N/A		Called By Spartanburg County Sheriff's Office		

☐ **Object Hit**

☐ **Criminal/DUI Charges Pending**

Describe Damage

Found submerged in Lake Bowen. Other damage created from removing the vehicle from the water.

Explain Object Hit

Type of Charges

Prescription History

Physician	Prescription Number	Date Filled
Drug	Dosage	Times Per Day
		Prescribed/Remaining

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Medical History

Treatment Center	Medical Specialty	Facility	Treatment Date
Physician	Address	Zip Code	Phone
Diagnosis	Treatment		
☐ Place of Death	☐ Alcohol	☐ Psychiatric Care	☐ Depression
Substance	Drug Category	Trauma Number	☐ Drug Related

General

☒ When was Subject Last Seen Alive?	Date/Time 5/29/2016 12:00:00AM	By Whom Brittany Foster
Where was Subject Last Seen Alive?	Passenger in Car	
☐ Complained of Illness? - Describe		

Lifestyle

☐ Subject Appeared to be Under the Influence of Alcohol/Drugs - Describe
☐ There is Evidence of Alcohol/Drug Use - Describe
☐ There is a History of Alcohol Abuse Length of Time
☐ There is a History of Drug Abuse - Describe Length of Time
☐ Deceased was an Alcoholic - Per Whom? How Long

Suspected Self-Inflicted Injury

☐ Deceased Depressed - Per Whom? How Long?	Explanation
☐ Note Found at Scene ☐ Was Note Signed	
☐ Previous Attempts - Date of Attempt	
☐ Previous Threats - Date of Threat	
☐ Date was Significant - Explain	
☐ Routine was Changed - Explain	

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Coroner

Spartanburg County Coroner

Case Report

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Recent Loss

COPY



Rusty Clevenger
Coroner

Spartanburg County Coroner

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Case Notes

Cremation - Indigent Svcs.

At the request of SCSO Deputy S.Nix Inv. Rick McCraw spotted a blood card from blood provided from the Sheriff's Dept. from this decedent. The blood card was released to S.Nix on 6/16/16 by Inv. Rick McCraw. Inv. McCraw also spotted an additional card that will be kept in Evidence at the Coroner's Office.

Case Summary

On June 2nd 2016, I was contacted by Coroner Rusty Clevenger at 10:00pm to assist the SCSO on Jordan Creek Road and Bright Blue Gill Place in Inman. Arriving on scene at 11:01pm and speaking with the Coroner, I'm advised that the body of a 45 year old male by the name of Anthony Neil Biggerstaff was located under the bridge on Jordan Creek Rd. Investigators with SCSO Brandon Letterman, William Gary along with ID Officers David Hogsed and Shawn Nix are on scene and I began photographing the area. In speaking with investigators it is revealed that Keenan Hines (a suspect in this case) took investigators to this location where the body had been placed. Investigators said that Brittany Foster (also a suspect in this case) and Hines were roommates with Biggerstaff. Biggerstaff's clothed body was lying on the edge of a creek below a bridge. The body was lying slightly to the right away from the bank, face down in the water with the back portion of his body above the waterline. The decedent's left arm is extended out and slightly away from body and the right arm is tucked under his stomach. The right leg is extended out in line with body, the left leg is bent slightly at the knee and is lying under the right leg and the leg is crossed at the ankle of right leg. Both calves are lying out of the water on the edge of the bank, the upper legs are partially submersed in the water. The decedent is dressed in a pair of plaid shorts, a brown short sleeve shirt and matching brown leather shoes and a matching pair of low cut white socks. Removal of the body from the water was at approximately 12:10am and we placed the decedent in a yellow water bag. Upon getting the entire body to the bank of the creek the bag was opened and the body was photographed in its current state only. Further examination showed a tattoo on the left back shoulder of a red colored cross and a tattoo of barbed wire on the upper right arm that was around the bicep. Investigators with SCSO mentioned that he had a tattoo on his right forearm with praying hands and the names of Kristle and Tyler, from previous Spartanburg County Detention records, this was verified as well. Due to the nature of the incident and body positioning/location we didn't reposition or alter more than necessary and prepared to transport 'as is.' The body was sealed up in water bag and placed in white bag and locked with tag # 002653, Griffith Removal transported to SMC morgue for further examination. I cleared this scene at 12:34am. I along with Coroner Clevenger and Brandon Letterman travel to the Ayers residence at [REDACTED] Church St. Inman to make notification; we arrived at 12:55am. Janet Ayers, who is the deceased's aunt and only known next of kin at the time informed us that Mr. Biggerstaff has a sister, Amanda, that lives at [REDACTED] Lake Bowen Dam Rd. We proceeded to Lake Bowen Dam Road to make notification with Amanda at 1:20am. Amanda is informed of the situation and was given information on who to contact for any questions.

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Spartanburg County Coroner

Case Report

Rusty Clevenger
Coroner

Office Of The Coroner
366 N Church St
Spartanburg, South Carolina
29303

Case Comments
06/02/2016

On May 30, 2016 at 06:48pm, this Deputy Coroner Investigator (Baty) was requested to respond to [REDACTED] Suttles Road in reference to a submerged vehicle in a lake. Unknown if there was a body or not associated with the car. Upon arrival at 08:12am this investigator observed Spartanburg County Sheriff's Deputies, Spartanburg County EMS, New Prospect Fire Department and the South Carolina Department of Natural Resources Lake Wardens on scene. This investigator also observed a submerged vehicle about 100' off the from a retaining wall at the edge of the water. The observation was that I could barely observe the roof of the vehicle and the trunk deck lid was up. There were divers in the water looking to find a possible submerged decedent.

This investigator was advised upon arrival by the Spartanburg County Sheriff's Office, that a body had not been found nor anyone nearby to claim the vehicle. The vehicle came back to a Janet Ayers of #6 Church St., Inman, SC 29349. Investigator Tommy Clark and Lt. William Gary of the Spartanburg County Sheriff's Office advised this investigator that the divers had recovered two binders, one of which appeared to have a suicide note inside of it.

This investigator spoke with EMS and the divers were working a grid for the search and had already searched a 20' radius of the vehicle.

This investigator began taking photographs of the area and the process of events taking place. This investigator photographed the two binders. One contained what appeared to be a suicide letter by an Anthony Biggerstaff. The other contained information of an address that matched the vehicle registration information. The smaller binder with the address information had what appeared to be a reddish type substance; believed to be possibly blood.

Upon completing the grid by the divers for the search and no recovery of a body; the Spartanburg County EMS began clearing up.

The Spartanburg County Sheriff's Department pulled the vehicle back toward the retaining wall and awaited the Spartanburg County rollback tow truck to respond and remove the vehicle from the Lake. At the time the vehicle was pulled back to the wall; it was discovered that a window on the driver's side rear passenger door had what appeared to be a bullet hole in it. Closer examination from the outside of the vehicle also reveal a reddish substance believed to be possibly blood. This investigator notified my supervisors. I was advised, that because we did not have a body at the time, to photograph the vehicle as is and to also go with the Spartanburg County Sheriff's Office investigator's to were ever they are going to take the vehicle, to search it out and investigate it upon completion of a Search Warrant. Take additional photographs as they conduct the search of any possible evidence and to collect the possible blood and matter that was observed in the vehicle.

The vehicle was transported to the Spartanburg County shop where it was processed by the Spartanburg County Sheriff's Office. Two 380 Caliber spent shell casings were found along with a projectile from one of the bullets found in the substance believed to be blood. There were indications of damage by two separate projectiles on the rear driver's side door. Also found was one 380 caliber live round. The two casings and the live round was found on the passenger side front floor board. The spent projectile was found lying in the possible blood in the crevice of the rear seat near the rear passenger driver's door. The Spartanburg County Sheriff's ID unit collected their evidence and this investigator collected the reddish substance believed to be blood and what appeared to be body matter in other parts of the vehicle. The binders back at the scene were collected by the Spartanburg County Sheriff's office as well. Further investigation pending.

06/02/2016

Possible Blood and Tissue taken from back seat, rear & front floor boards as evidence. Blood was placed in refrigeration and the tissue was placed into the freezer in evidence on May 31, 2016.

06/06/2016

COD sheet scanned and entered into the server on 6/6/16 cccl

06/07/2016

Sympathy card sent.

06/13/2016

Autopsy scanned and entered into the server on 6/13/16 cccl

06/15/2016

Steve can you give me this case number?

Zan Raymond the Victim Advocate worked with the Sheriff's office to get Mr. Biggerstaff's sister to sign a cremation authorization and application. I will put in the information and proceed with Indigent Care sponsorship. I will let you know when I turn all of the paperwork in to Jessica.

Thanks.

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Spartanburg County Coroner

Case Report

Rusty Clevenger
Coroner

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366 N Church St
Spartanburg, South Carolina
29303

Susan Hicks
Eligibility Officer
562-4745

06/16/2016

On May 30th, 2016 I responded to Lake Bowen in reference to a submersion located in the lake off of Suttles Road. Upon arrival there were representatives from the SCSO patrol, investigations, dive team and ID as well as Lake Wardens, SCHP, NFPD and EMS personnel. At the time of my arrival dive team members were in the water around the car searching for a possible occupant that may have drifted from the car upon impact and/or submersion. After a diligent search of the surrounding area the decision was made to remove the car from the lake. Once the county rollback arrived and the car was being pulled to the shore line, divers who were accompanying the vehicle noticed a bullet hole in the driver side rear side glass (the portion behind the rear window that was rolled down.) The car was brought to the yard of the residence on Suttles Road and ID and Inv. Baty took limited photos before the car was transported to the county shop for further processing. Inv. Baty and I, as well as S. Nix, B. Letterman and J. Guffey from the SCSO all met at the shop to process the car. Multiple photos were taken of the car and its contents which included but were not limited to blood, shell casings, cell phone, and a pair of sunglasses. Coagulated blood and what appeared to be tissue matter were collected, processed accordingly and referenced as "John Doe Lake Bowen." ccc

09/12/2016

on September 12th 2016, I printed off SLED tox and had Cindy to copy and scan the results to Dr. Wren, Spoke with Chief Investigator Bogan, He advised I could go ahead and close case, File was turned into Chief for final review 9/12/2016

09/13/2016

Per Solicitor's Office request, a DVD of watermarked photos was burned. DVD packet was given to S. Pettit upon completion. MLR

09/15/2016

Based on toxicology, autopsy performed by Dr. Wren, audio, photographs, Sheriff's Office investigative reports, video statements, forensic report, and evidence provided by Inv. Baty and Inv. Pettit, agree homicide.

Check List

☐ Decedent has not Been Identified	☐ Secure Property/Evidence in SCCO Evidence Room
☒ Notify Next of Kin	☐ Notify Law Enforcement of Autopsy Time
☐ Notify Decedent's Physician	☐ Complete Sled Child Fatality Protocol
☒ Schedule Autopsy	☐ Schedule External Exam
☒ Notify Law Enforcement - Contact Tommy Clark , J Nix	☐ Serve Subpoena for Blood/Urine at
☐ Serve Subpoena for Medical Records at	☐ Other - Explain
☐ Copy of Report Received by Next of Kin	☐ Copy of Report Received by Law Enforcement
☐ Copy of Report Received by Prosecution	☐ Copy of Report Received by Other

COPY

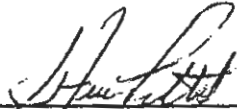


Rusty Clevenger
Coroner

Spartanburg County Coroner

Case Report

Office Of The Coroner
366 N Church St
Spartanburg, South Carolina
29303

Investigator's Signature	<u></u>	Initials	<u></u>
Print Name	<u>Steve Pettit</u>		
Investigator's Signature	<u></u>	Initials	<u></u>
Print Name	<u>Cindy Lathan</u>		
Investigator's Signature	<u></u>	Initials	<u></u>
Print Name	<u>Kelly Baty</u>		
Investigator's Signature	<u></u>	Initials	<u></u>
Print Name	<u>Rusty Clevenger</u>		

COPY



South Carolina Department of Health and Environmental Control

BURIAL - REMOVAL - TRANSIT PERMIT

and

DEATH NOTIFICATION

Spartanburg

COUNTY

237052

Death Certificate Attached ☐ Yes ☐ No

Name of Deceased <u>Anthony Neil Biggerstaff</u>	Date of Death <u>5-26-16</u> <u>6-2-16</u>	Time of Death <u>11:15 pm</u> <u>10 pm</u>	☐ AI ☐ PI

Reportable Fetal Death
(20+ weeks OR 350+ grams)☐ Yes
☐ No

If Reportable Fetal Death, Provide Mother's Full Name

Place of Death (Facility Name or if not institution give Street and Number)

City or Town

Zip Code

Jordan Creek Rd + Bright Blue Hill RdLinman291349If Hospital Death: ☐ D.O.A. ☐ In-Patient ☐ Emer. Rm. ☐ Out-Patient

CERTIFIER (Name of Physician, Medical Examiner or Coroner who is to provide cause of death and certify death certificate.)

Deputy Coroner Steve PettitAddress 300 N Church St STE 1700
Spartanburg SC 291303

Phone

804-590-2509Autopsy ☐ Yes ☐ NoWas Case Referred To Medical Examiner / Coroner? ☐ Yes ☐ No

Funeral Home or Other Agent First Assuming Custody of Body

Name

Address

Phone

Name, Address, and Phone Number of Funeral Home or Other Agent Handling Final Disposition if other than Named Above

Permission is hereby granted to remove this body and upon compliance with the requirements of the laws of this state to dispose of the remain A certified copy of the death certificate, and when required by law, an authorization by the coroner or medical examiner must be attached to the permit prior to disposition if disposal is by cremation or burial at sea. Neither a death certificate nor a report of fetal death is required to authorize cremation of fetal remains.

Signature of Registrar or other authorized issuing officer

Date Issued

COPY

For Use Only By Coroner Issuing Permit

Was (or will) death (be) actively investigated? ☐ Yes ☐ No

I hereby certify that I have received the remains of the above individual and will comply with the laws of this State governing disposition and the filing of the death certificate.

Signature of Funeral Director or Other Agent



South Carolina Department of Health and Environmental Control

BURIAL - REMOVAL - TRANSIT PERMIT

and

DEATH NOTIFICATION

Spartanburg

COUNTY

237052

Death Certificate Attached ☐ Yes ☐ No

Name of Deceased <u>Anthony Neil Biggerstaff</u>	Date of Death <u>5-29-16</u> <u>10-2-16</u>	Time of Death <u>11:15 pm</u> <u>10 pm</u>	☐ AM ☐ PM

Reportable Fetal Death
(20+ weeks OR 350+ grams)☐ Yes
☐ No

If Reportable Fetal Death, Provide Mother's Full Name

Place of Death (Facility Name or if not institution give Street and Number)

City or Town

Zip Code

Jordan Creek Rd & Bright Blue Gill RdInman29349If Hospital Death: ☐ D.O.A. ☐ In-Patient ☐ Emer. Rm. ☐ Out-Patient

CERTIFIER (Name of Physician, Medical Examiner or Coroner who is to provide cause of death and certify death certificate.)

Deputy Coroner Steve PettitAddress 300 N Church St STE 1700
Spartanburg, SC 29303

Phone

864-590-2509Autopsy ☐ Yes ☐ NoWas Case Referred To Medical Examiner / Coroner? ☐ Yes ☐ No

Funeral Home or Other Agent First Assuming Custody of Body

Name

Address

Phone

Name, Address, and Phone Number of Funeral Home or Other Agent Handling Final Disposition if other than Named Above

Permission is hereby granted to remove this body and upon compliance with the requirements of the laws of this state to dispose of the remains. A certified copy of the death certificate, and when required by law, an authorization by the coroner or medical examiner must be attached to the permit prior to disposition if disposition is by cremation or burial at sea. Neither a death certificate nor a report of fetal death is required to authorize cremation of fetal remains.

Signature of Registrar or other authorized issuing officer

Date Issued 6/5/16

COPY

For Use Only By Coroner Issuing Permit

Was (or will) death (be) actively investigated? ☐ Yes ☐ No

I hereby certify that I have received the remains of the above individual and will comply with the laws of this State governing disposition and the filing of the death certificate.

Signature of Funeral Director or Other Agent

Lead Investigator 205- PettitBRT 237052
SS# 241-13-8844

CORONER'S SHEET

Victim's Name Biggerstaff Anthony Neil Date of Birth 7-11-1970
 Address Place of Death Jordan Creek Rd + Bright Blue Grill Lane
 Victim's Address 41 Bridges St Unman SC 29349
 Date of Death May 5-29 / 6-2-2016 Time of Death 11:15 pm - 10pm
 Contact Person Amanda Hash Relationship Sister
 Address 1485 Lake Bowen Dam Rd. Unman SC 29349
 Telephone Number 804-690-2438 Funeral Home _____

HOLD FOR INVESTIGATION

Name of Coroner Investigator Steve Pettit
 Signature of Coroner Investigator _____
 Date 6-2-2016 Time 1 pm

NOTES

Body Bag Tag# 0020063

If Coroner's Case, the coroner must sign below BEFORE the body can be released to the funeral home.

AUTHORIZATION TO RELEASE TO FUNERAL HOME

Name of Coroner Investigator Steve Pettit
 Signature of Coroner Investigator Steve Pettit
 Date 6-16-14 Time 2:24 pm

Morgue Tech Name and Signature _____

Date of Release _____ Time of Release _____

Released to _____

COPY

Lead Investigator 205- PettitBRT 237052SS# 247-13-8844

CORONER'S SHEET

Victim's Name Biggerstaff, Anthony Neil Date of Birth 7-11-1970
 Address Place of Death Jordan Creek Rd + Bright Blue Gill Lane
 Victim's Address 41 Bridges St Unman SC 29349
 Date of Death BHW 5-29 / 6-2-2016 Time of Death 11:15 pm - 10pm
 Contact Person Amanda Hash Relationship Sister
 Address 1485 Lake Bowen Dam Rd. Unman SC 29349
 Telephone Number 804-590-2438 Funeral Home _____

HOLD FOR INVESTIGATION

Name of Coroner Investigator Stere Pettit
 Signature of Coroner Investigator _____
 Date 6-2-2016 Time 1pm

NOTES

Body Bag Tag# 002003

If Coroner's Case, the coroner must sign below BEFORE the body can be released to the funeral home.

AUTHORIZATION TO RELEASE TO FUNERAL HOME

Name of Coroner Investigator _____
 Signature of Coroner Investigator _____
 Date _____ Time _____
 Morgue Tech Name and Signature _____
 Date of Release _____ Time of Release _____
 Released to _____

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ATTENTION FUNERAL DIRECTOR

The Spartanburg County Coroner's Office has already begun an electronic web death certificate on this deceased individual. If you use DHEC Web Death, you can locate and complete this death certificate by utilizing the new record screen within Web Death by entering the following BRTP number 2371052 and date of death 5-29-2016. If you need a paper death certificate, contact the coroner's office at (864) 596-2509 between 8:30 am – 4:00 pm Mon – Fri.

COPY

Baty, Kelly

From: 911info,
Sent: Monday, May 30, 2016 6:54 AM
To: Baty, Kelly
Subject: Email Copy Message From Hiplink

CS204 INC: LCS160530083040 TYP: SUBMERSION AD: [REDACTED] SUTTLES RD CTY: INMAN COMM CN: NPFD CMT1:
CAR SUBMERGED ABOUT 30 FEET OFF SHORE, UNKN IF ANYBODY IN THE CAR CMT2: Parent Inc
MCA160530019802 UPDATE Resp to TIME: 06:48 CSC204 XST: HIGHWAY 9 XST2: CROW RD

COPY

**New Prospect FD**

Station: 1
Shifts Or Platoon: A-Shift

Location: Suttles DR Inman SC 29349 Highway 9	Incident Type: 342 - Search for person in water
Lat/Long: N 35° 6' 34.71" W 82° 2' 21.41"	EMSID: FDID: 42223 Incident #: 2016-156 Exposure ID: 18111646 Incident Date: 05/30/2016
Location Type: 1 - Street address Cross Street, Directions or National Grid: Highway 9	

Report Completed by:	2344-Ledbetter, Richard J	ID: 2344	Date: 05/30/2016
Report Reviewed by:	2388-Caruso, Philip J	ID: 2388	Date: 05/31/2016
Report Printed by:	2388-Caruso, Philip J	ID: 2388	Date: 5/31/2016 Time: 12:45

Aid Given or Received:	None	Primary action taken:	74 - Provide apparatus
Total # of apparatus on call:	3	Total # of personnel on call:	5

NARRATIVE

I, Jason Ledbetter was on the way to work at NPFD when I spotted a car floating in Lake Bowen, arrived on scene and called it in. Assisted Spartanburg County Sheriff's Office and EMS with the search. Used Winch on s-1 to pull the car to the bank. Cleared by Sheriff's Office.

APPARATUS

Unit	S-1	Unit	E-3
Type:	Support apparatus, other	Type:	Engine
Use:	Suppression	Use:	Suppression
Response Mode:	No Lights or Sirens	Response Mode:	()
# of People	1	# of People	1
Alarm	05 /30/2016 06:48:32	Alarm	05 /30/2016 06:48:32
Dispatched	05 /30/2016 06:48:32	Dispatched	05 /30/2016 06:48:32
Enroute	05 /30/2016 06:48:33	Enroute	05 /30/2016 06:48:33
Arrived	05 /30/2016 06:48:40	Arrived	05 /30/2016 06:48:40
Cancelled	-- /--/-- --:--:--	Cancelled	-- /--/-- --:--:--
Cleared Scene	05 /30/2016 10:55:48	Cleared Scene	05 /30/2016 10:55:48
In Quarters	05 /30/2016 10:56:07	In Quarters	05 /30/2016 10:56:07
In Service	-- /--/-- --:--:--	In Service	-- /--/-- --:--:--
Unit	C-10		
Type:	Chief officer car		
Use:	Other		
Response Mode:	No Lights or Sirens		
# of People	1		
Alarm	05 /30/2016 06:48:32		
Dispatched	05 /30/2016 06:48:32		
Enroute	05 /30/2016 06:48:33		
Arrived	05 /30/2016 06:48:40		
Cancelled	-- /--/-- --:--:--		
Cleared Scene	05 /30/2016 10:55:48		
In Quarters	05 /30/2016 10:56:07		
In Service	-- /--/-- --:--:--		
Number Of People not on apparatus: 2			

COPY

[illegible]

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Steve Pettit
Spartanburg County Coroner's Office
366 N. Church Street, Suite 1700
Spartanburg, SC 29303

TOXICOLOGY DEPARTMENT
September 09, 2016
SLED No: L16-08132
Your Case No: C1605212
Incident Date: 05/30/2016

[V-Deceased] Anthony Neil
Biggerstaff

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE

Item: 1 **Sample Type: Liver - labeled "BIGGERSTAFF, ANTHONY N FA-16-109"**

Analysis by Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Hydroxybupropion	Positive	mg/kg	
Synonyms: Bupropion metabolite			
Erythro/Threo-Aminobupropion	Positive	mg/kg	
Synonyms: Bupropion metabolite			
Cyclobenzaprine	0.04	mg/kg	
Synonyms: Flexeril®			
Methamphetamine	7.2	mg/kg	

CALEA



AN ASCLD/LAB-International ACCREDITED TESTING LABORATORY SINCE 02/19/2014
P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

SLED No :L16-08132

Page 2 of 2

9/9/16

Liquid Chromatography/Tandem Mass Spectrometry (LC/MS/MS)

Analyte	Result	Units	Threshold
Acetaminophen	14	mg/kg	
Synonyms: Tylenol®			
Fluoxetine	0.32	mg/kg	
Synonyms: Prozac®			
Norfluoxetine	0.24	mg/kg	
Synonyms: Fluoxetine metabolite			

Comprehensive Analysis

A comprehensive drug screen utilizing gas chromatography/mass spectrometry and liquid chromatography/tandem mass spectrometry was performed on this sample. Based on the analytical method, no additional drugs or poisons of concern were identified. With additional history, further analysis may be required due to the nature of the sample.

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.



Quintus Young II
Forensic Toxicologist

CC: Det. Thomas Clark - Spartanburg County Sheriff's Office

For any additional interpretation of results please contact the Toxicologist above at the SLED Toxicology Department , (803) 896-7385.

CALEA

AN ASCI.D/LAB-International ACCREDITED TESTING LABORATORY SINCE 09/19/2014
P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

L01-46



SPARTANBURG COUNTY CORONER

EVIDENCE

Case No. _____ Inventory # _____

Type of Offense _____

Description of Evidence _____

Suspect _____

Decedent/Victim Biggerstaff, AnthonyDate and Time of Recovery 06/03/2016 @ 4:00Location of Recovery Liver @ AutopsySMC - Morgue

CHAIN OF CUSTODY/POSSESSION

Received from [Signature]By SMC - MorgueDate 6/3/16 Time 4:00 AM PMReceived from SMC Morgue FreezerBy Red MEODate 6-12-16 Time 1452 AM PM

Received from _____

By _____

Date _____ Time _____ AM PM

COPY
Spartanburg Co. Coroner's Office

JUN 14 2016

RECEIVED



SLED LABORATORY FORENSIC SERVICES REQUEST

SLED LAB No. L16-08132
Submission: 1 6/14/2016 11:38:31AM

Name of Investigating officer: <u>Steve Pettit</u>		ORI No: <u>SC042013M</u>
Agency: <u>Spartanburg County Coroner's Office</u>	Phone No: <u>(864) 596-2509</u>	Agency Case No: <u>C1605212</u>
Fax No: _____	Email: _____	Offense: <u>HOMICIDE</u>
Mailing Address: <u>366 N. Church Street, Suite</u>		County: <u>Spartanburg</u>
City / State / Zip: <u>1700</u>		Offense Date: <u>05/30/2016</u>
CC: <u>Spartanburg, SC 29303</u>		Officer Involved Shooting ☐ Yes
		Rush: ☐ Yes

Is this evidence related to another lab number?

☐ Yes ☒ No

If yes, Lab Number:

SLED ITEM No LAB ONLY	Agency Item No.	Description of Evidence	Analysis Requested
1	001	Liver - from Anthony Neil Biggerstaff	TOXICOLOGY

Victim(s) Deceased	Sex	Race	DOB	SSN
Anthony Neil Biggerstaff	M	W		

Comments

Case Comments: CC Spartanburg County Sheriff's Dept. Investigator Tom Clark at TClark@spartanburgcounty.org

Submission Comments: 1 Liver Sample

All sealed evidence packages accepted by the laboratory are assumed to contain what they are "said to contain" by the submitter. The laboratory does not conduct a detailed inventory of evidence package contents during the evidence intake process.

Submitted By :

Rick McCraw

Rick McCraw

Received By :

Amy Stephens

Amy Stephens
Forensic Technician

COPY

Laboratory Analysis Electronic Packing Slip

Case Information

Sent electronically to Lab: (06/14/2016 @ 09:45)

SLED Forensic Services**Department Case: C1605212 Submission # 1**

- Department: Spartanburg County Coroner's Office [SC042013M] / User Name: Spartanburg Coroner's Office
- Department Case: C1605212
- Submission Number: 1
- Case Officer Pick: Steve Pettit
- Officer Name: Steve Pettit
- Officer Email: SPettit@spartanburgcounty.org
- Officer Phone: 864 596-2509
- Offense Date: 05/30/2016
- Offense Location: [REDACTED] Suttles Road
- County: Spartanburg
- Case Type: HOMICIDE
- Case Comments: CC Spartanburg County Sheriff's Dept. Investigator Tom Clark at TClark@spartanburgcounty.org

L16-08132

Sub 1 Received (06/14/2016)
Spartanburg County Coroner's Office
Agency Case #: C1605212

Submission Information

- Delivery Type: Hand Delivered
- Comments: 1 Liver Sample
- Date Sent: 06/14/2016

Name Information

Name Type	Full Name	Date Of Birth	Sex	Race
Victim Deceased	Biggerstaff, Anthony Neil	[REDACTED]	Male	White/Caucasian

Analysis Request Information

Item #	Package	Item Type Code	Item Description	Serial Number	Exam Requests	Date Collected
001	plastic bag	[085]Liver	from Anthony Neil Biggerstaff		TOX-Tox Coroner Case Expanded Panel	06/03/2016 16:00

Tox Questions**Death:**

☒ Yes, if yes: Traffic Fatality Child Fatality Accident Natural Unexplained
☐ No

Traffic Fatality:

Driver Passenger Pedestrian Motorcyclist Bicyclist Boating Other

COPY

Other Causes:

☒ Gunshot Stabbing Beating Strangulation/Suffocation Drug/Poison/Alcohol Fire
Disease Carbon Monoxide Hanging Electrocutation Heart Related Drowning
Other

DUI:

Felony	Resulting in Death	Breath Test Given
☐ Yes	☐ Yes	☐ Yes
☒ No	☒ No (if yes, victim required)	☒ No (if yes, reading:)

Drugs Suspected

☐ Yes if yes, list drugs:
☒ No

Rick McCraw
Signature

Rick McCraw
Print Name

COPY



County of Greenville

"...At Your Service"

DEPARTMENT OF PUBLIC SAFETY

Page 1 of 1

FIREARMS / TOOL MARK REPORT

Department: Spartanburg Sheriff's Office
 Officer: Nix, M.
 Clark, T.
 Subject: Foster, Brittany Cassandra
 Hines, Keenen Le Breece

Case Number: 11-2016-000339
 Report Number: 1
 Incident Date: 05/30/2016
 Received From: Property & Evidence
 Received Date: 07/01/2016

Agency Number: 2016051580

This is an official report of the Greenville County Department of Public Safety Crime Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no examinations of evidence submitted in this case have been or will be conducted by any other laboratory or agency.

*John Vandermosten, Assistant County Administrator
 Department of Public Safety*

ITEMS SUBMITTED:

Item 1 is a Ruger model LCP semiautomatic pistol, serial number 374-92679, caliber 380 Auto.

Item 9 is caliber 380 Auto fired cartridge case.

Item 10 is a caliber 380 Auto fired cartridge case.

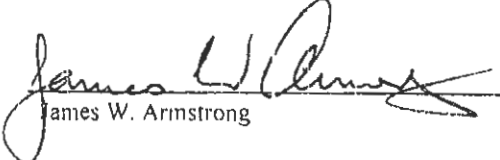
Item 13 is a caliber 380 Auto fired bullet specimen.

Item 44 is a caliber 380 Auto fired bullet specimen.

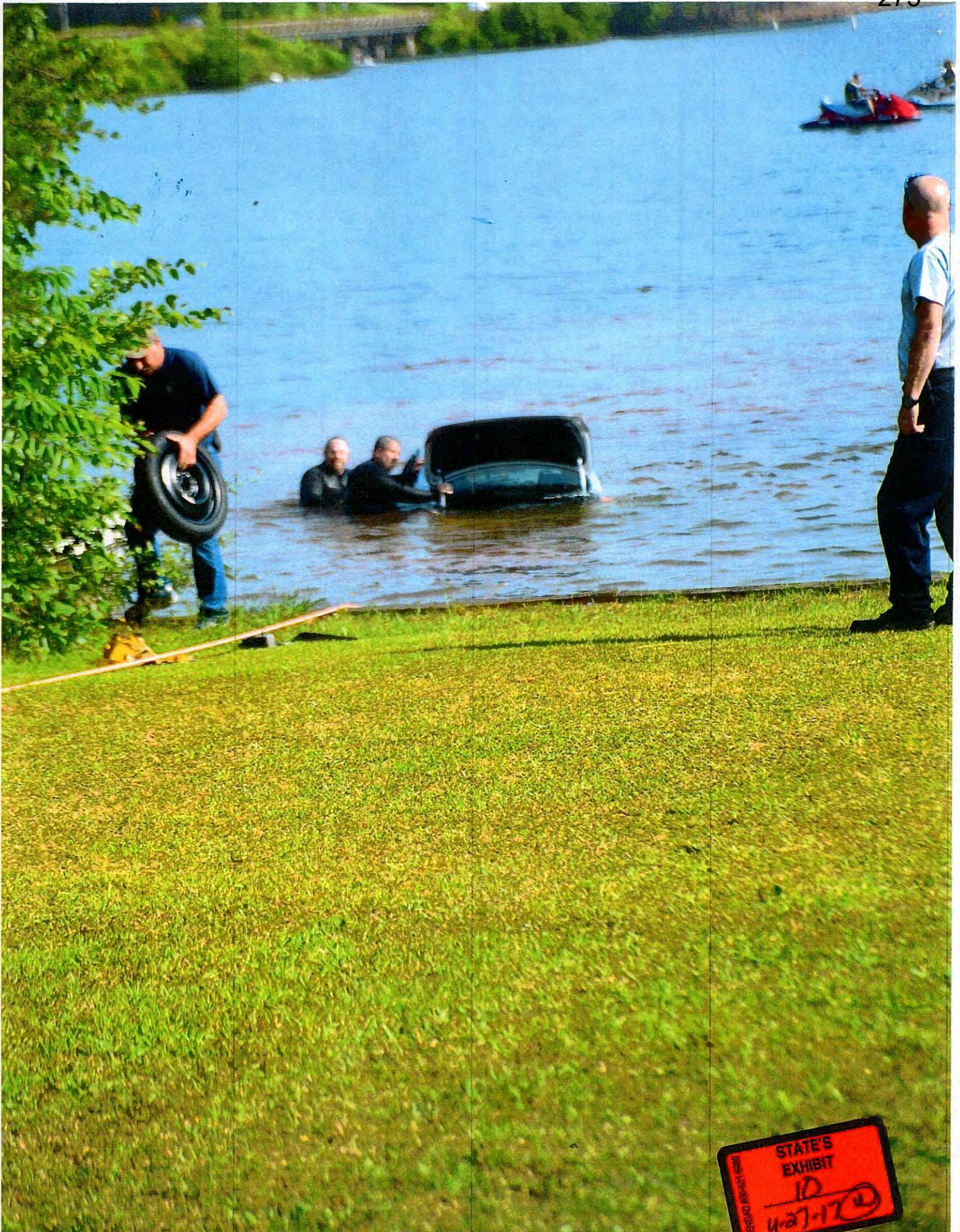
RESULTS:

The item 1 pistol was examined, test fired and found to be operable. The items 9 and 10 fired cartridge cases were fired in the item 1 pistol. The items 13 and 44 fired bullet specimens were fired from the item 1 pistol.

I am a Criminalist employed by Greenville County to perform physical and microscopic examinations on evidence submitted by law enforcement agencies in criminal cases, and have been qualified in courts of record in the state of South Carolina to testify on such examinations.

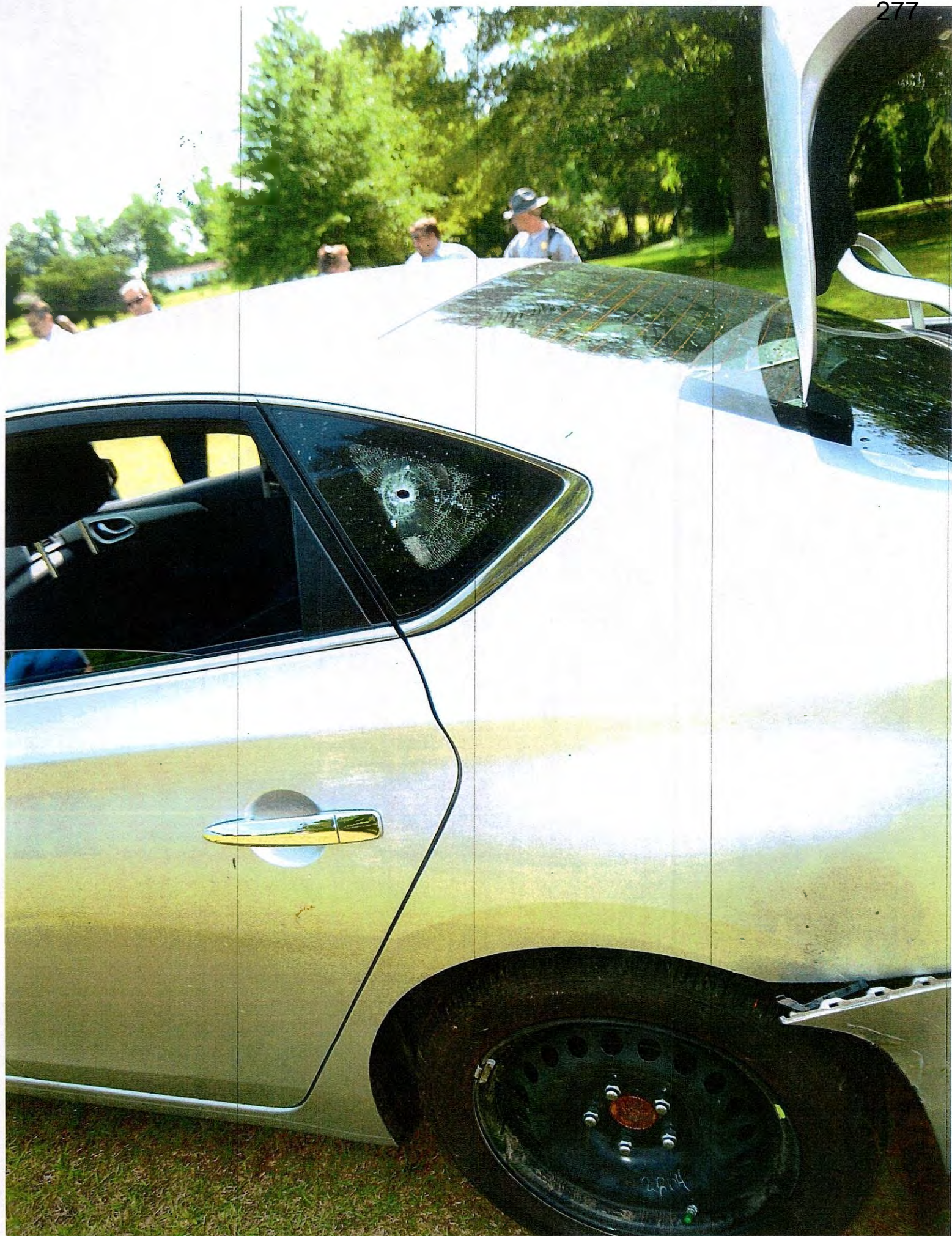

 James W. Armstrong 07/06/2015





STATE'S
EXHIBIT
10
4-27-17









UCI - 1

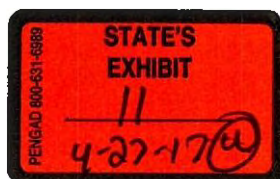
UCI DIVE REPORT

Page 1 of

SUBJECT <i>Vehicle Recovery / Missing Person</i>		DATE & TIME OF INCIDENT <i>05-30-16 3:00a - 7:00a</i>		PURPOSE OF DIVE <i>Vehicle Recovery</i>		
		LOCATION <i>107 Settles Rd</i>			COUNTY <i>Sptbg Co.</i>	
		REQUESTING AGENCY <i>Sptbg Co.</i>		ASSISTING AGENCY <i>EMS</i>		
		CASE# <i>16051580</i>		DATE & TIME BEGAN <i>05-30-16 0830</i>		DATE & TIME ENDED <i>05-30-16 1600</i>
		TOTAL MAN HOURS <i>7.5</i>				
PARTICIPATING DIVERS		DEPTH IN FEET 1ST 2ND		A-BOTTOM TIME 1ST PG		
<i>C. Nepper</i>		1ST 2ND		1ST PG		
<i>M. Freeman</i>		1ST 2ND		1ST PG		
		1ST 2ND		1ST PG		
		1ST 2ND		1ST PG		
		1ST 2ND		1ST PG		
		1ST 2ND		1ST PG		
		1ST 2ND		1ST PG		
VISIBILITY		WATER TEMP.		AIR TEMP.		
CURRENT		ALTITUDE		WEATHER		
SURFACE COND.						
SEARCH METHOD <i>Boat / Sonar</i>		EQUIP. FAILURE YES () NO (✓)		INJURY TO DIVER YES () NO (✓)		
RESULTS OF SEARCH <i>NO BODY LOCATED</i>		VALUE OF RECOVERY \$ <u> </u>		BOAT SUPPLIED BY <i>Sptbg Co S.O.</i>		
REMARKS:						
<i>Boat Operators: B. Cole - R. Garrett</i>						
<i>Tire tracks visible from shore to approx 125ft north of entry.</i>						
<i>EMS did water search + vehicle recovery. we</i>						
<i>were requested later in the day for sonar searches.</i>						
<i>Vehicle shows signs of possible shooting with evidence of blood</i>						
PROPERTY RELEASED TO:		DEPARTMENT		DATE & TIME RELEASED		
REPORT BY: <i>D. Burgess</i>		DIVE TEAM <i>Sptbg Co S.O.</i>		PHONE NUMBER <i>688-6888</i>		
				REPORT DATE <i>5-30-16</i>		

cc:

ORIGINAL



UCI - 1

UCI DIVE REPORT

Page 2 of

SUBJECT <i>MISSING Person/ Poss Death Invest. Weapon Search</i> CASE# <i>16051580</i>		DATE & TIME OF INCIDENT <i>5-30-16 3:00a - 7:30a</i>		PURPOSE OF DIVE <i>Weapon Search</i>	
		LOCATION <i>107 Suttles Rd</i>		COUNTY <i>Sptbg</i>	
		REQUESTING AGENCY <i>Sptbg Co.</i>		ASSISTING AGENCY <i>N/A</i>	
DATE & TIME BEGAN <i>05-31-16 10:00a</i>		DATE & TIME ENDED <i>05-31-16 5:00p</i>		TOTAL MAN HOURS <i>7.0</i>	
PARTICIPATING DIVERS		DEPTH IN FEET 1ST 2ND		A-BOTTOM TIME 1ST PG	
				SURFACE TIME 1ST PG	
				A-BOTTOM TIME 2ND PG	
<i>BRADLEY, C.</i>		<i>Line 1: 1ST 13ft 2ND 6ft</i>		<i>Line 1: 1ST 1:59 PG 150 2ND 2:39 PG 200</i>	
<i>Nipper, C.</i>		<i>Line 2: 1ST 14ft 2ND 8ft</i>		<i>Line 2: 1ST 1:47 PG 450 2ND 3:53 PG 400</i>	
<i>Freeman, M.</i>		<i>Line 1: 1ST 1 1/2 ft 2ND 6ft</i>		<i>Line 1: 1ST 1:25 PG 0 2ND 3:26 PG 1800</i>	
<i>Cole, W.</i>		<i>Line 3: 1ST 1ft 2ND 6ft</i>		<i>Line 3: 1ST 1:53 PG 1200 2ND 3:03 PG 400</i>	
		2ND		1ST PG	
				1ST PG	
				2ND PG	
VISIBILITY <i>3ft</i>		WATER TEMP. <i>78</i>		AIR TEMP. <i>85°</i>	
		CURRENT <i>N/A</i>		ALTITUDE	
				WEATHER <i>Sunny</i>	
				SURFACE COND. <i>calm</i>	
SEARCH METHOD <i>J. Stay</i>		EQUIP. FAILURE YES () NO (✓)		INJURY TO DIVER YES () NO (✓)	
				WAS BOAT USED YES (✓) NO ()	
				BOAT SUPPLIED BY <i>Sptbg Co.</i>	
RESULTS OF SEARCH <i>No weapon/body found</i>				VALUE OF RECOVERY \$	
REMARKS: <i>Boats/Towels - J. Armstrong</i>				VICTIM RECOVERED YES () NO () N/A ()	
<i>J. Stay Search Line 1, 2, and 3. 50ft bottom Line. Water Depth from 1 1/2 ft - 8ft.</i>					
PROPERTY RELEASED TO:		DEPARTMENT			DATE & TIME RELEASED
REPORT BY: <i>D. Burgess</i>		DIVE TEAM <i>Sptbg Co. S.O.</i>			PHONE NUMBER <i>[REDACTED]</i>
					REPORT DATE <i>5-30-16</i>

CC:

ORIGINAL

UCI - 1

UCI DIVE REPORT

Page 3 of

SUBJECT <i>Weapons Search</i>		DATE & TIME OF INCIDENT <i>05-30-16 3:00h - 7:00h</i>		PURPOSE OF DIVE <i>Weapons Search</i>		
		LOCATION <i>107 Suttles Rd</i>		COUNTY		
		REQUESTING AGENCY <i>Spotts Co. S.O.</i>		ASSISTING AGENCY <i>N/A</i>		
		DATE & TIME BEGAN <i>06-01-16 8:30A</i>		DATE & TIME ENDED <i>6-01-16 6:00p.m.</i>		TOTAL MAN HOURS <i>9.5</i>
CASE# <i>10051580</i>	PARTICIPATING DIVERS		DEPTH IN FEET	A-BOTTOM TIME	SURFACE TIME	A-BOTTOM TIME
	<i>Fredman, M</i> <i>LINE 1 - 7</i>		1ST 8ft 2ND	1ST <i>9:30</i> PG <i>1800</i>	1ST <i>1hr</i> PG <i>2700</i>	2ND <i>11:53</i> PG <i>2900</i>
	<i>Bradley, C</i> <i>LINE 2</i>		1ST 8ft 2ND	1ST <i>9:47</i> PG <i>2500</i>	1ST PG	2ND PG
	<i>Cole, W</i> <i>LINE 3</i>		1ST 8ft 2ND	1ST <i>10:30</i> PG <i>1600</i>	1ST PG	2ND <i>11:01</i> PG <i>1600</i>
			1ST 2ND	1ST PG	1ST PG	2ND PG
			1ST 2ND	1ST PG	1ST PG	2ND PG
			1ST 2ND	1ST PG	1ST PG	2ND PG
VISIBILITY	WATER TEMP.	AIR TEMP.	CURRENT	ALTITUDE	WEATHER	SURFACE COND.
<i>5ft</i>	<i>78</i>	<i>85</i>	<i>N/A</i>		<i>SUNNY</i>	<i>calm</i>
SEARCH METHOD	EQUIP. FAILURE	INJURY TO DIVER	WAS BOAT USED	BOAT SUPPLIED BY		
<i>I-Stay</i>	YES () NO (☒)	YES () NO (☒)	YES (☒) NO ()	<i>Spotts Co S.O.</i>		
RESULTS OF SEARCH			VALUE OF RECOVERY	VICTIM RECOVERED		
<i>No Weapon Recovered</i>			<i>\$</i>	YES () NO () N/A ()		
REMARKS:						
<i>Boat Operator/Tender - R Garrett</i>						
<i>Supervisor - D Burgess</i>						
PROPERTY RELEASED TO:		DEPARTMENT			DATE & TIME RELEASED	
REPORT BY:	DIVE TEAM		INVOICE NUMBER		REPORT DATE	
<i>W. Burgess</i>	<i>Spotts Co. S.O.</i>		[REDACTED]		<i>6-1-16</i>	

CC:

ORIGINAL

UCI - 1

UCI DIVE REPORT

Page 4 of

SUBJECT <i>Weapons Search</i>		DATE & TIME OF INCIDENT <i>5-30-16 3:00 pm - 7:00 pm</i>		PURPOSE OF DIVE <i>Weapons Search</i>	
		LOCATION <i> Hwy 4 Bridge Lake Bowen</i>		COUNTY <i>Springs</i>	
		REQUESTING AGENCY <i>Springs Co. SO</i>		ASSISTING AGENCY <i>n/a</i>	
		CASE# <i>16051580</i>		DATE & TIME BEGAN <i>6-1-16 1:40</i>	
TOTAL MAN HOURS					
PARTICIPATING DIVERS		DEPTH IN FEET		A-BOTTOM TIME	
		1ST 2ND		1ST PG	
<i>Bradley C</i>		1ST 2ND		1ST PG	
<i>Freeman, M</i>		1ST 2ND		1ST PG	
		1ST 2ND		1ST PG	
		1ST 2ND		1ST PG	
		1ST 2ND		1ST PG	
		1ST 2ND		1ST PG	
VISIBILITY		WATER TEMP.		AIR TEMP.	
<i>6 in</i>		<i>56 73</i>		<i>90</i>	
CURRENT		ALTITUDE		WEATHER	
<i>n/a</i>		<i>n/a</i>		<i>Sunny</i>	
SURFACE COND.					
<i>6 in</i>					
SEARCH METHOD		EQUIP. FAILURE		INJURY TO DIVER	
<i>J. Strong</i>		YES () NO ()		YES () NO ()	
RESULTS OF SEARCH		WAS BOAT USED		BOAT SUPPLIED BY	
		YES () NO ()		<i>Springs Co. S.O.</i>	
VALUE OF RECOVERY		VICTIM RECOVERED		YES () NO ()	
\$		N/A ()			
REMARKS:					
<i>R. Garrett - Boat Operator / Tender</i>					
<i>B. Cole - Radio Operator</i>					
<i>D. Burgess - Supervisor</i>					
PROPERTY RELEASED TO:		DEPARTMENT		DATE & TIME RELEASED	
REPORT BY:		DIVE TEAM		PHONE NUMBER	
<i>Deanna Rogers</i>		<i>Springs Co. S.O.</i>		<i>6-1-16</i>	

CC:

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

BRITTANY C. FOSTER,
APPLICANT.

v.

THE STATE OF SOUTH CAROLINA,
RESPONDENT.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

POST-HEARING
BRIEF

CASE # 2018-CP-42-00711

This matter comes before the Court by way of application of post conviction relief filed February 27, 2018, alleging ineffective assistance of trial counsel. A hearing was held before the Honorable Mark Hayes, on November 8, 2018. The court had before it the transcript of the Applicant's guilty plea which included a number of exhibits, the clerk of court records, the Application, Amended Application and the Return. This brief applies to the issue of whether the Applicant should be granted relief due to plea counsel's advising her to plead guilty when she had a strong suppression issue, failing to explain to her that she may have been able to get her confession suppressed if she went to trial and challenged the stop, and failing to make it clear that a guilty plea would be a waiver of that issue.

SUMMARY OF HEARING TESTIMONY

Brittany Foster testified about her history of sexual abuse as a child and said "it led to everything". She detailed drug abuse as an adult and said she was high and covering for her boyfriend when she confessed to shooting [REDACTED]. She said her boyfriend [REDACTED] was abusive and threatened to shoot her if she did not shoot the victim. She said that her trial lawyer gave her a copy of her discovery, but he did not review it with her. She testified that she pled guilty to murder after her trial attorney advised her that if she went to trial the jury

would hang her. She said that he did not explain that she had arguments in her case that could result in the suppression of evidence against her, her arrest, and her oral confession. She testified that she did not understand: (1) that if she went to trial she could challenge the car stop that led to her arrest and confession and (2) that if it was not suppressed, she could appeal that ruling only if she went to trial. She said that if she had understood her confession could possibly be kept out, she would not have pled guilty and would have insisted on a trial.

The Applicant's aunt, [REDACTED] testified as well. She stated that Ms. Foster moved in with her at age eleven. She confirmed Ms. Foster's testimony stating that Ms. Foster was sexually abused by her father as a child and then was raped by her friend's father when she was eighteen. [REDACTED] said that neither case was effectively prosecuted, and after that Ms. Foster "was done" and began to abuse drugs. She testified that Ms. Foster had history of mental health issues, seizures and intellectual disability making her slow to understand things which could be irritating to others. [REDACTED] said the Applicant was clean for some time but relapsed. She said she had seen Ms. Foster with [REDACTED] and thought he was giving her drugs and exerting control over her. [REDACTED] said she had spoken to trial counsel and offered to provide documentation and testify for Ms. Foster.

The State called trial counsel, Robert Hall. He said he was appointed to represent Ms. Foster and suspected from the beginning that she was covering for [REDACTED]. He admitted that it is hard to be sure Ms. Foster understood everything but that he had provided her with discovery and reviewed most of it with her. He said he was aware of the applicant's history of abuse, seizures, and mental health issues. He had her evaluated and DMH found her competent diagnosing adjustment disorder and depressed mood. He said that she initially did not understand her exposure and gave a number of different versions of what had happened thinking

she could protect [REDACTED] and still get probation; and that by the time he could convince her to come clean, the solicitor refused to share the blame and change his offer which was to plea straight up to all charges including murder or go to trial.

Mr. Hall said he did not think he would have told the applicant to plea or she would get hung, but did tell her if she went to trial she could likely get life. He said that he did not see anything to challenge in the Solicitor's statement of the factual basis for the plea where he said that Ms. Foster [REDACTED] and a third party driver were pulled over due to an expired tag when in fact it was an unexpired paper tag. He said he thought he would lose a Jackson v. Denno and suppression hearing in Ms. Foster's case explaining that the stop and subsequent search and arrest were valid because it was common to pull paper tags and the passenger was nervous. Mr. Hall did not testify that he discussed the suppression issues with Ms. Foster though he stated they did discuss lesser offenses such as manslaughter and self defense.

ARGUMENT AND LAW

A reading of the Deputy Report for Incident 16060095 which addresses the arrest of Ms. Foster shows that she had a strong search and seizure argument which could likely have resulted in the suppression of her confession as fruit of the poisonous tree. The officer states that he pulled the car because he could not see the expiration date on the paper tag. He makes no assertion that the tag was improperly displayed or the expiration date was improperly concealed. He fails to provide any valid basis for belief that the tag was expired or the occupants of the car were involved in criminal activity. The incident report fails to provide probable cause for the initial stop.

Furthermore, the tag was unexpired, a fact that would be evident as the officer approached the vehicle ending the purpose of the stop and making any further detention or

request for license and registration unconstitutional. The incident report goes on to state that the car failed to stop immediately and the driver could not produce her license or registration. After both passengers handed over their identification, the front seat passenger, [REDACTED] appeared to be nervous so he was removed from the car and Terry frisked. Meanwhile the driver began looking through purses in the trunk for her license. The officer reports that upon observing a plastic baggie in one of the purses, he asked to see it so the driver handed the purse to him. Though the initial bag had no drugs in it, further search of the purse revealed another baggie with drugs. A search of the car revealed a gun under Mr. Hines's seat. The drugs and gun found in the search were the basis for the arrest of the Applicant who was a back seat passenger in the car. Upon her arrest, she was questioned and confessed to shooting Anthony Biggerstaff.

This all occurred after an unconstitutional stop and seizure. A passenger in a vehicle subject to a traffic stop has standing to challenge the initial stop, her own seizure, and any evidence derived from that seizure. Brendlin v. California, 551 U.S. 249, 257 (2007). The confession would likely have been suppressed if counsel had recognized the strength of the issue rather than waiving it by pleading guilty because, evidence gathered as fruit of an unreasonable search or seizure is generally inadmissible against a defendant. Wong Sun v. United States, 371 U.S. 471, 484-86, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963). Trial counsel was ineffective for failing to recognize this issue and that failure changed the outcome of the Applicant's case.

There is well established Fourth Amendment caselaw which trial counsel should have used to attack the stop, arrest, and subsequent confession in his client's murder case. The Fourth Amendment prohibits unreasonable searches and seizures:

A traffic stop constitutes a "seizure" under the Fourth Amendment and is thus subject to a reasonableness requirement. See Whren v. United States, 517 U.S. 806, 810, 116 S.Ct. 1769, 135 L.Ed.2d 89 (1996). Because a traffic stop is more akin to an investigative detention than a custodial arrest, we analyze the constitutionality of such

a stop under the two-prong standard enunciated in Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968). See Arizona v. Johnson, 555 U.S. 323, 330–31, 129 S.Ct. 781, 172 L.Ed.2d 694 (2009). Pursuant thereto, we first determine whether the officer's reason for the traffic stop was legitimate. See United States v. Rusher, 966 F.2d 868, 875 (4th Cir.1992). Second, we examine whether the officer's actions during the seizure were "reasonably related in scope" to the basis for the traffic stop. *Id.* (internal quotation marks omitted).

United States v. Williams, 808 F.3d 238 (4th Cir., 2015)

Our Supreme Court has held that the Fourth Amendment does not allow an officer to stop a car because it has a paper tag unless he has an objective, particularized and articulable reason to believe the tag is expired or the occupants of the car are involved in criminal activity. State v. Butler 539 S.E.2d 414 (2000). Butler relied on United States v. Wilson where the officer "could not see the written-in expiration date on the tag", just as in this case. The court found:

The Fourth Amendment does not allow a policeman to stop a car just because it has temporary tags. Because Officer McLemore did not have any articulable, reasonable suspicion of unlawful conduct, he had no justification for stopping Wilson's car. Because the stop was illegal, the gun found during the subsequent search of the car should have been excluded from Wilson's trial.

United States v. Wilson, 205 F.3d 720, 724 (4th Cir., 2000)

Thus, the officer's stated reason for the stop in the Applicant's case was not legitimate and violated the Fourth Amendment. See Delaware v. Prouse, 440 U.S. 648, 663, 99 S.Ct. 1391, 59 L.Ed.2d 660 (1979) (police officers may not, without violating the Fourth Amendment, randomly stop automobiles to check the validity of the driver's license and registration); Florida v. Royer, 460 U.S. 491, 498 & 500, 103 S.Ct. 1319, 75 L.Ed.2d 229 (1983) (a citizen may not be detained even momentarily without reasonable, objective grounds for doing so and an investigative detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop). As such, all the evidence found in the subsequent search that led to the Applicant's arrest and confession would likely have been suppressed pursuant to the exclusionary rule if she had

gone to trial and preserved the issue. If the Applicant lost her pre-trial suppression motion, she would have had a strong appellate issue if she had not pled guilty.

While Ms. Foster testified that she was under the influence of drugs when she gave her oral confession, which brings into question whether her confession was knowingly and voluntarily made, Fifth Amendment issues are immaterial to the suppression of her confession for the Fourth Amendment violation. Taylor v. Alabama held a confession obtained through custodial interrogation after an illegal arrest should be excluded unless intervening events break the causal connection between the arrest and the confession. In that case the illegality of the initial arrest was not cured when six hours elapsed between the arrest and confession, Miranda warnings were given; petitioner was permitted a short visit with his girlfriend; and the police did not physically abuse petitioner. Taylor v. Alabama, 457 U.S. 687, 689, 73 L.Ed.2d 314, 102 S.Ct. 2664 (1982). See also Lanier v. South Carolina, 474 U.S. 25, 106 S.Ct. 297, 88 L.Ed.2d 23 (1985).

Kolle v. State lays out the applicable law when attacking the knowing and voluntary nature of a guilty plea at PCR as follows:

A defendant has the right to the effective assistance of counsel under the Sixth Amendment to the United States Constitution. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984). "There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007).

In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief. Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). "A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial." Rolen v. State, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997). "Plea counsel is ineffective within the meaning of the

Sixth Amendment only when the applicant satisfies both requirements." Stalk v. State, 383 S.C. 559, 561, 681 S.E.2d 592, 593 (2009).

"In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing." Suber v. State, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007). "Specifically, the voluntariness of a guilty plea is not determined by an examination of a specific inquiry made by the sentencing judge alone, but is determined [690 S.E.2d 79] from both the record made at the time of the entry of the guilty plea, and also from the record of the PCR hearing." Roddy v. State, 339 S.C. 29, 33, 528 S.E.2d 418, 420 (2000). "The longstanding 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.'" Hill v. Lockhart, 474 U.S. 52, 56, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985) (quoting North Carolina v. Alford, 400 U.S. 25, 31, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970)).

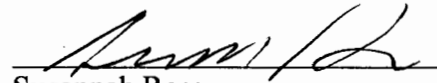
Kolle v. State, 690 S.E.2d 73, 386 S.C. 578 (S.C., 2010)

In the PCR hearing, counsel testified that he advised Ms. Foster to plead guilty to murder because he thought she would be convicted if she went to trial. He said the stop and subsequent search and arrest were valid, an opinion that was based on a mistake of law. Thus, his advice to plead guilty to murder without a correct determination of her chances at trial lacked "reasonable professional judgment" and was ineffective. Goins v. State, 397 S.C. 568, 726 S.E.2d 1 (2012). Furthermore, plea counsel did not dispute Ms. Foster's testimony that they had not discussed suppression issues or her chances to keep out the confession if she went to trial. Nor did he dispute her testimony that if she had known that she had a suppression issue; she would not have plead and instead insisted on going to trial. While Ms. Foster was asked on the record whether she understood she would have to give up her right to a trial, call and cross examine witness; she was never specifically apprised that she was giving up the right to a suppression hearing. (R.p.6, l. 4) Furthermore, the plea judge could not see that the Applicant was waiving a good suppression argument. Plea counsel took no exception to the solicitor stating the stop was for an expired tag, a valid basis for a stop, when the truth was that the stated

basis for the stop was because the officer could not read the date on a valid paper tag, a basis which is unconstitutional. (R. p.12, l.10 & p.16, l.12)

For the foregoing reasons Ms. Fosters application for post-conviction relief should be granted.

Respectfully submitted,



Susannah Ross
Attorney for the Applicant
330 E. Coffee St,
Greenville, SC 29601
(864) 242-0029

Greenville, South Carolina

This 21 day of November 2018

2018 NOV 27 AM 10:57
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

BRITTANY C. FOSTER,
APPLICANT.

AFFIDAVIT OF SERVICE
BY MAIL

v.

THE STATE OF SOUTH CAROLINA,
RESPONDENT.

CASE # 2018-CP-42-00711

1. I am the attorney for the Applicant in the above-captioned matter.
2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Amended Application** in the above-captioned matter on the following person by depositing the same in the United States mail with proper postage affixed thereto:

Office of Attorney General Alan Wilson
P.O. Box 11549
Columbia, SC 29211
Attn: Jordon Cox


Attorney for Applicant

This 21 day of November, 2018

2018 NOV 27 AM 10:57
M. HOPE BLACKLEY
CLERK OF COURT
SPARTANBURG COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Brittany C. Foster, #372413
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2018-CP-42-0711

ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief filed on February 27, 2018, by Ms. Brittany C. Foster (Applicant). Respondent made its Return on or about May 31, 2018, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on November 8, 2018, at the Spartanburg County Courthouse in Spartanburg, South Carolina.

Applicant was present and represented by Susannah Ross, Esquire. Respondent was represented by Jordan A. Cox, Esquire, of the South Carolina Attorney General's Office. At the evidentiary hearing, Applicant testified on her own behalf. Applicant's aunt, Ms. Stephanie Gosnell, testified for Applicant. Respondent called Robert B. Hall, Esquire, ("Counsel") as a witness at the hearing. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet her requisite burden of proof and denies the application.

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of confinement of the Spartanburg County Clerk of Court. During its August 2016 term, the Spartanburg County Grand Jury indicted Applicant for possession of methamphetamine (2016-GS-42-4423), unlawful carry of a pistol (2016-GS-42-4427), murder (2016-GS-42-4429, and possession of a weapon during the

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commission of a violent crime (2016-GS-42-4429). Robert B. Hall of the Seventh Circuit Public Defender's Office represented Applicant. Solicitor Barry Barnette of the Seventh Circuit Solicitor's Office represented the State of South Carolina.

On April 27, 2017, Applicant pleaded guilty as indicted before the Honorable Letitia H. Verdin in Spartanburg County, South Carolina. Judge Verdin sentenced Applicant to imprisonment for three years the drug offense, one year for the unlawful carry of a pistol, forty years for murder, and five years for unlawful possession of a weapon during the commission of a violent crime. Judge Verdin ordered the sentences to run concurrently.

Applicant filed a timely notice of appeal. By order dated July 17, 2017, the South Carolina Court of Appeals dismissed Applicant's appeal due to the failure to provide sufficient explanation, as required by Rule 203(d)(a)(B)(iv) of the South Carolina Appellate Court Rules. State v. Foster, S.C. Ct. App. Order filed July 17, 2017. The Remittitur was issued on August 3, 2017.

FACTUAL HISTORY

On or about May 30, 2016, deputies with the Spartanburg County Sheriff's Department located an abandoned vehicle floating in Lake Bowen, near Inman, South Carolina. Blood and ~~evidence of injury~~ ^{was} found inside the vehicle. Deputies determined the vehicle belonged to Anthony Biggerstaff ("Victim"), who at the time was living with Applicant and her boyfriend ^{believed to be} Keenan Hines. Deputies began investigating the case as a possible homicide of Victim.

On June 2, 2016, Applicant was a backseat passenger of a black colored vehicle traveling in Spartanburg County, South Carolina. After being unable to identify the expiration date of the vehicle's temporary tag, a deputy with the Spartanburg County Sheriff's Department attempted a traffic stop. The vehicle did not immediately pull over, continuing down New Cut Rd., before

making a subsequent turn on to Broadcast Dr. and stopping for law enforcement. The driver of the vehicle informed the Deputy her license was in the trunk of the car in her purse. After the driver opened the trunk and began searching for her identification, the Deputy observed multiple plastic bags. One of the plastic bags tested positive for methamphetamine. The driver of the vehicle indicated the front-seat passenger possessed a pistol. After a search of the vehicle's interior, Officer's found a stolen handgun and marijuana. Applicant and the front-seat passenger, Mr. Hines, were arrested and charged with possession of a stolen handgun and possession of marijuana. The driver was charged with other violations, but unrelated to this PCR action.

After being arrested, Applicant was transported to the Spartanburg County Sheriff's Department. Deputy Clark T. asked to speak with Applicant concerning the disappearance of her roommate, Victim. During the interview, Applicant admitted to shooting and killing Victim while riding in Victim's car. Applicant identified Hines as being present at the time of the shooting. Applicant admitted to disposing of Victim's body and vehicle. Hines was subsequently interviewed by Deputies, admitting to his involvement in Victim's death and assisting Deputies in locating Victim's body. Hines admitted to providing Applicant with the handgun used to kill Victim.

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SPARTANBURG COUNTY
SHERIFF'S OFFICE

ALLEGATIONS

In her application for post-conviction relief, Applicant alleged she is being unlawfully held in custody for the following reasons:

1. "Ineffective assistance of counsel, counsel not prepared for trial"
2. "Individual issues to be amended"
3. "Misrepresented, felt coerced to plead guilty"

On September 4, 2018, Applicant amended her application to reflect the following additional allegations:

3 

1. Ineffective Assistance of Counsel
 - a. Failure to object to misstatement of facts during the guilty plea when the Solicitor states the car Applicant was a passenger in was pulled due to an expired tag when the car had an unexpired paper tag;
 - b. Advising the Applicant to plea without explaining that she may have been able to get her confession suppressed as fruit of the poisonous tree or because it was not knowingly and voluntarily made due to the fact her statement was given when she was incompetent because her mental health issues and the fact she was actively under the influence of drugs;
 - c. Failure to review discovery with applicant;
 - d. Advising applicant to plead guilty or the Court would hang her after a trial;
 - e. Advising the Applicant to plead guilty to murder when her history of mental health issues and sexual assault would mitigate her actions which she states were coerced by co-defendant, Keenen Hines;
 - f. Failure to interview witnesses; and
 - g. Failure to effectuate an appeal
2. Due Process violations because the plea was not knowingly and voluntarily made and fundamental unfairness that co-defendant Keenen Hines received a sentence of twelve years.

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

Applicant

Applicant testified about her personal history of sexual abuse and drug use. Applicant testified that when she admitted to shooting Victim, she was under the influence of drugs. Applicant testified that Counsel provided her with discovery, but did not review it with her. Applicant testified that Counsel told her if she did not plead guilty, the plea judge "would have her hung." Applicant testified that if she knew she was waiving all of her rights, she would not have pleaded guilty.

Applicant testified that she admitted to the shooting of Victim to prevent police from questioning her boyfriend. Applicant testified she did so out of love. Applicant testified she did not believe she had any available defenses. Applicant testified that she would have demanded a jury trial if she was aware her statement to police could have been suppressed. Applicant testified that even if she lost the suppression issue, she would have wanted to go to trial.

4 

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Applicant testified that it was her decision to plead guilty on April 27, 2017. Applicant understood the questions asked of her by Judge Verdin during her guilty plea proceeding. Applicant testified that after the Solicitor reviewed the facts during the plea proceeding, she admitted her guilty to Judge Verdin. Applicant testified that she was not coerced into pleading guilty.

Stephanie Gosnell

Ms. Gosnell, Applicant's aunt, testified on her behalf. Ms. Gosnell testified that she cared for Applicant from the time Applicant was eleven years old. Ms. Gosnell testified that Applicant was sexually abused as a child and subsequently as a young adult. Ms. Gosnell testified that Applicant has used drugs and alcohol since she was a young adult. Ms. Gosnell testified that Applicant has suffered seizures and an alleged intellectual disability. Ms. Gosnell offered to testify for Applicant at her plea hearing.

Robert B. Hall, Esquire

Counsel testified that he has practiced law since 1986. Counsel testified that he has practiced criminal law has made up a majority of his practice. Counsel testified that he has handled at least a half dozen murder cases over the years. Counsel testified that he met with Applicant several times to discuss her case and they thoroughly reviewed her discovery. Counsel testified that it was clear to him Applicant believed she could get a probationary sentence.

Counsel detailed the facts of the case, per the evidence provided in discovery and from his own investigation. Counsel testified that Solicitor Barnette accurately reviewed the facts for Judge Verdin during the plea hearing. Counsel testified that although Solicitor Barnette mistakenly referred to the car tag as expired, the expected testimony of law enforcement at trial would have been consistent with the incident reports. Counsel was confident the officers would



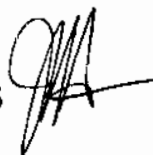
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have provided valid testimony to uphold the initial traffic stop and subsequent search of the vehicle. Counsel testified the vehicle was stopped because the officer could not see the expiration date and the vehicle did not immediately pull over. Counsel did not believe a "fruit of the poisonous tree" argument would have been successful to suppress the statement. Counsel did not believe, based on his experience handling criminal defense cases, he had a valid suppression issue for Applicant's confession to Victim's murder. Counsel testified that if Applicant had requested a trial, he would have attempted to suppress the confession statement.

Counsel testified Applicant provided multiple versions of events regarding Victim's shooting. Counsel testified Applicant first informed him she shot Victim after he attempted to sexually assault him. Counsel testified Applicant changed her story to self-defense. Counsel obtained a mental health evaluation for Applicant and she was found competent to stand trial. Counsel testified Applicant was aware of her possible life sentence and made the decision to accept the State's offer. Counsel testified that he does not give false hope his client and advised Applicant that if she went to trial, the evidence would likely result in her conviction for murder. Counsel testified he advised Applicant that if she was convicted, the State would likely seek a life sentence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has had the opportunity to observe the witnesses presented at the hearing, and can weigh their testimony and credibility accordingly. These credibility findings have been applied to the Court's findings and conclusions set forth below. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

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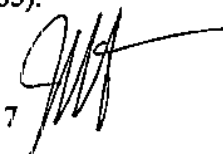
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Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland, 466 at 688). 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, an 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).

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7 

After careful review of the entire record, including the testimony presented at the evidentiary hearing, based on the standard discussed above, this Court finds Applicant has failed to carry his burden of proof and has not established any ineffectiveness of counsel. Below are the findings in regards to each specific allegation of ineffective assistance of counsel raised by Applicant:

"Failure to object to misstatement of facts during the guilty plea when the Solicitor states the car Applicant was a passenger in was pulled due to an expired tag when the car had an unexpired paper tag"

Applicant alleges Counsel was ineffective for failing to object to Solicitor Barnette's statement of the facts during her guilty plea proceeding. Applicant alleges Counsel should have objected and corrected the State's description of why the vehicle was pulled over. Applicant has failed to meet her burden of proof.

During the guilty plea proceeding, Solicitor Barnette stated Applicant's vehicle was stopped by law enforcement due to an expired paper tag. The incident reports and Counsel's testimony during the evidentiary hearing make it clear the vehicle was pulled over for officer's inability to view the expiration date, as well as the vehicle's hesitation to pull over for law enforcement. Counsel testified that if Applicant had gone to trial, he is confident the officer's testimony would have been consistent with the incident reports. Applicant had the opportunity to inform her counsel of the misstatement of facts during her guilty plea, but when asked by Judge Verdin if she agreed with the facts as they were presented, Applicant responded that she was guilty. Applicant has not asserted that had Counsel objected to the Solicitor's minor misstatement, she would have forgone her guilty plea and pursued a jury trial.

Applicant has failed to meet her burden of proof. This allegation is denied and dismissed with prejudice.

8 

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"Advising the Applicant to plea without explaining that she may have been able to get her confession suppressed as fruit of the poisonous tree or because it was not knowingly and voluntarily made due to the fact her statement was given when she was incompetent because of her mental health issues and the fact that she was actively under the influence of drugs"

Applicant alleges Counsel was ineffective for advising her to plead guilty without explaining that she may have been able to get her confession suppressed as fruit of the poisonous tree. Applicant alleges her statement would have been suppressed, as a result of an illegal seizure of the vehicle she was riding in at the time of her arrest. Applicant alleges if she knew she would have a challenge to her stop by police, she would have proceeded to trial. Applicant has failed to meet her burden of proof.

The stop and eventual search of the vehicle in which the applicant was a passenger that resulted in applicant being taken into custody, would not have been successful if challenged at trial. The stop was made not only for a tag issue but also because the vehicle failed to immediately stop after being signaled by law enforcement to stop. Cf. State v. Butler, 348 S.C. 198 (2000). Also, her confession to the murder is unrelated to the stop. It is far more probable that she was going to be questioned by police about the murder, not because she was a passenger in the vehicle where a gun and drugs were found, but rather because she and her boyfriend had been roommates with the deceased. To say another way, even if the search of the vehicle was improper as being beyond the probable cause he had to stop the vehicle, her confession to the murder was not a fruit of the search warranting suppression. See Nix v. Williams, 467 U.S. 431, 448 (1984).

Applicant further alleges that Counsel was ineffective, for failing to suppress her confession, because she was incompetent at the time she gave the statement from her mental health issues and drug use. Applicant has failed to meet her burden of proof. "When establishing Strickland prejudice in the context of plea counsel's failure to request a mental competency

9 

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evaluation, the applicant need only show a reasonable probability that he was incompetent at the time of the plea." Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 710 (2018) (quoting Ramirez v. State, 419 S.C. 14, 795 S.E.2d 841 (2017)). Counsel testified that Applicant was evaluated prior to her guilty plea and was found to be competent. Counsel testified that based on his own interactions with Applicant, she fully understood her case and the consequences of her guilty plea. Counsel testified that although Applicant displayed difficulty remembering parts of their conversations, Applicant began to take notes and it helped her understand her situation. Counsel had no reason to believe Applicant should have been reevaluated.

Applicant presented no evidence, other than her own statement that she was "extremely high" at the time of her arrest, to support a finding of incompetency. When presented with the facts of her case at the guilty plea proceeding, including her own confession to the shooting, Applicant informed the Court she was guilty of all charges. Applicant has failed to meet her burden of proof. This allegations is denied and dismissed with prejudice.

"Failure to review discovery with client"

Applicant alleges Counsel was ineffective for failing to review the discovery with her. Applicant has failed to meet her burden of proof. Counsel testified credibly at the evidentiary hearing. Counsel testified that he received discovery from the State and provided the full discovery to Applicant. Counsel testified that he met with Applicant on several occasions to discuss her case, including reviewing the discovery file in full multiple times. Counsel testified that in his thirty years of criminal practice, it is his common practice to review the discovery with his clients in full. Counsel testified that he believed Applicant understood the evidence against her and based upon that evidence, she made the decision to enter a guilty plea.



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Applicant has failed to show Counsel rendered deficient performance. This allegation is denied and dismissed with prejudice.

"Advising Applicant to plead guilty or the Court would hang her after trial"

Applicant alleges Counsel was ineffective for advising her to plead guilty or the Court would hang her after a trial. Applicant has failed to meet her burden of proof. Applicant alleges that she was afraid to pursue a trial, based upon this statement from Counsel. Applicant was not credible at the evidentiary hearing. Applicant admitted to understanding the questions from Judge Verdin during her guilty plea proceeding and understood she was facing up to a life sentence if she proceeded to trial. Applicant testified that it was her decision to enter her guilty plea, and that she was not coerced into doing so.

Counsel testified credibly at the evidentiary hearing. Counsel testified that he did not recall telling Applicant that she would have been hung after trial by the Court, but does not give his clients false hope. Counsel advised Applicant that a conviction was likely based upon the evidence and she would be better off taking the plea deal. Counsel testified that had Applicant asserted a desire to go to trial, he would have done so on her behalf. Applicant has failed to meet her burden of proof. This allegation is denied and dismissed with prejudice.

"Advising the Applicant to plead guilty to murder when her history of mental health issues and sexual assault would mitigate her actions, which she states were coerced by co-defendant Keened Hines"

Applicant alleges Counsel was ineffective for advising her to plead guilty to murder when her history of mental health issues and sexual assault would mitigate her actions which she states were coerced by co-defendant Keenen Hines. Applicant has failed to meet her burden of proof. Insofar as this allegation refers to Applicant's competency, based on previous mental

health issues and sexual assault trauma, the findings of fact were addressed in Allegation 1(b) and this Court incorporates the same findings.

Applicant's allegation that Counsel was ineffective for advising her to plead guilty to murder when her actions were coerced by her co-defendant, Keenen Hines, is without merit. Counsel testified that as a part of her discovery file, the State intended to introduce Applicant's confession to law enforcement for the shooting of Victim. Counsel testified Applicant at one point told Counsel that she shot Victim to prevent his sexual assault attempt. Counsel testified that he believed Applicant may have been covering up any guilt on a part of Mr. Hines, but the evidence pointed to Applicant as the shooter. Applicant, at the time of her guilty plea, admitted to shooting Victim and disposing of his body. Applicant admitted her guilt as a part of her guilty plea proceeding. Applicant has failed to meet her burden of proof. This allegation is denied and dismissed with prejudice.

"Failing to interview witnesses"

Applicant alleges Counsel was ineffective for failing to interview potential witnesses. Applicant has failed to meet her burden of proof. The applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Pauling v. State, 331 S.C. 606, 503 S.E.2d 468 (1998). Applicant has not produced the testimony of any potential witnesses that Counsel failed to interview. Applicant has presented no evidence as to how the potential witness testimony would have benefited her case. Applicant has not established a reasonable probability that absent her Counsel's failure to interview a particular witness, she would have pursued a jury trial rather than plead guilty. This allegation is denied and dismissed with prejudice.

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MARYLAND

"Failure to effectuate an appeal"

Applicant alleges Counsel was ineffective for failing to effectuate an appeal on her behalf. This allegation is without merit. Applicant was advised of her right to appeal her guilty plea at the time of her plea proceeding. Counsel filed a Notice of Appeal on Applicant's behalf on May 4, 2017. On July 17, 2017, the South Carolina Court of Appeals dismissed Applicant's appeal and the Remittitur was issued on August 3, 2017. Applicant has failed to present evidence of Counsel's failure to effectuate an appeal on her behalf. Applicant has failed to meet her burden of proof. This allegation is denied and dismissed with prejudice.

"Due Process violations because the plea was not knowingly and voluntarily made and fundamental unfairness that co-defendant Keened Hines received a sentence of twelve years"

Applicant alleges she is entitled to post-conviction relief for entering an involuntary guilty plea, because her sentence was fundamentally unfair in light of her co-defendant's sentence. Applicant's entered a guilty plea with knowledge of the possible sentencing range of her charges. For the charge of murder, the sentencing range allows for a minimum of thirty years up to life. Applicant testified that she was aware when she plead guilty, the lowest possible sentence she could receive would be thirty years. Applicant has presented no evidence of how a co-defendant's sentence resulted in a constitutional violation of her own Due Process rights. This allegation is denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant her application for post-conviction relief. Therefore, the allegations are denied and dismissed with prejudice.



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This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this

21st

day of

January

2020
2019.

J. MARK HAYES, II
Presiding Judge
Seventh Judicial Circuit

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Spencer, South Carolina

WITNESSES

Spartanburg County Sheriff's Office

Jimmy W. Owens

ARREST WARRANT NUMBER

2016A4210201977

ACTION OF GRAND JURY

AUG 19 2016

True Bill

Foreperson of Grand Jury
Date:

1. SENTENCE MADE VERDICT

2. REPORT ENDED

COMPUTER

3. CARD PULLED

INDEXED

4. CHECKED WARRANTS

5. CHECKED SIGNATURE

Foreperson of Petit Jury
Date:

COMPUTER

6. TRAFFIC VIOLATION COPY

DOCKET NO. **16-GS-42-4423**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 22 2016

TERM

THE STATE

v.

BRITTANY CASSANDRA FOSTER

Indictment for

POSSESSION OF METHAMPHETAMINE

SC Code: 44-53-375

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2016 AUG 25 AM 9:16

M. HDPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

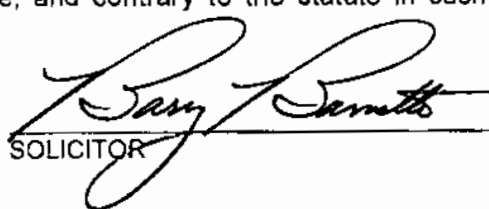
AUG 19 2016

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

POSSESSION OF METHAMPHETAMINE

That the Defendant, Brittany Cassandra Foster, did in Spartanburg County on or
about June 2, 2016; possess or attempt to possess a quantity of Methamphetamine, a
schedule II controlled substance, in violation of § 44-53-375, *THE CODE OF LAWS OF
SOUTH CAROLINA, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case
made and provided.


SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

Jimmy G. Powers

ARREST WARRANT NUMBER

2016A4210201978

ACTION OF GRAND JURY

AUG 19 2016

True Bill

Foreperson of Grand Jury
Date:

1. SENTENCE MADE

2. REPORT MADE

3. CARD FILLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

Foreperson of Grand Jury

Date: TRAFFIC VIOLATION COPY

VERDICT

COMPUTER

COMPUTER

DOCKET NO. -

16-GS-42-4427

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 22 2016

TERM

THE STATE
v.

BRITTANY CASSANDRA FOSTER

Indictment for

WEAPONS/UNLAWFUL
POSSESSION OF PISTOL

SC Code: 16-23-20, 0050 (A) (2)

CDR Code: 0044

Class MIS-C

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2016 AUG 25 AM 9:21

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on AUG 19 2016 the
Grand Jurors of Spartanburg County present upon their oath:

WEAPONS/UNLAWFUL CARRYING OF PISTOL

That the Defendant, Brittany Cassandra Foster., did in Spartanburg County on or about June 2, 2016, willfully and unlawfully have in his possession a deadly weapon, to wit: a Rossi 38 caliber. pistol, he not being authorized by law to so possess a pistol, in violation of §16-23-20, 50 (A) (2), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

Jimmy G. Owens

ARREST WARRANT NUMBER

2016A4210201985 and

Direct Indictment

ACTION OF GRAND JURY

AUG 19 2016

True Bill

For person of Grand Jury
Date:

1. SENTENCE MADE

2. REPORT ENDED VERDICT

3. CARD FILLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

For person of Grand Jury

Date: TRAFFIC VIOLATION COPY

COMPUTER

COMPUTER

DOCKET NO.

16-GS-42-4429

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 22 2016

TERM

THE STATE

v.

BRITTANY CASSANDRA FOSTER

Indictment for

MURDER (Count 1)

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

**POSSESSION OF FIREARM
DURING COMMISSION OF A VIOLENT**

CRIME (Count 2)

SC Code: 16-23-490

CDR Code: 549

Class FELF

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2016 AUG 25 AM 9:21

M. HOPE BLACKLEY

cws

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on AUG 19 2016, the
Grand Jurors of Spartanburg County present upon their oath:

COUNT ONE - MURDER

That the Defendant, Brittany Cassandra Foster, did in Spartanburg County on or about May 29, 2016, feloniously, willfully, and with malice aforethought, kill one Anthony Neil Biggerstaff, by shooting him with a firearm, and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

**COUNT TWO - POSSESSION OF FIREARM DURING COMMISSION
OF A VIOLENT CRIME**

That the Defendant, Brittany Cassandra Foster, did in Spartanburg County on or about May 29, 2016, visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Murder, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR