

VOLUME II of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Maite Murphy, Circuit Court Judge

RECEIVED

Aug 02 2024

S.C. SUPREME COURT

DEAN SEAGERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000276

APPENDIX

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1 an unlawful act is criminally responsible for everything
2 done by the other person which happens as a probable or
3 natural consequence of the acts done in carrying out the
4 common plan and purpose. If two or ore people are
5 together, acting together, assisting each other in
6 committing the offense, the act of one is the act of all,
7 or it is sometimes said the hand of one is the hand of all.

8 Prior knowledge that a crime is going to be committed,
9 without more, is not sufficient to make a person guilty of
10 that crime. Mere knowledge that another person is going
11 to commit a crime, even if the Defendant is present when
12 the crime is committed, is not sufficient to convict the
13 Defendant as a principal. Guilt as a principal is shown
14 by actual or constructive presence at the scene as a result
15 of prior arrangement; therefore, a finding of a prior
16 arranged plan or common scheme is necessary for a finding
17 of guilt as a principal. The State must prove beyond a
18 reasonable doubt by competent evidence the theory of the
19 hand of one is the hand of all.

20 A principal in a crime is one who either actually
21 commits the crime or who is present aiding, abetted --
22 abetting, or assisting in the committing of the crime.
23 When a person does an act in the presence of, and with the
24 assistance of another, the act is done by both. Where two
25 or more acting with a common plan or intent are present at

1 the commission of a crime, it does not matter who actually
2 commits the crime. All are guilty. The hand of one is the
3 hand of all.

4 Present at the scene -- excuse me. Present at the
5 commission of a crime means to be sufficiently near to
6 aid, abet and assist in the commission of a crime. Mere
7 presence at the scene of a crime is not sufficient to
8 convict one as a principal on the theory of aiding and
9 abetting. Intent is also a necessary element for there
10 must have been some design or intent to commit the crime
11 and the crime must have been committed pursuant thereto
12 with a person aiding and abetting by some overt act.
13 Intent means intending the result which actually occurs,
14 not accidentally or involuntarily. Intent may be shown by
15 acts and conduct of the Defendant and other circumstances
16 from which you may naturally and reasonably infer intent.
17 The State must prove these elements beyond a reasonable
18 doubt.

19 Mere presence at the scene is not sufficient to prove
20 someone guilty of a crime. A defendant's presence where
21 a crime is being committed or mere association with a
22 person who commits a crime does not make a defendant an
23 accomplice or aider and abettor of the person committing a
24 crime.

25 The burden is on the State to prove every element of

1 the crime charged. If you find after reviewing all the
2 -- all the evidence that the State has proved that the
3 Defendant was only present at the scene of the crime and
4 that they have not proved beyond a reasonable doubt any
5 other participation in the crime, you must find the
6 Defendant not guilty. The law is that proof of at the
7 scene of the crime is not sufficient to find someone
8 guilty.

9 An issue in this case is the identification of the
10 Defendant as the person who committed the crime charged.
11 The State has the burden of proving identity beyond a
12 reasonable doubt. You must be satisfied beyond a
13 reasonable doubt of the accuracy of the identification of
14 the Defendant before you may convict the Defendant.

15 Identification testimony is an expression of belief or
16 impression by a witness. You must determine the accuracy
17 of the identification of the Defendant. You must consider
18 the believability of each identification witness in the
19 same way as any other witness. You may consider whether
20 the witness had an adequate opportunity to observe the
21 offender at the time of the offense. This will be affected
22 by things like how long or short of time was available, how
23 far or close the witness was, the lighting conditions and
24 whether the witness had a chance to see or know the person
25 in the past.

1 Once again, I instruct you the burden of proof on the
2 State extends to every element of the crime charged and
3 this specifically includes the burden of proving beyond a
4 reasonable doubt the identity of the Defendant as the
5 person who committed the crime. If after examining the
6 testimony you have a reasonable doubt as to the accuracy of
7 the identification, you must find the Defendant not guilty.

8 The legality of a search and seizure is a question of
9 law and which is only proper for the Court to decide. It
10 is improper for you as the jury to make the determination
11 whether or not the search conducted by the police was
12 lawful. This is a question left solely to the Court for
13 determination.

14 There has been evidence presented that witnesses have
15 made prior statements which are not consistent with the
16 witness's present testimony. You may use this evidence
17 to decide whether to believe the witness. You may also
18 use evidence of the earlier contradictory statements to
19 determine the truth of those statements. It is up to you
20 to decide whether to believe the earlier statements or the
21 testimony given at trial. If a witness is shown to have
22 knowingly testified untruthfully concerning any material
23 matter, you may consider this in determining whether to
24 trust the witness's testimony as to other matters. You
25 may reject all testimony of that witness or give it all

1 or part of the testimony the weight that you think it
2 deserves.

3 The Defendant is charged with distribution of cocaine
4 base. The State must prove beyond a reasonable doubt that
5 the Defendant distributed cocaine base. Distribute means
6 to deliver or to actually, constructively or attempt to
7 transfer a drug other than by administering or dispensing.
8 Deliver means to actually, constructively or attempt to
9 transfer a drug. A transfer can in -- can involve an
10 exchange for money, barter or a gift. There does not
11 have to be anything given in exchange for the drugs for
12 a transfer to constitute distribution.

13 Ladies and gentlemen, I now am gonna go over the
14 verdict form with you. Please understand that there's no
15 significance to the way I read the verdict form. It's
16 simply I have to put something on the paper first.

17 In the Court of General Sessions for the Ninth
18 Judicial Circuit, Case Number 2012-GS-10-6779, State of
19 South Carolina, County of Charleston, versus Dean Nelson
20 Seagers, we, the jury, find the Defendant, Dean Nelson
21 Seagers, not guilty, or we the jury find the Defendant,
22 Dean Nelson Seagers, guilty of distribution of cocaine
23 base.

24 Mr. Foreperson, once you have reached a unanimous
25 decision, meaning all twelve of you must agree on the

1 decision, you will sign the verdict form and date it
2 indicating that you have come to your decision.

3 Ladies and gentlemen, this is the last time that I
4 will say this to you. Do not begin your deliberation, do
5 not discuss this case amongst yourselves. We're gathering
6 the verdict form, as well as the evidence, to go back to
7 you. After we have done that, the bailiff will indicate to
8 you that you may begin your deliberation.

9 To my two alternates, you have completed your service
10 to this case at this time, but the same admonition to you.
11 Do not begin your deliberations, do not discuss your case
12 -- this case with each other or with anyone. Once the
13 first twelve have indicated that they are able to begin
14 and complete their deliberations, I will release you from
15 service to this case.

16 Please rise for the jury.

17 (Whereupon, the jury retires to the jury room at
18 12:01 PM.)

19 Thank you. Please be seated.

20 Any objections or corrections to the charge as read
21 from the State?

22 MR. SOWARDS: None, Your Honor.

23 MR. MARSHALL: No, ma'am. Thank you.

24 THE COURT: All right. Thank you. And everything in
25 that bag and the verdict form, any objection to -- to this?

1 MR. MARSHALL: No, ma'am.

2 MR. SOWARDS: None from the State.

3 THE COURT: All right. Thank you.

4 All right. We'll be at ease.

5 (Whereupon, the evidence and verdict form was received
6 by the jury and deliberations begin at 12:02 PM.)

7 (Recess taken.)

8 THE COURT: All right. Anything before we bring the
9 jury in from the State?

10 MR. SOWARDS: Nothing from the State.

11 THE COURT: Mr. Marshall?

12 MR. MARSHALL: No, ma'am. Thank you.

13 THE COURT: If you'd rise for the jury.

14 (Whereupon, the jury returns to the courtroom to
15 deliver its verdict at 2:27 PM.)

16 THE COURT: Thank you. Please be seated.

17 I understand you have reached a verdict. If you'll,
18 please, hand the verdict form to the bailiff.

19 Mr. Seagers, please stand.

20 CLERK: The State of South Carolina, in the County of
21 Charleston, in the Court of General Sessions for the Ninth
22 Judicial Circuit, State of South Carolina versus Dean
23 Nelson Seagers, Case Number 2012-GS-10-06779. We, the
24 jury, find the Defendant, Dean Nelson Seagers, guilty of
25 distribution of cocaine base. Signed Henry Wigfall,

1 July 9, 2015.

2 Ladies and gentlemen of the jury, if this is your
3 verdict, please indicate so by raising your right hand.

4 Please let the record reflect that all jurors have
5 raised their right hand.

6 THE COURT: Thank you.

7 Anything further required of the jury, Mr. Marshall?

8 MR. MARSHALL: No, ma'am. Thank you.

9 THE COURT: From the State?

10 MR. SOWARDS: Nothing from the State, Your Honor.

11 THE COURT: Thank you.

12 Ladies and gentlemen, this completes your service to
13 this case. Please return back to your jury room. I'll be
14 there in just a few moments to personally thank you for
15 your service to Charleston County.

16 Please rise for the jury.

17 (Whereupon, the jury retires to the jury room to be
18 dismissed at 2:30 PM.)

19 THE COURT: Thank you. Please be seated. Outside the
20 presence of the jury any motions or matters, Mr. Marshall?

21 MR. MARSHALL: I motion for a new trial based on
22 insufficient receipt of the evidence.

23 THE COURT: Mr. Sowards, your response?

24 MR. SOWARDS: Your Honor, I think that there was
25 sufficient evidence on all elements of the charge -- for

1 all the elements of the crime that was charged and the
2 jury's verdict is correct.

3 THE COURT: Any further response, Mr. Marshall?

4 MR. MARSHALL: No, ma'am. Thank you.

5 THE COURT: Without restating all of the elements of
6 the charge and the factors that I used to delineate the
7 elements of the charge as proven by the State, as well as
8 the testimony that you have presented, I deny your motion
9 for a new trial. Note your exception to my ruling.

10 Mr. Marshall, any other motions or matters before I
11 impose sentence?

12 MR. MARSHALL: No, not at this time, Judge. Thank
13 you.

14 THE COURT: Do you have your sentencing sheets?

15 MR. SOWARDS: I do, Your Honor.

16 THE COURT: Do you need a few moments to speak with
17 your client?

18 MR. MARSHALL: It would probably be appreciated.
19 Sure, Judge. Thank you.

20 THE COURT: All right. I'm gonna go ahead and
21 release the jury then and just -- so it will be just a few
22 moments, have them sign the indictment, and then I'll be
23 back. So -- I know he doesn't have to sign it, but if
24 you'll just make sure.

25 Thank you.

1 (Recess taken.)

2 THE COURT: Thank you. Please be seated.

3 Mr. Marshall, he's not required to -- to sign it.

4 I think it's -- it's appropriate for him to, but if he
5 doesn't wish to sign it, the conviction still stands.

6 MR. MARSHALL: Right. May I approach, Judge?

7 THE COURT: You may. Thank you.

8 Mr. Sowards, I've -- I've sat through the trial. What
9 else do I need to know?

10 MR. SOWARDS: Your Honor, just that this buy was one
11 of four conducted by law enforcement in a several months
12 long investigation.

13 THE COURT: Mr. -- Mr. Sowards, I appreciate you
14 saying that --

15 MR. SOWARDS: That's it.

16 THE COURT: -- but, I mean, it's -- I -- I don't have
17 really any -- well, I have no discretion as to sentencing.

18 MR. SOWARDS: That's it.

19 THE COURT: All right. Anything further?

20 MR. SOWARDS: Nothing further.

21 THE COURT: All right. Mr. Marshall, I'm happy to
22 hear from you.

23 MR. MARSHALL: I -- I don't see any need to address
24 the Court, Judge, given to the fact that you don't have any
25 discretion.

1 THE COURT: Mr. Marshall, do you agree that the notice
2 was properly filed?

3 MR. MARSHALL: Yes, ma'am.

4 THE COURT: Mr. Seagers, please stand.

5 Mr. Seagers, you understand that you have ten days to
6 appeal this conviction. Do you understand?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Mr. Marshall explained that to you?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And, Mr. Seagers, you do not have to, but
11 is there anything you wish to tell me before I impose
12 sentence?

13 THE DEFENDANT: I just pray that you give me the
14 lightest sentence possible.

15 THE COURT: Mr. Seagers, you remember when I went
16 through your options about whether or not you should
17 take an offer and I explained to you that when -- if --
18 if you were found guilty, my options would be limited;
19 that you would -- that my only option under the law is to
20 sentence you to life without the possibility of parole in
21 the Department of Corrections. Do you remember me telling
22 you that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. And so, Mr. Seagers, even --
25 at this point, that is the only sentence I can impose upon

1 you. Do you understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Anything further you wish for me to tell
4 you?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: It's the order of the Court on
7 2012-GS-10-6779 that you be committed to the State
8 Department of Corrections for a term of life without the
9 possibility of parole.

10 Good luck to you, sir.

11 Anything further from the State?

12 MR. SOWARDS: Nothing from the State.

13 THE COURT: Mr. Marshall?

14 MR. MARSHALL: No, ma'am. Thank you for your
15 hospitality.

16 (Whereupon, the proceedings were concluded at
17 3:03 PM.)

18

19

20

21

22

23

24

25

1 CERTIFICATE OF TRANSCRIPTION

2
3 I, the undersigned, Stacy S. Johnson, RPR, Circuit
4 Court Reporter for the State of South Carolina, do
5 hereby certify that I transcribed the proceedings in the
6 captioned case that were reported by Melissa R. Singletary,
7 Circuit Court Reporter for the State of South Carolina,
8 in the Court of General Sessions in and for the County of
9 Charleston, State of South Carolina, on July 6th-9th, 2015,
10 to the best of my ability.

11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.

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

15
16 October 7, 2015
17
18

19 s/Stacy S. Johnson
20 STACY S. JOHNSON, RPR
21 CIRCUIT COURT REPORTER
22
23
24
25

Respondent.

APPLICATION FOR POST-CONVICTION RELIEF

2020 JAN 28 AM 11:28
JULIE M. HARRIS
CLERK OF COURT

7-11-68

- 1

(c) the date of each such result: Court of Appeals June 28, 2017; Supreme Court February 27, 2019.

(d) if known, citations of any written opinion or orders entered pursuant to such results: Court of Appeals – 2017-UP-263. Supreme Court 2019-MO-010.

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

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

- a. Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Appellate Counsel for failure to raise issues concerning the arrest warrant which contained false information.
- b. In the alternative to 10(a), Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Trial Counsel for failure to properly move to suppress any evidence obtained as a result of the arrest warrant which contained false information.
- c. Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Appellate Counsel for failure to raise issues concerning the search warrant which contained false information.
- d. In the alternative to 10(c), Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Trial Counsel for failure to properly argue that the search of the phone exceeded the authority of the search warrant.
- e. Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Trial Counsel for failure to properly argue Charles Grill should not have been qualified as an expert in narcotics investigations.
- f. Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Trial Counsel for failure to properly argue Charles Grill's opinions

exceeded the scope of those which should have been testified to by a lay witness or an expert in narcotics investigation.

- g. Applicant's sentence violates the eighth amendment.
- h. Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Trial Counsel for failure to properly object to his notice for life without parole and sentence.
- i. Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Trial Counsel for failure to object to prior conversations between Grills and Applicant as a violation of Rule 5, SCRCrimP.
- j. Applicant was denied his right to Due Process when the State failed to provide all impeachment information concerning the confidential informant.

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

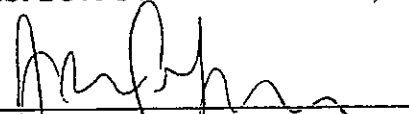
- a. Appellate Counsel failed to raise issues concerning the arrest warrant which contained false information.
- b. Alternatively, Trial Counsel failed to properly move to suppress any evidence obtained as a result of the arrest warrant which contained false information.
- c. Appellate Counsel for failed to raise issues concerning the search warrant which contained false information.
- d. Alternatively Trial Counsel failed to properly argue that the search of the phone exceeded the authority of the search warrant.
- e. Trial Counsel failed to properly argue Charles Grill should not have been qualified as an expert in narcotics investigations.

- f. Trial Counsel failed to properly argue Charles Grill's opinions exceeded the scope of those which should have been testified to by a lay witness or an expert in narcotics investigation.
 - g. Applicant's sentence violates the Eighth Amendment in that it is based on prior convictions which occurred before Applicant was 18 years old.
 - h. Trial Counsel failed to properly object to his notice for life without parole and sentence.
 - i. Trial Counsel failed to object to prior conversations between Grills and Applicant as a violation of Rule 5, SCRCrimP.
 - j. The State failed to provide all impeachment information concerning the confidential informant in violation of *Brady v. Maryland*.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No.
 - (b) any petition in State or Federal Courts for habeas corpus or post-conviction 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 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:
14. Has any ground set forth in (10) been previously presented to this or any other State or Federal Court, in any petition, motion or application which you have filed? No.
15. If you answered "yes" to (14) identify: Not Applicable.

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: First collateral review.
17. Were you represented by an attorney at any time during the course of:
 - (a) your arraignment and plea? Yes.
 - (b) your trial, if any? Yes.
 - (c) your sentencing? Yes.
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes.
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes.
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. Cameron Marshall- 7 Gamecock Ave., Ste 707, Charleston, SC 29407-3379
 - ii. Tara Dawn Shurling- 3614 Landmark Drive Suite A, Columbia , SC 29204
 - (b) the proceedings at which each such attorney represented you:
 - i. Trial
 - ii. Direct Appeal
19. State clearly the relief you seek in filing this application: a new trial.
20. Are you now under sentence from any other court that you have not challenged? No.

(Signature Page Follows)

RESPECTFULLY SUBMITTED,



Jonathan S. Chaplin (SC Bar 8706)
4511 N. Main Street
Columbia, SC 29203
(803) 543-8086
info@jschaplinlaw.com

Date: 1/23/20

Attorney for Applicant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Dean Seagers, #294406,	)	Case No.: 2020-CP-10-527
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on January 28, 2020, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In November 2012, the Charleston County Grand Jury indicted Applicant for distribution of cocaine base (2012-GS-10-06779). Cameron Marshall, Esquire represented Applicant. Assistant Solicitors J. Whit Sowards and Lauren L. Mulkey prosecuted the case. On July 6-9, 2015, Applicant proceeded to trial before the Honorable Kristi L. Harrington and a jury. Applicant was convicted and sentenced to imprisonment for life without the possibility of parole pursuant to S.C. §17-25-45 (2014). Applicant filed a timely Notice of Appeal and was represented by Tara Dawn Shurling, Esquire. The Court of Appeals affirmed his conviction on June 28, 2017 and denied his petition for rehearing on August 18, 2017. Applicant filed a Petition for Writ of Certiorari on October 9, 2017. On March 7, 2018, the South Carolina Supreme Court granted certiorari on whether the trial court erred by charging the jury the law of accomplice liability. The Supreme Court dismissed Applicant's appeal as improvidently granted by way of Memorandum Opinion No. 2019-MO-010,

filed on February 27, 2019. The Remittitur was issued to the lower court on February 27, 2019.

Attached to this Return and incorporated by reference are the records of the Charleston County Clerk of Court regarding the subject convictions, the trial transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Appellate Counsel for failure to raise issues concerning the arrest warrant which contained false information"
2. "In the alternative to 10 (a), Applicant was denied his Sixth Amendment rights when he received ineffective assistance of trial counsel for failure to properly move to suppress any evidence obtained as a result of the arrest warrant which contained false information"
3. "Applicant was denied his Sixth Amendment rights when he received ineffective assistance of Appellate Counsel for failure to raise issues concerning the search warrant which contained false information"
4. "In the alternative to 10(c), Applicant was denied his Sixth Amendment rights when he received ineffective assistance of trial counsel for failure to properly argue that the search of the phone exceeded the authority of the search warrant"
5. "Applicant was denied his Sixth Amendment rights when he received ineffective assistance of trial counsel for failure to properly argue Charles Grill should not have been qualified as an expert in narcotics investigations"
6. "Applicant was denied his Sixth Amendment rights when he received ineffective assistance of trial counsel for failure to properly argue Charles Grill's opinions exceeded the scope of those which should have been testified to by a lay witness or an expert in narcotics investigation"
7. "Applicant's sentence violates the eighth amendment"
8. "Applicant was denied his Sixth Amendment rights when he received ineffective assistance of trial counsel for failure to properly object to his notice for life without parole and sentence"
9. "Applicant was denied the Sixth Amendment rights when he received ineffective assistance of trial counsel for failure to object to prior conversations between Grills and Applicant as violation of Rule 5, SCRCrimp"

10. “Applicant was denied his right to Due Process when the State failed to provide all impeachment information concerning the confidential informant”

III.

Respondent submits Applicant’s allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove 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 v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there

is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant alleges a denial of due process of law. Applicant's allegation claims infringement of his rights as afforded to him under the United States Constitution. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that Applicant must "...specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon Applicant to make 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). Because Applicant has failed to make a prima facie showing that his constitutional right to due process was violated, Respondent submits this allegation should be summarily dismissed for failing to specifically set forth the grounds upon which the application is based and relief is sought.

V.

The Applicant alleges ineffective assistance of appellate counsel. A defendant is entitled to effective assistance of appellate counsel. Southerland v. State, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). Although appellate counsel is required to provide effective assistance of counsel,

“appellate counsel is *not* required to raise every non-frivolous issue that is presented by the record.” Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990) citing Jones v. Barnes, 463 U.S. 745, 103 S.Ct. 3308, 77 L.Ed.2d 987 (1983). “For judges to second-guess reasonable professional judgments and impose on ... counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very goal of vigorous and effective advocacy...” Jones, 463 U.S. at 754, 103 S.Ct. 3308.

Generally, in analyzing a claim of ineffective assistance of appellate counsel, the Court applies the Strickland test just as it would when analyzing a claim of ineffective assistance of trial counsel. See Southerland v. State, 337 S.C. 610, 616, 524 S.E.2d 833, 836 (1999). Thus, in this case, we ask 1) whether appellate counsel's performance was deficient, and 2) whether Respondent was prejudiced by appellate counsel's deficient performance. Bennett v. State, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel's errors, there is a reasonable probability he would have prevailed on appeal. Anderson v. State, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003). The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

VI.

Applicant also alleges prosecutorial misconduct. Brady requires the State to disclose evidence in its possession favorable to the accused and material to guilt or punishment. Clark v. State, 315 S.C.385, 388, 434 S.E.2d 266, 268 (1993). Such a claim is complete if the accused can demonstrate (1) the evidence was favorable to the accused, (2) it was in the possession of or known

to the prosecution, (3) it was suppressed by the prosecution, and (4) it was material to guilt or punishment. Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. Clark, 315 S.C. at 388, 434 S.E.2d at 268 (citing U.S. v. Bagley, 473 U.S. 667 (1985)).

The requirements of Rule 5, as opposed to the constitutional dictates of Brady, are judicially created discovery mechanisms for use in criminal proceedings. State v. Gulledege, 326 S.C. 220, 487 S.E.2d 590 (1997). Rule 5(a)(1)(C) requires:

Upon request of the defendant the prosecution shall permit the defendant to inspect and copy books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the prosecution, and which are material to the preparation of his defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the defendant.

Id. The definition of “material” for purposes of Rule 5 is the same as the definition used in the Brady context. See Fradella v. Town of Mount Pleasant, 325 S.C. 469, 482 S.E.2d 53 (Ct.App.1997) (per curiam). In order for Applicant to prevail on a Rule 5 claim, he must show not only an actual violation, but also that he suffered prejudice as a result. State v. Wilkins, 310 S.C. 81, 425 S.E.2d 68 (Ct.App.1992); State v. Trotter, 322 S.C. 537, 473 S.E.2d 452 (1996).

Respondent submits that this ground for relief is without merit. Furthermore, Respondent hereby moves for a more definite statement as to this ground. While Respondent acknowledges the allegation of prosecutorial misconduct probably raises questions of fact that the record does not conclusively refute, Applicant has failed to set forth any facts to support this ground or to explain with any specificity whatsoever the facts upon which this claim is based. The Uniform Post-Conviction Procedure Act requires Applicant to “*specifically set forth the grounds upon*

which the application is based." S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which this allegation is based so Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests Applicant be required to amend his application to set forth specifically the grounds on which his claims are based. Respondent reserves the right to move for dismissal of this allegation should Applicant fail to amend the application.

VII. MOTION FOR A MORE DEFINITE STATEMENT

In his application for relief, Applicant fails to set forth with specificity the facts and circumstances upon which his allegations of ineffective assistance of appellate counsel 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. MacDoueall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). Applicant fails to provide any supporting information for his claims.

Accordingly, 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 his application.

VIII. ANY FUTURE AMENDMENTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing.

Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. *See also* Rules 15(a)-(b), SCRCP; *Mangal v. State*, Op. No. 27726 (S.C.Sup.Ct. refiled October 4, 2017) (Shearouse Adv.Sh. No. 38 at 12). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. *See* Rule 15(a), SCRCP.

IX. RESPONSE TO ANY AND ALL OTHER ALLEGATIONS

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

X. REQUEST FOR AN EVIDENTIARY HEARING

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

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BENJAMIN LIMBAUGH
Assistant Attorney General

By: s/ Benjamin H. Limbaugh
ATTORNEY FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

July 8, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Dean Seagers, #294406

Applicant,

v.

State of South Carolina

Respondent,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2020-CP-10-527

Certificate of Service by Mail

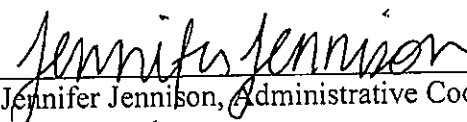
2020 JUL 10 AM 11:40

FILED
JULIE J. ARMSTRONG
CLERK OF COURT

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Joenathan S. Chaplin, Esquire
The Law Office of Joenathan S. Chaplin
4511 N. Main St.
Columbia, SC 29203

DATED this 8th day of July, 2020.


Jennifer Jennison, Administrative Coordinator
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Dean N. Seagers,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS

AMENDED APPLICATION
POST-CONVICTION RELIEF

JUDGE J. ARMSTRONG
CLERK OF COURT

2022 MAR 14 AM 11:28

FILED

[This application conforms to the requirements of South Carolina Rules of Criminal Procedure,
Form 5]

1. Place of Detention

Dean N. Seagers is currently instituted at Lee Correctional Institution.

2. Name and location of Court which imposed sentence:

He was convicted in the Charleston County Court of General Sessions.

3. Name(s) of co-defendant(s) (if any):

N/A

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

2012-GS-10-6779; Distribution of Cocaine

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

Applicant was found guilty on July 9, 2015. Pursuant to S.C. Code Ann. § 17-25-45, Seagers was sentenced to life in prison.

6. Seagers was convicted after trial.

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

Applicant did appeal from the judgment of conviction and imposition of sentence.

8. (a) The name of each Court to which you appealed:

(i) South Carolina Court of Appeals

(ii) South Carolina Supreme Court

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

(i) Affirmed by the Court of Appeals

(ii) Dismissed as Improvidently Granted by the South Carolina Supreme Court.

(c) The date of each such result:

(i) Court of Appeals- June 28, 2017

(ii) South Carolina Supreme Court- February 27, 2019

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

(i) State v. Dean Seagers- 2017-UP-263 (filed June 28, 2017)

(ii) Supreme Court- 2019-MO-010 (filed February 27, 2019).

9. N/A.

10. Applicant alleges the following grounds as the bases upon which he is being held unlawfully:

(a) Trial counsel rendered ineffective assistance of counsel.

(b) Violation of Applicant's Eighth Amendment Rights

(c) Prosecutorial Misconduct

11. Facts in Support of the grounds set out in (10).

(a) Ineffective assistance of counsel:

(i) Trial counsel failed to object to the State's admission of multiple instances of inadmissible hearsay.

(ii) Trial counsel's failure to properly object and preserve for appellate review the claim that he was improperly denied the right to cross-examine law enforcement about the discrepancies in the funds for confidential informants since this fact related to the integrity of the investigation.

- (iii) Trial counsel's failure to object to the State's introduction of improper character evidence, or 404(b) evidence.
- (iv) Failure to argue that the search of Applicant's cell phone exceeded the authority of the search warrant.
- (v) Failure to argue that one of the State's expert witnesses (Charles Grill) should not have been qualified as an expert in narcotics investigations.
- (vi) Failure to properly argue that Charles Grill's opinions exceeded the scope of those which should have been testified to by a lay witness or an expert in a narcotics investigation.
- (vii) Failure to object to Grill's improper vouching of the confidential informant.
- (viii) Failing to object to the entry into evidence of prior conversations between Grills and Applicant, in violation of Rule 5 of the South Carolina Rules of Criminal Procedure.
- (ix) Failure to motion for a mistrial when the CI testified he received a threatening phone call on the morning of his trial testimony and testifying that was why he changed his testimony.
- (x) Failure to correct Applicant's criminal record which did not involve federal convictions for guns or drugs. Instead, Applicant pleaded guilty by Information to keeping a stash house, a federal crime that carries a maximum sentence of 20 years in prison and therefore cannot be used to enhance Applicant's sentence to life without parole.

(b) Violation of Applicant's Eighth Amendment Rights

The Applicant's Eighth Amendment rights were violated when the court imposed a life sentence pursuant to the three-strike rule when one of the strikes used by the prosecution in order to obtain this sentence was a charge that had previously been dismissed in court.

(c) Violation of Applicant's Statutory Rights

Applicant was sentenced under the three-strikes law without the trial court or Solicitor's office obtaining certified copies of Applicant's prior convictions which it alleges subjects him to that penalty.

(d) Ineffective Assistance of Appellate Counsel

Appellate counsel failed to raise the claim that the search and arrest warrants were defective when there was no indication the officer supplied information to the magistrate regarding the reliability of the confidential informant.

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

(a) Any petition in a State Court under South Carolina Law?

No

(b) Any petition in State or Federal Courts for habeas corpus or post-conviction 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 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:

N/A

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

No

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

N/A

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

First collateral review.

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

(a) Your arraignment and plea?

Yes

(b) Your trial, if any?

Yes

(c) Your sentencing

Yes

(d) Your appeal, if any, from the judgment of conviction or imposition of sentence?

Yes

18. If you answered "yes" to one or more parts of (17), list the name of the attorney and address of each attorney and which proceeding they represented you in.

(a) Cameron Marshall: 7 Gamecock Ave., Ste 707, Charleston, SC 29407
Trial.

(b) Tara Dawn Shurling: 3614 Landmark Drive Suite A, Columbia, SC 29204
Direct Appeal.

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

A new trial.

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

No.

STATE OF SOUTH CAROLINA)

County of Lee)

VERIFICATION

I, Dean N. Seagers, 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.

Sign
Here

SWORN to and subscribed before me this 4th
day of March 2022.

[Signature]
Notary Public

My Commission Expires: 09/04/29

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Dean Seagers,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS

**SECOND
AMENDED APPLICATION FOR
POST-CONVICTION RELIEF**

2020-CP-10-527

SY

04

JULIE J. ARMSTRONG
CLERK OF COURT

2023 JUN 22 PM 3:18

FILED

Applicant respectfully adds the following claims to his amended application for post-conviction relief:

- 1) Applicant was denied his right to a speedy trial.
- 2) Trial counsel rendered ineffective assistance of counsel when he failed to communicate a plea offer that was extended by the State.
- 3) Trial counsel rendered ineffective assistance of counsel for failing to object to the State's improper vouching during closing argument.
- 4) The State failed to comply with its own internal policies regarding its use of confidential informants. Trial counsel should have objected.
- 5) Trial counsel rendered ineffective assistance by failing to object to the presence of the initial solicitor, Stephanie Bianca, in the courtroom.
- 6) Detective Burke improperly failed to disclose written notes regarding the case that were kept on his hard drive.
- 7) Trial counsel rendered ineffective assistance of counsel by failing to object to the State's modifying its theory from a hand-to-hand transaction to hand-of-one-hand-of-all.

Respectfully submitted,

/s/ Elizabeth Franklin-Best
Elizabeth Franklin-Best, P.C.
3710 Landmark Drive, Suite 113
Columbia, South Carolina 29204
(803) 445-1333
elizabeth@franklinbestlaw.com

June 20, 2023.

ELIZABETH FRANKLIN 

APPELLATE AND FEDERAL CRIMINAL LAW

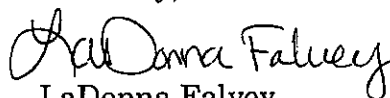
June 20, 2023

Charleston County Clerk of Court
Attn: Common Pleas
100 Broad Street, Suite 106
Charleston, South Carolina 29401-2258

Dear Clerk of Court,

Enclosed is a second amended application for post-conviction relief for case 2020-CP-10-527, Dean Seagers vs. State of South Carolina. There's a second copy to be clocked and returned to us in the enclosed self-addressed, stamped envelope. Please contact us if you have any questions. Thank you!

Sincerely,



LaDonna Falvey
Lead Paralegal/Firm Administrator
Elizabeth Franklin-Best, P.C.
(803) 445-1333
ladonna@franklinbestlaw.com

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Dean Seagers,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS

**THIRD
AMENDED APPLICATION FOR
POST-CONVICTION RELIEF**

2020-CP-10-527

2023 AUG -9 PM 2:11
JULIE J. ARMSTRONG
CLERK OF COURT
MCC

FILED

Applicant respectfully adds the following claims to his amended application for post-conviction relief:

- 1) Applicant alleges he did not have the opportunity to confront witnesses against him as it relates to the chain of custody of the evidence bag for the drugs Applicant never saw until trial.
- 2) Applicant alleges the solicitor used false evidence against him during opening and closing arguments as it relates to the cup and phone found on August 29.
- 3) Applicant alleges the solicitor made derogatory remarks about him during closing arguments, referring to him as a Trap King and how good he was at running a drug operation.
- 4) Applicant alleges jury misconduct.

Respectfully submitted,

/s/ Elizabeth Franklin-Best
Elizabeth Franklin-Best, P.C.
3710 Landmark Drive, Suite 113
Columbia, South Carolina 29204
(803) 445-1333
elizabeth@franklinbestlaw.com

August 5, 2023.

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

COURT OF COMMON PLEAS
2020-CP-10-00527

Dean N. Seagers

)

) TRANSCRIPT OF RECORD

-vs-

)

) October 19, 2023

State of South Carolina)

) Moncks Corner, South Carolina

B E F O R E:

The Honorable Maite Murphy, Judge

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

Elizabeth A. Franklin-Best, Esquire
Attorney for the Applicant

Danielle Dixon, Esquire
Bryan Hall, Esquire
Attorneys for the State

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

1	<u>EXHIBITS</u>			
2				
3				
4	<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
5				
6	P-1	Order Granting Discovery	5	9
7	P-2	CI Payment Form	5	9
8	P-3	CPD Manual	5	9
9	P-4	Memorandum of Law	5	9
10	P-5	Info & Judgment in A Case	5	9
11	P-6	Sentencing Sheets	5	9
12	P-7	Mr. Dennis's Statement	5 (ID Only)	
13	P-8	Applicant's Letters	5	9
14				
15	S-1	GS Indictments	49	49
16	S-2	LWOP Notice	87	87
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1	INDEX				
2					
3	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
4					
5	Mr. Dean Seagers				
6	Ms. Franklin-Best	14			
7	Ms. Dixon		46		
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9	Mr. Cameron Marshall				
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13	Mr. Moses Dennis				
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17	Mr. King Wilson				
18	Ms. Franklin-Best	73			
19	Ms. Dixon		78		
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22	Ms. Stephanie Bianco Linder				
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6	Ms. Dixon	105			
7	Ms. Franklin-Best		110		
8	Ms. Dixon			114	
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10	Mr. John Whit Sowards				
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1 (Petitioner's Exhibit Nos. 1 through 8 were premarked
2 for identification.)

3 THE COURT: Good afternoon, everyone.
4 Please have a seat. We had some confusion on our times
5 today.

6 MS. DIXON: Sorry about that, Your Honor.

7 THE COURT: Not a problem. We're ready
8 to proceed?

9 MS. DIXON: Ready to proceed when you are.'

10 THE COURT: All right. Yes, ma'am.

11 MS. DIXON: May it please the Court.

12 I'm Danielle Dixon, assistant attorney general
13 for the state of South Carolina. This is the case
14 of Dean Seagers v. State, Docket No. 2020-CP-10-527.
15 Mr. Seagers -- oh, we need to get Mr. Seagers.

16 MS. FRANKLIN-BEST: Yes, they're getting
17 him.

18 MS. DIXON: Sorry. I'll wait.

19 (Pause.)

20 THE COURT: Good afternoon.

21 MS. DIXON: May it please the Court.

22 THE COURT: Yes, ma'am.

23 MS. DIXON: Danielle Dixon, assistant
24 attorney general for the state of South Carolina.
25 This is the case of Dean Seagers v. State, Docket

1 No. 2020-CP-10-527. Mr. Seagers is currently serving
2 a life sentence.

3 In November of 2012, he was indicted
4 by the Charleston County Grand Jury for distribution
5 of cocaine base; that's Indictment No. 2012-GS-10-6779.
6 On July 6th through 9th, 2015, he proceeded to a jury
7 trial before the Honorable Kristi Harrington. He was
8 represented by Cameron Marshall, and assistant
9 solicitors Whit Sowards and Lauren Frierson prosecuted
10 the case.

11 Mr. Seagers was convicted, as indicted,
12 and sentenced to life, pursuant to the recidivist
13 statute. He filed a direct appeal and was represented
14 by Tara Dawn Shurling. She raised the issues regarding
15 the trial Court erred in allowing the detective
16 to identify his voice when the State didn't lay the
17 proper foundation, and the detective was not a voice
18 identification expert. Also argued that the Court
19 erred in charging accomplice liability.

20 The Court of Appeals affirmed both
21 on the merits. The Supreme Court did initially grant
22 cert on the issue of whether the Court erred by charging
23 accomplice liability, but later dismissed that
24 as improvidently granted. The remittitur was sent
25 February 27th, 2019.

1 Mr. Seagers timely filed this PCR
2 application January 28th, 2020. He has since then
3 filed three amended applications, and there are about,
4 I don't know, 20-ish, 20 to 30-ish allegations set forth
5 in those amended applications.

6 Your Honor, I have spoken to counsel,
7 and our understanding is that those are the grounds
8 that they are going forward on today, is the ground set
9 forth in the three amended applications. And we did
10 hand up paperwork packets to Your Honor, and it does
11 contain the trial transcript, the appellate records,
12 and then the records from the direct appeal.

13 THE COURT: Thank you, ma'am. Good
14 afternoon.

15 MS. FRANKLIN-BEST: Good afternoon,
16 Your Honor.

17 THE COURT: You may call your first witness.

18 MS. FRANKLIN-BEST: All right. If I could
19 just sort of preface this. We have agreed to the
20 admission of some exhibits, Your Honor.

21 THE COURT: Yes, ma'am.

22 MS. FRANKLIN-BEST: And if I could just sort
23 of outline those really quickly.

24 THE COURT: Sure.

25 MS. FRANKLIN-BEST: We've got Petitioner's

1 Exhibit A [sic.], which is an order granting discovery
2 in this case, signed by Judge Roger Young, in 2021.
3 We also have some documents that were provided to us,
4 pursuant to that order; it is Exhibit -- I'm sorry.
5 Petitioner's Exhibit No. 2 is -- it's a sheet of
6 confidential informant payment information. So we have
7 that as well.

8 Petitioner's Exhibit No. 3 is the City of
9 Charleston Police Department policy and procedure manual
10 relating to its use of confidential informants.
11 Petitioner's Exhibit No. 4 is a memorandum of law that
12 was drafted by Mr. Seagers, that also kind of pertains
13 to some of the claims that he's going to talk about
14 today, Your Honor. Petitioner's Exhibit No. 6 --
15 I'm sorry.

16 Petitioner's Exhibit No. 5 is the federal
17 information and judgment for a conviction of Mr. Seagers
18 back in federal court, where he pleaded guilty to an
19 information to maintaining a stash house, Your Honor.
20 Petitioner's Exhibit No. 6 is the sentencing sheets,
21 probably already part of the record, but we have
22 a second copy. Petitioner's Exhibit No. 7 was something
23 that was provided in the discovery, is a statement
24 by Mr. Moses Dennis.

25 MS. DIXON: Your Honor, we do object to

1 that.

2 MS. FRANKLIN-BEST: They do object,
3 and Mr. Dennis is here, so he will be testifying today.
4 So, I understand the basis for the objection, and since
5 he's here, I mean, we could discard this one.

6 MS. DIXON: Okay.

7 MS. FRANKLIN-BEST: It's perfectly fine.
8 And then, Petitioner's Exhibit 8, these are some
9 documents that Mr. Seagers has created, again sort
10 of outlining some of the bases of his arguments,
11 relative to some of the matters before the Court,
12 Your Honor. And so with the consent of the Government,
13 we would like to make these a part of the record and
14 for this Court's consideration. May I hand them up?

15 THE COURT: Sure.

16 (Petitioner's Exhibit Nos. 1 through 6 and 8 were
17 entered into evidence.)

18 THE COURT: You don't happen to have extra
19 copies by any chance?

20 MS. FRANKLIN-BEST: I wish I did.

21 THE COURT: Sorry.

22 MS. FRANKLIN-BEST: I'm sorry. And so
23 the two arguments that we're making, Your Honor,
24 really don't require his testimony, because they're
25 kind of legal arguments. So if I could start with

1 those, and then call him to discuss the additional
2 claims.

3 THE COURT: Sure.

4 MS. FRANKLIN-BEST: If that would be more
5 expedient, Your Honor.

6 THE COURT: Yes, ma'am.

7 MS. FRANKLIN-BEST: But the first claim
8 that we're raising, Your Honor, regards to the LWOP
9 notice that was filed in this case. This LWOP notice
10 cannot be located. It does not appear to be in the
11 clerk of courts file; it does not appear that the
12 solicitor's office has it; it does not appear that
13 trial counsel has it. This is something that we've
14 been looking for since we initially got our order
15 of discovery back in 2021, and I'll explain to you why
16 this is important.

17 During the trial, one of the prosecutors
18 informed Judge Harrington of what Mr. Seagers's prior
19 convictions were. And when they were listed, it
20 happened to be inaccurate. The solicitor informed
21 the Court that Mr. Seagers was convicted of federal
22 gun and drug offenses. In fact, he pleaded guilty
23 to the information regarding the stash house.

24 The reason why that's important is because
25 under South Carolina law, that conviction for the stash

1 house does not subject him to an LWOP sentence.
2 Under 17-25-45(C)(2)(a), the conviction would have
3 to carry a maximum penalty of 30 years. The stash
4 house offense, Your Honor, carries a maximum penalty
5 of 20 years.

6 And so our allegation, specifically,
7 is ineffective assistance of counsel for failing
8 to preserve and make a part of the record this notice,
9 along with any of the certified convictions the State
10 used to secured this LWOP conviction. And so reviewing
11 the transcript, Your Honor, on Page 251, the judge
12 admitted that she did not have a copy of the rap sheet
13 with which to review the convictions.

14 So, the only thing that's a part of this
15 record happens to be inaccurate. And I understand
16 the Government -- the State is going to have some
17 arguments about this, but, you know, the record
18 that exists is not accurate, and yet, Mr. Seagers
19 was subjected to an LWOP sentence based on this.
20 I mean, LWOP is our most severe penalty. It's the most
21 severe penalty under our law, next to the death penalty.
22 And so LWOP sentences need to be subject to appellate
23 review, and we've been denied that opportunity in this
24 case.

25 And also, Mr. Seagers was imposed -- this

1 LWOP sentence was imposed on two grams of crack cocaine,
2 Your Honor. We spend roughly \$22,000 a year housing
3 an inmate in the South Carolina Department of
4 Corrections; that's the latest data from 2016, 2017,
5 so it's likely higher now. To date, South Carolina
6 has paid roughly \$176 ---

7 MS. DIXON: I'm going to object to all
8 of this, Your Honor. We don't have evidence to support
9 any of the statistics.

10 MS. FRANKLIN-BEST: Well, it's part of --
11 I mean, it's -- Your Honor, it's on SCDC's website.

12 THE COURT: I don't know how that's actually
13 relevant to whether or not there was a mistake made
14 during the trial.

15 MS. FRANKLIN-BEST: Well -- and I agree
16 with that. But I do think when we're paying over half
17 a million dollars to house somebody for two grams
18 of crack cocaine, Your Honor, it's something that
19 ought to be part of the record in these cases.
20 But I can sort of leave that for now.

21 But we are asking that the LWOP sentence
22 here be vacated, and that he's entitled to a new
23 sentencing, a new sentencing where the LWOP is off
24 the table, and where he can be given a sentence that
25 is much more proportionate to the two grams of crack

1 cocaine that he was convicted of distributing.
2 So that is the argument with respect to the LWOP claim,
3 Your Honor.

4 We also have a separate claim related
5 to the confidential informants. We have alleged
6 that Charleston County violated its own policies
7 and procedures in the use of confidential informants
8 in this case, specifically, Section 39.5, regarding
9 the records are to be kept. The unit was supposed
10 to maintain a file that included biographical
11 and background information, including any criminal
12 history. There also should have been, pursuant
13 to 39.6, an informant conduct agreement form.

14 We have only received information relating
15 to payments that Mr. Robert Drayton, who was the
16 confidential informant in this case, received relative
17 to his work for Mr. Dean Seagers. But we did
18 not obtain, and I don't believe that trial counsel
19 did either, any information related to other payments.
20 And we believe that Mr. Drayton was a prolific
21 confidential informant for Charleston County.

22 So all of this should have been produced
23 to trial counsel, because it was relevant impeachment
24 evidence. It would have revealed a substantial
25 financial incentive that Drayton would have had

1 to lie about where he was receiving the drugs on that
2 day. Mr. Drayton was making money, and he was setting
3 up people for these kinds of convictions in order to,
4 you know -- as his livelihood. And so the jury really
5 sort of deserved to see kind of the full picture
6 of Mr. Drayton's financial interest in this case.

7 So, in addition to these two claims,
8 Your Honor, those are the ones that, basically, are sort
9 of argument based. Mr. Seagers also has some claims
10 that we would like to put on the record. And at this
11 point, Your Honor, with the Court's permission, I would
12 call him to the stand.

13 THE COURT: Yes, ma'am. Come right up
14 to the witness stand, Mr. Seagers. Your witness.

15 MS. FRANKLIN-BEST: Does he need to be
16 sworn?

17 THE COURT: Yes, ma'am. I forgot that
18 the clerk is not here. Sir, if you would please raise
19 your right hand.

20 MR. DEAN SEAGERS was called as a witness,
21 being duly sworn, was examined and testified as follows:

22 THE COURT: All right. You may proceed.

23 MS. FRANKLIN-BEST: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MS. FRANKLIN-BEST:

1 Q. All right, Mr. Seagers, can you tell the Court
2 where you are currently housed?

3 A. Lee County Correction Office -- Lee County
4 Correctional Prison.

5 Q. Prison. Okay?

6 MS. FRANKLIN-BEST: And can the Court hear
7 okay, or do I need to adjust ---

8 THE COURT: I can hear you fine.

9 MS. FRANKLIN-BEST: Okay, good.

10 BY MS. FRANKLIN-BEST:

11 Q. And what is your sentence?

12 A. A life sentence.

13 Q. All right. And who represented ---

14 A. No parole.

15 Q. Life without parole sentence?

16 A. Yes, ma'am.

17 Q. And who represented you at trial?

18 A. Cameron Marshall.

19 Q. And how did that happen? Was he retained;
20 was he appointed?

21 A. He was appointed -- I mean, retained.

22 Q. And how many times do you think you met with
23 Mr. Marshall?

24 A. We met a lot of times.

25 Q. Okay. And so were you provided the discovery

1 in your case?

2 A. Not everything.

3 Q. Okay. But did you review your discovery with
4 Mr. Marshall?

5 A. Yes, ma'am.

6 Q. Okay. And was Moses Dennis ever called at your
7 trial to testify?

8 A. No. He was there, but he was never called up.
9 He was in a holding cell, but -- I wondered why he never
10 was called, but he never was called up to testify.

11 Q. Okay. Well, we'll talk -- we'll discuss --
12 we'll get into this later on. Were there ever any plea
13 offers in your case?

14 A. I found out after trial that a plea was offered,
15 but I never found out during trial, because the
16 solicitor said no. When we asked him was a plea
17 offered, he said no.

18 Q. Okay.

19 A. But I found out after I got convicted that a plea
20 was on the table.

21 Q. So you believe that there was a plea in your case
22 prior to your actually going to trial, but that you did
23 not receive that plea offer?

24 A. Yes, ma'am.

25 Q. And have you ever spoken to Officer Grill [ph.]?

1 A. No, ma'am, never met him before in my life.

2 Q. Okay. And if you could just ---

3 MS. FRANKLIN-BEST: Some of this is just
4 to make the record on these facts, Your Honor.

5 BY MS. FRANKLIN-BEST:

6 Q. But could you please just say when you were
7 housed in federal custody?

8 A. 2006 to 2011.

9 Q. Okay. And did you ever drive or own a grey
10 Charger?

11 A. No, ma'am.

12 Q. Okay. So, briefly, I mean, we've raised claims
13 about the LWOP sentence here and the additional
14 information related to Robert Drayton's use as a
15 confidential informant, and you still want to go forward
16 on those claims. Is that accurate?

17 A. Yes, ma'am.

18 Q. Okay. And have we discussed those claims?

19 A. Yes, ma'am.

20 Q. Okay. But you also wanted to raise some
21 additional claims in your case; is that right?

22 A. Yes, ma'am.

23 Q. Okay. So, I'm going to ask you about some
24 of these particular claims so that we're going to have
25 a record of them.

1 A. Okay.

2 Q. Okay. So, first of all, at your trial, Robert
3 Drayton testified that he received a threat by telephone
4 on the morning of the trial.

5 MS. FRANKLIN-BEST: And, Your Honor, that
6 is on Page 197 of the transcript.

7 BY MS. FRANKLIN-BEST:

8 Q. Mr. Marshall did not object to that testimony,
9 nor did he make a motion for a mistrial. Do you believe
10 that he should have?

11 A. Yes, ma'am.

12 Q. Okay. Do you believe that that was improper
13 character evidence that was admitted at your trial?

14 MS. DIXON: Object to leading.

15 THE APPLICANT: Yes, ma'am.

16 MS. DIXON: Object to leading.

17 THE COURT: Just don't lead your witness.

18 MS. FRANKLIN-BEST: All right. So, I guess,
19 I'll just leave that for argument. Okay.

20 BY MS. FRANKLIN-BEST:

21 Q. But you do wish that he had objected to that?

22 A. Yes, ma'am.

23 Q. So let's discuss some of your other claims.
24 You have alleged that you were denied your right
25 to a speedy trial?

1 A. Yes, ma'am.

2 Q. And could you please sort of explain that basis
3 for it?

4 A. Yeah, I will. I was -- I put in for a speedy
5 trial with Cameron Marshall. And on March 5th,
6 the judge told us that we could have the speedy trial.
7 But Ms. Bianco, she kept saying she didn't have the
8 records for the speedy trial -- I mean, for the records
9 or whatever.

10 Q. And can you just explain really quickly
11 who Ms. Bianco is?

12 A. Ms. Linda [sic.] Bianco, that's the prosecutor
13 who was at the scene ---

14 Q. Okay.

15 A. --- when we got arrested.

16 Q. So the prosecutor in your case?

17 A. Yes, ma'am.

18 Q. The person who prosecuted. Okay. Please
19 continue.

20 A. But she got off the case and somebody --
21 she said somebody else was supposed to be the solicitor,
22 but she was there. So she asked the judge for
23 a continuance, because she said she didn't have
24 the proper forms. And Cameron Marshall gave her a form,
25 and then she said -- he said we were going to give them

1 60 days, so they gave her 60 days, which was May
2 of 2014. And he told her to have this case over
3 by the end of fall, I mean, Judge Young.

4 So when Judge Young put that order in, I told
5 Cameron Marshall to go put the dismissal in. He never
6 put the dismissal in, because he stated they're going
7 to drop the charges. But in the fall, December 2014,
8 22nd, nobody never got disposed of the charge. Then,
9 I ended up going to trial in June -- I mean, July 2015.

10 So then the judge asked Cameron Marshall why
11 didn't he put in for the speedy trial when he's supposed
12 to, and he had his reasons, but it never got putted
13 in. And since we got -- since we was here for trial
14 that day, she said we're going to move forward with
15 trial. She disregarded the motions to a speedy trial.

16 Q. So your allegation is that your trial counsel
17 rendered ineffective assistance of counsel for failing
18 to push this dismissal based on a speedy trial
19 violation?

20 A. Yes, ma'am. And I wrote the dismissals out
21 myself; I wrote two dismissals out myself and gave
22 it to Cameron Marshall, but he gave it back to me,
23 and I told him to put it in, and it never got putted
24 it.

25 Q. Okay. So that's the basis for that particular

1 claim?

2 A. Yes, ma'am.

3 Q. Could you also explain the claim that you
4 received ineffective assistance of counsel when your
5 attorney failed to extend a plea offer to you?

6 A. Yeah. Well, Cameron Marshall, he told me after
7 I got convicted, that I think a seven to ten-year
8 plea was on the table. But he said he didn't think
9 I was going to take it because we still had charges
10 to dispose of, because I had four traffic -- two
11 trafficking pending and four distributions pending.

12 And since 2013, when my co-defendant, Moses
13 Dennis, pled to the charges, I was telling Cameron
14 Marshall we've got to get these charges dropped before
15 we can do anything. But Miss Linda, she kept holding
16 the charges all the way up until I got convicted.
17 When I got convicted, that's when they disposed of
18 the charges. But if they had disposed of the charges
19 when they're supposed to, after Moses got convicted,
20 we would have just had the four distributions left.

21 And then I asked Cameron Marshall why we can't
22 get these charges taken care of. He said, I've got
23 to realize I'm Baby Dean, and I'm like, I'm not no damn
24 Baby Dean, excuse my language, but that's how I said it.
25 I said, I'm not Baby Dean, and I've got constitutional

1 rights that go by for me too.

2 So, Miss Linda, she held the charges all the way
3 to my conviction for leverage for the distribution,
4 because, like I told them, the distribution by itself
5 doesn't warrant a life sentence, and they just held
6 it all the way to trial.

7 Q. Okay. And so -- but there was a plea offer
8 that you never received, and that's an allegation
9 of ineffective assistance of counsel?

10 A. And Cameron Marshall basically told me he didn't
11 tell me about it, because we still had the trafficking
12 pending, and that wouldn't have been no formal plea.
13 So -- and when I asked him why he never told me about
14 the plea, that was his reason, and he be, like, he feels
15 I wouldn't have taken the plea that they had to offer.

16 Q. You've also raised an allegation that trial
17 counsel should have objected to the State's improper
18 vouching during the closing arguments. Can you explain
19 what improper vouching occurred?

20 A. Yes, ma'am. The improper vouching, like I told
21 Cameron Marshall the day of trial, I asked -- well,
22 before trial, I asked for an evidentiary hearing;
23 I never got my evidentiary hearing. Now, I come
24 to trial, they brought a cup, a phone, and a grey car,
25 and said these right here is the evidence, which got

1 admitted. And, I'm, like, how could that get admitted
2 when I never heard of these things, and the voice
3 identification too also.

4 So the solicitor, she took everybody's word,
5 and she just kept going by -- the whole trial about
6 this cup, this phone, the grey car, and the voice
7 identification when I never spoke to Grill. I never
8 spoke to him before in my life, and he said he
9 recognized my voice. But he said he recognized
10 my voice from being in the backyard talking to the CI,
11 when the CI claims he stated he never talked to me.
12 So if the CI never talked to me, how could he hear
13 my voice through a window?

14 And the solicitor, she just -- through the whole
15 trial, she just keeps vouching for everything they say,
16 without no proper investigation on none of the evidence
17 that they said they had and then ---

18 Q. And then was there also sort of a claim that
19 you were a trap king?

20 A. Yes, ma'am. That was a derogatory remark
21 she used towards me saying I'm a trap king and that
22 I'm really good at selling drugs and what I do with
23 the method, how I do it, and that wasn't true. She just
24 went by Grill's and Burke's word, and took their word
25 for what they said, and just put me in the scene

1 of everything.

2 Q. So these are sort of improper vouching remarks?

3 A. Yes, ma'am.

4 Q. And you wanted to -- yes. You've also raised the
5 claim that trial counsel rendered ineffective assistance
6 of counsel by failing to object to the presence
7 of Ms. Stephanie Bianco Linder in the courtroom.
8 Can you just explain what the basis of that is?

9 A. Yes, ma'am. Ms. Bianca [sic.] -- or was it
10 Ms. Linder, the day we got arrested, she was on scene,
11 and she had an agent shirt on. And I told my lawyer,
12 Cameron Marshall, that this lady here was at -- the day
13 of my bond reduction hearing, she was a solicitor
14 then. So, I told Cameron Marshall, this lady here
15 was at the scene, she was acting as an agent; now today,
16 she's acting like a solicitor.

17 So when I told him that, he didn't believe me
18 at first until he got an e-mail from Miss Linda stating
19 that she was on the scene, but she said she stayed down
20 the street. She never came on -- inside the yard.
21 But when I told him that, he be, like, it's not possible
22 because I would have never recognized her face.

23 So she carried on and kept going, and Miss Linda,
24 she -- Cameron Marshall, they asked him if she's going
25 to be sequestered. That's the word, sequestered?

1 And he said, no, when I said, yeah, because I didn't
2 want her in the courtroom, because she kept lying
3 at the other hearing saying she wasn't on the scene.
4 And then she kept lying at the other hearing, saying
5 she never got the reports, she never got this, keeps
6 prolonging my case.

7 Q. And so your trial counsel should have made
8 an objection to keep her out of the courtroom?

9 A. Yes, ma'am.

10 Q. Okay.

11 A. I would have appreciated that, because I felt
12 she was leading the rest of the witnesses on their side,
13 making sure they say all the same things together,
14 which none of the reports was stating -- everything
15 they were saying, there was none in the reports, nothing
16 about a grey car, the cups, the forms, none of this
17 was in the reports.

18 But now that all of them are in the courtroom
19 together, they was putting their story together
20 and everything, trying to corroborate together, which
21 it still wasn't corroborating, because none of these
22 stories was adding up. And the judge even made
23 a statement that said -- that at the end of trial too,
24 that all these stories sound different from the actual
25 reports.

1 Q. All right. You've also made a claim that
2 Detective Burke failed to disclose written notes
3 regarding the case that were kept on his hard drive?

4 A. Yes, ma'am.

5 Q. And that he should have produced those?

6 A. Yes, ma'am. Mr. Burke, he stated that he kept
7 all the hard drives for his personal use on this hard
8 drive in Indiana. But he said he changed from
9 Charleston Police Department and moved to Indiana.
10 And he said everything he had that he did the documents,
11 he said he kept it on his hard drive for his personal
12 use to reference for the case.

13 When in actuality, Cameron Marshall, has been
14 asking him for all the documents, which he never got,
15 so we could have prepared for our case. So everything
16 he was saying, that he had in his personal -- for the
17 personal file, he kept for himself. I mean, that's
18 what he testified to during trial, along with the girl,
19 Miss Laurie [ph.] and Miss Renee [ph.]. All of them
20 was told not to write reports on the case, because
21 they was coming to trial to testify to it and stated
22 that inside the transcript, with each one of them made
23 a report and said, they wasn't told to write reports.

24 Q. Okay. Okay. And so is the claim ineffective
25 assistance of counsel for failing to get those notes

1 from Mr. Burke?

2 A. Ma'am?

3 Q. So is the claim that trial counsel rendered
4 ineffective assistance of counsel by failing to obtain
5 that info -- those notes that were on Detective Burke's
6 hard drive?

7 A. Yes, ma'am, because I've been trying to get
8 all the evidence, because we never saw no pictures
9 and no evidence, because they said they get the drugs
10 from the CI, which we never got pictures of those drugs,
11 because he said he never -- Mr. Burke said he never
12 took a picture of the drugs, because he didn't feel
13 it was important. He felt the form was more important
14 than the drugs.

15 And then in the house that we were arrested
16 in, I asked for the pictures for those evidence
17 and everything, which we never received no pictures
18 from that neither. So now, I've been asking Cameron
19 Marshall how can we go -- proceed to trial if we don't
20 got no pictures and no evidence? Because I don't
21 see no evidence for me to plea to or go to trial with.

22 And, I guess, he felt the same way that it wasn't
23 going to trial, because we didn't have no pictures
24 and no evidence, and we had no evidence. So everything
25 that they was bringing up at trial, we didn't have

1 no photos of it, no nothing, which that
2 is a constitutional right violation also.

3 Q. Okay. And you've alleged that trial counsel
4 rendered ineffective assistance of counsel for failing
5 to object to the State's modifying its theory from
6 a hand-to-hand transaction to a theory of the hand
7 of one, hand of all?

8 A. Yes, ma'am.

9 Q. Can you describe that?

10 A. At the beginning of trial, everything started
11 off as a distribution. And then at the end of the
12 trial, that's when they brought in the theory that
13 hands of one, hands of all can be presented, because
14 the CI, he stated that three or more people could have
15 been inside the house. But the thing is, he never
16 was in the house, he never came in the house. So how
17 he knew who was in the house? So the judge, she ordered
18 a hands of one, hands of all, no lesser-included
19 offense.

20 And the thing is, when she did that, they never
21 gave us the proper time to prepare for it, because after
22 they did the hands of one, hands of all, they went
23 straight to the sentencing and everything else.
24 And that's when I was asking Cameron Marshall,
25 when they stopped -- called to the bench, I asked

1 him what was they doing. Cameron Marshall tells
2 me, don't worry about it, everything is still going
3 to be all right.

4 But my thing is, hands of one, got a different
5 theory and different elements than distribution.
6 And if they've been saying hands of one, hands of all --
7 hands of one, hands of all, is basically saying that
8 I probably was in the house, I probably was around,
9 which I could have tried to defend myself today.
10 But I've been defending myself to a hands of one --
11 I mean, a hand-to-hand distribution sale. And I told
12 Cameron Marshall if they was going to change it --
13 when they did change it to the hands of one, hands
14 of all, they could have come with a plea or anything,
15 but they did nothing.

16 Q. So your objection is that trial counsel should
17 have objected when the State decided sort of midstream
18 to change its theory of the action that you ended up
19 convicted of?

20 A. At least give us ---

21 Q. A hand-to-hand transaction, to a theory of hand
22 of one, hand of all, which is that you were actually
23 working with other people in the drug distribution?

24 A. And the hand to hand, just the theory of that
25 is that I could have -- like, all that's right here,

1 right in this room right now, can be hands of one,
2 hands of all, just to that bottle. So just saying
3 that we should have had more time just to prepare
4 just for that theory, because there's no telling --
5 because I just go to the house to visit Mr. Dennis.
6 So if I go to the house to visit, ain't no telling
7 what goes on, and what kind of stuff I could have
8 been involved in. So, at least, they could have talked
9 to me more or do anything about it, but we never had
10 that chance to.

11 Q. You did not have sufficient time to prepare
12 for the change in the theory?

13 A. No, ma'am, because as soon as they made the hands
14 of one, hands of all, we went to the conviction.

15 Q. You've also alleged that you were denied
16 your right to due process, because you did not have
17 an opportunity to confront the witnesses against you
18 as it relates to the chain of custody of the evidence
19 bag for the drugs?

20 A. Yes, ma'am.

21 Q. Could you please explain the basis for that?

22 A. It's the same, because when I was telling
23 Cameron Marshall we need to see the evidence, they --
24 he couldn't get ahold of the evidence, and that's been
25 going for three years of me trying to get the evidence.

1 So now when we get -- finally get to trial, when we
2 finally see the evidence, they bring it out a little
3 baggy, and that's our first time seeing it. And it
4 has a man named -- Tuggas's [ph.] name on it, Officer
5 Tuggas.

6 Burke testified that he's the only one that
7 had control of these drugs. And so when he gets control
8 of these, he said he takes it and put it in the evidence
9 box. And when it goes to the evidence box, it goes
10 to the forensics people. So now we asked them how
11 Tuggas's name gets on the evidence bag. Nobody seems
12 to know, but Tuggas wasn't there for us to confront
13 my accuser, which is also a constitutional violation --
14 right violation, because I have the opportunity --
15 I've got to have the opportunity to confront my accuser.
16 And with him not being there, he wasn't there to
17 confront him, so I never got the chance to go against
18 his evidence.

19 And then the thing is, this evidence somehow
20 turned from cocaine to crack, which nobody understands
21 and nobody knows, because the CI said his drug of choice
22 is cocaine. He said he bought cocaine. Mr. Burke said
23 he tested it; it was powder cocaine. Three days later,
24 while it's in a forensics lab, it turns to crack
25 cocaine. Nobody seems to know.

1 So we would have loved for Tuggas to be there so
2 we could confront him to ask him how this drug changed,
3 but he wasn't there.

4 Q. Okay. You claimed that the solicitor used false
5 evidence against you during the opening and closing
6 arguments as it relates to the cup in this case,
7 and then also the grey car ---

8 A. Yes, ma'am.

9 Q. --- and the phone. I'm sorry. The phone that
10 was found on August 29th. So can you talk about sort
11 of the improper -- the false evidence that was used
12 against you?

13 A. Yes, ma'am. With the cup situation, they found
14 a cup on August 29th. The charge happened June 20th.
15 Now they're saying the cup on June 20th was blue,
16 and the cup on August 29th was black, they're bringing
17 the cup from August 29th, using it for August [sic.]
18 20th, saying this is the cup, which they don't know,
19 because they're saying they never saw it on the video.

20 They never saw it, but this is the cup they bring
21 to evidence that they used against me, which is false
22 evidence, because you've got the forensic people,
23 both of them said my fingerprints wasn't on the cup,
24 and I had nothing to do with this cup. And, like
25 I said, when I -- Cameron Marshall, when I asked

1 him about the evidence, that was never presented
2 for them to say that they're using this as evidence
3 until the day of trial.

4 Now with the grey car, I never had a grey car,
5 I never drove in a grey car. And Cameron Marshall,
6 when he asked them the documents on the grey car,
7 we never got no documents on the grey car. Nobody
8 seemed to know about this grey car.

9 Mr. Burke said he ran the car, and it did
10 come back to me, which I believe he's lying, because
11 he's saying it had different tags, said North Carolina
12 tags. Grill is saying it had rental car tags and
13 Virginia tags. He said he ran it; it didn't come
14 back to me. But somehow, some way, and like Cameron
15 said, it's been the first day he's been hearing about
16 it at trial, they presented that.

17 They had people -- intel telling them that
18 I be driving this car, and it's my car. But the day
19 of trial, they said a grey car was out there.
20 Why didn't they take the car, or did anything to see
21 about the car?

22 Q. And so your allegation is that -- I mean, trial
23 counsel should have, you know, objected to the use
24 of this evidence during sort of the opening and the
25 closing arguments, and that this was just, you know,

1 information that just was not -- didn't have a basis,
2 it was just false information ---

3 A. Yes, ma'am.

4 Q. --- false evidence against you?

5 A. And even with the identification, you've got
6 Mr. Grill, he said he would be coming through our
7 neighborhood, which is a high-risk neighborhood,
8 violence and everything. And him being a white guy,
9 he said he's come through there to make narcotics busts.
10 And as he comes back there, he said he comes kicking
11 doors. And he said he -- he's seen me. First, he said,
12 he had general conversations with me, which is a lie.

13 Then when Cameron Marshall asked him what's
14 the general conversation, he said, it's like a hi
15 and a bye as he's going to buy, which you still ain't
16 going to recognize somebody from a hi and bye on this
17 busy street, and I know it wasn't me he was talking
18 to, because he said he came on the force in 2005,
19 Mr. Grill. I went to prison at the end of 2005-2006,
20 federal prison; I came home 2011. By the time he --
21 he said he came and started working narcotics in 2007,
22 I was long gone. He said he went to the DEA, and then
23 he went to wherever else, and he started working with
24 them in 2009.

25 My thing is, I was on federal parole when I came

1 home. If you ever talk to the police or anything,
2 they go straight back to the federal people. They
3 run your name on anything, it goes straight back to
4 them. Now for him to say he had general conversations
5 with me, and nobody run my name or nothing, that's
6 a boldface lie.

7 And then he said that he had conversations with
8 me; he said he had long conversations with me before
9 and after I was arrested. And we asked him over
10 and over -- when Cameron asked him where were these
11 conversations at, he don't know. He don't know where
12 the conversations took place at; he don't know what
13 we talked about. He never documented nothing; he never
14 did none of that.

15 And then he said, he learned -- he heard my voice
16 in the backyard while I was talking to the CI through
17 the back window, but the CI said he never talked to me.
18 And the CI said, he wasn't even sure if that was me in
19 the window, because all he got is a glimpse. So with
20 the CI saying that -- and the CI ain't sure he talked
21 to me, and the CI is supposed to know me, which the CI
22 don't know me, how can the CI not recognize me or know
23 my voice, but Grill recognized me or know my voice?
24 And we never talked.

25 Q. And is it -- did Robert Drayton, who is the CI --

1 when he first showed up at the trial to testify,
2 did he deny that he knew who sold the drugs?

3 A. Yes, ma'am, he denied it several times.
4 He denied it and said, he don't know who sold him the
5 drugs. At first, he pled the Fifth, and said he don't
6 know what's going on. He excluded me out of everything,
7 and then that's when they took him out to recess.
8 And then when they brought him back an hour later,
9 that's when he said he know me, and he thinks I sold
10 him the drugs through the window. So the story totally
11 changed; it changed several times.

12 Q. So you've alleged also that the solicitor made
13 some derogatory remarks about you during the closing
14 argument. Can you sort of outline some of those
15 remarks?

16 A. Yeah. First, she's been saying that I'm a trap
17 king, referring back to the methods of whatever
18 they used at the house, which nobody never said that
19 I be doing these methods at this house, and I don't
20 know where she got her intel from.

21 But Ms. Mulkey, that's her name, she just got
22 on the case, I believe, the day of trial, which I know
23 she didn't have no time to prepare for this trial,
24 for her to say everything that she was saying.
25 But for her saying that I'm real good at what I'm doing,

1 I'm this and I'm that, I know how to disguise myself,
2 that was totally false. But she's been vouching for
3 everything the cops have been saying, which was
4 improper.

5 Q. And so your trial counsel should have objected
6 to these?

7 A. Yes, ma'am.

8 Q. Is that your claim?

9 A. That's through the closing argument. But I had
10 -- I was under the assumption that you can't object
11 during closing arguments. But when I talked to Cameron
12 Marshall, and I asked him why didn't he object during
13 the closing argument, he said that he didn't want
14 to anger the judge no more or whatever, and the judge
15 was Harrington, who got disbarred for temperaments
16 from a male lawyer and everything. So, I can understand
17 where he's coming from now that after trial to see
18 that she got disbarred for different reasons.

19 Q. I think we discussed this before; she was not
20 disbarred, right?

21 A. I believe so.

22 Q. She's not been -- she's no longer a judge,
23 but she was not disbarred.

24 A. Temperaments with a male lawyer and ---

25 Q. She's not -- just to be clear, she was not

1 disbarred. Okay. But continue.

2 A. That's it right there.

3 Q. Okay. You've also made an allegation of jury
4 misconduct. So can you just explain what that situation
5 was?

6 A. Yeah. As a matter of fact, my sister, her best
7 friend, I used to date her daughter -- I used to date
8 her back in the day, in the 90s. Her mother, Miss Mary
9 Stewart [ph.], she was on the trial, on the jury.
10 She was one of jurors. I never knew it, because I never
11 really met her mother, and me and her stopped dealing
12 for our certain reasons, which wasn't good. But she
13 was one of the jurors.

14 And come to find out, I was asking Cameron
15 Marshall, but Cameron Marshall, he told me he believes
16 somebody was watching me on social media, or he saw
17 something on social media. But my sister and my
18 brother, then they saw Miss Mary Stewart in the hallway
19 during trial, and Miss Mary Stewart, she stated that
20 she went back and told ---

21 MS. DIXON: Object to hearsay.

22 THE COURT: I'll allow it for the purposes
23 of this; we don't have a jury.

24 THE WITNESS: She stated that she went
25 back and told whoever that she knows the family,

1 and they told her she can still go ahead and be a juror.
2 And come to find out -- I told Cameron Marshall about
3 it. Come to find out that they knew that Miss Mary was
4 one of the jurors, but I never knew. And I should have
5 had the opportunity to strike her down, because nobody
6 don't know we be feeling on bad terms or what.
7 But for her to still be a juror, and for her to state
8 that she never found me guilty, that she left it blank,
9 and that's why I'm saying, I should have had an
10 opportunity to strike her down.

11 Q. So the claim is that you should have had
12 an opportunity to remove a juror who had -- who was
13 the mother of a woman with whom you had a relationship,
14 and that didn't happen?

15 A. Yes, ma'am.

16 Q. Okay.

17 A. And she was -- and for her daughter to be able
18 to tell us everything about the case and everything,
19 she wasn't supposed to be having no conversation
20 to nobody about the case.

21 Q. Right.

22 A. And the same thing about Miss Mary Stewart,
23 when they asked -- when they say do anybody have
24 criminal cases or whatever in their past or whatever,
25 she said no. But come to find out, her son -- that had

1 criminal charges dealing with drugs, and she was
2 supposed to be not on the jury from the start.

3 Q. Okay. Now so we've gone through the claims that
4 we've raised in the -- in our applications to the Court.
5 But at this point, I mean, are there any additional
6 claims? I mean, now that you've been preparing for
7 this hearing, and you've had an opportunity to look
8 at everything again, is there any other additional
9 claim that you think we need to sort of address
10 and put on the record?

11 A. Yeah, I really need to put on the record about
12 the statutes of this charge also.

13 Q. Okay.

14 A. Because I don't believe it carries a life
15 sentence ---

16 Q. Okay.

17 A. --- because of the criminal procedures that
18 it's under. And when I asked Ms. -- the judge, when
19 I told the judge at the end of trial, and she asked
20 me how I feel about my sentence or whatever, I asked
21 her can I get the lightest sentence possible, and that's
22 because I was under the assumption that I had to get
23 convicted of all six charges to get a life sentence,
24 not just one.

25 So when one charge got -- when I got convicted

1 of one charge, she said she don't have no discretion.
2 She said at the end of trial, she didn't have no
3 discretion, and that was, like, yeah, because that's
4 only one conviction, and this was a charge that didn't
5 have a school zone on it, distribution. And she was,
6 like, she didn't have no discretion.

7 And I've been telling them -- and I also
8 was telling them that Tuggas, I keep telling them,
9 we've got to have Tuggas here so we can -- so I could
10 confront him. In my dismissal, it never got put in
11 for Tuggas neither. I was asking Cam about it also,
12 because I've been saying we could put in the dismissal
13 because of Tuggas too, but they kept going over it.

14 Q. Okay.

15 A. And then one of the major things, like I said,
16 is my record. I was asking Cam, which is inside
17 the exhibits, to make sure he gets my record right,
18 and I've been saying this for three or four -- three
19 years, because after the March 5th hearing, Miss Linda,
20 she keeps stating that I got convicted for the drugs
21 and the gun, which it was never a gun -- never a gun
22 in the case; it was a bullet, and I beat the bullet
23 charge, and I beat the trafficking charge.

24 I pled that I have control of a drug house,
25 knowing drugs are being sold, and not alerting

1 authorities, which I received five years for that
2 sentence, 78 months for that sentence, but I got
3 the two years off because of the new drug law.
4 So, I ended up getting five years for that charge,
5 but they kept saying I got convicted for the
6 trafficking.

7 So my whole thing has been, y'all got to get
8 my record right, because I'm not supposed to be in this
9 three-strike range, and if y'all want to talk a plea,
10 we can talk a plea. But nobody never got my record
11 right. And the day of trial, they still -- on Page 250,
12 inside the transcript, it states they read the whole
13 record out, and they're still stating about this
14 conviction for the general federal cases, which I never
15 got convicted for those. So they used that for the
16 three strikes against me.

17 And when the judge asked me if those cases --
18 those charges were right, I told her some of those.
19 That's on Page 250 also, and I thought they would
20 have had told Cam. I thought they would have gone
21 back over it, but the judge let it go. They say
22 we're going to continue with the trial. Her words --
23 and the judge's words been, no matter what, we're still
24 going to trial today. And Cameron Marshall, he asked
25 for renewal -- I mean, he asked to renew the dismissals,

1 which was denied also.

2 And also -- but the thing is, I told Cameron --
3 when I told him about the record, he didn't have
4 a copy of the record too. He had to get it from
5 them. So my thing is, why nobody got my record right?
6 It's right there inside the system. If y'all are
7 going to do the three strikes, do the three strikes.
8 And I was asking them, let me have a hearing for
9 the three strikes, which I never had.

10 I wrote several letters to different high
11 officials, Beatty and everybody, even to Scarlett
12 Wilson, that I know these people got my record wrong,
13 let's get it right. Nobody made no attempt to get
14 it right, and that's a life sentence we're dealing
15 with, and that's real serious. Nobody still didn't
16 got it right.

17 Q. So, I've had an opportunity to look over kind
18 of all the notes that you've provided, these allegations
19 of improper vouching and false evidence, all the rest
20 of it, and it looks to me like we covered everything.
21 Can you think of anything else?

22 A. Yeah.

23 Q. Take a moment just to review everything.
24 Let's just make sure that everything is on the record.

25 A. Yes, ma'am. One of the main things also,

1 Ms. Mulkey, she kept saying -- when the CI plead
2 the Fifth, I believe they came up with the theory
3 that the CI was threatened, because he went to the
4 lawyer's office and made a statement that I wasn't
5 the person, which I never knew nothing about. My bond
6 was 2.5 million. After he made a statement and wrote
7 a statement, I got my bond -- my bond got dropped down
8 to \$200,000.

9 My thing is, Ms. Mulkey, she's trying to say
10 there's some discrepancies about the CI identification,
11 of him being to the lawyer's office. But the thing
12 is, she used the same theory, with the lawyer --
13 the CI being to the lawyer's office against me.
14 And then when he pled the Fifth, when they asked
15 him who took him, he didn't want to say his nephew
16 took him.

17 Q. Right.

18 A. Now the thing is, when he did that, they asked
19 him if I know the guy who took him, and when she said,
20 yeah, they're trying to say that was my nephew,
21 which was King. And then the next thing you know,
22 now she went to the theory that was he being threatened
23 by this person who took him. And through the whole
24 closing argument, she stated several different times
25 that the CI was threatened, and he didn't want to come

1 there to do these different -- do these statements
2 and stuff.

3 But if the truth -- if they were to tell
4 the truth who really took him, and why they took
5 him, none of these theories would have came up about
6 how much he's been threatened. And for them to use that
7 through the whole closing argument, with her vouching
8 that he was being threatened over and over, it made
9 my character look bad. She tried to tear my character
10 down. And the same thing with her saying I'm a good
11 drug dealer and everything. It was all character based,
12 trying to tear my character down.

13 Q. And so you didn't testify at this trial, did you?

14 A. No, ma'am. I was told not to testify, because
15 they would have bring my record out, which I really
16 didn't -- I wasn't worried about because they already
17 had the wrong record. But really come to find out,
18 they didn't want me to testify because of my voice,
19 and I found that out later.

20 And my thing is, why I don't got to testify
21 about my voice, if I'm talking in the courtroom?
22 They're going to hear my voice regardless, you know.
23 So, I'm like, I never -- I just -- my whole trial wasn't
24 fair, and that's all I'm trying to ask for, a fair
25 trial. But I have so much misleading statements against

1 me and vouching that I was just in the blind, because
2 I didn't know trial was going to start. I thought
3 we was going to do an evidentiary hearing, because
4 I was home for 90 days before the trial started.
5 And then they called us out of the blue and arrested
6 -- locked me back up and say we're going to start trial,
7 out of the blue.

8 Q. Okay. Anything else you want to put on the
9 record?

10 A. You're going to call me back up here?

11 Q. No, this is it.

12 A. I'm pretty good right now; I'm good.

13 Q. Okay.

14 MS. FRANKLIN-BEST: Your Honor, that's
15 all the questions from me right now.

16 THE COURT: Yes, ma'am. Cross-examination.

17 MS. DIXON: May it please the Court.

18 CROSS-EXAMINATION

19 BY MS. DIXON:

20 Q. Mr. Seagers, I think you testified on direct
21 you were not in the three-strike range, correct?

22 A. Yes, ma'am.

23 Q. All right. Let's talk about some of your prior
24 convictions, and we'll rewind all the way back to 2000.
25 Do you remember June 22nd, 2000, attending a guilty

1 plea?

2 A. Yes, ma'am.

3 Q. And what did you plead to at that time?

4 A. PWI -- I'm not too sure. You've got it with you?

5 Q. I do have it with me. Would you like to see it?

6 A. Yes, ma'am.

7 Q. Absolutely.

8 A. I didn't have no five years. That's what they're
9 saying, I have five years?

10 Q. What's the conviction?

11 A. Possession with intent to distribute proximity
12 to school.

13 Q. All right. So you would agree that in 2000,
14 you pled guilty to intent to distribute in the proximity
15 of a school?

16 A. No, that ain't in 2000; that's 1997.

17 Q. 1997 charge. What date did you plead to it?

18 A. Where you see that? Where's it at?

19 Q. Bottom ---

20 A. Oh, June 2022. Yeah, I caught that charge when
21 I was 17 years old.

22 Q. Gotcha. Okay. All right. I'll take that back.

23 A. In 1997, and I got five years' probation;
24 that's five years' probation for this charge.

25 Q. Okay. All right. So five years' probation

1 on your first offense. I'll take that back. Thank you.
2 All right. Do you recall attending again -- court again
3 in 2003 and pleading guilty to multiple charges at that
4 time?

5 A. I can see that?

6 Q. You can. There may be more. I'll give you
7 those.

8 A. Yeah, I got three years. Cameron Marshall
9 was my lawyer for this right here.

10 Q. So based on those sentencing sheets, would you
11 agree with me that you pled guilty to, let's see, one,
12 two, three counts of first-degree trafficking cocaine,
13 10 to 28 grams? That would be Indictment Nos.
14 2002-10-6222, 2003-GS-10-1647, and 2003-GS-10-1648.

15 In addition to that, you pled to PWID coke
16 proximity; that would be Indictment No. 2003-10-1650.
17 You pled to another PWID coke proximity,
18 2003-GS-10-1651. A third PWID coke proximity; that's
19 Indictment No. 2002-GS-10-6223. And then also a first
20 possession of coke as a lesser included of distribution
21 of coke. Would you agree that you pled to those charges
22 on that day?

23 A. That thing is confusing; I ain't too sure.

24 Q. That's fine. You know, we'll just move them
25 into the record.

1 A. Yeah, that thing is confusing right here.

2 Q. That's fine. I'll take them back.

3 MS. DIXON: Can I get this marked Defense's
4 Exhibit 1 -- or State's Exhibit 1?

5 (State's Exhibit No. 1 was marked for identification.)

6 MS. DIXON: Your Honor, at this time,
7 we would like to move State's Exhibit 1 into evidence.

8 THE COURT: Any objection?

9 MS. FRANKLIN-BEST: I mean, these are
10 certified.

11 MS. DIXON: All right. They're in, right?

12 THE COURT: Um-huh.

13 MS. DIXON: Thank you.

14 (State's Exhibit No. 1 was entered into evidence.)

15 BY MS. DIXON:

16 Q. All right. And then you did testify that you
17 were in federal custody, from what, did you say 2005?

18 A. Six.

19 Q. 2006. And what was that for?

20 A. Having control of a dwelling knowing drugs
21 are being sold and not alerting authorities.

22 Q. Say that again.

23 A. Having control of a dwelling knowing drugs
24 are being sold and not alerting authorities; that
25 was my conviction.

1 Q. Okay. Gotcha. Okay. And then in -- and then
2 I think you said on direct that you had about six
3 charges at the time of this trial; is that correct?

4 A. Yes, ma'am.

5 Q. And do you know what those charges were?

6 A. Four distributions, two trafficking.

7 Q. Four distributions and two trafficking.

8 All right.

9 A. From the CI; he's saying from the CI.

10 Q. And you would agree that this trial dealt
11 with a June 20th, 2012, incident where the CI testified
12 that he purchased drugs from you, correct?

13 A. Yes, ma'am.

14 Q. Okay.

15 A. I got a question too though.

16 Q. Now you did testify that you wanted the solicitor
17 sequestered at your trial. Do you recall that on
18 direct?

19 A. Yes, ma'am.

20 Q. Did she testify at your trial?

21 A. No.

22 Q. No.

23 A. Talking about Miss Linda?

24 Q. Um-huh.

25 A. No. But when you ask for the sequestered,

1 that just don't go for Miss Linda, that goes
2 for everybody. That just don't go for one person;
3 that goes for all the witnesses.

4 Q. But she was not a witness, correct?

5 A. Yes, ma'am.

6 Q. All right. And then the jury misconduct
7 allegation, I believe you did testify on direct
8 that you had actually never met this juror before,
9 correct?

10 A. Yeah, I used to date her daughter. I never
11 physically met her, but she was -- she used to stay
12 at my mother's house with my sister all the time.

13 Q. But you never met her?

14 A. But she used to always be mad that her daughter
15 used to stay at my mom's house, and she knew she used
16 to stay there because of me. So she had a problem
17 with me for that reason there, the mother, Miss Mary.
18 But me meeting her physically, no, I was afraid really.
19 I was really afraid to meet her because we was young.

20 Q. Gotcha. So you never met her?

21 A. No, ma'am.

22 MS. DIXON: Nothing further.

23 THE COURT: Any redirect?

24 MS. FRANKLIN-BEST: No additional testimony,
25 Your Honor.

1 THE COURT: You may step down, Mr. Seagers.

2 MS. FRANKLIN-BEST: Actually, can I have
3 just one moment?

4 THE COURT: Sure.

5 (Pause.)

6 MS. FRANKLIN-BEST: All right.

7 No additional questions, Your Honor.

8 THE COURT: You can step down, sir.

9 You may call your next witness.

10 MS. FRANKLIN-BEST: Yes, Your Honor.

11 And Mr. Seagers and I kind of discussed this. I've
12 got a witness who is in Florida, and he is available
13 by Zoom, and if it is acceptable with the Court for
14 him to testify by Zoom.

15 THE COURT: Sure. Any objection?

16 MS. DIXON: Should it be WebEx?

17 THE COURT: We can do that, that way
18 I can pull him up and see him too, unless there's --
19 it might create an echo in the courtroom though.

20 MS. FRANKLIN-BEST: I've never done --

21 I mean, I don't have WebEx.

22 MS. DIXON: We have it.

23 MS. FRANKLIN-BEST: Do you want to send
24 him a link and do it that way?

25 THE COURT: We can send a link. Sometimes

1 when you do it in the courtroom, it really creates
2 a really bad echo, so I may have to go in chambers
3 and watch that testimony while y'all do it, but we'll
4 try it out.

5 MS. FRANKLIN-BEST: Okay. Okay.

6 MR. HALL: Judge, regarding the echo,
7 whomever is speaking will just have to have their
8 mic un-muted, and everyone else will have to mute,
9 and that will kind of resolve that issue.

10 THE COURT: Okay. Technology is not
11 my thing. We'll give it a try.

12 (Pause.)

13 THE COURT: Ms. Dixon, you want to call
14 your first witness, that way we'll give the party
15 an opportunity to download?

16 MS. DIXON: Sure, Your Honor. The State
17 calls Cameron Marshall.

18 MR. MARSHALL: Good afternoon, Your Honor.

19 THE COURT: Good afternoon, Mr. Marshall.
20 Mr. Marshall, please raise your right hand.

21 MR. CAMERON MARSHALL was called as a
22 witness, being duly sworn, was examined and testified
23 as follows:

24 THE COURT: All right, sir. Your witness.

25 MS. DIXON: May it please the Court.

1 DIRECT EXAMINATION

2 BY MS. DIXON:

3 Q. Mr. Marshall, how are you today?

4 A. I'm okay, ma'am. Thanks.

5 Q. All right. And can you just tell us briefly
6 how many years have you been practicing law?

7 A. I think I'm in my 33rd. I was a prosecutor
8 for a little over nine, a state prosecutor. And then
9 for the remainder, I've done about half criminal defense
10 and half personal injury work. Most of my criminal
11 defense work in recent years have been in federal court.

12 Q. Gotcha. Would you agree that a large portion
13 of your practice has been criminal defense?

14 A. Yes, ma'am.

15 Q. Okay. And do you recall how you became involved
16 in Mr. Seagers's case?

17 A. I represented Dean previously; I think he
18 referenced that. And so somehow, he called me and said,
19 hey, I need you.

20 Q. Were you retained?

21 A. I was.

22 Q. And do you recall how far in advance of the trial
23 you were retained?

24 A. We had plenty of time to prepare. We even --
25 like he said, we made a speedy trial motion. We were

1 ready to go, so it was sufficient. It was a good while.
2 It may have been -- I think it was at least a year.
3 It could have been closer to two.

4 Q. All right. Did you have enough time to meet
5 with Mr. Seagers?

6 A. I did.

7 Q. And do you recall the State's evidence against
8 him?

9 A. I do. I reviewed -- excuse me. I'm having
10 trouble with my voice today.

11 Q. That's okay.

12 A. But I reviewed about 100 pages of handwritten
13 notes yesterday. And so refreshed myself pretty well,
14 and it was about as weak as I remember it being.
15 I thought it was very weak.

16 Q. What was the evidence, specifically?

17 A. They had this CI who had been convicted of false
18 information to police in an unrelated case. He had made
19 conflicting statements. He had sworn repeatedly under
20 oath that he didn't buy any drugs from Dean. They
21 had -- you know, they brought in at the last minute
22 an officer to say that he can recognize Dean's voice
23 based on very little contact with Dean, and I didn't
24 find that credible.

25 Q. Did you object to the officer identifying

1 him by his voice?

2 A. I think I did. I didn't review the transcript,
3 but I think I did because that was -- I think
4 Ms. Shurling took that issue up on appeal, because
5 I said he shouldn't be able to testify, as to my
6 recollection.

7 Q. And then in terms of the CI, did you attempt
8 to impeach him?

9 A. I did, and I thought I impeached him well,
10 to the best of my recollection.

11 Q. What did you do in terms of impeaching him?

12 A. Well, I pointed out the fact that, you know,
13 he had a record for dishonesty that I brought up,
14 that he had specifically been convicted previously
15 of lying to the police in an unrelated case, that
16 he had twice in this case said he didn't buy drugs
17 from Dean.

18 MS. DIXON: Just a moment, Your Honor.

19 BY MS. DIXON:

20 Q. Did you discuss the evidence with Mr. Seagers?

21 A. I did.

22 Q. Okay. And did he have any defenses?

23 A. Well, I think reasonable doubt was his defense.

24 Q. Okay. And let's see -- tell us about plea
25 negotiations. Did you engage in any plea negotiations

1 with the State?

2 A. We did. At one point, there was a 15-year offer,
3 I think, in order to avoid trial. And I, specifically,
4 have that in my notes. I have -- and I would relay
5 that to Dean. He said, Cameron I didn't do this,
6 and there's no evidence establishing beyond a reasonable
7 doubt that I did, and I want a trial. I said,
8 I understand. I don't see any evidence that I think
9 a jury could convict you from either.

10 I see two other references in my notes concerning
11 plea discussions. I think there was a reference in
12 there to 10 to 30, I think, I had written. And then
13 maybe a 7 to 25 written somewhere. So there were
14 discussions going on.

15 And then the day of -- the morning of trial,
16 I remember going back in chambers with the judge and
17 probably at least two or maybe three of the prosecutors.
18 I remember Judge Harrington saying, well, if he wants
19 to plead -- and I don't have my note of this, but
20 I think it was more than the 15 that had been discussed.
21 I think she said -- my best recollection is she said
22 something like if he wants to plead, it'll be probably
23 in the 17 to 20 range.

24 Q. Did you relay to him that offer?

25 A. I don't have a specific recollection of doing

1 that, but I have to think I would.

2 Q. In your general practice, is that something
3 you would do?

4 A. Certainly, my practice. Especially, after I just
5 walked out of chambers, and my client wants to know what
6 happened.

7 Q. And, in your recollection, was he interested
8 in any kind of plea?

9 A. No, no.

10 Q. Mr. Seagers ---

11 A. He never seriously considered a plea.

12 Q. Okay. And then in terms of the LWOP notice,
13 do you recall getting served LWOP notice?

14 A. You know, I didn't see it in my file,
15 but I can't imagine that I wouldn't have gotten it.
16 I mean, if I didn't then that is a problem.

17 Q. Is that something you would have raised if it
18 came up at trial, and you had never seen the notice?

19 A. I would like to think I would have, because that
20 would -- that wouldn't be good for a lawyer not to get
21 that.

22 Q. Gotcha. And then he's made an issue today about
23 not having enough strikes for the LWOP. Have you had
24 a chance to review his criminal record?

25 A. I didn't look at it today, but you brought

1 it up, so that would be -- I believe at the time,
2 at least, and maybe even now, that would have made
3 him eligible for life without parole, or maybe it's
4 even mandatory life without parole. I can't remember
5 specifically, because I think -- it seems like there was
6 one section of the statute that made it discretionary
7 maybe, or made it mandatory.

8 Q. And in terms of the CI, did you attempt to bring
9 into -- before the jury, information that he was a paid
10 informant?

11 A. I'm sure I did that. And also his -- part of
12 his CI file also said that he was working off charges,
13 that he was both, working off charges and being paid.

14 Q. And in terms of the solicitor being in
15 the courtroom, Ms. Linder, do you recall whether
16 she was going to be a witness at this trial?

17 A. I think I did put her on the witness list,
18 and I actually saw a copy of my witness list in
19 the file, and I think I did add her. And I remember
20 that, and the judge said are you asking Ms. Linder
21 to be sequestered, and I said no. And, frankly,
22 I regret that decision. I don't know as a matter
23 of law if it rises to ineffectiveness or not, but that's
24 something I would have done differently.

25 Q. Do you recall the judge saying before trial

1 that she was not going to allow you to call Ms. Linder
2 as a witness?

3 A. I don't recall that, but it's quite possible.
4 She ruled against us on pretty much everything for the
5 whole week.

6 Q. Okay. One last question. Have you seen this
7 before?

8 A. Yes, ma'am, that's what you showed me earlier
9 today. I have seen this. This is a -- it doesn't
10 seem to be notarized, but it appears to be signed
11 by Moses Dennis, and it's a statement dated March 23rd
12 of 2013, handwritten, purporting to say that Mr. Seagers
13 had nothing to do essentially with selling drugs.

14 Q. And does it have a date on it as to when
15 this home was searched and the drugs were found?

16 A. Let's see. Yeah, it says found -- the drugs
17 are found at [REDACTED] Ashton Street on the day of,
18 I guess, that's August 29th of '13.

19 Q. And is that what y'all were on trial for in this
20 case?

21 A. I don't -- I don't think so. I think the date
22 of this alleged offense was June of 2012.

23 Q. So this would not relate to the case you were
24 going to try for, or he was being tried for?

25 A. I don't know if that's an eight. Mr. Dennis

1 would have to explain that because the statement appears
2 to be dated March 23rd of '13, prior if that's an eight.
3 So he couldn't be talking about something that happened
4 subsequently, so I'm confused about that.

5 Q. All right. Did you talk to Mr. Dennis before
6 trial?

7 A. I did talk to Mr. Dennis, I think, on at least
8 two occasions.

9 Q. And do you recall why you didn't call him?

10 A. I really don't have a specific recollection of
11 that. I mean, my best sort of speculation is that we
12 felt that their case was so weak that to call Mr. Dennis
13 would -- inevitably, it would come out that Dean knew
14 Mr. Dennis, and there was a risk that the jury would
15 muddy up Dean because of Moses. I think that's the
16 reason, but I'm not positive.

17 Q. Okay.

18 MS. DIXON: Just a moment, Your Honor.

19 All right, nothing further.

20 THE COURT: Cross-examination.

21 MS. FRANKLIN-BEST: All right. Thank you,
22 Your Honor.

23 CROSS-EXAMINATION

24 BY MS. FRANKLIN-BEST:

25 Q. Mr. Marshall, do you recall at trial Robert

1 Drayton testifying that he had received a threatening
2 phone call on the morning of the trial?

3 A. I do. You know, that was a surprise to me,
4 and that was disturbing. And if your question is,
5 do I wish I had objected, the answer is yes.

6 Q. And so you -- should you have moved
7 for a mistrial when that evidence was elicited?

8 A. Clearly, that would have been a reasonable
9 motion.

10 Q. Do you have any strategic reason for not
11 objecting or moving for a mistrial?

12 A. I think it was just sheer shock. I didn't react
13 quickly enough.

14 Q. And is that the true -- is that also true
15 for, you know, asking for a curative instruction,
16 which you could have done?

17 A. Yeah, I was the only lawyer trying the case,
18 and I didn't have any help, so I had a lot of things
19 going through my mind. So if I missed some things,
20 that's quite possible.

21 Q. Okay. And so you said you've been doing this
22 for 33 years, roughly?

23 A. Yes, ma'am.

24 Q. And so in terms of, like, how strong or how
25 weak you thought this case was, can you sort of put

1 it, you know, in the context of your career? Was this,
2 like, one of the weakest cases, or was it just slightly
3 weak, have you had weaker ones?

4 A. Well, I mean, it depends on what you're talking
5 about. I guess, cases I've seen as a prosecutor,
6 or cases I have tried as a defense lawyer, it was --
7 yeah, I think it was weakest case I've tried as
8 a criminal defense lawyer. So, I was quite surprised
9 by the verdict.

10 Q. And when you were receiving the discovery in this
11 case, do you recall whether you received just payments
12 made to Robert Drayton relative to this case? Or did
13 you get, like, the whole universe of payments that
14 he was receiving from Charleston County -- Charleston
15 Police?

16 A. I don't have specific recollection of that.
17 I guess, the paperwork would have to determine that.
18 Seems like y'all wanted everything; seems like maybe
19 we didn't get everything, but I'm just not sure.

20 Q. So just to sort of be clear, so you don't
21 have any specific recollection of actually talking
22 to Dean Seagers about the 17 to 20-year offer that
23 Judge Harrington was sort of suggesting that she might
24 impose on a plea?

25 A. Not specific, no. But I know that I walked out

1 of chambers and right back up to the table with Dean.

2 Q. But again -- so no specific recollection
3 of actually seeing the LWOP notice?

4 A. No, no specific recollection.

5 Q. And the statement that Mr. Dennis gave that
6 Ms. Dixon just showed you, which has not been moved into
7 evidence right now, because we believe that Mr. Dennis
8 will testify. He's not here yet, so I may ask the Court
9 to revisit that. But if he had testified to what
10 is contained in this statement, would you have wanted
11 to call him at your trial?

12 A. Well, my recollection is we -- Dean and I talked
13 about that issue of whether to call Mr. Dennis or not.
14 But we thought we had blown so many other gapping holes
15 in the State's case that I think that we didn't feel
16 it was necessary.

17 Q. Okay. And decisions whether or not to call
18 a particular witness, is that a trial counsel decision,
19 or is that a client decision?

20 A. Nah, that's a client decision.

21 Q. Okay.

22 MS. FRANKLIN-BEST: Just a moment,
23 Your Honor, please.

24 THE COURT: Yes, ma'am.

25 BY MS. FRANKLIN-BEST:

1 Q. Okay. And can you just sort of explain
2 why you did not put in a dismissal for Tuggas?

3 A. Tuggas was in the chain of custody; is that
4 right?

5 Q. Yes, yes.

6 A. Yeah, I remember objecting to the chain.
7 I have a specific recollection of that, and the judge
8 said, nah, it's good enough.

9 Q. Okay. So is there any reason why you did not
10 put in a dismissal for Officer Grill, when he said
11 that he was told not to write documents, or I guess --
12 or when he spoke with Ms. Linder?

13 A. Move for a dismissal of the indictment?

14 Q. Based on the violation -- of lack of chain,
15 because we didn't receive the evidence -- because
16 you did not receive the evidence?

17 A. Is he the one that Dean testified that he had
18 a bunch of stuff on his computer, but it was in Indiana?

19 THE APPLICANT: Yeah.

20 THE WITNESS: Yeah, I didn't read
21 the transcript, so I may have raised that. Hey,
22 he's up here talking about stuff that should ordinarily
23 be kept in a report. And if I raised it, I'm sure Judge
24 Harrington said, you know, nah, that's not necessary.

25 Q. Okay. So -- and then Renee, who was a forensic

1 person, any reason why you did not move to -- or object
2 to the chain when she was -- when she testified that
3 she was not asked to write a report, or that she felt
4 there was no reason to fill out a report because she
5 was coming to testify?

6 A. I objected to the chain, and that was a major
7 issue throughout the litigation. So any objections
8 regarding the chain that I thought were legally
9 sufficient to raise and not waste the Court's time,
10 I raised them, but the judge ruled against me.

11 Q. Okay. Then just one last one on this issue.
12 When Officer Burke sort of, you know, indicated that
13 he never turned over all of his files, did you consider
14 making an objection to dismiss, because he kept notes
15 on his hard drive and did not produce those?

16 A. Did I make a motion to dismiss based on that?
17 No. Would that be a frivolous motion? No, probably
18 not. Should I have done that? Maybe, you know.
19 I think that's sort of a judgment call. I was trying
20 to reserve my strongest objections because every
21 objection we had was overruled, I think literally,
22 throughout the entire week. And every objection the
23 State made was sustained, and I think that's without
24 exception.

25 Q. Okay.

1 A. Okay.

2 MS. FRANKLIN-BEST: If I could have just
3 one more moment, Your Honor.

4 THE COURT: Yes, ma'am.

5 MS. FRANKLIN-BEST: I do not have any more
6 questions, Your Honor.

7 THE COURT: Any redirect?

8 MS. DIXON: Nothing.

9 THE COURT: You may step down, Mr. Marshall.

10 THE WITNESS: Thank you, ma'am.

11 THE COURT: Mr. Dennis is on.

12 MS. FRANKLIN-BEST: Oh, is he on? Okay.

13 Thank you, Your Honor.

14 (Pause.)

15 THE COURT: Mr. Moses [sic.], if you would
16 please raise your right hand.

17 MR. DENNIS: Pardon me?

18 THE COURT: If you would please raise your
19 right hand?

20 MR. DENNIS: Just a second.

21 MR. MOSES DENNIS, was called as a witness,
22 being duly sworn, was examined and testified as follows:

23 THE COURT: Your witness.

24 MS. FRANKLIN-BEST: Thank you, Your Honor.

25 I'm just going to go to my notes really quickly.

1 DIRECT EXAMINATION

2 BY MS. FRANKLIN-BEST:

3 Q. All right, Mr. Dennis, can you just sort of state
4 your name for the record, please?

5 A. Moses Dennis, M-O-S-E-S, D-E-N-N-I-S.

6 Q. Okay. And you are located where right now?

7 A. Right now, I'm in Miami, Florida.

8 Q. You're in Miami, Florida?

9 A. Miami.

10 Q. Okay. So that's why you're not here in the
11 courtroom; is that accurate?

12 A. Yes.

13 Q. Okay. So what can you tell the Court about
14 what has happened here, about Mr. Seagers's conviction?15 A. I think he has been tried unjustly, but I believe
16 the penalties are severe for the accusations. The CI
17 in question, I was familiar with him. I went to prison
18 for dealings with the CI as well at the same location.
19 A very unfortunate, very unfortunate situation here.20 Q. So did you live at this address at the time
21 of these events?

22 A. For what time? For ---

23 Q. Yes, back in ---

24 A. We're having connection issues.

25 Q. In 2012, did you live at this address?

1 A. I frequented it; I did.

2 Q. Okay. And the drugs from that day, who did they
3 belong to?

4 A. Which day are you talking about? The August date
5 or ---

6 Q. Yes.

7 A. -- June?

8 Q. The August date.

9 A. The August date. I went to -- when I went to
10 court, I pled guilty, and I accepted the responsibility
11 for everything that was there.

12 Q. Okay. So you went to court, and you pleaded
13 guilty to these same drugs, roughly two grams of crack
14 cocaine?

15 A. No, that day -- you're talking about the actual
16 charge?

17 Q. Yes.

18 A. What was it in, June?

19 Q. Yes.

20 A. Okay. Well, that actual day, I can't say that
21 I did -- what I can say, the CI in question, me and him
22 had dealings on multiple occasions.

23 Q. I'm sorry, that you and Mr. Drayton had dealings
24 on multiple occasions?

25 A. (Witness nods head.)

1 Q. Okay. You need to say something for the court
2 reporter, please.

3 A. Correct, correct ---

4 Q. Okay, you're breaking up. Can you say that
5 again, please?

6 A. That me and Mr. Drayton, we did dealings
7 on different occasions.

8 Q. Okay. Let me -- was there a time that somebody
9 told you that if Dean Seagers was not prosecuted for
10 this case, that maybe you would be instead?

11 A. I believe so, yes.

12 Q. Okay. What can you say about that?

13 A. She was with the public defender's office.

14 Q. I'm sorry. Who was ---

15 A. She came in -- at the time, I thought she was
16 the lead attorney at the public defender's office.

17 Q. Okay.

18 A. I can't remember her name. But she came
19 in as a curtesy visit. She wanted me to know that
20 if I was -- I believe I was on the defense's witness
21 list, because she was sent there by the prosecution.
22 I believe she told me that if I had attempted to testify
23 that I made the transaction, that I would be charged.

24 Q. Okay.

25 A. With the actual transaction.

1 Q. Okay. So the house on Ashton Street, you had
2 some connection with that house; is that accurate?

3 A. Correct.

4 Q. And to the best of your knowledge, was Dean
5 dealing drugs out of that house on Ashton Street?

6 A. Not to my knowledge.

7 Q. Okay.

8 MS. FRANKLIN-BEST: One moment, Your Honor.

9 BY MS. FRANKLIN-BEST:

10 Q. So that house on Ashton Street, was there
11 furniture in that house, yes?

12 A. I believe so.

13 Q. You believe so?

14 A. Yeah, I believe so.

15 Q. Were people eating food at that house?

16 A. I believe so.

17 Q. Okay. I'm sorry. Can you answer that again?

18 A. I believe so.

19 Q. You believe so?

20 A. I would believe so.

21 Q. Okay. I mean, so were people living at that
22 house?

23 A. It was a residence that was being renovated
24 at the time, but it was livable.

25 Q. Okay. It was being renovated, but it was

1 livable?

2 A. It was livable; yeah, it was livable.

3 Q. Okay.

4 MS. FRANKLIN-BEST: No further questions,
5 Your Honor. Thank you.

6 THE COURT: Cross-examination.

7 MS. DIXON: Just briefly.

8 CROSS-EXAMINATION

9 BY MS. DIXON:

10 Q. Mr. Dennis?

11 A. Yes, ma'am.

12 Q. All right. Mr. Dennis?

13 A. Hello?

14 MR. HALL: You have to turn your audio off.

15 MS. FRANKLIN-BEST: Sorry, Judge.

16 (Pause.)

17 BY MS. DIXON:

18 Q. All right. Mr. Dennis, I just want to clarify.
19 Your testimony today is that you owned the drugs that
20 were recovered on August 29, 2013?

21 A. Yes, I had them in my possession.

22 Q. All right.

23 MS. DIXON: Nothing further.

24 MS. FRANKLIN-BEST: No further questions,
25 Your Honor.

1 THE COURT: All right, Mr. Dennis,
2 we're going to disconnect you at this point.

3 THE WITNESS: All right.

4 MS. FRANKLIN-BEST: And, Your Honor, we do
5 actually have an additional witness here. If I may call
6 Mr. King Wilson to the stand?

7 THE COURT: Yes, ma'am.

8 MS. DIXON: Your Honor, may I just have
9 a moment, because I was not anticipating this witness
10 today.

11 THE COURT: Sure.

12 (Pause.)

13 MS. DIXON: All right, Your Honor.
14 Thank you.

15 THE COURT: Yes, ma'am. You may call your
16 next witness.

17 MS. FRANKLIN-BEST: Mr. Wilson.

18 THE COURT: Mr. Wilson, if you would please
19 raise your right hand.

20 MR. KING WILSON was called as a witness,
21 being duly sworn, was examined and testified as follows:

22 THE COURT: All right. Your witness.

23 MS. FRANKLIN-BEST: All right. Thank you,
24 Your Honor.

25 DIRECT EXAMINATION

1 BY MS. FRANKLIN-BEST:

2 Q. Okay. So, Mr. Wilson, how are you related
3 to Robert Drayton?

4 A. That's my uncle.

5 Q. And are you and Dean related?

6 A. No.

7 Q. And did you take Mr. Drayton to make a statement?

8 A. Yes.

9 Q. And can you tell us why?

10 A. Well, he came to me, he was kind of paranoid,
11 scared, whatever. He was, like, the prosecution is kind
12 of, like, scaring him, they was trying get him to make
13 a false statement against Dean. So was, like, you know,
14 just go down there and make a statement to get it all
15 over with. So, he went down there to go write the
16 statement to tell the truth about him not having drugs.

17 Q. And, I mean, were you forced by anyone to take
18 him down there?

19 A. No.

20 Q. Okay. And did -- did Robert have any pending
21 charges at the time of this?

22 A. Yes, he was telling me about a -- I think it was
23 something with a minor, like, something with touching
24 a minor, something like that.

25 Q. Okay.

1 A. He said they were threatening him with that.
2 They would, like, charge him with the charges
3 if he don't go along with the plans.

4 Q. Okay. And, I mean, I don't know whether or not
5 you know much about those events. But do you know
6 if anyone was arrested for hurting Mr. Drayton because
7 of that incident?

8 A. No.

9 Q. Did Mr. Drayton tell you anything about that
10 minor charge?

11 A. No, he didn't tell me -- like, he was telling
12 me about that it really happened, and that he didn't
13 really want to get locked up for it.

14 Q. Did he feel like he was intimidated about
15 his own charges if he didn't testify against Dean?

16 A. Oh, yeah, he felt like he would get locked
17 up for the sexual misconduct charge.

18 Q. Did he ever sort of indicate that he may have
19 been threatened to change his story?

20 A. Oh, yeah. As a matter of fact, he was living
21 with my mother at the time, and he -- when they called
22 him up, they threatened him again with charges -- he was
23 talking about when he went back in and changed his whole
24 statement. But before that, it was he didn't have
25 nothing to do with it, no drugs.

1 Q. Did -- was Mr. Drayton sort of scared about dying
2 in prison?

3 A. Yeah, he had diabetes; he had a couple of --
4 at that time, and I don't think he really had too much
5 time anyway.

6 Q. And he's passed away, hasn't he?

7 A. He passed away probably, like, a year after
8 that, or something like that, not even a whole year.

9 Q. And so you said Mr. Drayton was staying with
10 you and your mother during this trial?

11 A. Yeah.

12 Q. During the trial? Did he realize that
13 Mr. Seagers was looking at a life in prison sentence?

14 A. No, he was under the impression that Seagers
15 was only getting five years.

16 Q. And do we know -- did he ever tell you why
17 he believed that?

18 A. Because that's what they were telling him,
19 he's going to get five years, like, it's nothing big.

20 Q. So he thought that this was really kind of no big
21 deal because the prosecution was telling him ---

22 A. Right.

23 Q. --- it's a minor charge?

24 A. Wherever he goes, go along with it, that's what
25 it'll be.

1 Q. Did Mr. Drayton ever tell you that it wasn't
2 Dean who had the drugs that day?

3 A. He told me he couldn't see who it was because
4 it was out the window.

5 Q. And did Robert ever say that he was scared
6 of Dean?

7 A. No.

8 MS. DIXON: Object to hearsay.

9 THE COURT: Sustained.

10 BY MS. FRANKLIN-BEST:

11 Q. Can you just tell the Court, like, why we're
12 answering these questions today, and why you wanted
13 to talk?

14 A. It's the right thing to do. Somebody's life
15 was -- he's in prison, not over, you know, like, drugs.
16 That's nothing to take nobody's life over. Ain't nobody
17 got hurt; ain't nobody died, nothing like that.

18 Q. Did anyone from my office coerce you or pressure
19 into testifying?

20 A. No. Can't say that about that lawyer right there
21 though. And when we went to go see him about making
22 a statement or whatever, he was kind of on some stuff,
23 like, oh, these people really want him, you shouldn't
24 be down here making no statements for him. I was like
25 -- it was kind of weird to me.

1 MS. FRANKLIN-BEST: All right. No further
2 questions.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MS. DIXON:

6 Q. So just to clarify, you drove the CI somewhere
7 to make a statement?

8 A. Yeah.

9 Q. Okay. And who paid the lawyer to take that
10 statement?

11 A. Nobody paid him.

12 Q. Nobody paid him?

13 A. I don't believe ---

14 Q. He just out of his own good will, pro bono,
15 decided to just ---

16 A. I believe he was already retained at the time.

17 Q. Which lawyer are you talking about?

18 A. I believe it was Cameron, if I'm not mistaken.

19 Q. Your testimony today is that you drove the CI
20 to Mr. Marshall's office to take a statement?

21 A. I believe -- yeah, I believe at the time,
22 he was retained at the time.

23 Q. Okay. So your testimony today is that you drove
24 the CI to Mr. Marshall's office to make a statement ---

25 A. Yeah, he was ---

1 Q. --- recanting -- basically recanting what he had
2 said before?

3 A. I don't know whatever he said when the situation
4 happened; I just know what happened right then when
5 we was going to see about the statement.

6 Q. Okay. And, I guess, you drove the CI,
7 you do agree with that. I guess you have some interest
8 in, you know, Mr. Seagers not being ---

9 A. No, I don't got no interest in anything.
10 I'm just doing the right thing, you know what
11 I'm saying.

12 Q. You have no interest in him not being
13 incarcerated anymore?

14 A. I don't have no interest in anything, except
15 things being ---

16 Q. Except that you drove the CI to make a statement?

17 A. I'm just trying to -- that's my cousin.
18 If he asks me to go do it, I'll go do it.

19 Q. And on your own good will, came today to testify,
20 no interest at all?

21 A. No, there was no interest. What interest
22 do I have?

23 Q. I don't know, you tell me. You drove the CI
24 to go make a statement recanting ---

25 A. My interest is to do the right thing.

1 THE COURT: Mr. Wilson, let her finish her
2 question, then you can answer, okay? Y'all take turns.

3 BY MS. DIXON:

4 Q. You drove the CI to an attorney's office to write
5 a statement recanting what he had provided law
6 enforcement, correct?

7 A. That's what was going on, yeah.

8 Q. And you came today to testify that you drove
9 the CI to an attorney's office to write a statement
10 recanting what he had told law enforcement. And it is
11 your testimony that you have no interest in the outcome
12 of today's hearing, none whatsoever?

13 A. (Inaudible.)

14 MS. DIXON: Nothing further.

15 THE COURT: Mr. Wilson, was that a yes
16 or a no? You need to speak out loud.

17 THE WITNESS: No, ma'am. I don't have
18 no interest in the outcome.

19 THE COURT: Yes, ma'am.

20 MS. FRANKLIN-BEST: Thank you, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. FRANKLIN-BEST:

23 Q. And do you think you might have just been
24 confused that you took Robert Drayton to Mr. Marshall's
25 house, instead of Mr. Mark Evans's place where you --

1 where he gave the statement?

2 A. Whoever the lawyer was. It could have been
3 Mark Evans. I'm not really familiar with ---

4 Q. Right. And so if the record shows that
5 it was ---

6 A. It could be ---

7 Q. --- Marks Evans ---

8 A. Whoever is sitting right there.

9 Q. Okay. Wouldn't object to that -- okay.

10 MS. FRANKLIN-BEST: No further questions.

11 THE COURT: You may step down, Mr. Wilson.
12 You may call your next witness.

13 MS. FRANKLIN-BEST: No additional witnesses,
14 Your Honor.

15 THE COURT: Next witness from the State?

16 MS. DIXON: State calls Stephanie Linder.

17 THE COURT: I'll swear you in.

18 MS. LINDER: Okay.

19 THE COURT: If would you please raise
20 your right hand.

21 MS. STEPHANIE LINDER was called as a
22 witness, being duly sworn, was examined and testified
23 as follows:

24 THE COURT: All right. Have a seat.
25 Your witness.

1 MS. DIXON: Yes, ma'am.

2 DIRECT EXAMINATION

3 BY MS. DIXON:

4 Q. Ms. Linder, how are you today?

5 A. Good, thank you.

6 Q. And can you tell us just briefly how you became
7 involved in Mr. Seagers's case?

8 A. Sure. So, I work in the Ninth Circuit
9 Solicitor's Office out of the Charleston's office.
10 I -- this past August, 18 years being there.
11 I also spent time doing federal prosecution as well.
12 And at the time -- and, I guess, I still do oversee
13 a bunch of narcotics units and gang cases, and so
14 this is one of the cases that was assigned to me.
15 I primarily worked with the city of Charleston
16 at that time. Now, I do kind of all the agencies.
17 And so I had this case; it was assigned to me.
18 I sent discovery to, not Mr. Marshall, because he was
19 not the first attorney on the case. And when
20 Mr. Marshall got on the case, I sent him discovery
21 on -- I have some notes. So on April the 2nd of 2013,
22 is the letter of representation from Mr. Marshall.
23 Eight days later, on April the 10th of 2013, the Rule
24 5 discovery was sent to Mr. Marshall. Nine days
25 later, on April the 19th of 2013, I sent an offer

1 to Mr. Marshall. At that time, I said that the
2 Defendant, Mr. Seagers, had one opportunity to plead
3 to everything as second offenses, or I was going
4 to serve him an LWOP notice. So that's kind of how
5 I first got involved in the case.'

6 Q. And do you recall how many charges Mr. Seagers
7 had at that time?

8 A. I believe he had -- according to all of the
9 captions of everything, I believe he had a total of six
10 warrants that were pending, that arose from multiple
11 different incidents.

12 Q. And were those all drug related?

13 A. Yes.

14 Q. Okay. And then do you recall anything -- let's
15 see. First of all, did you disclose all of the Rule 5
16 material to his attorney?

17 A. Yes, I disclosed all the Rule 5 material
18 to his attorney. In cases where there are confidential
19 informants, the informant information is not given with
20 the bulk of Rule 5 in the very beginning. Typically
21 after a Defendant rejects an offer on the record, then
22 the information is typically -- it's done in camera,
23 and a judge decides what information gets turned over.
24 Our office then turns over everything else.

25 By the time this was getting scheduled for trial,

1 I was not in the office; I was actually on maternity
2 leave, which is why the file was handed off from
3 me to the next solicitor.

4 Q. And then do you recall any issues or -- I'm
5 sorry. Do you recall serving an LWOP notice in this
6 case?

7 A. Yes. So back on -- there's an e-mail, thankfully
8 or not thankfully, Charleston County Government updates
9 their stuff. So, I don't have every e-mail, but there's
10 -- back in June of 2013, I sent an e-mail to Cameron,
11 June 10th of 2013, saying, "Does your client intend
12 to accept the offer? This is on 6/17, so the June 17th
13 plea docket. If he does not accept the offer that day,
14 then we should probably have him reject it on the
15 record, and I'll go ahead and serve life notice."

16 Cameron responded two days later and said,
17 "He said he's not pleading to any of those charges."
18 And he just goes on and says, "After reviewing
19 the evidence, it's hard for me to disagree with
20 his decision. If you would like to consider making
21 him a new offer, then I'll present it to him. Please
22 let me know which case you intend to call for trial
23 first so we can begin prepping."

24 So we ended up to where it did not go as
25 originally scheduled on the week of June 17th; it got

1 pushed to the following week, which I believe was in
2 front of Judge Young. And the Defendant -- I went ahead
3 and preemptively prepared the notice of intent to seek
4 life without parole. And, specifically, I had listed
5 in there four possible offenses that were all state
6 convictions that could be considered for it.

7 Q. And what were those?

8 A. It was possession of cocaine with intent
9 to distribute within proximity of schools, which
10 the Indictment No. was 1997-GS-10-6620. I believe
11 he pled to that in 2000. There's a trafficking cocaine,
12 Indictment No. 2002-GS-10-6222; trafficking cocaine,
13 Indictment No. 2003-GS-10-1647; trafficking cocaine,
14 2003-GS-10-1648. So -- and I have -- that's what
15 I have there. I've prepared this; it's signed by me
16 on June the 20th.

17 Q. So just to clarify, your LWOP notice was based
18 on these state charges and not any federal charge?

19 A. Correct. Like I said, it specifically mentioned
20 those in there. Mr. Seagers had more than enough
21 state-statutorily charges that would qualified as
22 serious, that would qualify as strikes in the modified
23 two, three-strike system we have here.

24 No way would I try to go across the street
25 and try to do things off of a complaint, even though

1 I do have more knowledge than most as far as the federal
2 system. So, I'm well aware that maintaining a stash
3 house is not it. With that being said, he then rejected
4 my offer in court in front of Judge Young on June the
5 27th and ---

6 Q. And just to clarify this, Mr. Seagers ---

7 A. Yes.

8 Q. --- was in court receiving the offer and rejected
9 it on the record?

10 A. So, Mr. Seagers did not want that offer,
11 as Mr. Marshall explained in an e-mail previously.
12 And both Mr. Seagers and Mr. Marshall separately
13 signed acknowledgment of service of notice of intention
14 to seek sentence of life without parole. They both
15 signed it separately. That was both -- it was signed
16 by both of them on June the 27th of 2013. They were
17 both filed in the Charleston Clerk of Courts Office
18 June the 27th of 2013, at 2:32 p.m.

19 So they have -- all of these were filed with
20 the Charleston Clerk of Courts Office. I personally
21 don't do the service; my investigator at the time did
22 the service. And so all of this -- this was signed
23 and filed back then, as far as that acknowledgement.
24 And then I believe at the trial itself, Judge Harrington
25 asked Mr. Seagers if he was, in fact, properly served

1 the life notice, and he acknowledged, yes, he was.

2 Q. Okay. And ---

3 MS. DIXON: Just a moment. Can we mark
4 this as 2?

5 (State's Exhibit No. 2 was marked for identification.)

6 (State's Exhibit No. 2 was entered into evidence.)

7 BY MS. DIXON:

8 Q. I'm handing up what's been marked as State's
9 Exhibit 2. And if you could just tell me if you
10 recognize this and what it is?

11 A. Sure. Okay, yes, I recognize State's Exhibit 2.
12 It is actually two copies of the body of the notice
13 of intention to seek life without parole, that has prior
14 serious convictions and their indictment numbers in it.
15 And it also includes the acknowledgements of the service
16 to Mr. Seagers that was filed, and the acknowledgement
17 of the service to Mr. Marshall that had been filed
18 that day.

19 And I think it's important also -- I mean,
20 Mr. Seagers acknowledged to Judge Harrington that day
21 at trial that indeed it was properly served. He signed
22 this acknowledgment, and that signature -- I am no
23 handwriting expert. However, that signature is acutely
24 similar to all of his sentencing sheets throughout his
25 history that, I believe, while he testified acknowledged

1 that those were his pleas.

2 Q. Gotcha. Okay. And then, I think the last thing.
3 Do you recall any issue with you being in the courtroom
4 during his trial?

5 A. So with this case, there is obviously a lot
6 of things that have happened. As somebody who oversees
7 narcotics units, sometimes I do venture with them.
8 I never go on the property; I never become a witness.
9 I, certainly, have never owned an agent, or any kind
10 of law enforcement, T-shirt. So, I wanted to clarify
11 that.

12 And it was after all of the rejection,
13 and we were trying to schedule this for trial, there
14 were issues because, although the bond was initially
15 set very, very high on Mr. Seagers, he had a hold placed
16 on him, a federal hold. So, frankly, it didn't matter
17 what the bond was for his state charges because
18 he wasn't getting out.

19 And, as I indicated earlier in my testimony,
20 I was pregnant, and so Mr. Sowards had joined
21 the office, and he was doing narcotics unit cases
22 as well. And so I said, hey, I'm about to go out
23 on leave, here you go. And I came back, and it was
24 later tried after I came back, and I wasn't going
25 to take a file back after someone else had been working

1 on it to prepare it.

2 Mr. Marshall did have me on the witness
3 list. And when Judge Harrington asked him, he said,
4 and I believe it's all in that transcript, that he was
5 not going to call me as a witness, and I wasn't part
6 of it. I was in and out of the courtroom, as many
7 people were for this trial, and for many other trials.

8 Q. And, I guess, just briefly, do you recall
9 the State's evidence against Mr. Seagers?

10 A. I do.

11 Q. And what was it?

12 A. There is buy video. Narcotics units always wire
13 up their informants with a recorder and the audio feed.
14 And there's -- sometimes buys are set up ahead of times,
15 and in this case the -- sometimes they just kind
16 of wander out and do cold buys in an area, but that's
17 not what happened in this case. It was a targeted
18 buy to a house.

19 In the course of the investigation that
20 the narcotics unit did, there were actually multiple
21 buys done from three different people from this place
22 on Ashton Street that was being renovated. To my
23 recollection, there -- I mean, there weren't beds
24 or anything, people weren't staying there. That was
25 just a place where people kind of hung out. I believe

1 Mr. Dennis actually lived across the street on Ashton
2 Street.

3 So there was an informant, they kind of did their
4 regular -- they did their regular rundown debriefing,
5 coordinated to set up drugs from a location or person.
6 They wired him up. They searched him to make sure
7 that there was no other money on him, no drugs on him,
8 nothing he was not permitted to have or supplied by law
9 enforcement.

10 And then law enforcement kind of goes out,
11 and then they set up mobile surveillance, stationary
12 surveillance, and then the informant kind of goes,
13 and they know exactly the path the informant is going
14 to take, and they have people kind of stationed all
15 throughout it. And then they are listening in live
16 as things are happening.

17 The informant has been given instructions
18 as far as a safe word if their life feels threatened,
19 things like that. And the informant went to the
20 location, to the house, and ended up getting the drugs
21 lowered to him, and then he returned to law enforcement
22 without making any other stops, and he turned the drugs
23 that he had just purchased over to Detective Burke,
24 who was running the operation.

25 Q. And now in terms of getting the drugs lowered

1 to him, can you kind of clarify for the judge and the
2 court what exactly was actually going on, because
3 there's been an issue with a cup?

4 A. Sure. And I think that Ms. Frierson
5 or Mr. Sowards may be able to answer this more clearly'
6 than I can. It was, you know, kind of like a -- I would
7 say like a pulley system, you know. If you want
8 something, you kind of -- you lower it down on a string
9 in a cup-like item, and an item gets lowered down,
10 you pick it -- you put the money in, the money goes up,
11 drugs come down. I mean, it's -- I mean, I'm not going
12 to lie, a pulley system is very basic, but it's really
13 smart for drug dealers to kind of distance themselves
14 from it.

15 Many times, you'll have somebody who --
16 and I've seen cases where somebody who's selling drugs,
17 they'll kind of walk up on the street, and they'll
18 set it on top of, like, a big trash can. And then --
19 and the person they're selling it to is right there,
20 but they'll set it on a big trash can and walk away,
21 and then that person picks it up off the trash can.
22 So it's, frankly, pretty bright as far as trying
23 to physically distance yourself as much as possible
24 from it, so that's how it was done.

25 Q. Gotcha.

1 MS. DIXON: I have nothing further.

2 THE COURT: Cross-examination?

3 MS. FRANKLIN-BEST: Yes, thank you,
4 Your Honor.

5 CROSS-EXAMINATION

6 BY MS. FRANKLIN-BEST:

7 Q. So, I don't know if you've ever seen this order
8 granting discovery that we got from Judge Young back
9 in, I believe, December of 2021. Have you seen this?

10 A. If that was on the attachment that you may
11 have sent the AG's office earlier this week, perhaps
12 I received that e-mail. But I didn't know anything
13 about this until a couple of months, I guess, when
14 this was first scheduled, and Ms. Dixon reached out
15 to Ms. Frierson and myself.

16 Q. Because we -- I mean, where was this notice
17 of intention to seek LWOP? Where was this document
18 located?

19 A. Like I said, when we were preparing and talking
20 about this hearing, we ordered the box from the
21 warehouse, from where all of our stuff is stored,
22 and it was all brought over, and we literally went
23 through, like, the trial notebook and the case file,
24 and it had all those old charges, all that was there.

25 MS. FRANKLIN-BEST: So, I'll just inform

1 the Court, I mean, we've been seeking this for the last
2 two years. And not Ms. Dixon, I mean, you're the latest
3 person on this case, but I've made multiple requests
4 to get this so that we could actually check these
5 convictions. And so I would just ask that the record
6 be allowed to stay open so that I have an opportunity
7 to actually do what I needed to do, which is just,
8 you know, research this to see whether or not it's
9 accurate.

10 THE COURT: Yes, ma'am.

11 BY MS. FRANKLIN-BEST:

12 Q. So you talked about the buy video, which
13 Mr. Drayton kind of took as some of the evidence
14 against him. But isn't it true that there were problems
15 with that buy video, that there were some blackouts
16 on it, and that it was not -- it was not a very complete
17 video?

18 A. Sure. I am happy to try to answer that the best
19 I can. The last time I saw that video was if I was
20 in the courtroom during this trial years ago, or I don't
21 even know if I was in the courtroom at that time,
22 so it's been quite some time.

23 As far as dark-out moments, law enforcement
24 many times use a pin cam on, like, the button,
25 and so sometimes you're seeing all of the sun.

1 Sometimes if somebody has a belly, it shoots straight
2 up.

3 Q. Sure.

4 A. If you move your arm over, then it turns
5 black. It's the same issue, it's the camera is static,
6 and it's looking in one direction. So, I mean,
7 I remember drug trials years ago where it was on a VHS
8 tape and wheeling the TV into the courtroom on, like,
9 an old cart.

10 Q. I completely understand.

11 A. Right.

12 Q. I'm just trying to dispel the notion that when
13 you look at one of these videos, it's like you're
14 watching, you know, television. I mean, it's not,
15 right? I mean, it's sort of an imperfect kind of video
16 process, and that's because of just the inherent
17 limitations, you know, of having it sort maybe on
18 somebody's lapel.

19 A. Right.

20 Q. And somebody is moving.

21 A. Sure. And I think that Ms. Frierson
22 or Mr. Sowards can probably better answer that,
23 as they've watched the video many more times than
24 I have. I can just say generally speaking that
25 I wouldn't even call them issues. But, you know,

1 if an arm moves across -- it's the same way
2 in a body-worn camera, if law enforcement is searching
3 a vehicle, and they lean down, and they're going under
4 the seat, you hear grrr, and it goes dark, because
5 their chest is usually touching the seat of a car.
6 So, I don't think it -- I don't know, I guess, affects
7 the reliability of it.

8 Q. Let's talk a little bit about Robert Drayton.
9 I mean, so did he have charges that you were aware
10 of at the time of his participation in this particular
11 trial?

12 A. Like I said, I never prepared this case
13 for trial, because I was going on maternity leave.
14 So, I didn't deal with the CI, the CI file. That was
15 not what I ever dealt with, because I didn't prepare
16 this case for trial.

17 Q. So when you didn't prepare for trial, why did
18 you end up kind of showing up to watch the trial?
19 What was your role there?

20 A. Well, as I said, you know, I was over all the
21 narcotics units, and so I like to pop in for that.
22 Actually, I'm the red team leader now in my office --
23 in our office, and we're a running a trial docket.
24 And so my team is actually in trial right now;
25 there's a jury deliberating. So, I've actually been

1 in there pretty much all week this week with attorneys
2 that I supervise, because it's the red team,
3 which in Charleston is North Charleston.

4 So, I've actually been in the courtroom a lot.
5 I mean, Judge Jefferson knows I've been in and out
6 all week, because that's just kind of what you do when
7 you're in a supervisory position ---

8 Q. So you weren't there ---

9 A. --- over a unit or attorneys.

10 Q. So you were not there for any particular reason
11 relative to Dean Seagers, you just sit in on all these
12 trials?

13 A. I absolutely do. As a supervisor of a unit
14 and a supervisor of attorneys, yes, I go into trials,
15 quite frankly, a lot.

16 Q. And do you also show up to the arresting?

17 A. You know what, as one of the people who's over
18 narcotics units, yes, on occasion, I do go when there
19 is a search warrant that's being executed. And if I do
20 go, I'm not with them. I'm riding with somebody else,
21 and I'm ten cars back, and I stay a block away until
22 they do -- they clear the scene, they do everything,
23 if anybody is present, they're all detained. I never
24 go on the property; I never interview anyone.

25 Q. So were you present for the search -- the

1 execution of the search warrant in this case?

2 A. I was on Ashton Street, yes.

3 Q. You were on Ashton Street. And you mentioned
4 that about three other people had been arrested in
5 connection with the events at this particular location.
6 Did I understand that correctly?

7 A. Right. Well, you had Moses Dennis, who you had
8 from Florida. And, I mean, he was arrested. I don't
9 recall the details. I think he did a buy from the
10 downstairs apartment, because it was two; there was
11 a downstairs and an upstairs. So, I think Moses had
12 one or two buys from downstairs. There was another guy,
13 I don't recall his name, he had a buy from downstairs.
14 And so, I mean, I wasn't there for any of those buys.

15 Q. But there were other people in this house
16 who were dealing drugs. I mean, is that an accurate
17 statement?

18 A. My -- I recall there being deals from the
19 downstairs unit that were charged on other people.

20 Q. And do you recall Mr. Drayton sort of expressing
21 that you couldn't really see -- I mean, you explained
22 it well. I mean, that they were, you know, descending
23 a cup ---

24 A. Um-hum.

25 Q. --- and it was, obviously, sort of high up ---

1 A. Sure.

2 Q. -- from the second floor. But do you recall
3 Robert Drayton sort of saying, you know, I really
4 couldn't see the person who lowered the cup?

5 A. I don't recall that. However, I have not read
6 the transcript of this.

7 Q. Okay.

8 A. And, like I said, I was in the courtroom,
9 out of the courtroom. So, I don't have, like, a strong
10 memory of one thing or another with that.

11 Q. Whose decision was it to seek LWOP in this case?

12 A. Mine.

13 Q. And was it mandatory, was it discretionary?

14 A. It was discretionary. It was the under
15 modified two, three-strike system in South Carolina.
16 And it's one of those things that -- you know, with
17 individuals, there's a lot of information that I have
18 as a prosecutor, after being a prosecutor for awhile,
19 that law enforcement has.

20 And when you give an offer that is a fair offer,
21 and then -- and, you know, you have people's lives
22 on the line when they're involved, when you have
23 informants, when you have eyewitnesses in a shooting
24 case, and you give a reasonable offer to shield
25 the CI, or to shield the informant in a murder,

1 and then if you get to the point to where you're saying,
2 wow, we're going to have to reveal all this information
3 if it goes to trial, absolutely, 100 percent, and I had
4 that approved by my deputy, as is practice in our
5 office.

6 Q. So the decision to seek life without the
7 possibility of parole in this case was to protect
8 Robert Drayton? I mean, was that ---

9 A. Well, it's ---

10 Q. --- fair?

11 A. It is kind of a broader situation. If this
12 was an individual's true third drug arrest, true third
13 strike ever, then I likely would not have done it,
14 because I haven't done it on all of my drug trials.
15 However, if you have someone, who time after time again,
16 does not change his or her conduct, and I believe one
17 of these first -- and people don't plead to strikes very
18 readily.

19 And so, I believe, Mr. Seagers's first strike
20 conviction arose from conduct in 1997. And at the point
21 of this, this is 2012. And if someone is not changing
22 their conduct after being convicted for about 15 years,
23 then something else needs to occur.

24 Q. So he had the initial conviction back in '97
25 when he was a juvenile?

1 A. It was -- it was as an adult. It was in ---

2 Q. But he was 17, you're still, I mean, legally --
3 he was young; he was a young adult.

4 A. Okay.

5 Q. And then his second set of charges were back
6 in 2002.

7 A. Okay.

8 Q. He received, you know, some federal time,
9 I think, in -- he got a three-year sentence.

10 A. Right.

11 Q. And then all of a sudden -- do you remember
12 the quantity of drugs involved here?

13 A. I don't -- I think the act matters. The quantity
14 doesn't ---

15 Q. No, no, but I'm just saying, you know, were
16 you aware it was two grams of crack cocaine?

17 A. That sounds fine.

18 Q. And then the decision was made to actually
19 give somebody who was 35 at the time a life sentence?

20 A. Yes.

21 Q. For two grams of crack?

22 A. When someone's behavior at an age, and they
23 continue to progress, and they continue to receive
24 strikes, and then they continue to get larger sentences
25 in the state system from probation to active time,

1 when they violate supervision, when they get arrested
2 while on bond. And then in this case, Mr. Seagers
3 actually pled guilty for federal charges as well.
4 So these are the ladder steps. We are eking it up,
5 eking it up, eking it up, and so ---

6 Q. But to be fair, the federal charge was really
7 not of the same level as some of these state charges ---

8 A. Well ---

9 Q. --- just maintaining a stash house.

10 A. Maintaining a stash house, it's kind of what was
11 happening on Ashton Street, you know. People weren't
12 living there, more than one person -- you know,
13 I know of at least two people who were selling out
14 of downstairs, you know. That is a stash house;
15 that is a blight on the community; that is -- draws
16 a lot of danger to the area, and I stand behind
17 my serving life notice.

18 MS. FRANKLIN-BEST: Give me just a moment,
19 Your Honor, please.

20 THE COURT: Yes, ma'am.

21 BY MS. FRANKLIN-BEST:

22 Q. So did you ever approach Mr. Seagers when
23 he was arrested at the property?

24 A. I remember it was, like, there was -- I believe
25 it was, like, a low fence of some sort. I don't know

1 if it was a chain link or not, but it wasn't like
2 a privacy fence. I mean, it's downtown Charleston,
3 so it's pretty close. I remember being back to the
4 neighbor, but again narrow, long lots. I recall --
5 I don't remember if it was him, or if it was Mr. Dennis,
6 I recall people sitting on, like, the front stoop
7 of the house, and they were, like, zip tied behind.

8 Q. And so did you talk to him ---

9 A. No.

10 Q. --- have an interaction? But you just saw --
11 about how far away were you when that happened?

12 A. Oh my gosh, I mean, distance. I mean, I was
13 probably here to the desk, here to Ms. Dixon. I mean,
14 it's a total ---

15 Q. Twelve feet?

16 A. Yeah. And, I mean, I was talking to my
17 investigator, I was talking to law enforcement on scene.

18 Q. Okay. So even though you were not conducting
19 interviews of other witnesses, you were still talking
20 to other people who were out there? You were not,
21 like, you know, several cars down the street, hanging
22 out at the end of the block?

23 A. Right. I mean, I am several cars down
24 the street, hanging out at the end of the block until
25 the area is cleared, it's deemed safe, if there are

1 any persons on the property, they've been detained,
2 and then at that point -- but I don't go in the house,
3 I don't walk up and down the stairs. I don't say,
4 hey, show me what you've got so far. I mean, that's --
5 that's not what happened.

6 Q. You don't do what's on Law & Order?

7 A. No, no, no. How the rules are set up in South
8 Carolina for prosecutorial immunity, I do not do that.

9 MS. FRANKLIN-BEST: All right. No other
10 questions, Your Honor.

11 MS. DIXON: Just briefly. I want to clarify
12 a few things.

13 REDIRECT EXAMINATION

14 BY MS. DIXON:

15 Q. First of all, they've made a big deal about
16 this being only, what, two grams of crack cocaine.
17 This was not the only offense, correct?

18 A. Correct. He had six warrants pending. It was
19 from multiple buys and also a search warrant. So --
20 and, like I said, I don't think quantity necessarily
21 should dictate things. I mean, look at the news now.
22 I mean, Fentanyl is in marijuana; Fentanyl is in
23 everything, you know what I mean. So you never know
24 if you have a good or a bad batch. So the quantity,
25 for me as a prosecutor, is not what determines things

1 for me. For me, it's kind of, like, what the act is.

2 Q. And then they've made a big deal about you
3 being at the scene. And just to clarify, you were
4 at the scene of a search warrant, correct?

5 A. Yes. All of that was months after this incident.
6 The arrest warrants for June and other incidents were
7 served. So, I didn't have -- I didn't have any cases
8 pending on Mr. Seagers at the time of the search
9 warrant. Everything was served that same day.

10 Q. And the trial was related to something that ---

11 A. The trial was related to something that happened
12 in June of 2012. I was not -- I was on a public
13 sidewalk, the next house, months later. And the trial
14 was about the item in June.

15 Q. Gotcha.

16 MS. DIXON: Nothing further.

17 THE COURT: You may step down now.

18 Thank you.

19 THE WITNESS: Thank you. May I be excused?

20 THE COURT: Any objection?

21 MS. FRANKLIN-BEST: No, Your Honor.

22 THE WITNESS: I gave her State's Exhibit 2.

23 THE COURT: You may call your next witness.

24 MS. DIXON: State calls Lauren Frierson.

25 MS. FRIERSON: Good afternoon.

1 THE COURT: Good afternoon. Please raise
2 your right hand.

3 MS. LAUREN FRIERSON was called as a witness,
4 being duly sworn, was examined and testified as follows:

5 THE COURT: Thank you. Please have a seat.
6 Your witness.

7 DIRECT EXAMINATION

8 BY MS. DIXON:

9 Q. How are you today?

10 A. I'm good. How are you?

11 Q. Good. Thank you. Can you just briefly tell
12 us what was your role in this case?

13 A. I was the second chair with Mr. Sowards.

14 Q. Okay. Okay. And so were you involved
15 in the prosecution?

16 A. Yes.

17 Q. Okay. And do you recall the evidence that
18 the State had?

19 A. There were multiple pieces of evidence.
20 There was a phone call that was made from Mr. Drayton
21 to a number in his phone named "Baby," and that
22 was screenshot with a date and time that coincides
23 to the video. There was the video of the buy, there
24 was audio of the buy, Mr. Drayton's statement to law
25 enforcement initially, and the testimony of those people

1 at trial'.

2 Q. And do you recall -- let's see. They've talked
3 a little bit today about Investigator Grill. Do you
4 recall his testimony?

5 A. Yes.

6 Q. And what was the purpose of calling him?

7 A. So, as we've heard a little bit in here today,
8 the method of distribution was kind of unique.
9 And much like in criminal sexual conduct with a minor
10 cases where you bring in an expert witness, because
11 there's information that wouldn't be within the normal
12 purview of a layperson, you know, for example,
13 that oftentimes sexual abuse is with a stranger,
14 or that they're going to tell immediately. So you bring
15 in a blind expert who has information in that field
16 to relay and kind of explain things to the jurors.

17 In this case, because this was not the
18 hand-to-hand transaction that you might see on The Wire
19 or some other movie, we wanted the jury to understand
20 the complexities of the drug game, for lack of a better
21 word, and to understand that, you know, it's not going
22 to be out of the person's house where it's registered
23 to them, where they get their mail, to explain the steps
24 that are taken to fort law enforcement detection,
25 such as lowering it down on this unique pulley system

1 out of a house, you know, that is being renovated
2 or what not.

3 So we thought that it was important for them
4 to understand the backside to be able to appreciate
5 what kind of seemed like a weird way to deal drugs.

6 Q. Okay. And do you recall -- let's see. Just
7 a moment. Do you recall your closing argument?

8 A. I do, because I remember the judge making
9 a comment about it being lengthy. I said I thought
10 it would be about 30 minutes, but I think it was about
11 45.

12 Q. About 45 minutes. Okay. And let's see --
13 do you recall Mr. Marshall's closing argument?

14 A. Vaguely.

15 Q. Do you recall kind of what maybe the focus
16 of it was?

17 A. Oh, the focus was definitely on, you know,
18 the credibility of Mr. Drayton and the witnesses
19 and, you know, I think that he -- I know it came up
20 in trial, but I think he alluded to it again in closing
21 about, like, some deep-seeded interest that the State
22 had in Mr. Seagers, as opposed to just, you know,
23 doing our job.

24 MS. DIXON: Just a moment.

25 BY MS. DIXON:

1 Q. And did you disclose all discovery, all Rule 5
2 discovery, to the defense that you had in your
3 possession?

4 A. I didn't send Rule 5 ---

5 Q. Okay.

6 A. --- because it wasn't my case initially.

7 Q. Okay.

8 A. As I said, I came in as a second chair.

9 Q. Gotcha. Okay.

10 A. So anything that I had was a result of me pulling
11 it from what was in our system.

12 Q. Gotcha. Okay.

13 A. Just very much like this LWOP notice that was
14 located in the paper file in the warehouse, we found
15 it and gave it to you, you know.

16 Q. All right. And then I think they were testifying
17 earlier about how the video, you couldn't see the CI's
18 face -- I'm sorry, you couldn't see the dealer's face
19 as he was on the second-floor window. Do you recall
20 the CI's testimony about how -- arranging this deal
21 and what not?

22 A. Yes. So he -- Mr. Drayton testified that he made
23 the call to who he knew, obviously, he didn't say on the
24 record from previous dealings, but that he, you know,
25 knew to be Baby Dean, as he called him. And he called

1 him to initiate the transaction, and then went over
2 there. And I think I put -- let's see. I think it's
3 Page 216 of the transcript is where he's talking about
4 the video. And he's -- I think Line 15, I asked him
5 who -- who did you buy drugs from that day, and he said,
6 Baby Dean.

7 And it progresses on with some back and forth
8 about, did you personally see him? To which
9 he responds, uh-huh. And it's a little hard to tell
10 whether that's, you know, an affirmative or a denial.
11 He said he saw him in the window on the second story.
12 I asked him, did you see him lower the drugs to you?
13 No, I just saw the string come down. And before
14 you saw the string came down, did you see Baby
15 in the window? There were three people in the house,
16 and he had arranged to make the purchase from
17 Mr. Seagers.

18 Q. Gotcha, gotcha.

19 MS. FRANKLIN-BEST: I'm sorry, can you give
20 me that page again.

21 THE WITNESS: 216.

22 MS. FRANKLIN-BEST: Okay, thank you.

23 MS. DIXON: Just one moment, Your Honor.
24 I don't think I have anything further.

25 THE COURT: Cross-examination?

1 MS. FRANKLIN-BEST: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. FRANKLIN-BEST:

4 Q. Did you have any meetings with Robert Drayton?

5 A. Prior to the trial, we did.

6 Q. And how long -- how soon to the trial were you
7 on the case?

8 A. Oh, um, typically -- I mean, I don't remember
9 specifically on this. I would have to, you know,
10 go back and check my e-mails, or when I pulled things
11 off of our records management system. But in bigger
12 cases like this, something, you know, that is an LWOP
13 case, you're going to get involved probably a couple
14 of months.

15 Q. Yeah, I just wondered because Ms. Linder, yeah,
16 said that she was out on maternity leave, and I didn't
17 know if you had, like, weeks or months on this case.
18 You think maybe a few months?

19 A. I think so.

20 Q. Okay. And so Mr. Drayton, did he have charges
21 at the time?

22 A. I want to say he -- I can double check. I don't
23 recall. I know he was a paid informant for purposes
24 of this buy. But I don't -- I could look back
25 at the transcript and let you know.

1 Q. Right.

2 A. I think that they -- we did have to go into
3 it now that -- as I'm talking.

4 Q. I mean, this would be sort of beyond what's
5 in the transcript that I'm asking.

6 A. Pardon?

7 Q. I said, this would be sort of beyond what's
8 in the transcript that I'm asking.

9 A. Like, did he -- I'm not sure I understand your
10 question.

11 Q. Well, let me sort of rephrase it, because
12 it wasn't a very good sentence. I mean, how often
13 were you using Robert Drayton as a confidential
14 informant during this timeframe?

15 A. This is the only case that I've used him on.

16 Q. The only case that you have?

17 A. Um-hum.

18 Q. Were you aware that he was being used by other
19 people in the department?

20 A. At Charleston Police Department?

21 Q. Yes.

22 A. I work for the solicitor's office.

23 Q. Okay. But, I mean, you would have had other
24 cases, that's what I'm asking. I mean, are you aware
25 that he was used in other cases in your office?

1 A. Well, from ---

2 Q. In the solicitor's office?

3 A. From our office?

4 Q. Um-hum.

5 A. I don't know if any of those cased went to trial.
6 I know that looking at what was released to the defense
7 after the in camera hearing, the -- like, the sheet
8 that says what buys and stuff he's done, they redact
9 the case number.

10 Q. Yes.

11 A. So there were clearly other things he was
12 involved in with CPD. Whether any of those resulted in
13 arrests that came to our office and then went to trial,
14 I do not know.

15 Q. Okay. Do you know what may have happened to
16 his charges at the conclusion of this particular case?

17 A. Which charges?

18 Q. His with a minor charges.

19 A. I do not; it was not my defendant.

20 Q. Okay. I'm sorry, your confidential informant,
21 I'm talking about Mr. Drayton.

22 A. I understand. But I don't know what happened
23 to his charges, because I didn't handle his case.

24 Q. Okay. I understand. All right. Okay.
25 Were you aware of any narcotics-related offenses

1 by Robert Drayton, and this will be on Page 315,
2 that if he didn't cooperate would be readdressed?
3 So that's Page 315 to 316.

4 A. If you could just give me a minute to look
5 at it.

6 Q. Sure.

7 A. Thank you. So this appears to be a cross
8 by Mr. Marshall of Mr. -- of Detective Burke, where
9 he's asking him about, basically, what his status was.
10 Was he paid, or was he working off charges? And Dr. --
11 not doctor, excuse me, Detective Burke said that
12 because Mr. Drayton was the target of an investigation,
13 they decided to debrief him. He agreed to cooperate,
14 but they decided that they were going to have him
15 as a paid informant, rather than somebody working
16 off charges, to make it -- that would be -- it would
17 make him, I guess, less bias, in their opinion.

18 Q. Okay. So they did sort of change that, like,
19 what he was initially being used for to what they
20 ultimately used him for?

21 A. I don't see where it says he was used for --
22 it says on Page 314, it says informant type.

23 Q. Meaning paid?

24 A. And he said -- it says that he is paid.
25 Charges and paid were circled. So he did have charges,

1 but he was acting as a paid informant ---

2 Q. As a paid informant.

3 A. --- if that makes more sense.

4 Q. Okay. So do you know what was meant when
5 they said that his charges would be readdressed?

6 A. Where? Could you refer me to the line?

7 Q. So Page 315; it was in narcotics-related offense,
8 specifically. I don't remember -- that's what Burke
9 said.

10 A. Okay.

11 Q. Okay. So does ---

12 A. And he clarifies on Page 316 ---

13 Q. Right.

14 A. --- he would -- had he not continued to
15 cooperate, they would have addressed it. He would
16 have been charged, but he didn't -- the officer --
17 the detective did not want to falsify documents,
18 so he circled both ---

19 Q. So he circled both?

20 A. --- out of an abundance of caution to be very
21 clear and transparent in a situation like this.

22 Q. Okay. All right.

23 MS. FRANKLIN-BEST: No further questions.

24 THE COURT: Any redirect?

25 REDIRECT EXAMINATION

1 BY MS. DIXON:

2 Q. And just to clarify, Investigator Burke's
3 testimony was that Mr. Drayton, in fact, was never
4 charged, correct? And I believe if you look at the page
5 -- top of Page 316 --

6 A. Correct.

7 Q. And are you familiar with any charges Mr. Drayton
8 had or may have had or has -- well, not has, but may
9 have had at the time of this?

10 A. It would have come up probably -- I mean,
11 if it was something pending in our office, it likely
12 would have come up during questioning. I can refer back
13 to that part of it. I was reading through the potential
14 issues for today; I hadn't focused on his record.

15 Q. So we don't know if he actually even has
16 a record?

17 A. I want to say that there was a question during
18 it that either I elicited, that he had a charge
19 previously. I just don't remember what specifically
20 it was.

21 Q. Gotcha. Okay. But if there was one, you would
22 have brought it into the -- it would be in the
23 transcript?

24 A. If it was something that could come in,
25 because that's something that, as a prosecutor,

1 I would rather get out in front of so that the defense
2 doesn't ask it, and it makes it look like I'm hiding
3 it. That's just typically how it's handled.

4 Q. Gotcha.

5 MS. DIXON: Nothing further.

6 THE COURT: You may step down, ma'am.

7 Thank you.

8 MS. DIXON: Just a moment, Your Honor.

9 (Pause.)

10 MS. DIXON: Your Honor, this will be pretty
11 brief. The State calls Whit Sowards.

12 MR. SOWARDS: Good afternoon, Your Honor.

13 THE COURT: Good afternoon. If you would
14 please raise your right hand.

15 MR. JOHN WHIT SOWARDS was called as a
16 witness, being duly sworn, was examined and testified
17 as follows:

18 THE COURT: Please have a seat.

19 THE WITNESS: All right.

20 THE COURT: Your witness.

21 DIRECT EXAMINATION

22 BY MS. DIXON:

23 Q. Mr. Sowards, how are you today?

24 A. I'm doing well, thanks.

25 Q. And can you tell us briefly your role in this

1 case?

2 A. Yes. So, I started at the Ninth Circuit
3 Solicitor's Office in about October of 2014.
4 And I've been practicing prior to that, but we moved
5 to Charleston, so I began working there. Ms. Linder
6 was my supervisor, as she testified to earlier.
7 And when she went out on maternity leave, some
8 of the cases that she had that were -- she had sort
9 of designated as trials, were parceled out to people
10 in the office, and so I took over the prosecution
11 of Mr. Seagers.

12 Obviously, she returned to the office before
13 the case was tried, but at that point, you know,
14 it was pretty much my case. And I asked -- she was
15 Ms. Mulkey at the time, obviously, she's Ms. Frierson
16 now, and I asked her to help me prepare the case for
17 trial.

18 Q. Okay. And do you recall a search warrant
19 in this case -- evidence from a search warrant that
20 was introduced at trial?

21 A. So we have the distributions that Mr. Seagers
22 was charged with, and then I think it was -- I don't
23 remember the exact date, but it was in late August,
24 a search warrant was executed at the residence
25 on Ashton Street that's been discussed in this hearing.

1 And during that search warrant, a cell phone
2 was seized. That search warrant was ultimately examined
3 by a forensic examiner with the City of Charleston
4 Police Department. And, you know, Ms. Frierson
5 testified earlier that the informant had shown
6 detectives his phone, which showed that he dialed
7 a call to a contact named Baby, and it indicated the
8 time of the call, and the number that he had dialed.

9 And that cell phone that was seized from
10 the Ashton Street residence was examined, and really
11 not much of anything was taken from the phone.
12 But what we did learn was that the phone number
13 assigned to that cell phone number was the same
14 number that the informant had called. And, obviously,
15 Mr. Seagers was present at the Ashton Street house.
16 His arrest coincided with the execution of the search
17 warrant.

18 Q. Okay. And in terms of Baby, who did y'all
19 believe Baby to be?

20 A. Mr. Seagers.

21 Q. Mr. Seagers. Okay. And then so the phone
22 itself, do you recall Mr. Marshall making a motion
23 to suppress evidence from the search warrant?

24 A. I do, yes.

25 Q. And do you recall a Franks motion wrapped

1 up in that?

2 A. Yes, he had -- again, it's been eight years,
3 a little bit hazy on all the details, but I know that
4 some of the testimony earlier in the hearing was about
5 the quality of the CI video.

6 And -- want to say the arrest warrant said
7 that the entire transaction was audio, video recorded
8 in Mr. Marshall's -- or the thrust -- the main thrust
9 of his Franks argument was that that was false,
10 because there were, you know, short periods of time
11 when maybe it was scrambled, or there was a blackout
12 in the video and, thus, it was not actually, you know,
13 audio, video recorded for the entirety of, sort of,
14 the CI's journey to the Ashton Street location and back.

15 Q. And so they argued under Franks that the evidence
16 should be suppressed based on that misstatement -- what
17 they're alleging is ---

18 A. That's right.

19 Q. And that was all before the Court. And do you
20 recall as part of that, that Mr. Marshall also wanted
21 to extend his motion to suppress to the contents of the
22 phone itself?

23 A. I do, yes.

24 Q. And do you recall Judge Harrington reviewing the
25 warrant and reviewing, I believe, Riley v. California,

1 and concluding that it was sufficient?

2 A. That's my recollection, yes.

3 Q. Okay. And let's see -- and then in terms
4 of the phone -- and then do you recall the other
5 evidence that was seized as part of that warrant?

6 A. So, obviously, there were drugs seized from
7 the residence, I believe both Mr. Seagers and Mr. Dennis
8 were charged. There was a -- like, for example,
9 there was a -- I don't know exactly, sort of a shoulder
10 bag, and that was seized. And I don't think this
11 was introduced at trial, because we really tried
12 to limit what came in from the search of the residence.
13 But, I believe, there was, like, a Facebook picture
14 of Mr. Seagers with that same shoulder bag.

15 Q. Gotcha. Okay. Okay.

16 A. Oh, and the cup with the string.

17 Q. The cup. So the cup and the phone. Would
18 you agree, those were the ---

19 A. Right.

20 Q. --- primaries?

21 A. Yes.

22 Q. Okay. And then in terms of the phone itself,
23 I believe you testified that the expert was not able
24 to extract anything of value from the extraction
25 of the phone itself?

1 A. I mean, anything of value -- obviously, from
2 our point of view, the fact that the number assigned
3 to that phone was the same number that the informant
4 called. But other than that, no.

5 Q. No call logs?

6 A. No.

7 Q. No text messages?

8 A. I remember it being a -- I mean, it wasn't a flip
9 phone, but I seem to recall it being sort of a basic
10 prepaid cell phone.

11 Q. Gotcha.

12 MS. DIXON: Nothing further.

13 THE COURT: Cross-examination.

14 MS. FRANKLIN-BEST: Yes. Thank you,
15 Your Honor.

16 CROSS-EXAMINATION

17 BY MS. FRANKLIN-BEST:

18 Q. So this Facebook picture of Mr. Seagers
19 with this bag, was that produced during discovery?

20 A. I don't know whether it was. I mean, it would
21 have been his Facebook page, right?

22 Q. I mean, I've looked through all of the discovery,
23 and I hadn't seen what it is that you're referring
24 to, so that's why I'm asking. Are you sure that's
25 this case and not another one?

1 A. No, I recall Mr. Seagers [sic.] publically
2 searching Mr. Seagers's Facebook page, but again
3 that wasn't introduced at trial.

4 Q. Not introduced at trial?

5 A. Right.

6 Q. Okay. So this video, I mean, Dean was never
7 actually on the video, was he?

8 A. My recollection -- again, I haven't watched
9 the video in a long time.

10 Q. Right.

11 A. It's a second-story window. I don't remember
12 ever seeing his face on it.

13 Q. Right.

14 A. You can hear a voice, so a voice. But a face,
15 I don't recall.

16 Q. It's been a while. Right. Okay. So, Mr. --
17 Dean's fingerprints were not found on the cup, were
18 they?

19 A. My recollection is that -- short answer, no,
20 is that there was, like, a partial print, and they
21 weren't able to identify, you know, who that print
22 belonged to.

23 Q. Okay. So unidentified print. This grey car
24 that we kind of heard about, I mean, no one ever
25 actually, you know, sort of tied that back to Dean

1 Seagers, did they?

2 A. Not that I recall, no.

3 Q. And so you never got any call logs from
4 the telephone either?

5 A. That's -- my only recollection is that, you know,
6 sometimes when you -- when a phone is examined,
7 you get the entirety of the contents, and sometimes
8 you essentially get, like, a basic amount of detail
9 about the phone. Like, for example, you might get,
10 you know, the phone number assigned, et cetera,
11 and I only recall getting the phone number.

12 Q. Okay. But you had -- I mean, you had a phone
13 tech, Rodney Vanhorn [ph.]?

14 A. Right.

15 Q. Okay. And so again nobody, other than sort
16 of Baby, which was on Robert Drayton's phone. I mean,
17 there was no other way of sort of connecting any
18 of this to Dean Seagers. You didn't have his records?

19 A. Just to be clear, when you're talking about
20 records, what ---

21 Q. Yeah, phone records.

22 A. No, I don't recall getting his phone records.

23 Q. Any phone records from Dean Seagers. Okay.

24 MS. FRANKLIN-BEST: Okay. I have no more
25 questions.

1 THE COURT: Any redirect?

2 MS. DIXON: Nothing further.

3 THE COURT: You may step down, sir.

4 Thank you.

5 THE WITNESS: Thank you, Your Honor.

6 And may I be excused as well from the witness stand?

7 THE COURT: Any objection?

8 MS. FRANKLIN-BEST: No objections,

9 Your Honor.

10 THE COURT: You're free to go.

11 MS. DIXON: No more witnesses for the State,

12 Your Honor.

13 THE COURT: Anything further from anyone?

14 MS. FRANKLIN-BEST: No additional witnesses,

15 Your Honor. I mean, maybe just -- I don't know
16 if you want to hear closing arguments or anything
17 like that, or if you want to sort of take it under
18 advisement.

19 THE COURT: I'll leave it up to y'all.

20 I was going to take it under advisement and take
21 the time to review the entire record. I would ask
22 y'all if y'all could make copies of the exhibits that
23 were introduced and get them to my chambers.

24 MS. DIXON: Absolutely. May I just --

25 I won't go through an entire argument, but can I just

1 point out a couple of cases for the record?

2 THE COURT: Yes, ma'am.

3 MS. DIXON: Just one moment.

4 MS. FRANKLIN-BEST: And, Your Honor,
5 could we leave the record open for, like, maybe a week
6 so that I have an opportunity just to sort of review
7 the information contained in this life without
8 the possibility of parole notice?

9 THE COURT: Yes, ma'am. That's not
10 a problem.

11 MS. FRANKLIN-BEST: Thank you, Your Honor.

12 (Pause.)

13 MS. FRANKLIN-BEST: Mr. Seagers --
14 if I could just put something on the record really
15 quickly?

16 THE COURT: Yes, ma'am.

17 MS. FRANKLIN-BEST: Sorry. Mr. Seagers
18 wants to object to the signing of the acknowledgement
19 for the LWOP notice. At the time that these were
20 signed, the charges were pending against him that
21 Moses Dennis ultimately sort of pleaded guilty to.
22 If I could just put that on the record.

23 THE COURT: Yes, ma'am. All right,
24 Ms. Dixon, you may proceed.

25 MS. DIXON: Your Honor, and I do want to put

1 on the record as well, because I know there was an issue
2 with the discovery. I was assigned to this circuit
3 early spring, and I will just say for the record
4 the Ninth Circuit solicitor started reaching out
5 to me pretty early trying to get this going. We weren't
6 able to meet until about eight weeks ago, and I really
7 thought I had sent it to you, and maybe I didn't.
8 I don't know, but I do want to note for the record ---

9 MS. FRANKLIN-BEST: It's been over two
10 years.

11 MS. DIXON: I do want to note for the
12 record, the solicitor's office was very invested
13 in this, and was actually reaching out to me about,
14 like, let's go through this box, let's figure this
15 out. So, I don't believe it was anything on their
16 end, and I just wanted to state that for the record.

17 THE COURT: Yes, ma'am.

18 MS. DIXON: In terms of cases, of course,
19 you're familiar with Strickland v. State -- I'm sorry,
20 Strickland v. Washington, and I won't go through that,
21 but obviously it's his burden to prove that counsel's
22 performance fell below prevailing professional norms,
23 such that the outcome of his case would have been
24 different, but for any alleged deficiency.

25 But some more specific cases just related

1 to some of their legal allegations, they made an issue
2 about expert qualification, and I would just point to
3 State -- the Court to State v. Robinson, 396 S.C. 577,
4 where the Court of Appeals allowed the qualification
5 of a narcotics expert, and this is, "To advise
6 the jury in this case as to how crack cocaine was
7 sold and packaged, which is info not commonly known
8 to the average juror." So we would just submit
9 that the qualification of the expert here was proper,
10 and I think a review of the record would support that.

11 In terms of the improper vouching claims
12 that they've raised, State v. Busse, is a recent case,
13 439 S.C. 104, or 886 S.E.2d 208; that's a South Carolina
14 Supreme Court case that came out March 8, 2023.
15 And Page 111 of the SC Reporter says, "A prosecutor is
16 expected to comment on the credibility of the witnesses
17 when making closing argument. Far from improper,
18 doing so is one of the fundamental responsibilities
19 of a lawyer."

20 And then going into the issues of trap
21 king, we would submit, obviously, the standard is --
22 we would submit, first of all, it was not an improper
23 comment, because it was directly tied to and related to
24 everything that came out at trial. There was narcotics
25 expert testimony about this system, and it was also

1 directly refuting the defense argument.

2 But also the standard for even if it were
3 improper, would be whether it "So infected the trial
4 with unfairness as to make the resulting conviction
5 a denial of due process." And that's Vasquez v. State,
6 388 S.C. 447.

7 And then we would also point the Court
8 to Darden v. Wainwright, 477 U.S. 168; that's a 1986
9 case where the United States Supreme Court found that
10 comments such as, "He shouldn't be out of his cell,
11 unless he has a leash on him," and "I wish that
12 I could see him sitting here with no face, blown away
13 by a shotgun," that those were not so egregious as
14 to violate due process. And, of course, the statement
15 here is far, far, far from that. Thank you.

16 THE COURT: Thank you, ma'am.

17 MS. FRANKLIN-BEST: And if I could just
18 state sort of -- just kind of a general, kind of a short
19 closing. But, you know, the courts will look at cases
20 differently based on sort of, like, the quantum
21 of evidence that it is tending to show that somebody
22 is guilty.

23 I mean, this was a particularly weak case.
24 I mean, we've got recanting witnesses; we've got,
25 you know, videotape that don't show Mr. Seagers on it.

1 I mean, there are a lot of, you know, kind of facts
2 about this case that did not make it particular strong.
3 And, of course, Mr. Marshall testified in his 33 years
4 as defense attorney, I mean, this was really one of the
5 weakest ones.

6 So any error here takes on sort of, like,
7 an outsized proportion. I mean, if this were a case
8 that we had DNA, we had fingerprints, we had video
9 that actually showed commission of a crime, it would
10 be a very different situation. But here, for example,
11 you know, Mr. Drayton gets on the stand, and he
12 testifies to being threatened that morning.

13 Unfortunately, Mr. Marshall did not object to that.

14 That is, you know, the improper interjection
15 of 404(b) character evidence. Mr. Seagers did not
16 take the stand, so it was, you know, even more sort
17 of problematic because of that. And in a case where
18 the kind of evidence that was interjected improperly
19 tended to make Mr. Seagers look like he was a really
20 sort of violent guy. That's the kind of thing that
21 could really sort of move the needle in a case like
22 this.

23 At one point, and I haven't done the
24 research lately, but there were more reversals in South
25 Carolina based on 404 -- improper 404(b) evidence than

1 any other claim. I think that that's a particular
2 strong claim in this case. And, I mean, as for to the
3 rest of it, I'll leave it to the Court's consideration
4 and an opportunity to review that.

5 And thank you for allowing me to keep
6 the record open for an additional week just to review
7 what is contained in this LWOP notice, Your Honor.

8 THE COURT: Thank you, Counsel.

9 MS. DIXON: Thank you.

10 (End of Transcript of Record.)

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CERTIFICATE OF REPORTER

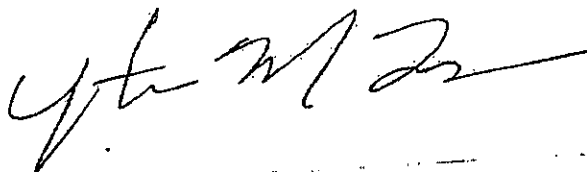
State of South Carolina)

County of Berkeley)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth 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 hearing of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 19th of October, 2023.

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

February 8, 2024



Yvestre Torres

Circuit Court Reporter

Att
GS
Sol
AG

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Dean Nelson Seagers,

Applicant,

vs.

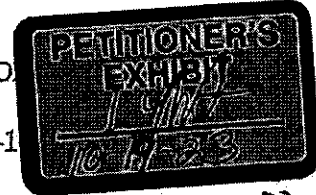
State of South Carolina,

Respondent.

IN THE COURT OF

2020-CP-1

ORDER GRANTING DISCOVERY



JULIE J. ARMSTRONG
CLERK OF COURT

2021 DEC 20 PM 3:08

FILED

This order comes by way of a motion on applicant's behalf to grant limited discovery in this post-conviction relief proceedings. I have reviewed the motion and grant discovery of the following items of evidence:

- a) Any notes, documents, video, or audio recordings relating to law enforcement's use of Robert Drayton as a confidential informant from the time period of 2005 to 2012.
- b) Any notes, documents, video, or audio recordings relating to Moses Dennis, a witness questioned by law enforcement in this case who indicated Dean Seagers did not sell drugs to Robert Drayton on the date alleged by the State.
- c) Cooperating confidential paperwork signed by Robert Drayton on 6/12/12.
- d) Criminal history including investigations into "Bunk Moreland," CI 12N2B.
- e) A copy of the notice seeking life without parole which counsel has been unable to locate.

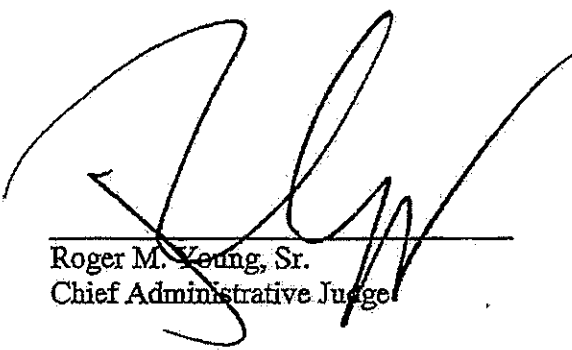
I hereby make the following findings of fact:

Dean Seagers was indicted by the Charleston County grand jury for distribution of crack cocaine. 2012-GS-10-06779. He was tried before the Honorable Kristi L. Harrington and a jury. He is serving life in prison for his conviction pursuant to the recidivist statute, S.C. Code Ann. §17-25-45. Seagers timely appealed his conviction and sentence and the South Carolina Court of Appeals affirmed on June 28, 2017. *State v. Dean Nelson Seagers*, WL 4676636. A petition for

R

IT IS ORDERED.

This _____ day of Nov, 2021.



Roger M. Young, Sr.
Chief Administrative Judge



Confidential Informant Payment Form

CI# 12N28CI Name BUNK MORELANDInformant Type: Charges or PaidCharges (if Applicable): DIST. COCAINE (PENDING)Date of Arrest: N/A

Solicitor Notification

Solicitor Notified: _____

Investigator: BURKE

Date/Time: _____

Date	OCA	Officer/Activity	CI Payment
6-12-12	/	CI DEBRIEFED @ CPD HEADQUARTERS BY DET. BURKE. SIGNED COOPERATING INDIVIDUAL PAPER WORK	/
6-12-12	/	CI PAID \$50.00 FOR ATTEMPTING TWO BOYS IN [REDACTED]	\$50.00
6-13-12	/	CI PURCHASED \$90 WORTH OF COCAINE FROM DEAN SEAGARS @ 31-B ASHTON ST.	\$100.00
	/	CI PAID \$100.00	/
6-20-12	/	CI PURCHASED 2 GRAMS OF COCAINE (\$100) FROM DEAN SEAGARS @ 31-B ASHTON ST.	\$100.00
	/	CI PAID \$100.00	/
6-30-12	/	CI PURCHASED 3.5 GRAMS OF COCAINE FROM D SEAGARS FOR \$230 @ 31-B ASHTON ST.	\$100.00
	/	CI PAID \$100.00	/
7/5/12	/	CI PURCHASED [REDACTED] FROM [REDACTED] PAID \$100.00	\$100.00
7/10/12	/	CI PURCHASED [REDACTED] FROM [REDACTED] PAID \$100.00	\$100.00
7/10/12	/	CI PURCHASED [REDACTED] FROM [REDACTED] PAID \$120.00	\$120.00

Confidential Informant Payment Form

CI # 12 N2BCI Name BUNK MORELANDInformant Type: Charges or (Paid)Charges (if Applicable): DISC. COCAINE (PENDING
COMPLETION OF INVESTIGATION)Date of Arrest: N/A

Solicitor Notification

Solicitor Notified: _____

Investigator: BURKE

Date/Time: _____

Date	OCA	Officer/Activity	CI Payment
8/2/12		CI PROVIDED INFORMATION	\$50.00
		CI PAID \$50.00	
8/7/12		CI PURCHASED	\$120.00
		CI PAID \$120.00	
8/11/12		CI PURCHASED	\$120.00
		CI PAID \$120.00	
8/22/12		CI PURCHASED	\$120.00
		CI PAID \$120.00	
8/23/12		CI PURCHASED	\$120.00
		CI PAID \$120.00	
8/24/12		CI PURCHASED \$90.00 WEIGHT OF COCAINE FROM	\$120.00
		DEAN SENGERS @ 31-B ASHTON ST. CI PAID \$120.00	\$0.00
8/24/12	N/A	TWO SEARCH WARRANTS OBTAINED FOR	
		31-B ASHTON ST. SIGNED BY JUDGE KUNTZ	
8/30/12		CI PROVIDED PRE-S/W INTELLIGENCE AS TO THE	\$150.00
		LOCATION OF SENGERS INFORMATION	
		WAS ACCURATE CI PAID \$150.00	
8/30/12		SEARCH WARRANT @ 31-B ASHTON ST. LEAD TO THE	\$150.00
		SEIZURE OF 32g COCAINE Bg. HEROIN, & \$1200.00	
		SENGERS CHARGED W/ TRAFFICKING	
		COCAINE & TRAFFICKING HEROIN. CI PAID \$150.00	

Confidential Informant Payment Form

CI # 12N20CI Name BANK MORELANDInformant Type: Charges or Paid

Charges (if Applicable): _____

Date of Arrest: N/A

Solicitor Notification

Solicitor Notified: _____

Investigator: BURKE

Date/Time: _____

Date	OCA	Officer/Activity	CI Payment
9/7/12		CI PROVIDED THE LOCATION OF [REDACTED] WHO HAD (4) ACTIVE NARCOTICS WARRANTS. WAS TAKEN INTO CUSTODY. CI PAID \$75.00	\$75.00
9/11/12		CI PURCHASED [REDACTED] FROM [REDACTED] CI PAID \$100.00	\$100.00
9/12/12		CI PURCHASED [REDACTED] FROM [REDACTED] CI PAID \$120.00	\$120.00
9/14/12		CI PAID \$300.00 FOR S/W'S THAT LED TO THE SEIZURE OF [REDACTED]	\$300.00
10/20/12		CI PAID/GIVEN \$50.00 TO PURCHASE A NEW CELL PHONE.	\$50.00
10-16-13		CI Purchased [REDACTED]	\$100.00
1/2/14		CI PURCHASED [REDACTED] PAID \$130.00	\$130.00
1/3/14		CI PAID \$160.00 FOR PROVIDING INFO [REDACTED]	\$160.00
5/10/14		CI purchase [REDACTED]	
5/10/14		[REDACTED] Paid \$100 by Eagles	\$100
5/10/15	N/A	PAID \$60 FOR [REDACTED]	\$60

1. *Phytophthora* 1, 2, 3, 4

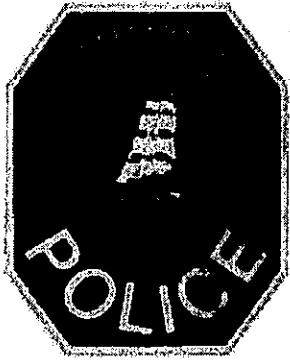
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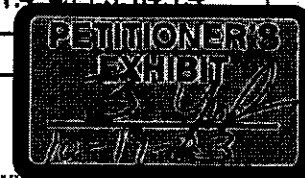
Charges (if Applicable): _____

Solicitor Notified: _____

Date/Time: _____

[illegible]

	Administrative General Order	39 Vice, Narcotics, & Organized Crime	PAGE 1 OF 14
	City of Charleston Police Department Policy and Procedure Manual		EFFECTIVE DATE: 02/01/08
			ORIGINATOR: Strategic Analysis & Innovations
			REVISED: 08/26/16
DISTRIBUTION: Sworn Employees		CALEA: 43.1.1, 43.1.2, 43.1.3, 43.1.4, 43.1.5, 84.1.4	
BY THE AUTHORITY OF THE CHIEF OF POLICE: 			



39.1 VICE, NARCOTICS, & ORGANIZED CRIME (CALEA 43.1.1 d)

This Vice, Drug, and Organized Crime policy is prepared and distributed to all persons involved in vice, drug, and organized crime investigations for the Charleston Police Department. The Police Department accepts this policy as part of the Police Department's regulations and all personnel are subject to the memos, directives, and policies contained in the manual and further revisions as they may be made.

The Charleston Police Department is committed to the control and suppression of narcotic, vice, and organized crimes in the Charleston area. The Vice and Narcotic Units are a part of the Central Investigative Division. The Narcotic/Vice Unit will be responsible for all such crimes that involve or evolve as it pertains to Narcotic and Vice violations, laws, policies, or guidelines.

A Lieutenant is assigned to handle to day-to-day operations of each unit, working under the direction of the Captain-in-charge of Central Investigations. The Captain has direct and unlimited access to the Chief of Police in regards to informing him/her of activities, information, and actions taken by the Vice & Narcotics Units.

39.2 PROCEDURES FOR UNIT CONDUCT

Procedures for the conduct of assigned unit investigators will include but not be limited to:

1. Documentation of original complaint by completion of incident report where probable cause exists;
2. Interview of witnesses and suspects as appropriate;
3. Second (and third) source confirmation or verification by interview, surveillance or undercover operation, or both if possible;
4. Identification of suspects, vehicles, accomplices, associates, locations, etc.;
5. Consultation with supervisors for case review (verification of probable cause, etc.);
6. Obtaining necessary warrants;
7. Confirmation that suspects are thoroughly identified and analyzed. Crimes, victims and crime locations are identified, discussed and, if possible, photographed. All personnel will be briefed as to this information;
8. Ensure that suspects contacted and/or approached are done so safely and in such a manner so as not to compromise officers or others and effect any arrest as safely as possible. Probable offenders will be identified and analyzed (including their habits, associates, and vehicles, methods of operation, and other relevant information and all

notified;

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10. Officers may be provided false identities and credentials for undercover operations upon approval by supervisory personnel and upon demonstrated need on a case-by-case basis. Officers may also be disguised to resemble crime victims for the purpose of decoy operations. Specifics will be discussed with supervisory personnel in an effort to avoid entrapment issues. Every precaution will be taken to avoid breach of confidentiality regarding false identities and/or disguises;
 11. Specific procedures regarding observation, arrest and surveillance will be shared with operational personnel at appropriate briefing. Officers will be specifically assigned to these functions;
 12. Backups will be provided specifically identified and instructed as to duties, responsibilities and relief, if necessary;
 13. Sufficient funds will be provided and readily available for any and all officers relative to the effective and efficient conduct of the operation. Receipts for expenditures must be processed as provided by policy when practical;
 14. Close supervision and review of final plans is necessary to ensure officers are provided necessary equipment, weapons, materials, supplies, and communication whether routine or emergency or both. These needs will be identified and discussed at pre-operational briefings with input from all involved personnel. Specific vehicles, radio channels, weapons, supplies, and materials necessary for the safe, effective, and efficient execution of said plan will be accessed and made available to appropriate personnel;
 15. Officers and supervisors will have final plans specific to the operation reviewed by the Bureau Commander, or designee, for the purpose of assuring adherence to this policy and determination of legal ramifications;
 16. All personnel will be properly identified by the wearing of a uniform, raid jacket, or properly displayed police badge. Officers will further identify themselves as police officers in a loud and clear voice at the appropriate time;
 17. An orderly, systematic, and secured format of case documentation and management will be established and maintained throughout the unit. Each investigator will be required to maintain and update their case files accordingly. Each will consistently communicate with their immediate supervisor ensuring they are in compliance with unit and departmental policies and procedures;
 18. All efforts will be made to maintain ANY original documents in the centralized records management system at headquarters. At no time will the storage of original documents be authorized within the unit offices;
 19. All search, arrest warrants, and returns will be administered properly and in a timely manner. With particular regard to arrest warrants, once authorized and signed by the appropriate official, each will be entered into the NCIC database without delay.

39.3 INVESTIGATIVE TECHNIQUES

As with any other allegation of illegal activity, the suspect is presumed innocent until clear and concrete data is developed to indicate guilt. Because of the sensitive nature of the crimes and complaints investigated by this unit and the potential damage that could be brought upon an innocent party merely by publicly revealing the fact that the investigation is taking place, investigators must use only those techniques that can be justified when public interest is weighed against the individual's rights

to privacy. Unfounded complaints must be so noted and investigations terminated as expeditiously as possible.

39.4 RECORDING COMPLAINTS (CALEA 43.1.1 a, b)

All criminal complaints received by these Units will be recorded in the complaint log. All such complaints will be reviewed by the officer-in-charge, who will determine the appropriate investigative action to be taken in light of the seriousness and nature of the problem, credibility of the complainant, manpower constraints, and priorities. Complaints requiring further investigation will be followed up on in accordance with Departmental policy and current police investigative principles and procedures. The complainant, when the identity is known, will be informed of the disposition of the complaint.

Complaint Log

Any and all complaints of suspected illegal activity will be properly recorded. These forms will be forwarded to the OIC of the Unit as soon as practical. All information received regarding suspected illegal activity will be recorded in a central database by the Unit's Administrative Assistant. The database includes the following:

1. Date and time which the information was received;
2. From whom the information was received, if known;
3. The CPD employee that received the information;
4. The location of the suspected activity;
5. The primary drug involved;
6. Information on the suspects involved;
7. Vehicle information; and/or
8. Specific information about the suspected illegal activity.

After all information has been entered into the database, the OIC of the Unit will assign an investigator to conduct a preliminary investigation into the suspected illegal activity. The investigator has five (5) working days to conduct the preliminary investigation and make a report to the OIC of the Unit. The OIC will determine if there is sufficient information to open a case based on the preliminary report.

If there is not sufficient information to open a case on the suspected illegal activity, the case will remain on the central database for four (4) years, after which it will be purged. However, if new information becomes available during this time, it may be re-opened and more preliminary investigation may be required.

If the OIC of the Unit determines that the case is worthy of more investigation, a case will be opened on this suspected illegal activity. The OIC will assign the case to an investigator for a full investigation. In the event that information is obtained of suspected illegal activity outside the jurisdiction of the Charleston Police Department, it will be forwarded to the proper authority without delay.

39.5 RECORDS (CALEA 43.1.2)

Records that relate to active investigations will be maintained in an orderly and secure manner. In addition, the Unit will maintain a confidential file on each of its informants, including at least the following information:

1. Biographical and background information;
2. Criminal History, if any;
3. Payments made to the informant;
4. Information received from the informant;
5. Informant's involvement in operations; and

Members of the Charleston Police Dept. are not required to document every person that offers information on a sporadic nature. Sources of Information (SOIs) are assumed to be persons from all segments of society who provide criminal intelligence information or investigation information on a voluntary but confidential basis. SOIs will always be met and/or interviewed by two (2) sworn officers. Detectives/officers may not authorize an SOI to engage in any criminal acts, nor to offer, provide, or agree to furnish immunity or protection against arrest or prosecution for future or past crimes. Documentation of SOIs is required when the following criteria are met:

1. The SOI supplies information that is utilized for a probable cause action such as a search or arrest warrant.
2. The SOI calls on a regular or repetitive nature to supply information. In this case, the individual will be handled as a Confidential Informant

Detectives/officers will document the SOI with the following information/documents: biographical & background information.

1. The detective/officer will be responsible for creating & maintaining an activity file folder(s) for each SOI. The activity file folder(s) will include the SOI number, an expenditure control record (CI payment form, CPD Form #516) for actual expenses incurred and a SIO activity log.
2. The SOI code number and a list designator will be used to identify the SOI in reports, search warrants & other correspondence.
3. The folder will be stored in a secure location designated by the Commanding Officer.

Confidential Informant Documentation

Detective/officers will document the CI with the following information/documents:

1. Biographical and background
2. Police Department Records Management System
3. Photograph of informant
4. Informant Conduct Agreement Form (#359)
5. If on probation or parole, the documenting detective/officer shall notify the appropriate probation or parole officer.
6. Parental or guardian permission if a juvenile informant (Form #515) is to be used.
 - a. A Division Commander must sign approval to utilize a juvenile informant or juvenile source of information.

The Commanding Officer or their designee will review the materials for completeness and accuracy. In the presence of the assigned detective/officer, the commanding officer or their designee will place the information in a manila envelope. The envelope will be sealed at all seams and the supervisor and detective/officer will place their signature and the current date on the exterior of the envelope. A CI number will be assigned from an unused number from the informant logbook. For identification purposes, the CI number will be printed on the envelope. The sealed envelope will then be stored in a secure location by the Commanding Officer or his designee.

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The CI number will be used to identify the CI in reports, search warrant affidavits and other correspondence.

The documenting detective or officer will also prepare an activity folder for each CI. CI folders will be maintained in a secure location as designated by the Commanding Officer.

1. The expenditure form (CPD Form 466) will contain all payments made to the confidential informant. Each payment will be itemized to show the exact amount and date the confidential informant was paid for each occurrence.
2. Funds paid to CIs or SOIs will require receipt documentation.
 - a. At the time of payment, a CI or SOI must affix his/her signature to the appropriate portion of the Confidential Informant (CI) expenditure form (CPD 466). This form will be completed and forwarded to a supervisor within 24 hours. With the approval of a supervisor the CI or SOI may affix his/her alias name or assigned number as noted in his/her CI or SOI file. Actual expenses incurred will be noted in the CI or SOIs expenditure form in his/her file.
3. The informant activity log will contain the following information:
 - a. The date and time of initial contact
 - b. Information received from the informant
 - c. The Informant's involvement in an investigation.

39.7 COMMUNICATIONS, COORDINATION, & COOPERATION

Essential to the control and suppression of crime is effective communication, coordination, and cooperation with other divisions and personnel within the Department. This Unit will maintain a close liaison with personnel within the Patrol, Detective, and Intelligence Divisions in order to facilitate the exchange of information on a formal and informal basis by relating information and intelligence to that component of the agency concerned with the specific violation(s) by telephone or memorandum or through personal Meetings. Copies of incident reports, statements, or other documentation will be forwarded through appropriate channels or from one component to the other as soon as practically possible. Recipients of such information and/or intelligence by documentation will follow-up by direct contact with the document author.

39.8 AUTHORIZATION FOR OPERATION

No investigations, surveillance, or undercover operations will be conducted without specific authorization by the Unit Commander, or designee.

39.9 LEGAL GUIDANCE

It is vital that there is legal guidance at all stages of these operations to insure that officers are operating within the bounds of the law and to preempt any later challenges to the officer's actions. Also with this type of operation, concern must be given to potential civil liability for damage to property and invasion of privacy. Legal advisers must be especially knowledgeable in the areas of entrapment and preparation of arrest and search warrants. The legal advisor will be one of the first persons consulted in these operations.

39.10 ANALYSIS OF CRIMES, VICTIMS, AND CRIME LOCATIONS

Before any successful decoy or surveillance operation can take place, it is necessary that proper planning and analysis of the nature of the crime, the victim profile, and the crime location be accomplished. Items that will be specifically addressed are as follows:

1. What is the nature of the crime involved? Are they crimes where decoy or undercover operations will be necessary,

operations be necessary to penetrate the criminal organization? Is it a victim-oriented crime where a decoy could be used, what victim profile will be utilized to maximize the probability of contact and a successful operation?

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3. What is the location of the criminal activity like? Is it located in a high-crime or non-high-crime area? Contact will be made with the Department's Crime Analysis Unit to determine crime activity and type in the area and to obtain documentation of reports of prior criminal activity.

39.11 SURVEILLANCE, UNDERCOVER, & DECOY OPERATIONS (CALEA 43.1.5)

The Unit will conduct these types of operations in accordance with all applicable Federal Statutes, State Laws, City Ordinances, and Department Policies, Rules and Regulations. In all cases, full consideration will be given to:

1. Identifying and analyzing victims, crimes, crime locations, targets, and probable offenders and their habits, associates, vehicles, methods of operations, and any other pertinent data;
2. Familiarizing the officer with the target areas;
3. Determining operational procedures;
4. Identifying participating personnel;
5. Selecting and supplying equipment and/or vehicles;
6. Making contact with suspects;
7. Supplying officers with false identities and necessary credentials;
8. Maintaining accountability and confidentiality of officers' false identities and credentials;
9. Supplying officers with expense funds;
10. Establishing means for routine and emergency communications;
11. Determining legal ramifications;
12. Determining and providing backup security for officers;
13. Providing relief;
14. Providing close supervision; and
15. Notifying the patrol commander responsible for the target area.

39.12 GUIDANCE FOR DECOY AND SURVEILLANCE OPERATIONS (CALEA 43.1.5)

A detailed operational plan will be submitted to the unit Commander, or designee, prior to any such operation. All members of that operation will hold a full pre-briefing. During this briefing each member will be made aware of his or her specific function during the operation. In addition departmental policies regarding Use of Force, Pursuits, and Use of Body Armor and other related safety equipment will be reinforced.

39.13 OBSERVATIONS, SURVEILLANCE, & ARRESTS (CALEA 43.1.5)

Officers will be assigned specific duties in surveillance or decoy operations. These duties may include photography of the area or suspects, moving surveillance, or cover duties for the decoy.

While the best surveillance conditions are static, it is recognized that a suspect often becomes mobile. For that reason, those assigned to surveillance must be versatile and able to change response rapidly. Surveillance may go from foot to vehicle to public transportation in a short period of time. Officers involved in surveillance operations must always insure that they have

not been compromised by the suspect. This may require relinquishing the surveillance to other officers and perhaps picking it up again later. Once the target has identified surveillance, further operations will be difficult, if not impossible.

Arrests will be made with any available personnel except those designated to record the activity. In an emergency these officers can be used to protect life and/or property and the recording function will take second place. Arrests will be planned to take place in as quick, efficient, and non-dangerous a manner as possible. The suspect will, if possible, be maneuvered into a location that will provide for minimized danger to themselves, the public, and other officers involved.

During surveillance operations, provisions must be made for relief for officers involved. Officers will rotate duties to insure alertness and sufficient manpower to insure that extended surveillance can be executed with a minimum dislocation of personnel.

39.14 AREA FAMILIARIZATION

In any case of a decoy or surveillance operation, it is necessary to ensure that all officers assigned are familiar with the area of operations to include, but not be limited to:

1. Streets, alleys, and entrance and egress routes from the general geographic area;
2. Location of natural or man-made obstacles that would limit observation or response;
3. The design of buildings to be used or observed during the operation;
4. Exits and entrances that could be used by suspects or detail members;
5. Locations that offer concealment for the surveillance backup teams;
6. Identification of key individuals in the neighborhood who could affect the operation; and/or
7. Special considerations such as alarm devices, guards, or dogs present that could be a danger to the officers.

39.15 SELECTION & PREPARATION OF DECOYS (CALEA 43.1.5)

In order for a decoy operation to be successful, the decoy must be able to appear to be a member of the victim target group. This will require both careful screening of personnel and attention to cosmetic detail. The decoy will be dressed to as closely as possible resemble members of the established victim target group. This may require the assistance of professional make-up personnel, but often local community theater groups or even departmental personnel may have the necessary skill. All personnel utilized in decoy operations will have some means of backup, normally not less than three (3) officers per decoy deployed.

Additionally, every decoy will be equipped with some form of communications unless it is obvious that this equipment would compromise the operation. In the latter case, physical observation of the decoy will occur at all times. Backup officers will remain in such locations as to provide immediate support for the decoy in the event of an emergency or crime in progress. All decoy operation communications will occur on a dedicated channel and all participants will have a designation assigned at the commencement of the operation. These designations will be confidential to the units participating.

The officer-in-charge of the operation will coordinate, in advance, with the Team Commander to insure that the operation is not interfered with by regular patrol officers, but that there is also no major disruption of normal patrol patterns in the area concerned. Also, coordination will be made to insure that backup from regular assigned units can be relied upon. All members of decoy or surveillance squads will be assigned a distinctive article. This is especially necessary if the agents of more than one agency will be involved.

39.16 ESTABLISHMENT OF FALSE IDENTITIES

From time to time it is necessary to establish a false identity for an officer working decoy or undercover. In these cases, there

3. Entire identities can be constructed with the help of professionals.

It is vital in this type of operation that the officer is completely familiar with the personality he/she is adopting, and that personality will be as similar to his or her own as the situation permits. This will avoid unnecessary slips by the decoy/undercover operative.

Identities must be such that they are clearly established to allow for verification by the suspect or be vague or distant enough to logically prevent such verification. Rehearsals and stressing of the players prior to commitment is mandatory to insure they know their role.

39.17 IDENTIFICATION OF PARTICIPATING PERSONNEL (CALEA 43.1.5)

Decoy or undercover operatives will be identified to all personnel involved in the operation by name and description of clothing, vehicle or vehicles, location, and physical description including disguises, if any.

Others involved in the operation will be identified at briefings and by raid jackets and/or prominently displayed agency identification if not in uniform.

Supervisors will ensure that the plan is adequate, necessary recourses are available and that personnel adhere to pre-established plans.

39.18 IDENTIFYING SUSPECTS

In addition to information given by the complainant or that which is independently developed, it is vital that as much information as possible be developed regarding the suspected offenders. This information will include, but not be limited to:

1. Names and aliases;
2. Addresses of home and business;
3. Identification of known associates;
4. Documentation of prior criminal records (if any);
5. Identification of all vehicles used by the party, including automobiles, boats and aircraft; and/or
6. Observe and document the suspect's method of operation and check it against criminal history and complaint files.

39.19 CONFIDENTIAL FUND (CALEA 43.1.3)

All funds expended will adhere to the Departmental Policy on distribution, record keeping, responsibility, and chain of command.

Confidential funds will be expended only after consultation and approval of a supervisory member of the Special Investigative Unit. When funds are expended for any reason, documentation will be provided and signed by the officer, and the appropriate supervisory personnel with the authority to approve the expenditure showing the amount, date, purpose of expenditure, and case number(if applicable). A written request will be filed prior to payment of funds to an informant.

For any informant payment, the officer, a witness, and the informant will sign a receipt for any funds paid, which will show the amount, date, purpose, and case number (if any).

The OIC of the Special Investigative Unit has the authority to expend funds for investigative purpose up to a maximum of \$1,500.00 without prior approval. The Commander of Central Investigation may approve expenditures for investigative

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purpose up to \$3,000 without prior approval. Any request for expenditures above \$3,000 must be approved by the Chief of Police or their designee prior to payment. Any investigation where the cumulative expenditure of funds will likely reach \$5,000 must receive the approval of the Commander of Central Investigations. Investigations that will likely exceed \$5,000 shall receive approval from the Chief of Police or their designee prior to expending funds beyond this threshold. In addition, any single payment or cumulative payments in any 12 month cycle made to a confidential informant in excess of \$1,500.00 must be approved by the Chief of Police or their designee prior to payment. The fund will be audited at least quarterly by the Administrative Services Manager or designee.

39.20 EXPENSE FUNDS

Funds may be necessary for a variety of reasons. This money will be made available from authorized unit funds, and must be completely accounted for by the assigned officers.

39.21 EXPENDITURES REPORT

A written report of all unit expenditures will be submitted to the Bureau Commander on no less than a quarterly basis. An audit of unit funds will be conducted anytime there is a change in Command or upon request of the Chief of Police, or designee.

39.22 FORFEITURE PROCESS

The purpose of this policy is to establish the Department's procedure for the handling of money and property through the seizure process.

Pursuant to South Carolina Code of Laws Section 44-53-520 (Forfeiture) and Section 44-53-530 (Forfeiture Process), a copy of which is attached, the following document represents the Charleston Police Department's general orders, policies, and procedures for the handling of money and property through the seizure process.

1. The originating officer will ensure that the Asset Forfeiture Specialist receives the following documents, in order to prepare a seizure file:
 - a. Original report;
 - b. All/any supplemental reports;
 - c. Booking sheet, property sheets/tags and a tow sheet.

The Asset Forfeiture Specialist will then include a lab report and a CPD currency control log. The Administrative Assistant will enter into the Narcotics Unit database a detailed description of all seized items.
2. The Asset Forfeiture Specialist will then confer with the OIC as to the status of any property, in particular vehicles, on whether to discontinue or proceed with the forfeiture process. Tow sheets will be checked daily at the station and subsequent vehicle inspection and Department of Motor Vehicles lien check will be carried out prior to initiating a forfeiture proceeding. A copy of the lien check will be inserted into the forfeiture case file.
3. Once the decision to seek forfeiture has been made, the Asset Forfeiture Specialist will prepare "Summons and Complaint".
4. The prepared "Summons and Complaint" will be copied and filed at the Charleston County "Court of Common Pleas" together with the appropriate filing fee. The original document remains with the court, one copy is to remain with the seizing agency and a second copy of the "Summons and Complaint" will be forwarded to a designated Process Server for service.
5. Once service is completed, the "Affidavit of Service / Non Service" will be filed at the court.

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7. In the event of non service the Asset Forfeiture Specialist will immediately prepare a "Notice of Publication", which will be filed with the court and then sent via facsimile, as a publication request to a newspaper of general circulation in Charleston County. This notice will be published on the same day for three consecutive weeks (totaling three days) and at the completion an "Affidavit of Publication" will be completed and returned to the Asset Forfeiture Specialist. This document will be filed at the court.
 8. The Asset Forfeiture Specialist will then prepare a "Default Order" which will be taken to the Presiding Judge for signature and filing. A copy of this "Default Order" will be forwarded to the Finance Department and the City of Charleston Police Evidence Department, advising of the final disposition via a "Forfeited Funds/Property" letter. This letter will have attached to it a copy of the "Default Order" and will be signed by the OIC or the Asset Forfeiture Specialist. A copy of this letter and "Default Order" will be placed in a file marked "Transfer of Forfeited Funds", and remain on hand at the Narcotics Unit. The Administrative Assistant will then update the Narcotics Unit database to reflect this final disposition. The information will include, but is not limited to, date of forfeiture, and current location of property.
 9. If the property forfeited is a motor vehicle, the OIC or the Asset Forfeiture Specialist will take an original stamped copy of the order to the Officer in charge of the City of Charleston PD Garage, who will then obtain a title to the vehicle from the Department of Motor vehicles. Once in possession of the title to the vehicle the OIC of the Garage in conjunction with the OIC or the Asset Forfeiture Specialist will cause the vehicle to be auctioned to the highest bidder. The proceeds from this sale will be deposited with the Finance Department of the City of Charleston, and a copy of the bill of sale / receipt delivered to the Administrative Assistant of the Narcotics Unit, who will update the data base, and secure the receipt in a file for that purpose. In the event that the Police Department for its use retains the forfeited vehicle, the OIC of the Garage will allocate a unit number and in along with the Officer In Charge of the Narcotics Unit, will determine the vehicle destination. If the vehicle is returned to the Narcotics unit the Administrative Assistant will add the vehicle's particulars to the list of vehicles, currently on hand in the unit.
 10. The "Forfeiture Consent Form (#517)" will originate a forfeiture case and therefore a copy will be immediately given to the Administrative Assistant who will prepare a forfeiture file and provide it to the Asset Forfeiture Specialist. The original document will remain on file at SIU. A copy of it will be sent to Finance Department, along with a cover letter, detailing the disbursement of funds.
 11. All money and property with evidentiary value seized by the Department unit will be immediately deposited into the Evidence Department of the Charleston PD. All other property, that the Asset Forfeiture Specialist seizes and seeks forfeiture on, will be recorded, tagged and secured in the Narcotics Unit warehouse. All vehicles seized will also be recorded and stored in a secured facility.
 12. The threshold for depositing seized currency into the Narcotics Fund is three hundred fifty dollars (\$350.00), anything less will be deposited into the City's General Fund. Information on cell phones can be recorded manually and in turn released. Jewelry that is not of significant value will not be seized.

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13. All property seized as a result of narcotic investigations, is strictly recorded, secured, protected and its value preserved. The Asset Forfeiture Specialist will keep a separate log for currency, vehicles, and all other property. The Asset Forfeiture Specialist will maintain a different log for all proceeds, received from other agencies with regard to Equitable Sharing.
14. Unless otherwise provided by law, forfeiture proceeds will be maintained in a separate fund or account, subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.

39.23 RAID PROCEDURES (CALEA 43.1.5)

The Unit will conduct raids in accordance with all applicable Federal Statutes, State Laws, City Ordinances, and Department Policies, Rules, and Regulations. Due to the fact that raids will normally be executed pursuant to a lawfully acquired search warrant, all procedures found in Charleston Police Department Policy Manual will apply.

In addition to the provisions of the Charleston Police Department Policy Manual certain special conditions may arise during a raid that would not be present otherwise. For this reason, the following additional guidance is given:

1. **Selection of Equipment.** Specialized equipment such as night vision devices and body armor may be required which would not be necessary during a normal search warrant execution. The Officer-in-Charge of the unit involved is charged with evaluating the situation and determining prior to the execution date what specialized equipment will be necessary and procuring the same from internal or other sources.
2. **Mandatory Equipment:** Body Armor will be utilized by all Department personnel when conducting raids, buy-bust, and other high-risk operations. The supervisor in charge of the operations will ensure that all personnel participating in an operation organized and executed by the Charleston Police Department follow this directive. Anyone, regardless of agency involved, who does not adhere to this directive, will not be allowed to participate as an active member in the operation.
3. **Medical assistance.** In the event of injuries, it is the responsibility of the senior officer present to insure that EMS is immediately notified and proper, prompt medical assistance is provided to any individual requiring it.
4. **Assistance from other Units.** If assistance is required from other units of the department, selection will be made based on the expertise of the officers and their knowledge and experience. Intelligence and legal personnel will be considered as an augmentation force due to their expertise and the possibility their assistance may be required.

39.24 SPECIALIZED EQUIPMENT (CALEA 43.1.4)

Specialized equipment will be acquired and maintained in an orderly and secure manner. A knowledgeable custodian will be determined and assigned to ensure that proper care and functionality of said equipment is maintained.

Whenever an officer is assigned to duties requiring use of technical surveillance equipment, the custodian of that equipment utilizing a locally maintained, bound check-out log will log it out to the officer. Prior to checking out the equipment, it will be inspected to insure the equipment is in proper working order. When the equipment is returned, it will be inspected for any damage and proper working conditions. In addition to the above information, the log will include the name and signature of the officer checking the equipment out, that officer's reporting number and an identification by both types of equipment and serial number of the individual piece of equipment checked out.

No officer will be allowed to check out any technical surveillance equipment unless they have been properly trained in its use. A list of officers trained on the technical gear will be kept with the equipment at all times. The Bureau Commander upon the recommendation of the Unit Commander, or designee will approve this list. As other individuals are certified in the operation

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All members assigned to undercover or decoy operations will receive training prior to engaging in these operations. This training could be provided by unit members or through training courses offered through a variety of organizations. Regardless of the type, this training will be documented in placed in the officers' training file maintained through Professional Development and Training. Additionally, all officers with assignments that require undercover, surveillance or non-traditional investigative activity will receive ongoing training to maintain their proficiency and stay current with new techniques, equipment, and legal requirements.

39.26 INVESTIGATIVE USE OF CONTROLLED SUBSTANCES (CALEA 84.1.4)

Occasionally, the Narcotics Unit will perform an investigation or "reverse" operation which requires the use of either a controlled substance or a material perceived as a controlled substance. This agency does not authorize the use of controlled substances for investigative purposes or 'reverse' operations. Officers are only authorized to utilize placebos during such activities with this Department. Controlled substances will only be permitted for use during operations when a Federal, State, or other Bureau is formally announced as the lead investigative agency and assistance is required from the Charleston Police Department. At that time the lead agency must have obtained a written agreement from the Attorney General, Solicitor, and/or other appropriate legal representative to include the Officers of the City of Charleston Police in addition to permission from this Department's Chief of Police, or designee.

39.27 INTERNET CRIMES AGAINST CHILDREN (ICAC)

The Charleston Police Department will adhere to strict guidelines with respect to investigations of computer related child exploitation. The standards adopted pursuant to this policy mirror those of the ICAC Task Forces and ensure compliance with those protocols accepted by the Federal Bureau of Investigations (FBI), U.S. Customs (ICE), and the U.S. Postal Inspectors' Office (USPIO). The CPD ICAC Task Force shall be operated under, and managed by the Special Investigative Unit (SIU) Commander.

Workspace and Equipment

1. Workspace and Equipment- ICAC computers and software shall be reserved for the exclusive use of agency designated ICAC personnel. When possible, undercover computers, software, and online accounts shall be purchased covertly. No personally owned computers shall be used in ICAC investigations, and all software shall be properly acquired and licensed.
2. The undercover Internet connection(s) utilized by the ICAC Task Force shall have no association to the Charleston Police Department and shall be billed to covert names and addresses.
3. The undercover internet connection(s) and computers shall not be accessible to anyone other than ICAC Task Force Detectives without the express written approval of the Chief of Police or Deputy Chief of Central.
4. Absent exigent or unforeseen circumstances, all ICAC online investigations shall be conducted in workspace designated by the Charleston Police Department.

Case Predication and Prioritization

1. Cases may be initiated by referrals from the Cyber-Tipline, Internet service providers, or other law enforcement agencies, and by information gathered through subject interviews, documented public sources, direct observations of suspicious behavior, public complaints, or by any other source acceptable under department policies.
2. The SIU supervisor shall be responsible for determining investigative priorities and selecting cases for investigations. Assuming the information is deemed credible, the determination should begin with an assessment of victim risk followed by consideration of other factors such as jurisdiction and known offender behavioral characteristics. The following prioritization scale was established by the ICAC Task Force and will apply to the assignment of cases within the Charleston Police Department.
 - a. A child is at immediate risk of victimization;
 - b. A child is vulnerable to victimization by a known offender;
 - c. Known suspect is aggressively soliciting a child(ren);
 - d. Traders of images that appear to be home photography with domiciled children;
 - e. Aggressive, high volume child pornography traders who either are commercial distributors, repeat offenders, or specialized in sadistic images;
 - f. Traders and solicitors involved in high-volume trafficking or who belong to an organized child pornography ring that operates as a criminal conspiracy;
 - g. Traders in previously known images;
 - h. Traders in digitally altered images.

Recordkeeping

The ICAC unit shall be subject to CPD department incident reporting procedures. Investigators will obtain a case number at the outset of each case and fully document their activities through the completion of initial and supplemental report. Reports will be completed and reviewed by a supervisor in a timely fashion. Closed reports will indicate the manner in which a case has been resolved and case file completed and submitted. No images of child pornography or child erotica are to be uploaded to RMS.

Undercover Investigations

1. Carefully managed undercover operations conducted by well-trained officers are among the most effective techniques available to law enforcement for addressing ICAC offenses. Undercover operations, when executed and documented properly, collect virtually unassailable evidence regarding a suspect's predilection to sexually exploit children. However, these investigations can trigger serious legal and ethical considerations due to concern that inappropriate government conduct may induce an otherwise innocent citizen into committing a crime.
2. All undercover investigations shall be conducted in a manner consistent with the principles of due process. ICAC Detectives shall avoid unlawful inducement of any individual not otherwise disposed to committing the offenses being investigated, and will not engage in conduct that is shocking or offensive to notions of fundamental fairness as described in applicable case-law. See, for example, *Jacobson v U.S.*, 503 U.S. 540 (1992); *U.S. v. Archer*, 486 F.2nd (2nd Cir. 1973).
3. ICAC Detectives should always be aware that their actions, in addition to those of the offender, may be at issue in deciding if charges are brought, whether referrals to other law enforcement agencies are acted upon, and as a

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- a. Only sworn, on-duty investigative personnel shall conduct ICAC investigations in an undercover capacity. Private citizens shall not be asked to seek out investigative targets nor shall they be authorized to act as police agents in an online undercover capacity.
 - b. Any personnel conducting ICAC investigations will receive formalized and documented training prior to participating in any investigation. The training documents will be reviewed and approved by the Commander of SIU prior to any officer working an undercover ICAC case.
 - c. Personnel conducting ICAC investigations who are not assigned to SIU will have permission from their Division commander via the SIU commander.
 - d. Prior to using non-investigative personnel in ICAC cases, the detective making the request will prepare a written request for review by the commanding officer of SIU. This memorandum will include: the need for the non-investigative personnel, the name and duty assignment of the officer being requested, length of assignment, and the parameters of the assignment. The commander of SIU will review the request before any non-investigative personnel is utilized and forward the request to the appropriate Division commander for approval.
 - e. Employees shall not, under any circumstances, upload, transmit, or forward pornographic or sexually explicit images.
 - f. Other than photographs of law enforcement officers who have provided their informed written consent, no human images shall be uploaded, transmitted, or forwarded by ICAC Task Force personnel.
 - g. During online dialogue, undercover officers shall allow the investigative target to set the tone, pace, and subject matter of the initial online conversation. Image uploading shall be initiated by the target.

	Administrative General Order	41 Confidential Informants	PAGE 1 OF 6
	City of Charleston Police Department Policy and Procedure Manual		EFFECTIVE DATE: 12/10/07
			ORIGINATOR: Strategic Analysis & Innovations
	DISTRIBUTION: ALL		CALEA: 42.2.7; 43.1.3
BY THE AUTHORITY OF THE CHIEF OF POLICE:			

41.1 PURPOSE

To establish guidelines for handling individuals who provide information to Police which may be helpful in investigations but are unidentified or seek to have their identities protected to include Confidential Informants (CI) and Sources Of Information (SOI) by both Investigative (Detectives) and Operations (Uniform) personnel.

41.2 DEFINITIONS

Anonymous Tipster- Any person that is not under the direction of law enforcement, wishes to remain anonymous, and supplies information on a single event or on a non-routine basis. This person does not have an active role in an investigation.

Source of Information (SOI) - Any person who is not under the direction and control of law enforcement that provides information without compensation and does not take an active role in the investigation.

Confidential Informant (CI) - Any person who is acting under the direction and control of law enforcement, has an active role in the investigation, and provides information that is useful for investigative purposes. In return for such information, the person has expectations of receiving something of benefit such as financial gain or reduction or dismissal of criminal charges.

41.3 POLICY (CALEA 42.2.7 f)

The Charleston Police Department encourages sworn personnel to develop and seek criminal intelligence through the development of confidential informants and sources of information, and to provide for this resource within a controlled system to avoid abuse and minimize adverse impact. Anonymous Tipsters, Sources of Information, and Confidential Informants are resources for the Charleston Police Department, and are not considered personal resources of a particular officer or detective. Officers and Detectives have the responsibility to ensure the information provided to them by any anonymous tipster, source of information, or confidential informant is forwarded to the appropriate investigative unit, via the Chain of Command.

Common sense, logic, and reasonableness will guide each department member in the documentation and handling of CI's or SOI's. It is strongly recommended that each meeting with a CI or SOI include two Detectives/Officers. This is particularly important when meeting with CI's or SOI's of the opposite sex. This policy is not meant to document every person a police officer or detective interacts with. However, if a person supplies information on a regular basis, or supplies information that is utilized to further an investigation such as in an affidavit for a search warrant, the CI or SOI should be

on a sporadic nature. Documentation of SOI's are required when the following criteria is met:

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1. The SOI supplies information that is utilized for probable cause, such as in a search warrant or arrest warrant;
2. The SOI calls on a regular or repetitive nature to supply information;
3. Detectives/Officers will document the SOI with the following information/documents: Biographical and background information utilizing a SOI cover sheet;
4. The Officer/Detective will be responsible for creating and maintaining an activity file folder for each SOI. The activity file folder will include the SOI number on the file tab, an expenditure control record will be kept in the folder and a SOI activity log and the completed SOI Cover Sheet will all be kept in the folder;
5. The SOI code number and alias designator will be used to identify the SOI in reports, search warrant affidavits, and other correspondence;
6. The folder will be stored in a secure location as designated by the Commanding Officer.

41.5 CONFIDENTIAL INFORMANT DOCUMENTATION (CALEA 42.2.7 b, c, d)

Detectives/Officers will document the CI with the following information/documents:

1. Biographical and background information utilizing a CI cover sheet;
2. Police Department records management system information, if applicable;
3. Photograph of the informant;
4. Informant Conduct Agreement;
 - a. The CI should read and initial each statement to ensure the understanding and acknowledgement of the restrictions and the parameters of working with the Charleston Police Department.
5. A parental or guardian permission form if a Juvenile Informant is utilized:
 - a. Commanding Officer must give prior approval to utilize a Juvenile Informant or Source of Information

41.6 CONFIDENTIAL INFORMANTS AND SOURCES OF INFORMATION

The Commanding Officer or his designee will review the materials for completeness and accuracy. In the presence of the assigned detective/officer, the Commanding Officer or reviewing supervisor will place the information in a manila envelope. The envelope will be sealed at all seams, and the supervisor and detective/officer will place their signature and document the current date on the exterior of the envelope. A CI number and alias designator will be assigned from an unused number from the informant logbook. For identification purposes, the CI code number and alias designator will be printed on the envelope. The sealed envelope will then be stored in a secure location by the Team/Bureau Commanding Officer or his/her designee.

The CI code number and alias designator will be used to identify the CI in reports, search warrant affidavits, and other correspondence.

The documenting officer or detective will also prepare an activity file folder for each CI. The activity file folder will include the CI number, an expenditure control record, and a CI activity log. CI Activity File Folders will be maintained in a secure location as designated by the Commanding Officer of the specific command.

1. The expenditure control record will contain all payments made to the Informant. Each payment will be itemized to show the exact amount and the date the Informant was paid for each occurrence.

2. Funds paid to informants will require the informant to sign for the funds;
3. The informant activity log will contain the following information:
 - a. The date and time of the initial contact;
 - b. Information received from the informant; and
 - c. The Informant's involvement in an investigation.

41.7 COMMAND DOCUMENTATION (CALEA 42.2.7 a, c)

Logbooks - Each Command will be responsible for having a logbook for the documentation of Sources of Information and a separate logbook for the documentation of confidential informants. Each logbook will contain a command issued code number for either the SOI or CI and a command issued alias name for the CI. Both logbooks will be stored in a secure location within the command.

Activity Files - Each Command will maintain an activity file for the SOI activity file folders, and a separate activity file for CI activity file folders. Access to the files will be permitted on a 24 hour basis for supervisory members of the department who will retrieve, or authorize the retrieval of individual files for updating by the documenting officer / detective.

CI Information Files - Each command will maintain a secure file that will contain the sealed personal information packet completed on each confidential informant by the documenting officer / detective. Access to this file will be restricted to the Commanding Officer of the organizational component only.

41.8 INCARCERATED INFORMANTS

Recognizing the need to develop information that would solve past crimes or prevent crimes from being committed, utilization of criminal/incarcerated informants is an essential tool to the investigator. When an investigator is approached by an individual that is in custody asking for consideration of a lower bail, plea negotiations or reduction in a sentence, the following guidelines are established to aid in the handling of an incarcerated informant:

1. The investigator should obtain the criminal record of the individual and contact the arresting officer to consult as to the type of offense committed, the seriousness of the offense, and any information that the officer needs to develop the case;
2. The investigator will contact his immediate supervisor who will evaluate the benefit to be derived as a result of the information;
3. Where applicable, the supervisor or case detective will contact the State Attorney handling the case and explain the benefits to be derived;
4. Once the approval of the Attorney, when applicable, has been obtained the officer/detective can obtain a full debriefing;
5. Once the Investigator has obtained authorization from the supervisor, the Prosecuting Attorney, and the defense attorney, the requesting investigator will be designated as the control officer for the informant;
6. If conflict arises between the investigator and the informant that makes the usefulness of the informant counterproductive, the supervisor will terminate any contact with the individual or establish a new control officer.

In the event there are criminal charges in more than one jurisdiction, the investigator will follow the same procedures with the exception that either the supervisor or the State Attorney will contact the State Attorney in the respective jurisdiction. After an agreement has been reached with other jurisdictions, the investigator will not relinquish control of the informant without the consent of a supervisor. The informant will be controlled at all times by one control officer. At no time will

Officer:

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1. Persons less than 18 years of age may only be utilized with the approval of a Commanding Officer of the unit command and with the written consent of a parent or legal guardian. The Detective/Officer will physically meet with the parent(s) and/or guardian, to verify the relationship, identity, and consent of said parent(s) or legal guardian(s). The Detective/Officer will complete a Parental Acknowledgement Form and have the parent/guardian sign the consent form. The completed form and CI/SOI packet will be forwarded to the Commanding Officer for review and written approval;
2. Prior to utilizing any juvenile in an informant or source of information capacity, a complete background investigation will be conducted to include, but not limited to:
 - a. Prior arrest record;
 - b. Probation or Parole status;
 - c. Any indication of mental instability.

41.10 DOCUMENTATION OF JUVENILE INFORMANTS (CALEA 42.2.7 g)

1. Juvenile CI/SOI will be documented in the same manner described above with the exception that their CI/SOI control number will end with the letter J;
 - a. (Example: SI-001-J).
2. The CI/SOI file will be maintained in a separate secure location within the responsible command.

41.11 DISQUALIFIED INFORMANT/SOURCE OF INFORMATION

Detectives will submit to their immediate supervisor a memorandum requesting the disqualification of any SOI/CI. The memorandums will remain on file in the SOI or CI logbook for future reference. No disqualified SOI/CI will be returned to the active files without the approval of the Team/Bureau Commanding Officer. Disqualified SOI/CI will be removed from the list of approved information sources and the following restrictions will apply to any future contact:

1. Officers/Detectives will not initiate any type of contact with the disqualified SOI or CI after their removal from the active files;
2. If a disqualified SOI/CI initiates contact, they will be immediately notified that they are no longer working with the Police Department and they are not to engage in any conduct or activity on behalf of the Department;
3. If a disqualified SOI/CI still attempts to provide information regarding criminal activity, this information by itself will not be used to establish reasonable suspicion, probable cause, or to justify any other enforcement actions. If the Detective or Officer can independently establish reasonable suspicion or probable cause through personal observations, information from other SOI/CI's or other investigative means, then investigative actions may be taken.

41.12 PROCUREMENT OF INVESTIGATIVE FUNDS (CALEA 43.1.3)

Each year the police department budgets funds to be used as investigative expenses. The Central Investigation Unit, Narcotics, or the Vice Squad most commonly uses these funds. The funds are drawn in relatively small amounts and kept by the Unit Commander to distribute as needed to the officers of the unit. The Investigative Bureau Commander must approve inordinate or excessive expenditures.

The Commander of the unit will draft a request for a check to be drawn and made payable to the officer for the amount needed. The check request will remain with the records and receipts. The Division Commander of the requesting unit will endorse the request. The Unit Commander requesting the funds will supply the Administrative Services Manager with the check request including the voucher numbers that will be used to account for the funds. The Administrative Services Manager will use this check request, including voucher numbers, to submit to Finance Services for reimbursement of the funds. After each request, the Administrative Services Manager will then review the previous check with voucher numbers and endorse that the funds were distributed and accounted for properly. The Investigative Division Commander will endorse all check requests and maintain a copy.

41.13 ACCOUNTING AND MAINTAINING INVESTIGATIVE FUNDS

In most cases, each check requested will be used for numerous investigations. In each case, the complaint number must be listed in the original complaint that was used to request the funds.

In all cases where cash funds are maintained or personnel are authorized to receive and/or disburse cash:

1. A balance sheet, ledger, or other system that identifies initial balance, credits (cash received), debits (cash disbursed), and balance on hand will be maintained;
2. Receipts and documentation for any cash received will be maintained;
3. A record will reflect authorization for cash disbursements and authorization by the Investigative Bureau Commander for expenses in excess of \$1,000;
4. Records, documentation, and/or invoices are required for all cash expenditures;
5. There is a quarterly accounting of funds governed by this policy conducted by Investigative Bureau Commander.

41.14 PAYMENTS TO INFORMANTS/SOURCES OF INFORMATION (CALEA 42.2.7 e)

The criteria for payment to a CI will be decided by the Detective/Officer's immediate supervisor in conjunction with the Team/Bureau Commanding Officer and will be based on the importance of the crime, the value of the information, and the availability of funds. Payments will be made only with department-authorized funds and will not be made until after the information has provided positive results.

If the funds are paid out of the Narcotics & Vice or the Central Investigation Division's confidential fund, the following procedure will be utilized:

1. The Narcotics & Vice and the Central Investigation Division's Commanding Officers will be responsible for maintaining control of the department's confidential funds and will maintain an accountability system;
2. Prior to making any payment from the confidential fund, a request will be made by the Detective/Officer to their immediate supervisor;
3. Two sworn Detectives/Officers will meet with the SOI/CI and make the approved payment. As soon as possible after the payment, but no more than twenty-four (24) hours later, a receipt will be submitted that includes the following information: case number, date, names of Detectives/Officers making the payment, informant's name or code number and/or alias designator, amount of payment, purpose, and any action taken. A receipt signed by the SOI/CI will be obtained for funds paid;
4. All requests for funds in excess of \$3,000.00 must be approved by the Chief of Police or his designee prior to payment. In addition, any single payment or cumulative payments in any 12 month cycle made to a confidential informant in excess of \$3,000.00 must be approved by the Chief of Police or his designee prior to payment.

reassigned Commander of the unit, it is the primary responsibility of the Unit Commander to request that an audit be made upon entering and leaving the unit as Commander.

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41.16 DEACTIVATION/PURGING OF CI & SOI FILES

The Commanding Officer of the Bureau/Team or his designee will review the CI and SOI files and activity folders every six (6) months to purge/deactivate inactive CI's and SOI's. A CI or SOI will be purged/deactivated when their potential to aid the department in criminal investigations ceases. The decision to purge/deactivate a CI or SOI will be between the investigator and his supervisor due to known information relating to the informant's failure to follow established guidelines or lack of productivity. CI's or SOI's will be deactivated and the associated files purged when:

1. They no longer have the potential to furnish information or services, which could lead to a prosecution of criminal activities;
2. They are no longer willing to cooperate or follow the rules of conduct;
3. Their cooperation has been determined to be unsatisfactory;
4. They have been inactive with no contact for at least one year.

All files that are identified to be deactivated / purged will be done so pursuant to the State of South Carolina Public Records Act.

The State of South Carolina
Charleston County Courthouse



Court of Common Pleas
Ninth Judicial Circuit Court

Dean Seagers,

Applicant,

Vs.

State of South Carolina,

- Respondent.

Memorandum of Law

Question Presented

Did the cumulative effect of the constitutional violations which occurred pre-trial, during trial, and sentencing, violate Applicant's rights to a fair trial, where counsel failed to put State's case to full adversarial test under Strickland v Washington?

A. Prosecutorial Misconduct

Applicant contends that counsel was ineffective for not objecting to the State vouching for the credibility of its witnesses during closing argument as follows:

"He knew him well enough to call him by his nickname and, in fact, I believe his testimony, and his recollection is—is the best, but I believe his testimony..."

Tr Tr pg 477, ln 15-18

"He also told you he was afraid. I believe his words"

Tr Tr pg 478, ln 14-15

Because this case hinged on the credibility of witnesses, the Prosecution vouching for witness is a denial of my right to a fair trial. For instance, the video was unreliable and in no way shows who was at window, moreover, State admits during closing argument that:

Generally, "the assessment of witness credibility is within province of the jury", State v

McKerley, 397 SC 461, 464 (Ct App 2012). Thus, solicitors may not vouch for a witness's credibility, as doing so improperly invades the province of the jury and places the government's prestige behind the witness. See Vaughn v State, 362 SC 163, 169 (2009). The solicitors must confine their closing remarks to the record and the reasonable inferences that may be drawn therefrom. See Simmons v State, 331 SC 333, 338 (1998).

Here, as the parties concede, the case was entirely dependent on a credibility determination of prosecution's witnesses. Therefore, Applicant contends that but for the improper vouching of confidential informant, there is a reasonable likelihood the outcome of trial would have been different, and Applicant was prejudiced by trial counsel's failure to object. See State v Jennings, 394 SC 473, 480 (2011). Similarly, given the lack of physical evidence, the solicitor's plea that Applicant was a "Trap king" (r Tr pg 492, ln 22) is reasonably likely to have had a substantially stronger impact than would be the case in a trial where there was additional independent evidence of Applicant's guilt. See State v Bennett, 328 SC 251 (1997).

As a result, it is likely the plea, particularly in conjunction with the solicitor's improper vouching for informant's credibility, swayed the juror's view of the facts and resolution of the contradictions in the witnesses testimonies.

B. Judge's Charge to the Jury

Applicant contends that counsel was ineffective when counsel did not object to the court's instructions to the jury, when trial court stated that:

"There does not have to be anything given in exchange for the drugs for a transfer to constitute distribution"

Tr Tr, pg 505, ln 10-12

This is an incorrect statement of law, because the State must show something was given in exchange for drugs, as such, instructing the jury "there does not have to be anything given in exchange for the drugs" gives jury impression that merely giving a person drugs is a crime.

Moreover, this charge relieved State of its burden of proof. Because the State must prove Applicant had dominion and control over drugs, there is no testimony that Applicant had dominion over drugs found in apartment. (Tr Tr, pg 169, ln 15-21)

The informant testified as follows:

Q: And did you see him lower the drugs to you?

A: No.

Q: Did you—

A: I just see the string come down.

Q: And just before you saw the string come down, did you see baby in the window?

A: Afterward, but—I didn't see who lowered down the string.

Tr Tr, pg 216, ln 25; pg 217, ln 1-7

Furthermore, counsel was ineffective when he failed to object to the trial court's instruction of "Accomplice Liability" or "Hand of One Hand of All" when the court charged jury as follows:

"If a crime is committed by two or more people who are acting together in committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the acts done in carrying out the common plan and purpose. If two or more people are together, acting together, assisting each other in committing the offense, the act of one is the act of all, or it is sometimes said the hand of one is the hand of all.

Tr Tr pg 500, ln 23-25; pg 501, ln 1-7

Because of the inconsistencies between the State accomplice liability legislation and its respective interpretation in the state courts, this State's accomplice laws present a confused picture in terms of the laws stance on accomplice liability.

for mental state for accomplice liability, counsel would be able to show the court three approaches and, 699
inter alia, that these approaches differ in the degree to which they hold an individual culpable for the
conduct of another.

For instance, there is a view that favors a very limited, narrow approach whereby accomplice liability is dependant upon a finding that an accused's "Purpose was to encourage or assist another in the commission of a crime". While another view tolerates a more expansive approach whereby an accomplice's liability turns on whether the accomplice harbored the mental state required of the substantive crime allegedly aided or abetted. The more broad approach hold an accomplice liable for the "natural and probable" consequences of a principal conduct that the accomplice somehow assisted or encouraged, regardless of the accomplice's mental state.

Legal Analysis

The trial court has no discretion to give incorrect or misleading jury instructions, and to do so prejudicially constitutes reversible error. See *State v Blurton*, 352 SC 203, 208 (2002).

The test for whether a jury was properly instructed is whether the instruction follows the substantive law and can be readily understood by the jury. See *State v Stukes*, 416 SC 495 (2016), *Blurton*, id at 208. If the jury instructions are ambiguous, misleading, or confusing to the jurors, those instructions will result in reversal and a remand for a new trial. *Blurton*, *Stukes*, id.

That is, a jury instruction which mistakes the issues and has a tendency to confuse the jury is erroneous. A juror may suffer from confusion or misdirection from an instruction, and thus, the instruction amounts to reversible error, despite the fact that the juror considers the instructions straightforward and perfectly comprehensible on its face. *Stukes*, id at 498-99.

None of the flexible, pro-prosecution aiding and abetting principles some of dubious constitutionality should trump the basic and overarching evidentiary principle that an aiding and abetting instruction may be given when supported by evidence. In other words, the aiding and abetting principles

discussed above are only applicable where some evidence in the record supports criminal liability of a particular defendant as an aider and abettor, regardless of whether the record could also support the defendant's conviction as a principal. See To "Aid, Abet, Counsel, Command, Induce, or Procure the commission of an offense": A Critique of Federal Aiding and Abetting Principles, 57 SC Law Rev 85 (2005) Adam Kurland.

These aiding and abetting principles exist in a legal environment where prosecutors are not always required to present a consistent and unified evidentiary theory. Consequently, this loose environment creates opportunities to overstep legal boundaries. See The Mental State Requirement for Accomplice Liability in American Criminal Law, John F. Decker, 60 SC L Rev 237 (2008).

Failure to inform defendant about plea offer

~~Counsel failed to inform defendant of 10-year plea offered by prosecution during time jury was deliberating. Counsel informed defendant of such offer after his direct was denied.~~

Legal Analysis

Although our appellate courts have not directly addressed the question of counsel's failure to communicate a plea offer to his or her client constitutes deficient performance, other cases of deficient performance in the context of plea bargaining would appear to support petitioner's position. See, eg, Sprouse v State, 355 SC 335, 340 (2003); Thompson v State, 340 SC 112, 116-17 (2000); Jordan v State, 299 SC 52, 53-54 (1988).

Because our appellate courts have not specifically ruled on this issue, applicant is guided by the decisions of other state and federal jurisdictions. See United States v Rodriguez, 929 F 2d 747, 752-53 (1st Cir 1991); Pham v United States, 317 F 3d 178, 182 (2d Cir 2003); Lafler v Cooper, 566 US 156 (2012). Pursuant to the professional standards, counsel is required to fully communicate with client so that the client can make informed decision regarding any proposals by the State. See Williams v State, 2018WL1081406.

Q: ...did you witness the CI involved in an alleged drug transaction on the 20th of June 2012?

A: Did I—I did not witness it, no.

Q: All right. Were you monitoring the CI's alleged attempt to buy drugs on June 20th by video and audio?

A: Not by—not by video. Only audio. Audio was the only thing that was live. The video was—had to be downloaded afterwards.

Tr Tr pg 46, ln 21-25; pg 47, ln 1-5

Q: Okay based on what you viewed on the video, what do you believe—the distance that CI Robert Drayton was from an alleged person who distributed drugs to him?

A: Maybe from here to the ceiling. Fifteen feet.

Q: And based on your view of the video, how long—or, first of all, do you know—based on your view of the video, do you know whether the CI actually viewed a person who was allegedly distributing drugs to him?

A: You can't—you cannot tell from the video—the camera was attached to his shirt, it wasn't attached to his head, so whatever his eyes saw, I couldn't testify to that.

Tr Tr pg 47, ln 18-25; pg 48, ln 1-5

Q: And on the video that we're speaking of now, did you see any person allegedly distributing drugs to Robert Drayton?

A: No.

Q: On the video, did you see the CI Robert Drayton in possession of any drugs?

A: No.

Tr Tr pg 48, ln 7-14

Based on the record, it is clear no Franks hearing was conducted, only a hearing under Neil v Biggers was held:

Q: Detective Burke, the purpose of this hearing has to do with the CI's identification

Tr Tr pg 46, ln 10-18

Even when counsel began cross-examination, the prosecution objected (Tr Tr pg 44, ln 3-9). This shows that counsel clearly did no pretrial investigation of case which is a critical stage of the criminal proceedings.

Had counsel viewed the video, it would be clear that both arrest and search warrants do not comply with the Constitution. Since both contain false information, and absent this false information police could not search or arrest defendant.

Even the hearing (Tr Tr pg 94, ln 20-25; pg 95-96) was inadequate. Because this does not indicate whether the reliability of the confidential informant was established before the magistrate as required.

For instance, the prosecution asked witness the following:

Q: And if you had had any issues with their reliability?

A: If—if there were any issues, I just wouldn't use them. So I wouldn't—

Q: So—so is your position here today that is there had been issues with a CI's reliability that you would not present a warrant to the judge?

A: Yes.

Q: And if the judge had questions with any specificity as to somebody—a CI's reliability, would you answer those?

A: Yes.

Tr Tr pg 95, ln 20-25; pg 96, ln 1-8

None of this testimony satisfies the reason why Detective did not include any information about reliability of confidential informant in arrest or search warrant when he was obtaining them.

Clearly defense counsel dropped the ball, because counsel never asked at anytime "Why he never included information about informant in arrest/search warrants?" (Tr Tr pg 96, ln 13-23)

Similarly, the prosecution misconstrued the facts when telling the trial court "he did on this case as it pertains to the search warrant and the arrest warrant provide background", "and had conversation with the judge". Well first, the officer said he does not remember what the judge asked him (Tr Tr pg 96, ln 13-18). Nowhere on direct does his testimony come close to anything prosecution told court (Tr Tr pg 97, ln 14-16) and this testimony only shows how counsel abandonment of his duty to me deprived me of counsel at a critical stage, and prosecution's blatant disregard for my right to due process.

The trial court ruled as follows:

The Court: Your mo—based upon the testimony that has been presented and my review of the case law that has been marked as Court's 2, I deny

Neither party objected to the trial court's failure to rule on Franks issue, which only consisted of oral arguments and no testimony relating to this issue, as it was stated by counsel:

Mr. Marshall: Well, there's a Franks—I need to do a Franks hearing to protect the record for my client; otherwise—or protect—...

Tr Tr pg 85, ln 21-23

Clearly counsel actions display abandonment of his duties, when he not only took part in a woefully inadequate hearing under Franks, but as well as hearing alleging police did not state "reliability or credibility" of confidential informant. Despite ruling of court, there was no evidence supporting ruling officer supplemented record with oral testimony.

Counsel also failed to challenge the unlawful search of the phone, and it was not until court had asked counsel if he had any objections did he do so (Tr Tr pg 106, ln 7-25) and because of this total abandonment at a critical stage, where confidential informant credibility is seriously damaged. This cell and the search warrant State alleges was part of home search (Tr Tr pg 107, ln 14-16) all stems from the false information provided by the police.

Legal Analysis

Pursuant to South Carolina Code Ann §17-13-140(2014) "any magistrate having jurisdiction over the area where the property sought is located may issue a search warrant to search for and seize property constituting evidence of a crime or tending to show that a particular person committed a criminal offense." The task of the magistrate when determining whether to issue a warrant is to determine whether the warrant is supported by probable cause. See *State v Philpot*, 317 SC 458, 461 (Ct App 1995). Therefore, if a warrant issued is based on an affidavit containing inaccurate information, the warrant will not be defective so long as the affidavit supports a finding of probable cause once the inaccurate information is removed. See *Franks v Delaware*, 438 US 154, 156 (1998).

~~B. Failure to Rule on Identification~~

Applicant contends that trial court failed to rule on Neil v Biggers hearing and both the defense and prosecution (Tr Tr pg 51-52) Both counsel and State deprived applicant a fair hearing and a fair trial.

~~Conversely, this hearing was a critical stage of the adversarial process.~~

~~F. Improper Lay Witness Testimony~~

Mr. Marshall: Judge, I'm gonna object at this point to any testimony from this witness regarding voice identification because he's not a voice identification expert.

The Court: All right.

Ms. Mulkey: I wasn't attempting to admit him as an expert, your Honor.

Tr Tr pg 165, ln 8-14

Despite prosecutor's stating she was not attempting to admit him as an expert, State continued as follows:

Q: And after watching and listening to the video and listening to the live wire that day, were you able to personally identify any voices from your training and experience?

A: Yes, ma'am I heard Baby Dean's voice.

Tr Tr pg 166, ln 4-8

Counsel ruled his objection (Tr Tr pg 166, ln 12-15) the court denied counsel's request.

~~Legal Analysis~~

Applicant contends the trial court erred in admitting Detective Grill testimony that identified defendant voice on video without first requiring him to be qualified as an expert witness or to establish his first hand knowledge of the facts upon which his opinion was based. Lay witnesses are permitted to offer testimony in the form of opinions or inferences if the opinions or inferences are rationally based on the witness's perception, will aid the jury in understanding testimony, and do not require special knowledge. See SCRE Rule 701.

Our Supreme Court has confirmed that "a lay witness may only testify as to matters within his personal knowledge and may not offer opinion testimony which requires special knowledge, skill,

technical, or any other specialized knowledge. Expert testimony differs from lay testimony in that an expert witness is permitted to state an opinion based on facts not within his firsthand knowledge."

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Watson, id. at 445-46

~~Speedy Trial~~

Counsel was ineffective when he failed to timely file for dismissal based on the State violation of applicant's rights to a speedy trial (Tr Tr pg 7-18) as the following colloquy took place:

Mr. Marshall: But—so that would be roughly a year ago that the issue was raised.

The Court: All right. And did you raise it again after that in front of Judge Young?

Mr. Marshall: No, ma'am.

The Court: You haven't raised it again—

Mr. Marshall: No, ma'am.

The Court: —up until today and ew're ready for trial, correct? You're—you're ready?

Mr. Marshall: Yes, ma'am.

The Court: You're ready, Mr. Sowards?

Mr. Sowards: We are.

Tr Tr pg 17, ln 15-25; pg 18, ln 1

Because counsel delayed to file motion, court told counsel that:

~~"When we did our last Tuesday, and you could have addressed it then. You did not address it then, and you will be going on and on."~~

Tr Tr pg 18, ln 11-13

~~Legal Analysis~~

The Sixth Amendment to the United States Constitution provides "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." Similarly, the South Carolina Constitution provides that "Any person charged with an offense shall enjoy the right to a speedy and public trial." South Carolina Constitution Art I, Sec 14; United States Constitution Amendment VI. A speedy trial

means a trial without unreasonable and unnecessary delay. See *State v Langford*, 400 SC 421 (2012); *Wheeler v State*, 247 SC 393, 400 (1966).

An accused speedy trial right begins when he is "indicted, arrested, or otherwise officially accused" *Langford*, 400 SC at 442; *United States v MacDonald*, 456 US 1,6 (1982). To trigger a speedy trial analysis, the accuse must allege that the interval between accusation and trial has crossed the threshold of dividing ordinary from "presumptively prejudicial" delay. Since, by definition, he cannot complain that the government has denied him a "speedy" trial if it has, in fact, prosecuted his case with customary promptness. See *Doggett v United States*, 505 US 647, 652 (1992). Presumptively prejudicial delay exists when an accused is not prosecuted with ordinary promptness. *Dogget*, id, at 651-52. Once the accused has met his initial burden, a court must look for four factors, among the totality of circumstances, to decide whether the defendant's right to a speedy trial has been denied. See *Barker v Wingo*, 407 US 514 (1972).

~~II. Sentence Unconstitutional~~

Counsel was ineffective when he failed to challenge sentence imposed by court, on the grounds that Life without possibility of Parole was unconstitutional, as well as, the court in doing so, relied on facts that are (1) inaccurate; (2) miscarriage of justice; counsel was made aware of these offense before sentencing:

Mr. Sowards: Your Honor, he has a 1999 assault while resisting arrest, 2000 PWID, a 2000 proximity charge, and 2000 resisting arrest. He has a 2001 marijuana conviction and trespassing conviction. He has two PWID convictions in 2003, one with a proximity. ~~He has in 2007 a federal gun conviction for possession with intent to distribute marijuana. Possession with intent to distribute cocaine, and then maintaining a residence for the purpose of drug distribution.~~

Tr Tr pg 250, ln 7-15

IT WAS
1 BULLET, NOT
A GUN

NEVER GOT
CONVICTED FOR
THOSE CHARGES

Applicant contends that counsel failure to make timely objections to the sentence imposed was a breakdown in the adversarial system during sentencing proceeding.

Mr. Marshall: I am, and I don't know why, but I don't have a copy of Dean's rap sheet and I've obviously got to do my job competently, and

Counsel informs court of his own ineffectiveness, but what is more daunting is that before trial,

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counsel was informed by client that instructed him to obtain copies of my rap sheet and had he done so,

this information could be used to challenge prior convictions.

Trial court asked defendant about those prior convictions:

The Court: All right. Mr. Seagers, I have not ruled on the admissibility of those, but do you agree that you have some of those convictions?

The Defendant: ~~Some of those~~

Tr Tr pg 250, ln 16-19

Once applicant informed court of this, it was important for counsel to investigate prior convictions and as counsel told court "I don't have a copy of Dean's rap sheet" was either due to the prosecution's failure to turn this over to counsel, which made him ineffective and a violation of my right to a fair trial and right to counsel. Or as herein, counsel ignore applicant repeated request to obtain these documents deprived me of counsel at a critical stage and a fair trial.

Similarly, the State sentence under South Carolina Code Ann Sec 44-53-375 (B)(1)(2020) for a first offense does not trigger recidivist provisions of South Carolina Code Ann Sec 17-25-45 (cum sup 20) and counsel made no objections to State imposing this sentence. The only offense which would trigger Sec 17-25-45 is a Trafficking and PWID within proximity of a school zone. Clearly the documents before this court show applicant was arrested, indicted and sentenced to Sec 44-53-375(B)(1) and the prosecutions actions deliberately misled court to impose such improper sentence.

Moreover, none of applicant's prior convictions trigger section 17-25-45, and the sentence is unconstitutional. Clearly counsel was unprepared to put State enhancement to the full adversarial test, when the State used charges that applicant was arrested for and not convicted.

Under Section 17-25-45 the statute language indicates that recidivist provision is invoked by ~~prior conviction~~ listed under this provision and not ~~prior arrest~~ and the evidence clearly is in applicant favor of how prosecution and defense deprived applicant of his due process rights when inaccurate facts

relating to prior conviction resulted in a sentence which violates the Eighth Amendment of State/Federal Constitution.

Mr. Marshall: --senility got the best of me.
~~Tr Tr~~ Tr Tr pg 252, In 18

Counsel statements to the court is troubling, when this statement clearly reflects counsel state of mind at time of trial, and his failures as an advocate for applicant during each phase of the adversarial process as required. What is also troubling is fact counsel knew about prior convictions (Tr Tr pg 13, In 21-25; pg 14, In 1-21) and since counsel was aware of these charges, counsel was aware of all his prior convictions. Falls below objective standard of representation.

Legal Analysis

The Supreme Court has not yet decided what standard applies to ineffective assistance of sentencing claims in discretionary non-capital sentencing systems. Although Strickland involved the effectiveness of counsel during the sentencing phase of a capital case, the court framed its opinion as governing counsel's performance at trial and expressed reservations about whether a different standard might govern in non-capital sentencing. Strickland v Washington, 466 US at 686-87 (1984). The court reasoned that unlike "in ordinary sentencing, which may involve informal proceedings and standardless discretion in the sentence, and hence may require a different approach to the definition of constitutionally effective assistance" counsel's role during capital sentencing "is comparable to counsel's role at trial" Strickland, id.. The Strickland court may have originally thought that non-capital sentencing required a different standard of performance because of the traditional understanding in the early twentieth century that "sentencing ... is wholly the judge's province". See Richard H. Kuh, For a Meaningful Right to Counsel on Sentencing, 57 ABAJ 1096 (1971) and thus counsel's role is not that of a traditional advocate.

Today, however, sentencing has become a proceeding in which defense counsel and prosecution advocate for particular sentences. See Sanford H. Radish, The Advocate and the Expert—Counsel in the Peno-Correctional Process, 45 Minn L Rev 803, 807 (1961). It is therefore unsurprising that "more trial

The United States Supreme Court ultimately did the same in *Glover v United States*, 531 US 198 (2001). Glover addressed the question of what the proper prejudice standard ought to be in mandatory

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non-capital sentencing systems: Glover, id at 199-200. The circuits had split on whether a non-capital
defendant merely had to demonstrate a reasonable probability that counsel's deficient performance led to the increase in her sentence, or whether she had to demonstrate that, but for counsel's deficient performance, her "non-capital sentence would have been significantly less harsh." See *Springs v Collins*, 993 F 2d 85 (5th Cir 1993).

Wherefore, it is prayed court grant relief.

Date: ____ day of _____, 20 ____

IN THE DISTRICT COURT OF THE UNITED STATES
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION



UNITED STATES OF AMERICA

vs.

DEAN NELSON SEAGERS

) CRIMINAL NO.: 206-967

)
)
) 21 USC § 856

) INFORMATION
)
)

COUNT 1

THE UNITED STATES ATTORNEY CHARGES:

That on or about August 2, 2006, in the District of South Carolina, the defendant, DEAN NELSON SEAGERS, while managing and controlling the premises at Apartment [REDACTED] Kracke Street, Charleston, South Carolina, knowingly, unlawfully and intentionally did make available for use the aforesaid place for the purpose of manufacturing, storing, distributing and using a controlled substance;

All in violation of Title 21, United States Code, Section 856.

s/Reginald I. Lloyd
REGINALD I. LLOYD (acb)
UNITED STATES ATTORNEY

**MAXIMUM FINE OF \$ 500,000
AND/OR MAXIMUM IMPRISONMENT FOR 20 YEARS
FOLLOWED BY A TERM OF SUPERVISED RELEASE OF
3 YEARS
SPECIAL ASSESSMENT \$100.00**

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United States District Court District of South Carolina

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2007 JUL -3 P 3:13

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

vs.

Case Number: 2:06-967 (1)

DEAN NELSON SEAGERS

US Marshal's Number: 14511-171

MARY GORDON BAKER, ACPD

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) 1 OF THE SUPERSEDING INFORMATION on APRIL 27, 2007.
☐ pleaded nolo contendere to count(s) on which was accepted by the court.
☐ was found guilty on count(s) on after a plea of not guilty.

Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
<u>21:856</u>	Please see information	<u>8/2/06</u>	<u>1</u>

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s)
☒ Count(s) 1 and 2 of the Indictment ☐ is ☒ are dismissed on the motion of the United States.
☐ Forfeiture provision is hereby dismissed on motion of the United States Attorney.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court or United States attorney of any material change in the defendant's economic circumstances.

July 2, 2007

Date of Imposition of Judgment



Signature of Judicial Officer

P. Michael Duffy, US District Judge

Name and Title of Judicial Officer

July 3, 2007

Date

IMPRISONMENT

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The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of seventy-eight (78) months. The defendant shall pay a \$100.00 special assessment fee, due beginning immediately.

☒ The court makes the following recommendations to the Bureau of Prisons:
The defendant shall be designated to the federal correctional institution at Estill, SC.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at a.m./p.m. on.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this Judgment.

UNITED STATES MARSHAL

By _____
Deputy United States Marshal

DEFENDANT: DEAN NELSON SEAGERS

CASE NUMBER: 2:06-967 (1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of Three (3) years. While on supervised release the defendant shall comply with the mandatory and standard conditions of supervision as well as the following special conditions: 1. He shall participate in a program of testing and treatment for substance abuse as approved by the U S Probation Officer until such time as he is released from the program by the U S Probation Officer; 2. He shall enroll in and complete an educational program as approved by the US Probation Officer with the objective of obtaining a G.E.D. unless already obtained during period of incarceration.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the Probation Office. (Check, if applicable)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the Probation Office. (Check, if applicable)
- ☐ The defendant shall participate in an approved rehabilitation program for domestic violence. (Check, if applicable)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) the defendant shall not commit another federal, state or local crime during the term of supervision.

CRIMINAL MONETARY PENALTIES

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The defendant will make all checks and money orders payable to the "Clerk, U.S. District Court" unless otherwise directed by the court.

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until An *Amended Judgment in a Criminal Case* will be entered after such determination.

☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed on the next page.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment unless specified in the priority order or percentage payment column on the next page. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

SEE VICTIM(S) LIST ON THE NEXT PAGE

☐ If applicable, restitution amount ordered pursuant to plea agreement \$

☐ The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 5, Part B, may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ The interest requirement is waived for the ☐ fine and/or ☐ restitution.

☐ The interest requirement for the ☐ fine and/or ☐ restitution is modified as follows:

**Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: DEAN NELSON SEAGERS
CASE NUMBER: 2:06-967 (1)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$100.00 due immediately.
☐ not later than , or
☐ in accordance with ☐ C, ☐ D, or ☐ E below; or
- B ☐ Payments to begin immediately (may be combined with ☐ C, ☐ D, or ☐ E below); or
- C ☐ Payments in (e.g., equal, weekly, monthly, quarterly) installments of \$ over a period of (e.g., months or years), to commence after the date of this judgment; or
- D ☐ Payments in (e.g., equal, weekly, monthly, quarterly) installments of \$ over a period of (e.g., months or years), to commence (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of court, unless otherwise directed by the court.

The Defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant names and case numbers (including defendant number), total amount, joint and several amount, and corresponding payee, if applicable.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in property as directed in the Preliminary Order of Forfeiture, filed _____, and the said order is incorporated herein as part of this judgment:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

DEAN NELSON SEAGERS

AKA: Dean Seagers

Race: Black Sex: M Age: 35

DOB: 1980 SS#: [REDACTED]

Address: Ranger Dr

City, State, Zip: North Charleston, SC 29405-7362

DL# [REDACTED] SID# SC01076948

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADS

TO: Distribution of Cocaine Base

In violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3014

INDICTMENT/CASE#: 2012GS1006779

A/W: 2012A1010900184

Date of Offense: 06/20/2012

S.C. Code §: 44-53-0375 (B) (1)

CDR Code #: 3014

SENTENCE SHEET


☐ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☒ §17-25-45
(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Whit Sowards, Assistant Solicitor SC Bar # 101021

Dean Seagers Defendant

Attorney for Defendant SC Bar # 64192

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of Life without Parole days/months/years or Life without Parole under the Youthful Offender Act not to exceed Life without Parole years and/or to pay a fine of \$ Life without Parole; provided that upon the service of Life without Parole days/months/years and or payment of \$ Life without Parole; plus costs and assessments as applicable*; the balance is suspended with probation for Life without Parole months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk: _____

Court Reporter: _____

Other: _____

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

718

SLB20120806437

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1210170

ARREST WARRANT NUMBER

2012A1010900184

DATE OF ARREST

August 30, 2012

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

8/31/12

VERDICT

Guilty

H. Wiggall

7-9-15

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS1006779

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

November Term 2012

THE STATE

vs.

DEAN NELSON SEAGERS

DOB: 1980-

B/M

Indictment for

Distribution of Cocaine Base

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

v.

DEAN NELSON SEAGERS,

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO: 2012-GS-10-6779**VERDICT FORM****VERDICT**

1. We, the Jury, find the Defendant Dean Nelson Seagers, NOT GUILTY. _____

OR

2. We, the Jury, find the Defendant Dean Nelson Seagers, GUILTY of Distribution of Cocaine Base. ✓

W. K. Kippell
Henry Wiggin, Foreperson.
July 9, 2015.

720

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
STATE VS.DEAN NELSON SEAGERSAKA: Dean SeagersRace: Black Sex: M Age: 35DOB: 1/1980 SS#: [REDACTED]Address: Ranger DrCity, State, Zip: North Charleston, SC 29405-7362DL# [REDACTED] SID# SC01076948*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Distribution of Cocaine Base
In violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3014☐ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☒ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Whit Sowards, Assistant Solicitor 101021 SC Bar # [REDACTED] Defendant Dean Seagers Attorney for Defendant [REDACTED] SC Bar # 64192WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of Life days/months/years on ☐ Under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives HearingTotal: \$ plus 20% fee: \$ PTUP days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: ATU☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge: [Signature]Judge Code: 1215Sentence Date: 7/9/13Recipient: *Fine: \$ §14-1-206 (Assessments 107.5%) \$ §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ §56-5-2995 (DUI Assessment) \$12 \$ §56-1-286 (DUI Breath Test) \$25 \$ Proviso 47.9 (Public Def/Prob) \$500 \$ §14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00§50-21-114 (BUI Breath Test Fee) \$50 \$ §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ \$ 3.40TOTAL \$ 244.40Clerk of Court/Deputy Clerk: [Signature]Court Reporter: Nelson Singletary

SLB20120806437

DOCKET NO. 2012GS1006779

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1210170

ARREST WARRANT NUMBER

2012A1010900184

DATE OF ARREST

August 30, 2012

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

NOV 10 2012

VERDICT

Guilty

N. Wiggall

7-9-15

Foreperson of Petit Jury

Date:

INDICT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

November Term 2012

THE STATE

VS.

DEAN NELSON SEAGERS

DOB: 1980- [REDACTED]

B/M

Indictment for

Distribution of Cocaine Base

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on November 13, 2012 the Grand Jurors of Charleston County
present upon their oath;

Distribution of Cocaine Base

That in Charleston County, South Carolina, on or about June 20, 2012, the Defendant, DEAN NELSON SEAGERS, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to distribute, dispense or deliver a controlled substance or a controlled substance analogue, to wit: Cocaine Base; in violation of 44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


STEPHANIE B. LINDER
ASSISTANT SOLICITOR

(From: DEAN SEAGERS)



OCT 23, 2017

Ms. Tara Dawn Stirling,

How are you doing? I'm writing you BECAUSE I WAS WAITING TO SEE YOU FACE TO FACE. I'm GONNA GET STRAIGHT TO THE POINT SO I WON'T HOLD UP TO MUCH OF YOUR TIME!!!

- 1) Mr. Grill NEVER SAID WHICH VOICE HE HEARD ON THE VIDEO OUT OF SEVERAL VOICES. (ITS PEOPLE OUTSIDE WITH HIM TALKING NOT ME) BUT YOU CANT SEE NOBODY CAUSE THE VIDEO IS BLINK OUT AND IF HE'S OUTSIDE HOW CAN HE TELL THEM HOW MUCH PEOPLE INSIDE IF HE COULDN'T SEE INSIDE THE HOUSE ON THE SECOND FLOOR!!!
- 2) THE Appellate COURTS SAID HE'S A COMMUNITY WORKER (NO), HE SAID HE CAME AROUND TO SERVE WARRANTS!!! IF SO AND I'M THE BAD GUY SINCE 1997 WHY WOULD I STICK AROUND TO TALK TO A COP SERVING WARRANTS AND HE'S IN ONE OF THE WORST PROJECTS IN CHARLESTON.
- 3) Grill SAID HE CAME ON THE FORCE (CPS) IN 2005 AND STARTED WORKING THE DRUG FORCE IN 2006, I WENT TO FEDERAL PRISON IN 2006 AND CAME HOME IN 2011!!! SO WHEN WAS HE EXPOSE TO MY VOICE (ALSO) MY FEDERAL PAROLE PAPERWORK CAN SHOW I WAS WORKING SINCE I CAME HOME SO AINT NO WAY HE CAN SAY HE SEEN OR TALK TO ME WHILE SERVING WARRANT WHICH IS USUALLY DONE IN THE DAY TIMES DURING WORKING HOURS!!!

4) I NEVER HAD A TALK WITH GRILL CAUSE WE NEVER MADE IT PAST THE FRONT DESK WHERE THEY DO THE PAPERWORK AT AND THEN THEY TOOK ME & MY CO-DEFENDANT TO COUNTY JAIL. SO THERE'S NO WAY WE HAD ANY CONVERSATION AT THE STATION. MS. LINDER & GRILL (PROSECUTOR & COP) WAS ON TRIAL AGAINST MY CO-DEFENDANT MOSES DENNIS IN 2011 AND HE WON THAT CASE CAUSE MOSES WON THE TRIAL DUE TO MS. LINDER & GRILL LYING THROUGHOUT THE TRIAL AND THAT'S WHO THEY WAS TRYING TO GET INSTEAD OF ME.

MS. LINDER
LIED AND SAID

5) GRILL DIDNT COME ON THE CASE UNTIL THE DAY WE GOT LOCK UP IN AUG, BUT THE WARRANT WAS SIGN IN JUNE!!! WHO RECOGNIZE MY VOICE THEN IF THE C.I. STATING HE'S NOT FOR SURE IF HE SAW ME???

6) MS. LINDER LIED AND SAID SHE WASNT OUT THERE THE DAY WE GOT LOCK UP BUT 2 MONTH AFTER THAT SHE SENT AN EMAIL TO MY LAWYER SAYING SHE NEVER CAME IN THE YARD WHICH IS A LIE CAUSE I LOOK HER RIGHT IN THE EYES WHEN SHE SAID WE WASNT GOING TO GET OFF THIS CASE!!! REALLY SPEAKING TO MY CO-DEFENDANT CAUSE HE HAD JUST BEAT THEM IN TRIAL!!!

~~7)~~ 8) NOW ALL THIS WOULD BE POSSIBLE IF HE (GRILL) WAS A COMMUNITY COP WORKING WITH THE KIDS AND I WASNT A ALL AROUND BAD GUY!!! BUT GRILL IS A NARCOTIC OFFICER WHO LOOKS FOR & SERVE WARRANTS ON PEOPLE LIKE ME AND THEY THINK IM GOING TO TALK TO HIM OR ANY POLICE!!! (HELL NO)

9) (pg 35) THE JUDGE SAID ID WASNT ESTABLISH AND THE C.I AINT SURE WHAT HE SEEN OR HEARD.

10) THE NAME "BABY" IN HIS PHONE COULD'VE BEEN HIS GIRL WHO HE SAID HE WAS TALKING TO ON HIS WAY TO THE HOUSE CAUSE MY NAME AINT BABY!!! BABY DEAN IS A NAME PEOPLE STOP CALLING ME IN THE 90'S AROUND "97" WHEN I FIRST WENT TO COUNTY JAIL AND THEY SAID YOU AINT A BABY NO MORE, SO NOBODY BEEN CALLING ME "BABY DEAN" SINCE THEN AND IF HE WAS THAT COOL WITH ME, HE WOULD KNOW THAT AND WOULD NEVER PUT MY NAME IN HIS PHONE AS "BABY"!!! THAT'S SOMETHING THOSE COPS CAME UP WITH AND THE C.I STATED THAT CAUSE HE WAS WORKING OFF SOME CHARGES HE HAD.

11) THEY PHONE TECH SAID NO PHONE IN THE HOUSE CAME BACK AS A PHONE THAT HAD CONTACT WITH THE C.I, NOT EVEN THE TWO PHONES THEY GOT OFF OF ME.

12) THERES NO WAY THE C.I COULD KNOW WHO'S OR HOW MUCH PEOPLE IN A TWO STORY HOUSE IF HE'S IN THE BACK YARD WITH A LOT OF NOISE CAUSE HE'S TALKING TO PEOPLE WHO WE CANT SEE CAUSE ITS BLACK OUT AND I THINKS ITS BLACKOUT CAUSE THE REAL PERSON IS ON THERE SELLING HIM SOMETHING, BUT THEY WANNA ACCUSE ME CAUSE THEY SAID THEY GOT A BIG FISH.

13) I HAD 2 PAY CHECKS ON ME THE DAY I GOT LOCKUP, I WAS A WORKING MAN WHO USE TO GO SHOW MY FACE EVERY NOW AND THEN!!! I JUST THOUGHT YOU NEEDED TO KNOW THESE FACTS CAUSE PROOF WITHOUT A REASONABLE DOUBT ISNT ON THERE SIDE!!!

Counsel failed to preserve for appeal counsel
to review

Counsel fail to object to the admission of
the crack cocaine

Counsel
Counsel fail to object, challenged the enhancement
of pro conviction

The legislature ~~did~~ err in admitting, ~~did~~ 4453-4455
when the maximum time for ~~that~~ charge only came
Ten years

Section 17-25-45 C-2 Serious offense means
any offense that carries a maximum term of
imprisonment for thirty years or more which is
not referenced in subsection (C)(4)

This section is ambiguous because 4453-4455 B-9.2
don't carry thirty years and is not referenced in
subsection C-4 When statute term are clear and
unambiguous, courts must apply them literally
State v. Blackman 304 SC 270 - Court must
apply clear and unambiguous terms of statute
according to their literal meaning Brown v. State

OF SOUTH CAROLINA
COUNTY OF CHARLESTON

VS

DEAN NELSON SEAGERS,
DEFENDANT

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

727

MOTION TO DISMISS

DATE OF ARREST: 8/29/12

CASE NO: 2012-GS-10-06780,
2012-GS-10-06781

CHARGES: TRAFF. COCAINE, TRAFF. HEROIN

DEAN N. SEAGERS, DEFENDANT AND CAMERON L. MARSHALL, ATTORNEY FOR THE DEFENDANT:

THE DEFENDANT AND HIS ATTORNEY MR. MARSHALL MOVE THIS COURT TO DISMISS (QUASH) THE FOLLOWING INDICTMENTS ON THE FOLLOWING GROUNDS:

1) DUE TO THESE CASES THAT WAS REVERSE AND THEY ARE SIMILAR TO DEAN SEAGERS CASE, WE ASK FOR A DISMISSAL ON THESE GROUNDS:

(NO DOMINION AND CONTROL)

— THE STATE RESPONDENT, V. TED LEE HEATH, APPELLANT, OPINION NO. 26200
SUPREME COURT OF SOUTH CAROLINA 370 S.C. 326; 635 S.E. 2D 18; 2006
S.C. LEXIS 272 APRIL 6, 2006 HEARD / AUGUST 14, 2006 FILED

OVERVIEW: THE COURT HELD THAT THE STATE FAILED TO PRESENT EVIDENCE THAT THE DEFENDANT COULD EXERCISE DOMINION AND CONTROL OVER THE AREA WHERE THE CRACK WAS FOUND. ALTHOUGH DEFENDANT LIVED IN THE HOME WHERE THE CRACK WAS FOUND, THE HOME WAS OWNED BY HIS MOTHER. AS A RESULT, IT WAS ARGUABLE THAT THE DEFENDANT MERELY HAD A RIGHT TO ACCESS THE AREA WHERE THE CRACK WAS FOUND, NOT ACTUAL DOMINION AND CONTROL OF THE PROPERTY. THEREFORE, THE STATE FAILED TO ESTABLISH AN ESSENTIAL ELEMENT OF THE CRIME CHARGED.

OUTCOME: THE JUDGMENT WAS REVERSED !!!!!

UNITED STATES OF AMERICA, V. SEAN JENKINS, APPELLANT

NO. 95-1606, 90 F.3D 814; 1996 U.S. App. LEXIS 18381 MARCH 11, 1996 ARGUED /
JULY 26, 1996 FILED

OVERVIEW: THE APPELLANT WAS ARRESTED AFTER POLICE FOUND DRUGS LOCATED ON A COFFEE TABLE, LOCATED IN FRONT OF WHERE THE APPELLANT WAS SITTING. APPELLANT CHALLENGED THE SUFFICIENCY OF THE EVIDENCE ESTABLISHING HIS CONSTRUCTIVE POSSESSION OF THE DRUGS FOUND. BECAUSE THE EVIDENCE SHOWED ONLY THAT THE DRUGS WERE IN AN ACQUAINTANCE'S APARTMENT PHYSICALLY NEAR THE APPELLANT, BUT THAT HE WAS NOT IN ACTUAL POSSESSION OF THE DRUGS OR DRUG DISTRIBUTION PARAPHERNALIA.

— THE HIGH COURTS REVERSED APPELLANTS CONVICTION!!!!!!

THE COURTS FOUND THAT THE EVIDENCE WAS INSUFFICIENT TO SUPPORT THE JURY'S FINDING THAT THE APPELLANT HAD DOMINION AND CONTROL OVER THE DRUGS.....

— FURTHERMORE THE COURTS FOUND THAT THE APPELLANT MADE NO ATTEMPT TO HIDE OR DESTROY THE DRUGS!!!!!!

NOTE: THAT GIVES TO SHOW IF MR. SEAGERS KNEW THE DRUGS WAS NEAR HIM, HE HAD SEVERAL LONG MINUTES TO HIDE OR DESTROY THE DRUGS, ALSO HE HAD NO DOMINION AND CONTROL OVER THE DRUGS THAT'S IN SOMEBODY ELSE HOUSE, STASH OUT OF PLAIN VIEW!!!!!!

NOTE: MOSES DENNIS, ^{MR.} SEAGERS CO-DEFENDANT WROTE A STATEMENT CLAIMING THE DRUGS AND STATED MR. SEAGERS HAD NO KNOWLEDGE OF THE DRUGS IN THE POUCH!!!!!!

STATE OF MARYLAND V. STEPHEN VERNON LEACH

DUE TO THE FACTS IN CASE STATE OF MARYLAND V. STEPHEN VERNON LEACH, WHERE IS MR. LEACH WAS ACCUSED OF HAVING JOINT DOMINION AND CONTROL OVER THE ENTIRE APARTMENT AND EVERYTHING IT CONTAINED... (DRUGS & PARAPHERNALIA)!!!!!!

— MR. STEPHEN LEACH WAS FOUND NOT GUILTY FOR THE CHARGES PUT ON HIM BECAUSE THE DRUGS WERE FOUND IN A CLOSED CONTAINER ON THE BEDROOM DRESSER AND INTRINSICALLY INOCUOUS SCALES AND MAGNIFIER WERE FOUND IN THE KITCHEN AND WHERE APPELLANT HAD READY ACCESS TO THE APARTMENT, BUT WAS FOUND BY THE TRIAL COURT NOT TO BE A RESIDENT!!!!!!

— THE COURTS HELD THAT IT COULD NOT BE REASONABLY INFERED THAT APPELLANT EXERCISED RESTRAINING OR DIRECTING INFLUENCE OVER THE DRUGS AND DRUG PARAPHERNALIA FOUND IN THE RESIDENTS.....

ALSO: SCOTT V. STATE — 7 MD. App. 505, 256 A. 2D 384 (1969) CERT DENIED 256 MD. 747 (1970)

THE CONVICTION OF THE APPELLANT WAS AQUITTED BECAUSE THE HEROIN RECOVERED FROM A POCKETBOOK BELONGS TO SOMEONE ELSE MEANING THE CASE COULD NOT AFFORD A BASIS FOR ESTABLISHING THAT THESE NARCOTICS WERE IN THE APPELLANT'S POSSESSION OR UNDER HIS CONTROL!!!!!!

NOTE: DEAN SEAGERS PLACE OF RESIDENT IS 2799 RANGER DR. N. CHARLESTON, NOT 31-B ASHTON ST. AND THE DRUGS FOUND IN THE HOUSE WAS CONCEALED IN A POUCH HIDDEN FROM PLAIN VIEW NOT WHERE MR. SEAGERS COULDVE SEEN OR HAVE KNOWLEDGE THAT IT WAS IN THE RESIDENT!!!!!!

"I ASSERT PREJUDICE ON ALL GROUNDS."

730 STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

VS

DEAN NELSON SEAGERS,
DEFENDANT

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

MOTION TO DISMISS

DATE OF ARREST: 8/29/12

CASE No: 2012-GS-10-06776, 2012-GS-10-06777
2012-GS-10-06778, 2012-GS-10-06779

CHARGE: DIST. COCAINE BASE X2, DIST. COCAINE X2.

DEAN N. SEAGERS, DEFENDANT AND CAMERON L. MARSHALL, ATTORNEY FOR THE
DEFENDANT:

THE DEFENDANT AND HIS ATTORNEY MR. MARSHALL MOVE THIS COURT TO DISMISS
(QUASH) THE FOLLOWING INDICTMENTS ON THE FOLLOWING GROUNDS:

1) AS PRESCRIBE BY THE PDEA BUY BUST OPERATION, THE "OBJECTIVE" TEST
IN A BUY-BUST OPERATION DEMAND THAT THE DETAILS OF THE PURPORTED
TRANSACTION MUST BE CLEARLY AND ADEQUATELY SHOWN. THIS MUST START
FROM THE INITIAL CONTACT BETWEEN THE POSEUR-BUYER AND THE PUSHER.

NOTE: IN ALL 4 CASES THE VIDEO GOES COMPLETELY BLANK BEFORE THE C.O.I
EVER MADE CONTACT WITH THE PUSHER UNTIL HE GOT BACK TO THE OFFICER.
THAT MEANS THE VIDEO WAS NOT CLEAR OR ADEQUATELY SHOWN, MAKING THE
"VIDEOS DEFECTIVE"

ALSO: IN ILLEGAL SALES OF PROHIBITED DRUGS, THE PROSECUTION MUST ESTABLISH
THE FOLLOWING ELEMENTS:

- ① THE IDENTITY OF THE BUYER, ② THE IDENTITY OF THE SELLER,
- ③ THE IDENTITY OF THE OBJECT (ILLEGAL DRUG), ④ THE CONSIDERATION PRICE,
- ⑤ THE DELIVERY OF THE DRUGS SOLD AND ⑥ THE PAYMENT OF THE DRUG SOLD

NOTE: #2 - THERE'S NO ACTUAL PERSON IN THE BLANK VIDEOS.....
#3 - THERE WAS NO DRUGS EVER SEEN ON THE BLANK VIDEOS.....
#5 - THERE'S NO HAND TO HAND TRANSACTION ON THE BLANK VIDEOS.....
#6 - NO MONEY WAS EVER SEEN OR CHANGE HANDS IN THE BLANK VIDEOS.....

ALSO: CHAIN OF CUSTODY: WITHIN 24 HOURS FROM THE TIME OF SEIZURE OR CONFISCATION OF THE ILLEGAL DRUG, IT MUST BE SUBMITTED FOR LABORATORY EXAMINATION.....

- THE APPREHENDING OFFICERS OR TEAM MUST TAKE PICTURES OF THE DRUGS AND CONDUCT AN INVENTORY..... (NO PICTURE OF DRUGS)

NOTE: DURING THE TRIAL, THE PROSECUTION MUST AUTHENTICATE THE SPECIMEN EVIDENCE BY OBSERVING THE CHAIN OF CUSTODY RULES WHICH REQUIRES THAT THE ADMISSION OF AN EXHIBIT BE PRECEDED BY EVIDENCE SUFFICIENT TO SUPPORT A FINDING THAT THE MATTER IN QUESTION IS WHAT THE PROPONENT CLAIMS IT TO BE. IT WOULD INCLUDE TESTIMONY ABOUT EVERY LINK IN THE CHAIN, FROM THE MOMENT THE ITEMS WAS PICK UP AND TESTED, TO THE TIME IT IS OFFERED INTO EVIDENCE, IN SUCH A WAY THAT EVERY PERSON WHO TOUCHED THE EXHIBIT WOULD DESCRIBE HOW AND FROM WHOM IT WAS RECEIVED, WHERE IT WAS AND WHAT HAPPENED TO IT WHILE IN THE WITNESS POSSESSION, THE CONDITION IN WHICH IT WAS RECEIVED AND THE CONDITION IN WHICH IT WAS DELIVERED TO THE NEXT LINK IN THE CHAIN. THESE WITNESS WOULD THEN DESCRIBE THE PRECAUTION TAKEN TO ENSURE THAT THERE HAD BEEN NO CHANGES IN THE CONDITION OF THE ITEM AND NO OPPORTUNITY FOR SOMEONE NOT IN THE CHAIN TO HAVE POSSESSION OF THE SAME.

NOTE: ALL DRUGS SEIZED IN ALL 4 CASES WAS SUBMITTED AFTER 48 HOURS,

- DET. BURKE STATED IN RULE 5-19, RULE 5-37, RULE 5-52, AND RULE 5-65 THAT HE SUBMITTED THE WHITE POWDER SUBSTANCE THAT TESTED POSITIVE FOR COCAINE TO ANALYST RENEE CARTER THAT I RECEIVED IN MY FIRST MOTION AFTER 8 MONTHS IN JAIL.

- THEN AFTER BEING IN JAIL FOR 15 MONTHS I RECEIVED A DIFFERENT CHAIN OF CUSTODY WITH DIFFERENT ANALYST NAMES AND THE MAIN ANALYST RENEE CARTER NAME ISN'T ON NONE OF THE NEW CHAIN OF CUSTODY. (INSUFFICIENT CHAIN OF CUSTODY)

ALSO: DET. BURKE ALSO STATED HE SUBMITTED A WHITE POWDER SUBSTANCE IN ALL 4 CASES THAT TESTED POSITIVE FOR COCAINE; THAT SOME HOW CHANGE FROM A WHITE POWDER SUBSTANCE TO A ROCK LIKE SUBSTANCE AND NOW ITS COCAINE BASE.

MEANING: THE MATTERS AT HAND HAD TO BE TAMPERED WITH OR CHANGE WITHIN THE 48 HOURS ^{IT WAS} MISSING FROM NOT BEING SUBMITTED WITHIN THE 24 HOURS AS PRESCRIBE IN A PROPER CHAIN OF CUSTODY BY THE PDEA.....

SIMILAR CASES

DUE TO THESE CASES THAT WAS REVERSE AND THEY ARE SIMILAR TO DEAN SEAGERS CASE WE ASK FOR A DISMISSAL ON THESE GROUNDS:
CASES: THE STATE RESPONDENT, V. TONY T-JUAN SWEET, APPELLANT
OPINION NO. 26344

SUPREME COURT OF SOUTH CAROLINA 374 S.C. 1; 647 S.E. 2D 202; 2007 S.C., LEXIS 229
APRIL 18, 2007 HEARD / JUNE 11, 2007 FILED

OVERVIEW: THE OFFICERS TESTIFIED TO HEARING ONLY THE C.I.'S AND ONE OTHER VOICE THROUGH THE WIRE.....

FACTUAL PROCEDURAL BACK GROUND: ALTHOUGH THEY DID NOT VISUALLY WITNESS WHAT OCCURRED INSIDE THE MOTEL ROOM, THE OFFICERS TESTIFIED TO HEARING ONLY THE INFORMANT'S AND ONE OTHER VOICE THROUGH THE INFORMANT'S WIRE. LIKEWISE, VIDEO SURVEILLANCE DID NOT OBSERVE ANYONE ENTERING OR EXITING THE MOTEL ROOM DURING THAT TIME.....

ALSO: THE STATE HAD NOT ESTABLISHED A PROPER CHAIN OF CUSTODY. THE HIGH COURT NOTED THAT NONE OF THE CHAIN OF CUSTODY WITNESSES HAD SEEN WHO WAS IN THE MOTEL ROOM MAKING THE ALLEGED PURCHASE.....

* ALSO: DUE TO MY SPEEDY TRIAL MOTION BEING SUBMITTED ~~AFTER~~ 6 MONTHS AGO!!!!!!

RESPECTFULLY SUBMITTED TO;
CAMERON MARSHALL, MY LAWYER

MARCH 14, 2014 733

I AM WRITING IN REFERENCE OF THE ~~THE~~ S.C CONST. ART V, §4,
THE ADMINISTRATIVE ORDERS THAT WAS APPROVED FOR USE IN BERKELEY COUNTY AND
CHARLESTON COUNTY, BY CHIEF JUDGE R. MARKLEY DENNIS JR. AND CHIEF JUSTICE
JUDGE JEAN HOEFER TOAL. INSIDE THE COOPERATIVE CASE MANAGEMENT IT
STATES ALL CASES MUST HAVE A DISPOSITION DATE ON OR BEFORE 120 DAYS
FROM THE DATE OF THE INITIAL APPEARANCE.

I HAVE BEEN SITTING IN COUNTY JAIL FOR (570 DAYS) (AUG 29, 2012) AND
I ALREADY HAD 3 INITIAL APPEARANCE AND A FINAL PLEA HEARING ON
(JUNE 27, 2013) IN WHICH I WAS SERVED A LIFE WITHOUT PAROLE PAPER BECAUSE
I PLEAD NOT GUILTY AS I DID BEFORE AT MY 3 OTHER APPEARANCE.

IT'S A FACT THAT MY SPEEDY TRIAL ACT SHOULD HAVE WENT INTO
EFFECT ON JUNE 27, 2013 GIVING ME A DISPOSITION DATE ON OCT 27, 2013 OR
NOV 27, 2013 DUE TO THE COOPERATIVE CASE MANAGEMENT SYSTEM AND THE SPEEDY
TRIAL LAW. IT'S NOW BEEN (270 DAYS) SINCE JUNE 27, 2013 AND I'M STILL
SITTING IN COUNTY JAIL WAITING ON TRIAL BECAUSE THE SOLICITOR AINT READY.
THAT'S UNCONSTITUTIONAL BECAUSE WE CANT HOLD BACK FROM TRIAL THAT
LONG IF WE AINT READY.....

ALSO: I WENT TO MY CIRCUIT COURT HEARING ON MARCH 6, 2014 IN FRONT
OF ACTIVE CHIEF JUDGE MR. YOUNG AND HE TOLD MY LAWYER CAMERON
MARSHALL AFTER MR. MARSHALL PRESENTED THE COOPERATIVE CASE MANAGEMENT
SYSTEM, HE SAID THE SYSTEM DOESN'T HOLD ANY MERIT THAT WAS
SIGN AND WRITEN INTO LAW BY CHIEF JUDGE MR. DENNIS AND CHIEF
JUSTICE JUDGE MR. TOAL.

March 14, 2014 ②

YOUR HONOR, IT'S TRULY UNFAIR FOR US AS INMATES TO BE TREATED UNFAIRLY BY THE SYSTEM AND FOR THE SOLICITOR TO HOLD PERSONAL VINDICTIVE TO SOMEONE THEY DON'T KNOW. YOUR HONOR, IT IS WRONG FOR A LAW TO BE WRITTEN AND SIGN INTO LAW AND NOT HANDLE IN THE RIGHT PROSPECTIVE, BY CHIEF JUDGES AND SOLICITORS.

ESPECIALLY WHEN THE SOLICITORS IS USING CASE LAW AND UNETHICAL TACTICS AS STATED IN THE FEB 26 OR 27, 2014 NEWS PAPER ABOUT HOW THE SOLICITOR OFFICE IS CORRUPTED IN CHARLESTON, S.C. IT'S A KNOWN FACT THAT MY SOLICITOR MS. S. LINDER DOESN'T WANT TO TAKE ME TO TRIAL AND WASTE THE TAXPAYERS MONEY BECAUSE:

1) ON THE TRAFFICKING CHARGES (CANT PROVE PROOF BEYOND A REASONABLE DOUBT)

- A) I'M NOT A RESIDENT OF THE HOUSE THE DRUGS WAS FOUND IN.....
- B) THE DRUGS WAS NOT IN PLAIN VIEW.....
- C) THE DRUGS WAS NOT UNDER MY CONTROL.....
- D) I HAD NO KNOWLEDGE THE DRUGS WAS HIDDEN IN A SMALL POUCH.....
- E) MOST OF ALL: MY CO-DEFENDANT WHO I WAS VISITING AT HIS PLACE OF RESIDENT WROTE A STATEMENT SAYING THE DRUGS FOUND IN THE POUCH WAS HIS AND THAT I DEAN SENGERS HAD NO KNOWLEDGE THE DRUGS WAS HIDDEN IN HIS POUCH, IN HIS HOUSE, OUT OF PLAIN VIEW.....

2) ON THE DISTRIBUTION C.I. SALE (CANT PROVE PROOF BEYOND A REASONABLE DOUBT)

- A) THE VIDEO'S ARE DEFECTIVE, SHOWING NOTHING AT ALL BECAUSE THE VIDEO GOES BLANK BEFORE THE C.I. MADE CONTACT WITH THE DEALER.....
- B) THERE'S NO DRUG EVER SHOWN.....
- C) THE DRUGS IN QUESTION WAS CHANGE FROM A WHITE POWDER SUBSTANCE TO A ROCK LIKE SUBSTANCE (MEANING FROM COCAINE TO CRACK) AFTER THE C.I. SAID HE GOT COCAINE, GAVE THE WHITE POWDER COCAINE TO THE DET. WHO TESTED THE WHITE POWDER A POSITIVE FOR COCAINE, THAT SOME HOW SOME WAY TURN INTO A ROCK LIKE SUBSTANCE AND BECOMES CRACK WHEN GIVEN TO C.R.D. LAB (RENEE CARTER) 48 HOUR LATER, NOT THE 24 HOURS PRESCRIBE IN THE CHAIN OF CUSTODY LAW.....
- D) MAIN THING: CHAIN OF CUSTODY (RENEE CARTER) OF THE C.R.D. FORENSIC WHO HANDLE AND TESTED THE DRUG FROM DET. BLAKE. HER NAME IS NO WHERE IN NONE OF THE CHAIN OF CUSTODY REPORTS.....

YOUR HONOR, ALL I WANT IS FOR JUSTICE TO BE SERVED IN THE RIGHT MANNER. I'VE LOST A LOT OF TIME FROM MY FAMILY, BUSINESS, WORK AND ALMOST ALL OF MY BELONGINGS, DUE TO THESE CHARGES IM NOT GUILTY OF. AS I SAID PREVIOUS YOUR HONOR, IT'S UNCONSTITUTIONAL FOR A LAW TO BE PLACE IN ORDER AND NOT HANDLE IN THE PROPER PROCEDURES WAY AS PERSCRIBE BY 2 CHIEF JUDGES AND SUPREME COURT OF S.C.

IF CHARLESTON, COUNTY HANDLES EVERY CASE ACCORDING TO THE SUPREME COURT ORDER: PURSUANT TO S.C. CONST. ART V, § 4, COOPERATIVE CASE MANAGEMENT, THE COURT SYSTEM WOULDN'T BE BACK UP AND NOBODY WILL BE SITTING IN COUNTY JAIL 6 MONTHS TO 3 YEARS WAITING TO GO TO COURT OR TRIAL FOR CHARGES THAT HOLDS NO MERITS CAUSE THE SOLICITORS CANT PROVE PROOF BEYOND A REASONABLE DOUBT.

I ALSO ASSERT PREJUDICE DUE TO THE FACT IN THE 8TH & 14TH AMEND, UNDER "CONSTITUTIONAL PARAMETERS," THE CONSTITUTION PROVIDES "EXCESSIVE BAIL" SHALL NOT BE REQUIRED AND CREATES A RIGHT TO BAIL IN ALL BUT CAPITAL OFFENSES CITING CASE-LAW SCHILB V. KUEBEL. MY BAIL WAS SET AT 2 MILLION DOLLARS THEN REDUCE TO 200 THOUSAND AFTER ME BEING INCARCERATED FOR 16 MONTHS, NOW GOING ON 20 MONTHS FOR A CHARGE MY CO-DEFENDANT PLEAD GUILTY TO AND WROTE A STATEMENT SAYING EVERYTHING WAS HIS AND I DEAN SENGERS HAD NO KNOWLEDGE OF THE DRUGS FOUND IN HIS POUCH, IN HIS HOUSE AND OUT OF PLAINVIEW.

I ALSO ASSERT PREJUDICE DUE TO THE FACT IN THE COOPERATIVE CASE MANAGEMENT THAT WAS SO ORDER BY THE SUPREME COURT ON DEC OCT 16, 2006 BY CHIEF JUSTICE JUDGE JEAN HOEFER TOAL AND CHIEF ADMINISTRATIVE JUDGE R. MARKLEY DENNIS, JR ON OCT 26, 2006.

YOUR HONOR, I KNOW I'M NOT JUST SPEAKING FOR MYSELF BUT FOR MANY STUCK INSIDE CHARLESTON COUNTY JAIL DUE TO EXCESSIVE BAIL AND THE SYSTEM NOT FOLLOWING THE COOPERATIVE CASE MANAGEMENT THAT WAS ORDER BY THE SUPREME COURT.

WE ARE THANKFUL FOR YOUR TIME AND THE ENERGY YALL PUT INTO MAKING THESE LAWS YOUR HONOR AND WE PRAY YOU HAVE A GREAT DAY!!!!!!

(ALSO: MY SOLICITOR MS. S. LINDER WAS ON THE SCENE THE TIME OF MY ARREST WHILE THE SEARCH WARRANT WAS BEING CONDUCTED..... WHICH IS A CONFLICT OF INTEREST AND PREJUDICE!!!!!!)

PS: I SENT A COPY TO:

CHIEF ADMIN. JUDGE R. MARBLEY DENNIS, JR

CHIEF JUSTICE JUDGE JEAN HOEFER TOAL

THE CLERK OF COURTS

SOLICITOR MS. S. LINDER

MY LAWYER, MR. CAMERON MARSHALL

"MARCH 14, 2014"

I WILL BE VERY THANKFUL TO
HEAR BACK FROM YOU YOUR HONOR,

Dean Seagers #61922

DEAN SEAGERS #61922

THANK YOU YOUR HONOR!!!

PLEASE MAKE SURE TO DO MY DISMISSAL & ACQUITTAL, I BEEN SITTING HERE TO LONG

3/23/13

I, Moses Otis Dennis, would like to make known that I am claiming complete ownership of any and all drugs and other illicit materials that were found at 31 1/2 Ashton St on the day of 8/29/13. Any and all items inside of a grey and black purse that was referred to belong to Dean Seagers are false. I would like to admit that before the police entered into the apartment I was in possession of ~~the~~ a grey and black purse that had drugs and contents referring to Dean Seagers. A note found inside the purse with Dean's name on it was given to me by his son's Grand-mother to ~~be~~ pass on to (Seagers) which he came to pick up on the day of our arrest. I was the sole occupant of 31 1/2 Ashton ~~St~~ St. living there at the address.

Moses Dennis

MOSES DENNIS

738

MR. SEAGERS HAS BEEN DETAINED IN COUNTY JAIL FOR THE PAST 15 MONTHS WITHOUT HAVING A PRELIMINARY HEARING OR A BOND REDUCTION AND WE'RE STILL PUSHING TO HEAR BACK FROM MS. LINDER FOR THE PAST SEVERAL MONTHS TO SEE WHAT CASES SHE WANTS TO TAKE TO TRIAL FIRST... (JULY 27, 2013) FINAL PLEA

— MR. SEAGERS' LAST DRUG CONVICTION WAS IN 2003 AND HE PLEAD TO HAVING CONTROL OF A DWELLING KNOWING DRUGS BEING SOLD AND NOT ALERTING THE AUTHORITY... (IN 2006 FED CHARGE)

ONLY CONVICTION

— "97" PWID COCAINE NEAR SCHOOL / 5 YEARS PROBATION (1997-GS-10-6620)

— "02" TRAFF COCAINE 1ST / 3 YEARS (2002-GS-10-6222
2003-GS-10-1647
2003-GS-10-1648)

— I NEVER GOT CONVICTED FOR DRUGS OR A GUN AS MS. LINDER STATED AT THE FINAL PLEA HEARING ON JULY 27, 2013.

— EIGHT AMENDMENT RIGHT (EXCESSIVE BAIL) ~~*****~~
SOHLB V KUEBEL (S. CT. 1971)

— THERE'S NO RELIABILITY OF THE C.I.!!! (U.S. V. MCCRAVEN, 401 F.3D 693, 698
6TH CIR. 2005)
WE ASSERT PREJUDICE ON ALL FACTS!!!

"WE ASSERT PREJUDICE"

DEFECTIVE VIDEO

VIDEO GOES
BLACK AFTER
1 MIN ON, SHOWING NOTHING

THE C.I. SHIRT OR SOMETHING COVERS THE
CAMERA BEFORE THE C.I. MAKES CONTACT WITH
THE PUSHER, SHOWING NO ACTUAL PERSON!!!!!!
OR DRUGS!!!!!!

IMPROPER CHAIN OF CUSTODY: THE MAIN ANALYSIS NAME ISN'T ON

RENEE CARTER
MAIN ANALYSIS FOR CPD

THE MAIN CHAIN OF CUSTODY. THE SAME
ANALYSIS WHO CHANGE THE WHITE POWDER
SUBSTANCE TO A ROCK LIKE SUBSTANCE
AND MADE THE CHARGE GO FROM COCAINE
TO COCAINE BASE!!!!!!

MR. SEAGERS WAS VISITING MR. DENNIS
TRAFF: CO-D WROTE A STATEMENT SAYING THE DRUGS WAS HIS &
CONFLICT OF INTEREST BECAUSE THE SOLICITOR WAS ON THE
SCENE DURING THE SEARCH & ARREST!!!!!! SHE WAS IN THE
YARD STANDING OVER ME & MOSES WHILE DET. BURKE WAS TELLING
US WHO SHE WAS.

COOPERATIVE CASE MANAGEMENT ADMINISTRATIVE ORDER: 120 DAYS

NOV. 21, 2012 FEB. 4, 2013 EFFECTIVE OR
RE: UNIFORM DIFFERENTIATED CASE MANAGEMENT - ORDER SUPREME COURT
OF S.C.

2-B: INITIAL APPEARANCE: BG - BI / ISSUES WITH ANALYSIS & DRUGS!!!

5: NOV 16, 2012 - MAY 16, 2013 (180 DAYS) - TRIAL 30 DAYS AFTER NOTICE.....

346: (MAY 16, 2014) 1 YEAR AFTER (180 DAY) JUDICIAL DOCKET - THEN SHE HAS 15 DAYS (JUNE 1)
TO TURN OVER ALL DOCKETS.

SUPREME COURT OF SOUTH CAROLINA

374 S.C. 1; 647 S.E. 2D 202; 2007 S.C., LEXIS 329

APRIL 18, 2007 HEARD

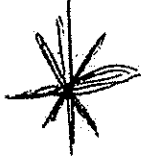
JUNE 11, 2007 FILED

INTERVIEW % THE OFFICERS TESTIFIED TO HEARING ONLY THE CI'S AND ONE OTHER VOICE THROUGH THE WIRE. 0000000

THE STATE HAD NOT ESTABLISHED A PROPER CHAIN OF CUSTODY. THE HIGH COURT NOTED THAT NONE OF THE CHAIN OF CUSTODY WITNESSES HAD SEEN WHO WAS IN THE MOTEL ROOM MAKING THE ALLEGED PURCHASE. 000

FACTUAL/PROCEDURAL BACKGROUND % ALTHOUGH THEY DID NOT VISUALLY WITNESS

PG 3 OF 7



WHAT OCCURRED INSIDE THE MOTEL ROOM, THE OFFICERS TESTIFIED TO HEARING ONLY THE INFORMANT'S AND ONE OTHER VOICE THROUGH THE INFORMANT'S WIRE. LIKewise, VIDEO SURVEILLANCE DID NOT OBSERVE ANYONE ENTERING OR EXITING THE MOTEL ROOM DURING THAT TIME. 00000



HNS % A PARTY OFFERING INTO EVIDENCE FUNGIBLE ITEMS SUCH AS DRUGS OR BLOOD SAMPLES MUST ESTABLISH A COMPLETE CHAIN OF CUSTODY AS FAR AS PRACTICABLE. WHERE AN ANALYZED SUBSTANCE THAT HAS PASSED THROUGH SEVERAL HANDS, THE IDENTITY OF INDIVIDUALS WHO ACQUIRED THE EVIDENCE AND WHAT WAS DONE WITH THE EVIDENCE BETWEEN THE TAKING AND ANALYSIS MUST NOT BE LEFT TO CONJECTURE. 000000

ON THE DISTRIBUTION OF COCAINE BASE/CRACK

6-20-2012 AND 6-30-2012 % THE CI AND OFFICER SAID THEY CALL FOR "SOFT" AKA COCAINE, THE CI SAID HE GOT COCAINE (WHITE POWDER SUBSTANCE) AND GAVE IT TO DET. BURKE WHO SAID HE GOT THE COCAINE (WHITE POWDER SUBSTANCE) AND IT TESTED PRESUMPTIVE FOR COCAINE, NOT "COCAINE BASE"!!! NOW FROM THE TO DET. BURKE TO CPD DRUG ANALYSIS WHO HANDS THE (WHITE POWDER SUBSTANCE) BEEN THROUGH TO MAKE IT TURN TO A ROCK LIKE SUBSTANCE WHEN THE ANALYSIS GOT IT. 000

"IMPROPER CHAIN OF CUSTODY."

ALSO CPD DRUG ANALYSIS SAID THE DRUGS ON 8-24-2012 SHE GOT 419
A BAG CONTAINING WHITE POWDER WHICH AGAIN TESTED AS COCAINE
BASE, BUT THAT CHARGE STAYED AS "COCAINE" NOT COCAINE BASE⁰⁰⁰
(RULE 5 65)

NO DOMINION AND CONTROL OVER THE DRUGS

UNITED STATES OF AMERICA V. SEAN JENKINS, Appellant
No. 95-1606

90 F.3D 814; 1996 U.S. App. LEXIS 18381

MARCH 11, 1996 ARGUED

JULY 26, 1996 FILED

OVERVIEW THE APPELLANT WAS ARRESTED AFTER POLICE FOUND DRUGS LOCATED
PG: 1/14 ON A COFFEE TABLE LOCATED IN FRONT OF WHERE APPELLANT WAS
SITTING. APPELLANT CHALLENGED THE SUFFICIENCY OF THE
EVIDENCE ESTABLISHING HIS CONSTRUCTIVE POSSESSION OF THE
DRUGS FOUND. BECAUSE THE EVIDENCE SHOWED ONLY THAT THE
DRUGS WERE IN AN ACQUAINTANCE'S APARTMENT PHYSICALLY
NEAR APPELLANT, BUT THAT HE WAS NOT IN ACTUAL POSSESSION
OF DRUGS OR DRUG DISTRIBUTION PARAPHERNALIA, THE COURTS
REVERSED APPELLANT'S CONVICTION⁰⁰⁰⁰ *

→ THE COURT FOUND THAT THIS EVIDENCE WAS INSUFFICIENT
PG: 1/14 TO SUPPORT THE JURY'S FINDING THAT THE APPELLANT
HAD DOMINION AND CONTROL OVER THE DRUGS⁰⁰⁰⁰⁰⁰

→ FURTHERMORE THE COURTS FOUND THAT THE APPELLANT
PG: 2 OF 14 MADE NO ATTEMPT TO HIDE OR DESTROY THE DRUGS⁰⁰⁰

→ THAT GOES TO SHOW IF MR. SEAGERS KNEW THE DRUGS
WAS NEAR HIM, HE HAD SEVERAL MINUTES TO GET RID OF
THE DRUGS, ALSO HE HAD NO DOMINION AND CONTROL OVER
THE DRUGS THATS IN SOMEBODY ELSE HOUSE, STASH
OUT OF PLAIN VIEW⁰⁰⁰⁰

JUNE 20, 2012 DISTRIBUTION OF COCAINE BASE

* JUNE 25, 2012 : CPD FORENSIC SERVICE DIVISION DRUG ANALYST RENEE CARTER SAID THE DRUGS WERE TESTED 5 DAYS AFTER SHE GOT IT FROM DET. BURKE. WHEN DET. BURKE SUBMITTED THE DRUGS INTO CPD FORENSIC SERVICE DIVISION IT STILL WAS 2.03 GRAMS AFTER 12 TEST RESULTS. "COLOR TYPE GC/MS". "ALSO" : THE DRUGS WAS A WHITE POWDER SUBSTANCE CONSISTENT AND TESTED PRESUMPTIVE AS COCAINE BY DET. BURKE.

"NOW" : WHEN CPD FORENSIC SERVICE DIVISION DRUG ANALYST RENEE CARTER TEST THE DRUGS FIVE DAYS LATER, IT IS 2.03 GRAMS OF A ROCK LIKE SUBSTANCE THAT TESTED POSITIVE AS COCAINE BASE / CRACK WITH A COLOR TYPE OF GC/MS, HOW IS THAT POSSIBLE???

"NOTE" : THE C.I AND ~~THE~~ DET. BURKE BOTH STATED THEY GOT A WHITE POWDER SUBSTANCE TESTED AS COCAINE, BUT WHEN CPD FSD ANALYST RENEE CARTER GET IT, ITS A ROCK LIKE SUBSTANCE THAT TEST OUT TO BE CRACK / COCAINE BASE.

JUNE 30, 2012 DISTRIBUTION OF COCAINE BASE

* JULY 9, 2012 : CPD FORENSIC SERVICE DIVISION DRUG ANALYST RENEE CARTER SAID THE DRUGS TESTED JULY 9, 2012 60 DAYS AFTER IT WAS SUBMITTED TO CPD FSD ON JULY 3, 2012. RENEE CARTER SAID SHE GOT A 4.17 GRAMS OF ROCK LIKE SUBSTANCE WITH A METHOD COLOR TYPE FTIR GC/MS.

"NOW" : (RULE 5 4b) DET. BURKE GAVE CPD FORENSIC SERVICE DIVISION A WHITE POWDER SUBSTANCE THAT

HE TESTED POSITIVE FOR COCAINE, THAT SOME HOW TURN INTO
A ROCK LIKE SUBSTANCE - CRACK, BETWEEN JUNE 30 AND JULY 3
4 DAYS AFTER THE BUY 000

"NOTE" 0 WHEN DET. BURKE FIRST GOT THE DRUGS FROM THE C.I. IT WAS
3.5 GRAMS OF A WHITE POWDER SUBSTANCE COLOR TYPE GM,
COCAINE (RULE 541) 0 "NOW" WHEN CPD FSD ANALYST RENEE
CARTER GETS THE DRUGS, IT IS 4.17 GRAMS, COLOR TYPE ETER
GC/MS AND ITS A ROCK LIKE SUBSTANCE THAT TEST AS COCAINE
BASE, HOW IS THAT POSSIBLE???

②
JUNE 6, 2014

HOW ARE YOU DOING? I'M WRITING YOU IN REFERENCE OF THE ARTICLE THAT WAS POSTED IN THE FEB. 24 AND MAY 24 CHARLESTON NEWSPAPER ABOUT THE CORRUPTION, UNETHICAL TACTIC, UNCONSTITUTIONAL PROSECUTION, PERJURY AND SELECTIVE RETALIATORY PROSECUTION THAT'S BEING USE AGAINST ME (DEAN SEAGERS) AND OTHER INMATES SITTING IN CHARLESTON COUNTY JAIL, WITH NO PROOF BEYOND A REASONABLE DOUBT EVIDENCE AGAINST US, WHICH WE ALL ASSERT PREJUDICE.

I'VE BEEN SITTING IN JAIL NOW FOR 23 MONTHS FOR A CHARGE I'M NOT GUILTY OF AND MY CO-DEFENDANT WROTE A STATEMENT AND ALREADY PLEAD GUILTY LAST YEAR MARCH CLEARING ME OF THE DRUGS THEY FOUND IN HIS POUCH, IN HIS HOUSE, OUT OF PLAIN VIEW AND THAT I (DEAN SEAGERS) HAD NO KNOWLEDGE OF.....

I ALREADY WENT THROUGH ALL THE PROPER PROCEDURES BEFORE REACHING OUT TO YOU AND I EVEN WROTE MS. SCARLETT WILSON & ASHLEY PENNINGTON WITH NO RESPONSE BACK FROM THEM. (I WROTE THEM MAY 17) I ALSO SENT EACH OF THEM A COPY OF THE LETTER I SENT TO THE OTHER, WHICH IS STANDARD PROCEDURE.....

I TRULY FEEL MY SOLICITOR MS. STEPHANIE LINDER IS USING THE RETALIATORY APPROACH AGAINST ME BECAUSE OF THE VENDETTA SHE & CHARLESTON POLICE DEPT HAS AGAINST ME. MS. LINDER WAS EVEN AT THE SCENE WITH THE COPS WHEN THEY WAS EXECUTING THE SEARCH WARRANT, WHICH SHE DENIED AT 3 HEARINGS UNDER OATH, WHICH IS PERJURY. SHE ADMITTED SEVERAL MONTHS LATER THROUGH AN E-MAIL TO MY LAWYER THAT SHE WAS ON THE SCENE, BUT SHE DIDN'T COME ON THE PROPERTY WHICH IS A BOLD FACE LIE. SHE WAS STANDING OVER ME & MY CO-D WHILE WE WAS SITTING ON THE PORCH, SHE & DET. BUAKE SAID YALL WONT GET OFF THESE CHARGES.....

②
JUNE 6, 2014

IT'S ALSO A CONFLICT OF INTEREST TO HAVE A SOLICITOR ON THE SCENE AND TO HAVE A SOLICITOR ON A CASE BEFORE SOMEONE GETS A CHARGE.

MS. LINDER & THE COPS EVEN LIED TO THE BOND JUDGE SO I COULD GET A HIGH BOND, WHICH I DID (2 MILLION DOLLARS). THEY VIOLATE MY 8TH AMEND RIGHT / NO EXCESSIVE BAIL. MS. LINDER LIES AT EVERY HEARING ABOUT ME GETTING CONVICTED BY THE FEDS FOR DRUG TRAFFICKING & A GUN. WE TELL HER EVERYTIME THAT'S NOT TRUE, BUT THAT'S ANOTHER ONE OF HER UNETHICAL TACTICS TO KEEP ME LOOKING BAD WHICH IS PERJURY.....

THEY ALSO LIED AND SAID I WAS ON A VIDEO MAKING A SALE TO A C.I., BUT WHEN WE SEE THE DEFECTIVE VIDEO'S, WHICH GOES BLACK BECAUSE SOMETHING ON THE C.I. COVERS THE CAMERA MAKING THE VIDEO GO BLACK BEFORE THE C.I. MAKES CONTACT WITH THE PUSHER, SHOWING NO DRUGS OR ACTUAL PERSON. ANOTHER UNETHICAL TACTIC & PERJURY.....

THEN THE MAIN ANALYSIS WHO NAME ISN'T ON NONE OF THE CHAIN OF CUSTODY REPORTS, THAT TOOK US 14 MONTHS TO GET, SHE CHANGED THE DRUGS FROM A WHITE POWDER SUBSTANCE (COCAINE) TO A ROCK LIKE SUBSTANCE (COCAINE BASE) AND CHANGE THE CHARGE FROM COCAINE TO COCAINE BASE. THE DRUGS WAS SUBMITTED AFTER 48 HOURS, NOT BEFORE THE 24 HOURS PERSCRIBE BY THE CHAIN OF CUSTODY LAW.

THE C.I. & DET. SAID THEY BOUGHT AND TESTED THE DRUGS AS COCAINE.

ALSO EVERYTIME WE (INMATES) USE CASE LAWS THAT WAS WRITTEN INTO LAW BY CHIEF JUDGES, THEY GET TURN DOWN. BUT WHEN THESE SOLICITOR'S USE CASE LAWS AGAINST US, THEY GET GRANTED AND THAT'S TOTALLY UNFAIR. A JUDGE EVEN TOLD ME THAT THE PE: UNIFORM DIFFERENTIATED CASE MANAGEMENT-ORDER DIDN'T HOLD NO MERIT IN HIS COURT ROOM. THAT WAS TOLD TO ME & MY LAWYER AND THE JUDGE GAVE THE SOLICITOR (MS. LINDER) 60^{DAYS} FROM THAT SAME HEARING JUNE 5, 2014 TO HAVE A DISPOSITION DATE, WHICH WAS (MAY 5)

JUNE 6, 2014

THOSE GROUNDS JUDGE YOUNG MADE ON MARCH 5, 2014 WAS TOTALLY VIOLATED AND MS. LINDER USE ANOTHER UNETHICAL TACTIC TO GET THROUGH THAT HEARING BECAUSE ANOTHER JUDGE WAS ON THE STAND WORKING IN HER FAVOR. HE EVEN LAUGHED AND TOLD MS. LINDER GOOD JOB WHEN WE TOLD HIM SHE WAS ON THE SCENE AND THAT SHE WOULDN'T DROP THE CHARGES THAT I WAS CLEAR OF.....

MY CONSTITUTIONAL RIGHTS, MY DUE PROCESS, MY 8TH AMEND, MY PRELIMINARY HEARING (WHICH I NEVER HAD) AND I STILL HAVEN'T SEEN OR GOTTEN A TRUE BILL ON MY CHARGES, ~~MEANING~~ MEANING ALL MY RIGHTS HAS BEEN VIOLATED. THE UNETHICAL TACTICS & RETALIATORY PROSECUTION THE SOLICITOR IS USING AGAINST ME BECAUSE OF HER AND C.P.D. VENDETTA IS TRULY UNFAIR, AND I HELP A LOT OF PEOPLE ON THEIR CASE WHO IS BEING TREATED UNFAIRLY ALSO.

I SPEAK FOR MANY WHEN I SAY WE HAVE A MAJOR PROBLEM IN THE SOLICITOR'S OFFICE THAT NEEDS TO BE EXPOSE. THERE IS A LOT OF PEOPLE SITTING IN THIS JAIL ON SUPER HIGH BONDS THAT DON'T FIT THE CHARGES AND WE'RE MISSING MAJOR TIME FROM OUR KIDS LIFE, OUR JOBS AND FROM OUR FREEDOM. MY LIFE WAS GOING IN THE RIGHT DIRECTIONS WITH MY FAMILY, WIFE, KIDS AND 2 JOBS BEFORE MY FREEDOM WAS TAKEN. AND I WANT YALL TO PLEASE USE MY CASE AS AN EXAMPLE OF THE CORRUPTION GOING ON IN THE SOLICITOR OFFICE, AND I GOT PLENTY MORE CASES IN HERE THAT CAN BE USE AS EXAMPLES. WE'LL BE VERY THANKFUL FOR YOUR HELP!!!!!!

PS: I'M SENDING A COPY TO:

DESA BALLARD (LAWYER)

DONALD BEATTY (JUDGE)

CAMERON MARSHALL (LAWYER)

BOBBY FREDERICK (LAWYER)

THANKS FOR YOUR
TIME,

Dean Seagers
#61922
#61922
DEAN SEAGERS

STATE OF SOUTH CAROLINA

COUNTY OF CHARLOTTE

STATE

VS.

DEAN NELSON SEAGART

AKA:

Race: ISSex: MAge: 20

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

97-GS-10-6620

A/W#:

F500579

Date of Offense:

9-21-97

S.C. Code §:

44-53-445

CDR Code #:

011018SENTENCE 0-10yr☒ PLEA☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO:

POSSESS COCAINE w/intent to prox school

in violation of §

44-53-445

of the S.C. Code of Laws, bearing CDR Code #

011017☐ NON-VIOLENT☐ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ 17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for during months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

B/W Rescinded☐ The Defendant is to be given credit for _____ days/months jail time.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: W/ 97-GS-10-6622

SPECIAL CONDITIONS:

☐ RESTITUTION ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient: _____

*Fine:\$

§ 14-1-206 - Assessments 100%.....\$

§ 14-1-211 - Surcharge.....\$ 100.00

(Exceptions: See § 14-1-211)

§ 56-5-2995 (DUI).....\$

County (3%).....\$ 3.00TOTAL.....\$ 103.00

Clerk of Court/Deputy Clerk

Rebecca Buchanan

Court Reporter:

Stacy Sheppard

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☒ or Highschool

Attend Voc Rehab. or Job Corps _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund.

Officer: Upon Completion of GEO, Prob.Will be Reduced to 3 years.

PRESIDING JUDGE

Judge Code: 0101517Sentence Date: 6/22/00

White - Clerk

Green - Confessions

Pink - Defendant

SCCA/217 (1/99)

748 OF SOUTH CAROLINA

COUNTY OF: Charleston
 STATE VS.
Dean Nelson Seegers
 AKA:
 Race: B Sex: M Age: 23
 DOB: 86 SS#: [REDACTED]
 Address: [REDACTED] Peatwood Dr.
Ladsen SC 29864
 DL#: [REDACTED] SID#: 3201076948

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#:

200A - GS - 10 - 6220
 A/W#: 6880791
 Date of Offense: 4/11/02
 S.C. Code §: 44-53-375
 CDR Code #: 011112
☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
 TO: 1st Possession Cocaine (0-2)
 in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 011112
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45
 The charge is: ☒ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
 The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST: Cabernard Dean Seegers [Signature]

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 249 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the
 State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: 13/w reschedule

Recipient: _____
 *Fine: \$ _____
 \$14-1-206 (Assessments 100%)... \$ _____
 \$14-1-211(A)(1) (Surcharge) \$ 100.00
 \$14-1-211(A)(2) (Surcharge) \$ _____
 \$56-5-2995 (DUI Assessment)..... \$ _____
 3% to County (if paid in installments)... \$ 3.00
 TOTAL \$ 103.00

Michael Calhoun
 Clerk of Court/ Deputy Clerk

Court Reporter: B. Burns

PRESIDING JUDGE Ankang
 Judge Code: 014141
 Sentence Date: 6-24-03

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 749

INDICTMENT/CASE#:

COUNTY OF Charleston

STATE

VS.

Dean Nelson Sagers

AKA:

Race: B Sex: M Age: 23DOB: 80 SS#: [REDACTED]Address: Peatwood Dr.Ladson SC 29864DL#: [REDACTED] SID#: SC 010769482002 - GS - 10 - 6222A/W#: 4100563Date of Offense: 6/19/02S.C. Code §: 44-53-375CDR Code #: 0131912☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Trafficking in Firearms, Cocaine 10:28c 1st (3-10 yr.)in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 012718☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☒ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Cabernard

Solicitor

Dean Sagers

Defendant

Ann Hughes

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$ _____

\$14-1-206 (Assessments 100%) \$ _____

\$14-1-211(A)(1) (Surcharge) \$ 100.00

\$14-1-211(A)(2) (Surcharge) \$ _____

\$56-5-2995 (DUI Assessment) \$ _____

3% to County (if paid in installments) \$ 3.00TOTAL \$ 103.00Michael Ball

Clerk of Court/ Deputy Clerk

Court Reporter: 6-24-03

White - Clerk

Green - Corrections

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: B/w resuspended

PRESIDING JUDGE

Judge Code: 014141Sentence Date: 6-24-03 ARREST: A TRUE COPYJULIE J. ARMSTRONG (SEAL)
CLERK, C.P., S.S. & F.C.By [Signature]

DEPUTY CLERK

[Signature]

Canary - Probation

750
STATE OF SOUTH CAROLINA

COUNTY OF

Charleston

STATE

VS.

Dean Nelson Seagust

AKA:

Race:

B

Sex:

M

Age:

23

DOB:

80

SS#:

Address:

Peatwood Dr.

DL#:

Ladson SC 29804

SID#:

SC01074948

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:

2002 - GS - 10 - 6223

A/W#:

4100SC66

Date of Offense:

6/14/02

S.C. Code §:

44-53-445

CDR Code #:

0 / 1 / 0 / 8

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Poss. Sex. Cocaine w/ intent to dist. w/in Prox. of School (0-10)

in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 0 / 1 / 8 / 3

☐ NON-VIOLENT

☒ VIOLENT

☐ SERIOUS

☐ MOST SERIOUS

☐ 17-25-45

The charge is: ☒ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Cabernard

Solicitor

Dean Seagust

Defendant

Anna Marshall

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:\$

\$14-1-206 (Assessments 100%)\$

\$14-1-211(A)(1) (Surcharge)\$ 100.00

\$14-1-211(A)(2) (Surcharge)\$

\$56-5-2995 (DUI Assessment)\$

3% to County (if paid in installments)\$ 3.00

TOTAL\$ 103.00

Clerk of Court/Deputy Clerk

Court Reporter:

G. Burr

White - Clerk

Green - Corrections

Canary - Probation

PRESIDING JUDGE

Judge Code:

014141

Sentence Date:

6-24-02

TEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.

By: [Signature]
DEPUTY CLERK

STATE OF SOUTH CAROLINA

COUNTY OF Cherokee
STATE VS.

Dean Nelson Sengor

AKA: _____

DOB: [REDACTED] Sex: M Age: 23

Address: [REDACTED] Heatwood Dr.

Ladson SC 29564

DL#: _____ SID#: SL01076948

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:

2003 - GS - 10 - 1648

A/W#: H301040

Date of Offense: 11/19/02

S.C. Code §: 44-53-445

CDR Code #: 0121718

☐ CASE RESTORED

SENTENCE

☐ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS TO: Trafficking Cocaine 1st (10-289m) (3-1045)

in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 0121718

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Cabernand Solicitor Dean Nelson Sengor Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:\$ _____

\$14-1-206 (Assessments 100%).....\$ _____

\$14-1-211(A)(1) (Surcharge)\$ 100.00

\$14-1-211(A)(2) (Surcharge)\$ _____

\$56-5-2995 (DUI Assessment).....\$ _____

3% to County (if paid in installments)....\$ 3.00

TOTAL\$ 103.00

[Signature]
Clerk of Court/Deputy Clerk

Court Reporter: G. Ben

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

PRESIDING JUDGE [Signature]

Judge Code: 014141

Sentence Date: 6-24-03

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF S.S. & F.C.

By [Signature]
_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

SCCA017 (2/0003)

752

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:COUNTY OF Charleston
STATE Deen VS. Nelson Senger

AKA: _____

Race: B Sex: M Age: 23

SS#: _____

Peatwood Dr.DL#: Ladson SC 29804 SID#: SL0610769442003 - GS - 10 - 1647A/W#: H301039Date of Offense: 11/19/02S.C. Code §: 44-52-375CDR Code #: 0141510☐ CASE RESTORED

SENTENCE

☒ PLBA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: trafficking coke 1st (10.287m) (3-10 yr.)in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0121718☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Cabernac

Solicitor

Dean Senger

Defendant

Ann M. Strong

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient: _____

*Fine:\$ _____

\$14-1-206 (Assessments 100%)...\$ _____

\$14-1-211(A)(1) (Surcharge)\$ 100.00

\$14-1-211(A)(2) (Surcharge)\$ _____

\$56-5-2995 (DUI Assessment).....\$ _____

3% to County (if paid in installments).....\$ 3.00TOTAL.....\$ 103.00Michael Call
Clerk of Court/ Deputy ClerkCourt Reporter: C. Bur

ATTEST: A TRUE COPY

JULIE J. ARMSTRONG (SEAL)

CLERK, C.P./G.S. & F.C.

By Julie J. Armstrong

PTUP _____

_____ days/hours Public Service

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

PRESIDING JUDGE Ann M. StrongJudge Code: 014141Sentence Date: 6-27-03

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#: 753

COUNTY OF: Charleston
 STATE Dem Nelson VS. Senger
 AKA:
 Race: B Sex: M Age: 23
 DOB: 1/80 SS#: [REDACTED]
 Address: Peartwood Dr.
Ladson SC 29804
 DL#: [REDACTED] SID#: 5101676148

2003 - GS - 10 - 1651
 A/W#: DI
 Date of Offense: 11/19/02
 S.C. Code §: 44-53-445
 CDR Code #: 0111017
☐ CASE RESTORED

SENTENCE
☐ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS

TO: PWID Cocaine Pox (0-10)
 in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 0111017

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Carinaid
 Solicitor

Dean Seager
 Defendant

[Signature]
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the
 State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:\$ _____

\$14-1-206 (Assessments 100%)\$ _____

\$14-1-211(A)(1) (Surcharge)\$ 100.00

\$14-1-211(A)(2) (Surcharge)\$ _____

\$56-5-2995 (DUI Assessment)\$ _____

3% to County (if paid in installments)\$ 3.00

TOTAL\$ 103.00

[Signature]
 Clerk of Court/Deputy Clerk

Court Reporter: G. Burn

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender/County

Other: JULIE J. ARMSTRONG (SEAL)

By: [Signature] CLERK, C.P., S.S. & F.C.

DEPUTY CLERK

PRESIDING JUDGE [Signature]

Judge Code: 014171

Sentence Date: 6-24-03

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

754
STATE OF SOUTH CAROLINA

COUNTY OF Charleston

STATE

VS.

Dean Nelson Seagers

AKA:

Race: B

Sex: M

Age: 23

Address: Peatwood Dr.

DL#:

Ladson SC 29864

SID#: SC 61076948

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2002 - GS - 10 - 6222

A/W#: 4100563

Date of Offense: 6/19/02

S.C. Code §: 44-53-375

CDR Code #: 0 / 3 / 7 / 2

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Trafficking in ~~Foreign~~ ~~Cocaine~~ Cocaine 10-285 1st (3-10-02)

in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0 / 2 / 7 / 8

☐ NON-VIOLENT

☒ VIOLENT

☐ SERIOUS

☐ MOST SERIOUS

☐ 17-25-45

The charge is: ☒ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Cabernard

Solicitor

Dean Seagers

Defendant

Anna Hargrave

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$ _____

§14-1-206 (Assessments 100%) \$ _____

§14-1-211(A)(1) (Surcharge) \$ 100.00

§14-1-211(A)(2) (Surcharge) \$ _____

§56-5-2995 (DUI Assessment) \$ _____

1% to County (if paid in installments) \$ 3.00

TOTAL \$ 103.00

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: B/W rescheduled

PRESIDING JUDGE

Judge Code: 014141

Court Reporter: 6-24-03

ATTEST: A TRUE COPY

Sentence Date: 6-24-03

JULIE A. ARMSTRONG (SEAL)

CLERK, C.P. & J.S.C.

White - Clerk

Green - Corrections

Probation

Pink - Defendant

DEPUTY CLERK

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:

Y OF Charleston

VS.

Dean Nelson Senger

A:

Race: B Sex: M Age: 23

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Peatwood Dr.

DL#: [REDACTED] SC 29864

SID#: SC111076944

2003 - GS - 10 - 1647

A/W#: H301039

Date of Offense: 11/19/02

S.C. Code §: 44-53-375

CDR Code #: 01151510

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: trafficking coke, 1st (10-289m) (3-10 yr.)in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0121718☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Cabernac
SolicitorDean Senger
Defendant[Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ set by SCDPPPS Recipient: *Fine:\$ §14-1-206 (Assessments 100%).....\$ §14-1-211(A)(1) (Surcharge)\$ 100.00§14-1-211(A)(2) (Surcharge)\$ §56-5-2995 (DUI Assessment).....\$ 3% to County (if paid in installments)....\$ 3.00TOTAL.....\$ 103.00PTUP days/hours Public Service EmploymentObtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning \$ paid to Public Defender FundOther: PRESIDING JUDGE Case Code: 014141Court Reporter: G. Ben

ATTEST: A TRUE COPY

JULIE ARMSTRONG (SEAL)

Clerk of Court/ Deputy Clerk

By [Signature]

DEPUTY CLERK

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

SC111076944

756
STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.

AKA:

Race: R Sex: M Age: 23

Address: Peatwood Dr.

DL#: Ladson SC 29544 SID#: SL01076948

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2003 - GS - 10 - 1648

A/W#: H301040

Date of Offense: 11/14/02

S.C. Code §: 44-53-445

CDR Code #: 0121718

☐ CASE RESTORED

SENTENCE

☐ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS TO: Trafficking Cocaine 1st (10-289m) (3-104n)

in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 0121718

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

CABEMOND

Solicitor

Dean Nelson Seagers

Defendant

Ann M. [Signature]

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient: _____

*Fine: \$ _____

\$14-1-206 (Assessments 100%) \$ _____

\$14-1-211(A)(1) (Surcharge) \$ 100.00

\$14-1-211(A)(2) (Surcharge) \$ _____

\$56-5-2995 (DUI Assessment) \$ _____

3% to County (if paid in installments) ... \$ 3.00

TOTAL \$ 103.00

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/B beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

PRESIDING JUDGE

Mr. [Signature]
Clerk of Court/ Deputy Clerk

ATTEST: A TRUE COPY

Code: 014141

Court Reporter: G. Ben

JULIE J. ARMSTRONG (SEAL)

Date: 6-24-03

By: [Signature]

White - Clerk

Green - Corrections/CLERK/CLERK/Cumary - Probation

Pink - Defendant

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.

AKA:

Race: B

Sex: M

Age: 23

SS#: [REDACTED]

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:

2003 - GS - 10 - 1650

A/W#: 4301042

Date of Offense: 11/19/02

S.C. Code §: 44-53-445

CDR Code #: 011018

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: PW11 Coke Pirx (0-10)

in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 011017

☒ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

C. C. Madsen

Solicitor

Dean Nelson Seager

Defendant

James M. [Signature]

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation; which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:\$ _____

\$14-1-206 (Assessments 100%)\$ _____

\$14-1-211(A)(1) (Surcharge)\$ 100.00

\$14-1-211(A)(2) (Surcharge)\$ _____

\$56-5-2995 (DUI Assessment)\$ _____

3% to County (if paid in installments)\$ 3.00

TOTAL\$ 103.00

M. J. [Signature]
Clerk of Court/Deputy Clerk

Court Reporter: G. Ben

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

ATTEST: A TRUE COPY

JULIE J. ARMSTRONG (SEAL)

CLERK, C.P., S.S. & F.F.

PTUP _____

By [Signature] days/hours Public Defender's Office

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

PRESIDING JUDGE

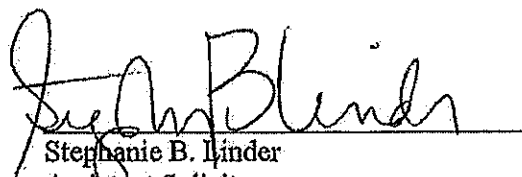
Judge Code: 014141

Sentence Date: 6-24-03

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE No. 2012-GS-10-06776
	)	2012-GS-10-06777
	)	2012-GS-10-06778
	)	2012-GS-10-06779
	)	2012-GS-10-06780
STATE OF SOUTH CAROLINA	)	2012-GS-10-06781
	)	
-versus-	)	
	)	NOTICE OF INTENTION TO SEEK
DEAN NELSON SEAGERS	)	SENTENCE OF LIFE WITHOUT
	)	PAROLE
<u>Defendant</u>	)	

**TO: DEAN NELSON SEAGERS, DEFENDANT, AND CAMERON L.
MARSHALL, ATTORNEY FOR THE DEFENDANT:**

PLEASE TAKE NOTICE that at the trial of the above entitled action to be scheduled on a date at least ten (10) days hence, of which you will be timely notified, the State will seek to have the defendant sentenced to a term of imprisonment for life without the possibility of parole, pursuant to South Carolina Code of Laws §17-25-45. This notice is based upon the Defendant's prior convictions for the offenses of: (1) Possession Cocaine with Intent within Proximity of Schools - §44-53-445 (97-GS-10-6620); (2) Trafficking Cocaine 10-28g - §44-53-375 (2002-GS-10-6222); (3) Trafficking Cocaine 10-28g - §44-53-370 (2003-GS-10-1647); and (4) Trafficking Cocaine 10-28g - §§44-53-445 (2003-GS-10-1648); all in the Circuit Court of Charleston County, and all classified as "Serious" offenses pursuant to §17-25-45.



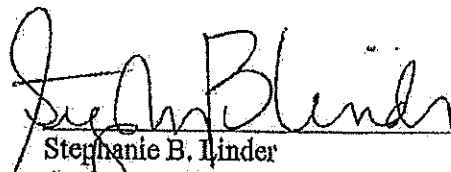
Stephanie B. Linder
Assistant Solicitor
Ninth Judicial Circuit

Charleston, South Carolina
Dated: June 20, 2013

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE No. 2012-GS-10-06776
	)	2012-GS-10-06777
	)	2012-GS-10-06778
	)	2012-GS-10-06779
	)	2012-GS-10-06780
STATE OF SOUTH CAROLINA	)	2012-GS-10-06781
	)	
-versus-	)	
	)	NOTICE OF INTENTION TO SEEK
DEAN NELSON SEAGERS	)	SENTENCE OF LIFE WITHOUT
	)	PAROLE
Defendant	)	

**TO: DEAN NELSON SEAGERS, DEFENDANT, AND CAMERON L.
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Stephanie B. Linder
Assistant Solicitor
Ninth Judicial Circuit

Charleston, South Carolina
Dated: June 20, 2013

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

) NINTH JUDICIAL CIRCUIT

COUNTY OF CHARLESTON)

CASE No. 2012-GS-10-06776

~~2012-GS-10-06777~~ 2012 A 1010201154

2012-GS-10-06778

2012-GS-10-06779

2012-GS-10-06780

2012-GS-10-06781

STATE OF SOUTH CAROLINA)

-versus-

DEAN NELSON SEAGERS,

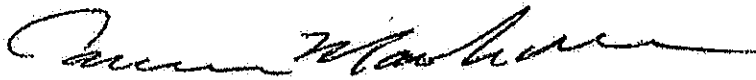
Defendant

ACKNOWLEDGEMENT OF
SERVICE OF NOTICE OF
INTENTION TO SEEK SENTENCE
OF LIFE WITHOUT PAROLE

2013 JUN 27 PM 2:32
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

Service of the Notice of Intention to seek a sentence of imprisonment for life
without the possibility of parole acknowledged, and copies retained this
27 day of June, 2013, at Charleston, South Carolina.



Cameron L. Marshall, Attorney for the Defendant

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON) CASE No. 2012-GS-10-06776

~~2012-GS-10-06777~~ 20/2A 10/0201154

2012-GS-10-06778

2012-GS-10-06779

2012-GS-10-06780

2012-GS-10-06781

STATE OF SOUTH CAROLINA)

-versus-

DEAN NELSON SEAGERS,

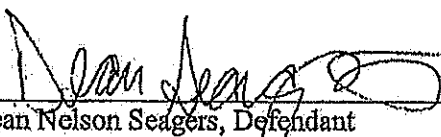
Defendant

ACKNOWLEDGEMENT OF
 SERVICE OF NOTICE OF
 INTENTION TO SEEK SENTENCE
 OF LIFE WITHOUT PAROLE

2013 JUN 27 PM 2:32

FILED

Service of the Notice of Intention to seek a sentence of imprisonment for life
 without the possibility of parole acknowledged, and copies retained this
27 day of June, 2013, at Charleston, South Carolina.


 Dean Nelson Seagers, Defendant

Att
GS
SOL
AG

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Dean Seagers, #294406,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICIAL CIRCUIT

Case No.: 2020-CP-10-527

ORDER OF DISMISSAL

2024 FEB 20 PM 1:24
CLERK OF COURT
DGA

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Dean Seagers (Applicant) on January 28, 2020. Respondent made its return requesting an evidentiary hearing. An evidentiary hearing convened on October 19, 2023, before the Honorable Maite Murphy. Applicant was present and represented by Elizabeth Franklin-Best, Esquire. Assistant Attorney General Danielle Dixon represented Respondent. At the hearing, Applicant testified on his behalf and called as witnesses Moses Dennis and King Wilson. Respondent called as witnesses trial counsel Cameron Marshall, Esquire, and solicitors Stephanie Bianco Linder, Lauren Mulkey Frierson, and John Whit Sowards. Following a thorough review of the transcript and the testimony and evidence presented at the hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In November 2012, the Charleston County Grand Jury indicted Applicant for distribution of cocaine base (2012-GS-10-6779). On July 6-9, 2015, Applicant proceeded to a jury trial before the Honorable Kirsti L. Harrington. Cameron Marshall, Esquire, represented Applicant. Assistant Solicitors Whit Sowards and Lauren Frierson prosecuted the case. The jury

convicted Applicant as indicted, and Judge Harrington sentenced him to life pursuant to the recidivist statute.

Applicant filed a timely notice of appeal, which was perfected by Tara Dawn Shurling, Esquire. On appeal, Applicant argued the trial court erred in (1) allowing a detective to identify his voice when the State didn't lay a proper foundation and the detective was not a voice expert, and (2) charging accomplice liability. The Court of Appeals affirmed on the merits. Applicant filed a motion to reconsider, which was denied. Applicant filed a petition for a writ of certiorari in the South Carolina Supreme Court, which was granted on the issue of whether the court erred by charging accomplice liability. The petition was later dismissed as improvidently granted, and the remittitur was sent February 27, 2019.

BRIEF SUMMARY OF TRIAL TESTIMONY

At trial, Robert Drayton testified he worked as a confidential informant for Charleston Police Department, and he arranged to purchase drugs from a home on Ashton Street as part of a controlled buy on June 20, 2012. (Tr. 213). Drayton explained he stood outside while the drugs were lowered by a cup and string from a second-floor window. (Tr. 215-16). During his testimony, the following exchange occurred:

Q. And who did you buy drugs from that day?

A. Baby Dean.¹

Q. And did you personally see with your own eyes the man that you call Baby Dean that day?

A. Uh-huh.

Q. Where did you see him that day.

A. In the window.

¹ Drayton stated he knew Applicant by his nickname "Baby Dean." (Tr. 213).

....

Q. And did you see him lower the drugs to you?

A. No.

Q. Did you—

A. I just see the string come down.

Q. And just before you saw the string come down, did you see Baby in the window?

A. Afterward, but—I didn't see who lowered down the string.

Q. Okay.

A. Because there was three people in the house. It was some other people in the house.

Q. Okay. And—but you saw Baby afterwards?

A. (Nods head.)

(Tr. 216-17). Drayton clarified he called Applicant to arrange the purchase. (Tr. 217-18). On cross-examination, Drayton agreed he did not know who lowered the drugs. (Tr. 223). He further agreed he saw Applicant in the window after the drugs were lowered, but it “was a glimpse seeing.” (Tr. 224).

The State also presented testimony that law enforcement recovered a cup and a phone from the Ashton Street home when Applicant was arrested.² (Tr. 277-79, 323-24). The phone utilized the same number that Drayton called on June 20 to arrange the buy; that number was saved in Drayton's phone as “Baby.” (Tr. 270-72, 397). Finally, Detective Charles Grill testified over objection that he was familiar with Applicant's voice, and he recognized Applicant's voice in the

² The cup and phone were recovered during the execution of a search warrant on the Ashton Street home on August 29, 2012. Counsel moved pretrial to suppress evidence found during the search of the Ashton home.

live-wire recording and video of the controlled buy.³ (Tr. 165-69).

CURRENT APPLICATION

On January 28, 2020, Applicant timely filed this PCR application alleging he is being held in custody unlawfully for the following reasons:

- a. Appellate counsel was ineffective for failing to raise issues concerning the arrest warrant that contained false information.
- b. Alternately, trial counsel was ineffective for failing to properly move to suppress any evidence obtained because of the arrest warrant that contained false information.
- c. Appellate counsel was ineffective for failing to raise issues concerning the arrest warrant that contained false information.
- d. Alternately, trial counsel was ineffective for failing to properly argue the search of the phone exceeded the authority of the search warrant.
- e. Trial counsel was ineffective for failing to properly argue Charles Grill should not have been qualified as an expert in narcotics investigations.
- f. Trial counsel was ineffective for failing to properly argue Charles Grill's opinions exceeded the scope of those which should have been testified to by a lay witness or an expert in narcotics investigation.
- g. Applicant's sentence violates the eighth amendment.
- h. Trial counsel was ineffective for failing to properly object to the notice for life without parole and sentence.
- i. Trial counsel was ineffective for failing to object to prior conversations between Grills and Applicant as a violation of Rule 5, SCRCrimP.

³ This video, which was recorded from a camera worn by Drayton, was entered into evidence.

- j. Applicant was denied his right to due process when the state failed to provide all impeachment information concerning the confidential informant.

Respondent filed a return requesting an evidentiary hearing.

On March 14, 2022, Applicant amended his application to allege:

(a). Ineffective assistance of trial counsel:

- (i) Counsel failed to object to the States' admission of multiple instances of inadmissible hearsay.
- (ii) Counsel failed to properly object and preserve the claim that he was improperly denied the right to cross-examine law enforcement about the discrepancies in the funds for confidential informants since this fact related to the integrity of the investigation.
- (iii) Counsel failed to object to the State's introduction of improper character evidence, or 404(b) evidence.
- (iv) Counsel failed to argue that the search of Applicant's cell phone exceeded the authority of the search warrant.
- (v) Counsel failed to argue that the State's expert witness Charles Grill should not have been qualified as an expert in narcotics investigations.
- (vi) Counsel failed to properly argue that Grill's opinions exceeded the scope of those that should have been testified to by a lay witness or an expert in narcotics investigation.
- (vii) Counsel failed to object to Grill's improper vouching of the confidential informant.
- (viii) Counsel failed to object to the entry into evidence of prior conversations between Grills and Application, in violation of Rule 5, SCRCrimP.
- (ix) Counsel failed to move for a mistrial when the CI testified he received a threatening phone call on the morning of his trial testimony and testifying that was

why he changed his testimony.

- (x) Counsel failed to correct Applicant's criminal record, which did not involve federal conviction for guns or drugs. Instead Applicant pled guilty by information to keeping a stash house, a federal crime that carries a maximum sentence of twenty years in prison and therefore cannot be used to enhance Applicant's sentence to life without parole.
- (b) Violation of Applicant's Eighth Amendment Rights: Applicant's Eighth Amendment rights were violated when the Court imposed a life sentence pursuant to the three-strike rule when one of the strikes used by the prosecution to obtain this sentence was a charge that had previously been dismissed in court.
- (c) Violation of Applicant's statutory rights: Applicant was sentenced under the three-strikes law without the trial court or Solicitor's office obtaining certified copies of Applicant's prior convictions which it alleges subjects him to that penalty.
- (d) Ineffective Assistance of Appellate Counsel: Appellate counsel failed to raise the claim that the search and arrest warrants were defective when there was no indication the office supplied information to the magistrate regarding the reliability of the confidential informant.

On June 22, 2023, Applicant filed a Second Amended Application raising the following:

1. Applicant was denied his right to a speedy trial.
2. Trial counsel was ineffective for failing to communicate a plea offer.
3. Trial counsel was ineffective for failing to object to the State's improper vouching during closing argument.
4. The State failed to comply with its own internal policies regarding its use of confidential informants. Trial counsel should have objected.
5. Trial counsel was ineffective by failing to object to the presence of the initial solicitor, Stephanie Bianca, in the courtroom.

6. Detective Burke improperly failed to disclose written notes regarding the case that were kept on his hard drive.
7. Trial counsel was ineffective in failing to object to the State modifying its theory from a hand-to-hand transaction to hand-of-one-hand-of-all.

On August 9, 2023, Applicant filed a Third Amended Application raising the following:

1. Applicant alleges he did not have the opportunity to confront witnesses against him as it relates to the chain of custody of the evidence bag for the drugs Applicant never saw until trial.
2. Applicant alleges the solicitor used false evidence against him during opening and closing arguments as it relates to the cup and phone found on August 29.
3. Applicant alleges the solicitor made derogatory remarks about him during closing arguments, referring to him as a Trap King and how good he was at running a drug operation.
4. Applicant alleges jury misconduct.

At the evidentiary hearing, Applicant proceeded on the allegations of his Amended Applicant, his Second Amended Application, and his Third Amended Application. Applicant also alleged counsel should have called as a witness Dennis Moses. Applicant, however, waived his claim related to ineffective assistance of appellate counsel (allegation (d) of his first amended application). This Court finds Applicant did not present any evidence or argument to support allegation (d) of his first amended application and thus waived this claim.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the plea transcript in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the

witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony.⁴ After a careful review based on the Strickland standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of facts and conclusions of law as required by § 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

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, 684 (1984); Lomax v. State, 379 S.C. 93, 100, 665 S.E.2d 164, 167 (2008). In a PCR action, an 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). When the application alleges ineffective assistance of counsel, the applicant must prove "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." Id. (quoting Strickland, 466 U.S. at 686).

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. 466 U.S. at 687. First, an applicant must prove counsel's performance was deficient. Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989) (quoting Strickland, 466 U.S. at 688). Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688). The proper measure of performance is whether an attorney "provided representation within the range of competence required of attorneys 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

⁴ This Court will reference PCR testimony where relevant below.

judgment.” *Id.* (quoting *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, a PCR applicant must prove that counsel’s deficient performance 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.

*Failed to object to hearsay*⁵

Applicant contends counsel was ineffective for not objecting to multiple instances of inadmissible hearsay. This Court finds Applicant did not prove this ground. Initially, this Court finds credible counsel’s PCR testimony that he saved his objections for the strongest issues because the trial court had overruled almost every objection he made while sustaining almost all of the State’s objections. Thus, to the extent any hearsay was not material to the outcome, this Court finds counsel articulated a valid reason for not objecting and was not deficient. More critically, however, Applicant did not point to any specific instances of hearsay he believed counsel should have objected to at the evidentiary hearing or in his application and amended applications. Thus, he did not meet his burden of proving deficiency or prejudice, and this claim is denied.

*Improperly denied right to cross-examine law enforcement*⁶

Applicant contends counsel was ineffective for failing to object to and properly preserve the claim that he was improperly denied the right to cross-examine law enforcement about discrepancies in the funds for confidential informants (CI) since this fact related to the integrity of the investigation. This Court finds Applicant did not prove this ground.

At trial, the following exchange occurred during the cross-examination of Investigator

⁵ This section addresses allegation (a)(i) of the amended application.

⁶ This section addresses allegation (a)(ii) of the amended application.

Michael Burke:

Q: Let's talk for a minute about the handling of funds that are used to pay CIs. And you're—you're familiar, I assume, correct me if I'm wrong, you're very familiar with the policies and procedures that govern the handling of these funds at CPD; is that correct?

A. Yes, sir.

Q. Are you aware of there ever having been issues at City of Charleston Police Department with those funds being improperly handled?

A. I do know that there's an audit and that is done to ensure that there is no problems on the books, but as far as personal knowledge of the books being messed up on the audit, no, I have no knowledge of that. I know an audit's done fairly frequently to ensure that there's no mistakes.

Q. Are you aware that a May 2015–2014 audit found no fewer than seven errors in the handling of those funds?

Mr. Sowards: Objection, Your Honor.

The Court: All right. Counsel approach.

(proceeding held at bench; not reported.)

The Court: I'm gonna sustain that objection, Mr. Sowards. This witness has not been qualified in that area and he indicates he has no basis of knowledge. You may—

Mr. Marshall: Thank you.

The Court: —move on.

(Tr. 308-09).

Here, the State made a valid objection—that Investigator Burke lacked knowledge of the alleged audit—and the Court sustained the objection. This Court finds that the trial court sustaining a proper objection did not deny Applicant the right to cross-examine Investigator Burke; thus, counsel was not deficient for not raising this argument, and it is not reasonably likely any objection would have led to the trial court allowing counsel to further question Investigator Burke about an

audit he did not have knowledge of. Additionally, Applicant did not offer any testimony or argument at the PCR hearing regarding what more counsel should have done to enter this alleged information; thus, Applicant did not prove deficiency. Likewise—and critically—Applicant did not offer any evidence or testimony at the PCR hearing about this alleged audit, leaving this court to speculate about whether any evidence in fact existed. Applicant thus did not meet his burden of proving prejudice from counsel’s handling of this issue, and this claim is denied.

Failed to object, move for mistrial – Improper character evidence⁷

Applicant contends counsel was ineffective for not objecting to the State’s introduction of improper character evidence under Rule 404(b), SCRE. He further asserts counsel was ineffective for failing to move for a mistrial when the CI testified he received a threatening call the morning of his testimony, which caused him to change his testimony. This Court finds Applicant did not prove counsel was ineffective in this regard.

During Drayton’s cross-examination, he testified:

A. I remember what I told you here this morning.

Q. Okay. Well, what is it that you said about whether or not anyone, and in particular, Mr. Seagers, sold you any drugs on June 20th of 2012?

A. Okay. Let me clarify that. The reason why I said that this morning because I got a threatening phone call, okay, and they threatened my family.

(Tr. 228). Trial counsel objected, and a bench conference was held. (Tr. 229). Thereafter, the following exchange occurred:

Q. Well, let’s talk about it. . . . [T]his was elicited from you on direct, that—did you say something in court earlier today that was not true while you were under oath?

⁷ This section addresses allegation (a)(iii) and (a)(ix) of the amended application.

A. What was your question?

Q. Well, that's my—

A. It's confusing. You got me confused.

Q. That's—okay. That's my current question. Well, first of all, I'd ask you what is it that you said earlier and you really didn't tell us, but you said that you were scared because you believe a threat had been issued.

A. I got a threatening phone call on my phone this morning.

Q. Okay. Well, not from Dean Seagers, correct?

A. No.

Q. Okay. So what is it that you testified to under oath right in that chair earlier today regarding whether or not you bought drugs on the 20th and whether or not you got drugs from Dean Seagers?

....

A. You asked me . . . what did I did on June the 20th—

Q. Uh-huh.

A. —and I said I did all sorts of things on June the 20th.

....

A. And you asked me something else about Dean and I told you “no” because I was afraid at the moment, you know. I got a threatening phone call.

Q. Okay. So earlier you had said that you didn't get any drugs from Dean, but really if—if I'm understanding you correctly, that's not any different than what you're saying right here this evening, is it? Because you just said it on direct and said it talking to me that you don't know whether Dean Seagers delivered any drugs to your or not; am I correct?

A. You're right.

(Tr. 229-31). At the PCR hearing, Applicant generally testified counsel should have objected to

testimony regarding threats. At the end of trial, Applicant argued this testimony about threats should have been objected to because it improperly interjected 404(b) character evidence into the trial.

This Court finds Applicant did not prove deficiency or prejudice based on counsel's failure to object or move for a mistrial based on Rule 404(b). Pertinently, Drayton clarified the threat did not come from Applicant. Thus, this testimony did not constitute improper 404(b) evidence.⁸ Likewise, Applicant did not prove prejudice from counsel's failure to move for a mistrial. See Earley v. State, 418 S.C. 255, 266, 792 S.E.2d 226, 232 (2016) ("To prove prejudice resulting from counsel's failure to move for a mistrial, an applicant must demonstrate that, had counsel moved for a mistrial, the trial court's denial of the motion would have amounted to an abuse of discretion."). Applicant did not set forth any other basis of objecting or moving for a mistrial and thus failed to meet his burden of proving deficiency or prejudice. This claim is denied.

Search of cell phone⁹

Applicant asserts counsel was ineffective for not arguing the search of his cell phone exceeded the authority of the search warrant. This Court finds Applicant did not prove this claim.

Following the controlled buy that was the subject of this trial, law enforcement obtained a search warrant for the Ashton home. (Tr. 105). After executing the warrant, law enforcement recovered eight cell phones and a plastic jar or cup that was used to distribute drugs. One of the phones recovered was the number that the CI had dialed to arrange the June 20 controlled buy, and the CI had identified that number in his phone as "Baby."¹⁰ (Tr. 105-09).

⁸ "Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent." Rule 404(b), SCRE.

⁹ This section addresses allegation (a)(iv) of the amended application.

¹⁰ Testimony at trial established Applicant's nickname was "Baby."

At trial, counsel moved to suppress evidence seized during a search of the Ashton home, first contending the supporting affidavit was insufficient. (Tr. 85-104). Next, counsel asserted Applicant was merely present during the August 29 search, and no evidence other than a screenshot of the CI's phone identifying the number as "Baby" linked Applicant to the recovered cell phone. (Tr. 105). Finally, counsel objected to the search of the cell phone's data. (Tr. 108-09). The Court indicated that although the State could introduce the cell phone itself as evidence recovered from the search of the home, she would need to review the warrant to see if the phone's data was admissible. (Tr. 111). After reviewing Riley v. California, 573 U.S. 373 (2014),¹¹ the court concluded the search warrant was sufficient to search the phone's data. (Tr. 112). At trial, an expert in digital forensics testified to the cell phone's number. However, he was unable to extract any other data from the phone. (Tr. 397-98).

This Court finds counsel *did* raise this issue to the trial court and thus was not deficient. Applicant did not set forth at the PCR hearing what more counsel should have argued on this issue and thus did not prove deficiency. Further, Applicant did not prove prejudice. Initially, the trial court considered this issue and concluded the contents of the phone were admissible, and Applicant did not set forth at the PCR hearing any additional argument that would have likely changed the trial court's decision. Likewise, Applicant did not enter into evidence the warrant itself—leaving this Court to merely speculate about the sufficiency of the warrant and the likelihood that further argument would have changed the outcome. Finally, the only evidence obtained from the phone was the number itself, which merely provided additional circumstantial evidence for the State to link Application to the number the CI called when arranging this buy. This Court finds the State

¹¹ Although the transcript references Bradley v. California, this Court has been unable to find a case entitled Bradley v. California that addresses this issue. Because Riley v. California directly addresses the issue that the Court was considering, this Court finds the reference to Bradley v. California is a scrivener's error.

introduced other evidence to prove Applicant's guilt—including the CI's testimony that he contacted Applicant to arrange the purchase and the CI's phone that had the number identified as "Baby"—such that it is not reasonably the outcome would have been different had the contents of this phone been suppressed. Applicant thus did not prove deficiency or prejudice, and this claim is denied.

Failed to object to qualification of Charles Grill¹²

Applicant alleges counsel was ineffective for not objecting to the qualification of Charles Grill as an expert in narcotics investigations. This Court finds Applicant did not prove counsel was ineffective in this regard.

In State v. Robinson, 396 S.C. 577, 722 S.E.2d 820 (2012), *affirmed as modified on other grounds*, the South Carolina Court of Appeals concluded the trial court did not err in qualifying as an expert a narcotics officer with thirty years of experience in narcotics enforcement who had been involved in hundreds of crack cocaine cases. Pertinently, the Court found the method of packaging and selling crack cocaine "is information not commonly known to the average juror." *Id.* at 588, 722 S.E.2d at 825–26.

This Court finds counsel's failure to object to Grill's qualification as an expert was not deficient. Pertinently, Grill testified he had been a member of the Drug Enforcement Agency Task Force since July 2009 and had received specialized training in drug enforcement, drug crimes, undercover techniques, DEA investigations, money laundering, and wiretap investigations. (Tr. 132-39). This Court finds the foregoing sufficient for Grill to be qualified as an expert in narcotics investigations. Likewise, this Court finds Grill's testimony regarding developing informants, controlled purchases, and the use of "trap" or "stash" houses by drug dealers is information not

¹² This section addresses allegation (a)(v) of the amended application.

commonly known to the average juror. (Tr. 139-60). At the PCR hearing, Solicitor Frierson credibly testified the method of distribution here—a pulley system—was somewhat unique, and they qualified Grill as an expert to help the jury “understand the complexities of the drug game” and the use of trap or stash houses by drug dealers. This Court finds such testimony was relevant here where the evidence showed no one (including Applicant) lived in the house. (Tr. 303). Ultimately, Applicant did not set forth a valid argument counsel should have made and did not prove deficiency. Likewise, Applicant did not set forth an argument that would have reasonably excluded this expert testimony and did not prove prejudice. Thus, this claim is denied.

*Failed to object to testimony outside Grill’s expertise*¹³

Applicant contends counsel was ineffective for failing to argue that Grill’s opinions exceeded the scope of those which should have been testified to by a lay witness or an expert in narcotics investigation. In his application, Applicant did not set forth *what* portion of Grill’s testimony counsel should have argued exceeded the scope of his expertise. At the PCR hearing, Applicant’s testimony regarding Grill focused on Applicant’s belief that Grill was lying when Grill testified he knew Applicant and recognized his voice. To the extent Applicant is alleging counsel was ineffective for failing to object to Grill’s testimony as voice identification expert testimony, counsel *did* in fact raise this objection to the trial court. (Tr. 165-67). Thus, Applicant did not prove deficiency. Likewise, Applicant did not set forth what more counsel should have argued that would have reasonably changed this ruling—especially when Grill testified he had conversations with Applicant prior to the day of the controlled purchase and recognized his voice on the live wire and video of the controlled drug buy. (Tr. 168-69). “[A] witness’ testimony of identification of a person by having heard his voice has been regarded as legitimate and competent evidence to establish

¹³ This section addresses allegation (a)(vi) of the amended application.

identity in criminal cases.” State v. Smith, 307 S.C. 376, 386, 415 S.E.2d 409, 415 (Ct. App. 1992)) (finding court did not err in allowing 911 dispatcher to testify she recognized defendant’s voice when he came into the office as the person who had called in anonymously earlier that day). Applicant thus did not prove prejudice. Applicant did not set forth any other portion of Grill’s testimony that he believed exceeded the scope of Grill’s expertise as a narcotics investigator. Thus, he did not prove deficiency or prejudice, and this claim is denied.

*Failed to object to improper vouching*¹⁴

Applicant asserts counsel was ineffective for failing to object to Grill’s improper vouching of Drayton, the CI. This Court finds Applicant did not prove this claim.

In the amended application, Applicant does not set forth what portion of Grill’s testimony he believed constituted improper vouching of Drayton. At the PCR hearing, when questioned about improper vouching, Applicant first asserted the State improperly relied on a cup, a phone, a gray car, and Grill’s voice identification, which he did not believe should have been admitted.¹⁵ He maintained he had never spoken to Grill. Regarding Drayton, Applicant stated, “[Grill] said he recognized my voice from being in the backyard talking to the CI, when the CI claims he stated he never talked to me. So if the CI never talked to me, how could he hear my voice through a window?” Applicant further testified,

And then [Grill] said, he learned—he heard my voice in the backyard while I was talking to the CI through the back window, but the CI said he never talked to me. And the CI said, he wasn’t even sure if that was me in the window, because all he got is a glimpse. So with the CI saying that—and the CI ain’t sure he talked to me, and the CI is supposed to know me, which the CI don’t know me, how can the CI not recognize me or know my voice, but Grill recognized me or know my voice. And we never talked.

¹⁴ This section addresses allegation (a)(vii) of the amended application.

¹⁵ The allegation related to the cup, phone, and car are addressed in a subsequent section.

This Court finds the foregoing does not constitute improper vouching of the Drayton by Grill. To the extent Grill's testimony *corroborated* Drayton's testimony that Drayton contacted Applicant to arrange the buy, that does not constitute improper vouching. See Chappell v. State, 429 S.C. 68, 75, 837 S.E.2d 496, 499–500 (Ct. App. 2019) (“Improper bolstering is testimony that indicates the witness believes the victim, but does not serve some other valid purpose.” (internal quotation marks omitted)). Applicant has not pointed to any other portion of Grill's testimony that he avers constituted improper vouching and thus did not meet his burden of proving deficiency or prejudice. Thus, this claim is denied.

*Failed to raise Rule 5 objection*¹⁶

Applicant contends counsel was ineffective for failing to object to evidence of prior conversations between Grills and Applicant, in violation of Rule 5 of the South Carolina Rules of Criminal Procedure. This Court finds Applicant did not prove this claim.

Upon request by a defendant, the prosecution shall permit the defendant to inspect and copy or photograph: any relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution; the substance of any oral statement which the prosecution intends to offer in evidence at the trial made by the defendant whether before or after arrest in response to interrogation by any person then known to the defendant to be a prosecution agent.”

Rule 5(a)(1)(A), SCRCrimP.

Initially, this Court finds credible Solicitor Linder's testimony that she disclosed all Rule 5 evidence to the defense. Further, this Court finds Grill did not offer any testimony as to the *substance* of his prior conversations with Applicant; thus, this voice identification testimony did

¹⁶ This section addresses allegation (a)(viii) of the amended application.

not constitute Rule 5 evidence. See id. Applicant has not pointed to any Rule 5 evidence the State did not disclose and thus did not prove counsel was deficient for not raising a Rule 5 objection.

Finally, Applicant did not prove prejudice from counsel's failure to raise a Rule 5 objection to the voice identification testimony. Specifically, it is not reasonably likely an objection would have led to a mistrial or dismissal of charges; at most, it would have led to counsel having additional time to consider the evidence. See Earley, 418 S.C. at 272, 792 S.E.2d at 235 ("Turning to the issue of whether a mistrial would have been required to redress the Rule 5 violation, we find the prejudice attributable to the State's nondisclosure to be incremental under the facts of this case and would not have compelled the trial court to declare a mistrial. Had counsel brought the nondisclosure to the trial court's attention, it would have been within the trial court's discretion to determine the appropriate redress, if any. Moreover, there is no evidence the State withheld Respondent's Facebook posting in bad faith or that the nondisclosure could not have been cured by other, less drastic means, such as a brief recess or a curative instruction. Accordingly, it was error for the PCR court to conclude a mistrial would have been manifestly necessary had trial counsel so moved."). Applicant has not shown this nondisclosure would have compelled the court to declare a mistrial. Likewise, he has not shown how additional time would have aided counsel in further attacking this evidence—especially when counsel effectively cross-examined Grill about his voice-identification testimony. (Tr. 171-73). Ultimately Applicant did not prove deficiency or prejudice, and this claim is denied.

Failed to object to LWOP notice¹⁷

Applicant contends counsel was ineffective for failing to correct Applicant's criminal record, which did not involve federal convictions for guns or drugs. He asserts he pled guilty by

¹⁷ Due to an overlap in testimony, this section combines allegation (a)(x) and (c) of the amended application.

information to keeping a stash house, a federal crime that carries a maximum sentence of twenty years in prison and therefore cannot be used to enhance Applicant's sentence to life without parole. Applicant further asserts his statutory rights were violated because the trial court or solicitor's office did not obtain certified copies of his prior convictions that were used for enhancement. This Court finds Applicant did not prove this claim.

In PCR actions, the applicant bears the burden of proof. Butler, 286 S.C. at 442, 334 S.E.2d at 814. Likewise, due to the presumption of regularity that attaches to final judgements, "the defendant bears the burden of proof when collaterally attacking a prior conviction which the State seeks to use under a sentence enhancement statute." State v. Payne, 332 S.C. 266, 272, 504 S.E.2d 335, 338 (Ct. App. 1998).

Section 17-25-45 of the South Carolina Code provides:

(B) Notwithstanding any other provision of law, except in cases in which the death penalty is imposed, upon a conviction for a serious offense as defined by this section, a person must be sentenced to a term of imprisonment for life without the possibility of parole if that person has two or more prior convictions for:

- (1) a serious offense;
- (2) a most serious offense;
- (3) a federal or out-of-state offense that would be classified as a serious offense or most serious offense under this section; or
- (4) any combination of the offenses listed in items (1), (2), and (3) above.

"'Serious offense' means: (a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1)." § 17-25-45(C)(2). Subsection 17-25-45(C) further enumerates specific crimes that constitute serious and most serious offenses.

“Where the solicitor is required to seek or determines to seek sentencing of a defendant under this section, written notice must be given to the defendant and defendants’ counsel not less than ten days before trial.” § 17-25-45(H).

The purpose of § 17-25-45(H) is to assure that a defendant and his counsel have actual notice that the State is seeking a sentence under the recidivist statute at least ten days prior to trial. Accordingly, so long as the defendant and his counsel, at least ten days prior to trial, possess actual notice of the State's intention to seek a sentence under South Carolina's recidivist statute, the statute has been satisfied.

James v. State, 372 S.C. 287, 294–95, 641 S.E.2d 899, 903 (2007).

The solicitor provided written notice of her intent to seek life without parole.

At the PCR hearing, Applicant asserted counsel was ineffective for not challenging the LWOP sentence. Specifically, Applicant contended he did not receive written notice of the State’s intent to seek LWOP, as required by section 17-25-45(H) of the South Carolina Code. However, Respondent entered as State’s Exhibit 2 a Notice of Intention to Seek Sentence of LWOP, dated June 20, 2013. Respondent also entered as part of State’s Exhibit 2 two Acknowledgements of Service of Notice of Intention to Seek Sentence of LWOP; trial counsel Cameron Marshall signed one of the forms and Applicant signed the other.¹⁸ Both forms were signed June 27, 2013. Applicant’s trial began July 6, 2015. Based on the foregoing, the solicitor provided written notice of intent to seek LWOP to both Applicant and counsel more than ten days before trial and thus complied with section 17-25-45. Thus, Applicant did not prove counsel was ineffective for not raising this issue.

Applicant had sufficient prior serious offenses for an LWOP sentence.

Throughout the PCR hearing, Applicant alleged the LWOP sentence was improper because

¹⁸ This Court finds not credible Applicant’s testimony that he did not sign the acknowledgement form.

it was based on a federal crime that could not be used as a qualifying offense. However, the State did not rely on any federal crime in seeking LWOP. The Notice of Intent to Seek LWOP, which was provided to both Applicant and trial counsel on June 27, 2013, sets forth the following qualifying State convictions:

1. Possession of Cocaine with Intent to Distribute within Proximity of Schools - § 44-54-445 (97-GS-10-6620);¹⁹
2. Trafficking Cocaine 10-28 g. – (44-53 375 (2002-GS-10-6222));²⁰
3. Trafficking Cocaine 10-28 g. (2003-GS-10-1647);²¹ and
4. Trafficking Cocaine 10-28 g. (2003-GS-10-1648).²²

At the PCR hearing, Respondent entered sentencing sheets to support these prior convictions. See State's Exhibit 1. Applicant did not enter any evidence showing these convictions were constitutionally defective or otherwise invalid. Thus, Applicant did not meet his burden. See Payne, 332 S.C. at 272, 504 S.E.2d at 338 (“[C]onsidering the presumption of regularity given to final judgments, . . . the defendant bears the burden of proof when collaterally attacking a prior conviction which the State seeks to use under a sentence enhancement statute.”).

Additionally, each of these convictions constituted a serious offense under section 17-27-45(2)(b). Finally, the charge Applicant was convicted of (Distribution of Cocaine Base, § 44-53-375) was a serious offense because it was Applicant's second or subsequent drug offense and thus carried a maximum sentence of thirty years.²³ See § 17-25-45(2)(a) (“‘Serious offense’

¹⁹ Offense date September 21, 1997.

²⁰ Offense date June 19, 2002.

²¹ Offense date November 19, 2002.

²² Offense date November 19, 2002.

²³ Although not raised by Applicant in his application, amended applications, or at the PCR hearing (and thus not developed by testimony *or* argument at the hearing), the sentencing sheet contains what appears to be a scrivener's error. Specifically, in classifying the offense, it cites to section 44-53-375(B)(1). However, the indictment itself is broader in that it cites to section 44-53-375 in its entirety. Ultimately, this was clearly *not* Applicant's first offense, as shown by the sentencing sheets entered at the PCR hearing of his *seven* prior drug convictions in State court alone—

means: (a) any offense which is punishable by a maximum term of imprisonment for thirty years or more”); § 44-53-375 (providing the penalty for a second offense of distribution of cocaine base is “not less than five years nor more than thirty years”); S.C. Code Ann. § 44-53-470(A)(3), (4) (“An offense is considered a second or subsequent offense if . . . the offender has at any time been convicted of a second or subsequent violation of a controlled substance offense” or has been “convicted within the previous ten years of a first violation of a controlled substance offense provision”).²⁴ Based on the foregoing, Applicant did not prove deficiency or prejudice from counsel’s failure to raise this issue, and this claim is denied.

*Eighth Amendment violation*²⁵

Applicant contends his Eighth Amendment rights were violated when the court imposed a life sentence pursuant to the three-strike rule when one of the strikes used by the prosecution to obtain the sentence was a charge that had previously been dismissed. This Court finds Applicant did not prove this claim.

Initially, as set forth above, the State set forth the prior offenses used to enhance these sentences, and based upon the sentencing sheets entered at the PCR hearing, the State did *not* rely on a dismissed charge for enhancement. Thus, this allegation is patently without merit.

Further, this Court finds the sentence was not disproportionate and did not violate the Eighth Amendment. At the PCR hearing, Applicant (through counsel) repeatedly averred he was sentenced to life for “merely” two grams of crack-cocaine. However, the life sentence itself was

not including the federal convictions he testified about. (97-GS-10-6620; 2002-GS-10-6222; 2002-GS-10-6223; 2003-GS-10-1647; 2003-GS-10-1648; 2003-GS-10-1650; 2003-GS-10-1651).

²⁴ See also § 44-53-470(C) (If a person is sentenced to confinement as the result of a conviction pursuant to this article, the time period specified in this section begins on the date of the conviction *or on the date the person is released from confinement imposed for the conviction, whichever is later.*” (emphasis added)). According to Applicant’s records from the South Carolina Department of Corrections, which were attached to Respondent’s return and before the PCR court, Applicant was released from his prior incarceration on July 1, 2004. The incident from which this charge arose occurred June 20, 2012—less than ten years after Applicant’s release from confinement for his prior drug convictions.

²⁵ This section addresses allegation (b) of the amended application.

imposed due to Applicant's chronic recidivism. Due to his multiple, prior convictions for drug offenses, the sentence did not violate the Eighth Amendment.

South Carolina courts have "determined stiff penalties for drug crimes do not violate the constitutional prohibition against cruel and unusual punishment." State v. Williams, 380 S.C. 336, 347–48, 669 S.E.2d 640, 646 (Ct. App. 2008). "[T]he United States Supreme Court has also held a state is justified in punishing a recidivist more severely than it does a first offender." Id. at 348, 669 S.E.2d at 647 (citing Riggs v. California, 525 U.S. 1114 (1999)). "Under recidivist sentencing schemes, the enhanced punishment imposed for a present offense is not to be viewed as an additional penalty for the earlier crimes, but instead as a stiffened penalty for the latest crime, which is considered to be an aggravated offense because it is a repetitive one." Id. (citing Riggs, 525 U.S. 1114).

In Williams, our Court of Appeals found an LWOP sentence imposed for a conviction of *less than half a gram* of cocaine did not violate the Eighth Amendment. There, the defendant argued the LWOP sentence was grossly disproportionate when (1) the defendant was convicted for distribution of less than half a gram of cocaine and (2) he committed the prior LWOP-qualifying offense as a juvenile. After examining the Eighth Amendment precedent, the Court concluded the sentence did not violate the Eighth Amendment.

Under Williams, Applicant's sentence did not violate the Eighth Amendment—especially when Applicant was convicted of distributing *more than* the amount of drugs at issue in Williams. Ultimately, Applicant was punished more severely due to his chronic recidivism, and his sentence did not violate the Eighth Amendment. Thus, this claim is denied.

*Speedy trial*²⁶

Applicant contends he was denied his right to a speedy trial. At the PCR hearing, Applicant testified the Court had ordered a trial following a March 5, 2014²⁷ hearing, but the solicitor said she did not have records or proper forms. He testified trial counsel never moved to dismiss based on a speedy trial violation, and the trial court questioned counsel about why he did not move for a speedy trial. This Court finds Applicant did not prove this claim.

“The United States Supreme Court has identified four factors to consider in determining whether a criminal defendant's right to a speedy trial has been violated: (1) length of the delay; (2) reason for the delay; (3) the defendant's assertion of the right; and (4) prejudice to the defendant.” State v. Reaves, 414 S.C. 118, 129, 777 S.E.2d 213, 219 (2015). “[T]he determination that a defendant has been deprived of this right is not based on the passage of a specific period of time, but instead is analyzed in terms of the circumstances of each case, balancing the conduct of the prosecution and the defense.” Id. at 129–30, 777 S.E.2d at 219 (quoting State v. Pittman, 373 S.C. 527, 549, 647 S.E.2d 144, 155 (2007)).

Applicant’s primary contention is that counsel did not move to dismiss based on a speedy trial violation. This contention, however, is incorrect. Prior to trial, counsel *did* move to dismiss based on a speedy trial violation, and he relayed he had filed a speedy trial motion in March 2014.²⁸ (Tr. 7,16). The parties agreed the case had appeared on the trial roster in February 2015, but the court agreed not to call the case because trial counsel had a federal trial that week. (Tr. 8-9, 11). The Court questioned trial counsel and the solicitor regarding the four factors considered when determining whether a defendant’s right to a speedy trial has been violated. (Tr. 7-18). Ultimately,

²⁶ This section addresses allegation (1) of the second amended application.

²⁷ Applicant did not testify to the year, but at trial, trial counsel told the court he had appeared before Judge Young on March 5, 2014.

²⁸ According to the public index, the motion was filed March 24, 2014.

the Court denied the motion. (Tr. 18). This Court finds Applicant did not set forth what additional argument counsel should have made (other than to move for dismissal, which counsel did) and thus did not meet his burden of proving deficiency or prejudice. Thus, this claim is denied.

*Failed to communicate plea offer*²⁹

Applicant contends counsel was ineffective for not communicating a plea offer that was extended by the State. This Court finds Applicant did not prove this claim.

At the PCR hearing, Applicant testified he did not know a plea had been offered until after trial. He claimed that after he was convicted, trial counsel told him there had been a seven-to-ten-year plea offer on the table, but he did not believe Applicant would have taken it.

In contrast, trial counsel testified he met with the judge and the solicitor the morning of trial and discussed a plea to a seventeen-to-twenty-year range. He testified he would have relayed any offer to Applicant as part of his general practice. Counsel testified Applicant did not want to plead guilty. Solicitor Linder testified that, in April 2013, she offered a plea to second offense and she informed trial counsel that, if Applicant did not accept it, she would serve LWOP. Linder stated that according to her notes, Applicant appeared before Judge Young on June 27, 2013, and rejected the plea offer. Linder stated Applicant signed the acknowledgement of receipt of LWOP notice that day (this was entered as State's Exhibit 2).

This Court finds Applicant's testimony that he was not aware of a plea offer until after trial not credible. Likewise, this Court finds credible both counsel and Linder's foregoing testimony about the offers. Based on this testimony, Applicant rejected a plea offer on the record in April 2013 and likewise did not want to accept a plea offer to seventeen-to-twenty years the morning of trial. This Court finds Applicant did not prove counsel was deficient for not relaying a plea offer.

²⁹ This section addresses allegation (2) of the second amended application.

Likewise, based on counsel and Linder's credible testimony, this Court finds Applicant did not prove he would have accepted this offer but for any alleged deficiency. Thus, this claim is denied.

*Failed to object – improper vouching during closing and false evidence*³⁰

Applicant contends the solicitor used false evidence against him during opening and closing argument as it relates to the cup and phone found during the execution of a search warrant on August 29. He likewise contends counsel was ineffective for not objecting to the State's improper vouching during closing argument. This Court finds Applicant did not prove this claim.

Initially, this Court finds the cup and phone were not false evidence; rather, the State properly introduced them as evidence found during a search of the Ashton home. Notably, counsel moved to suppress this evidence pretrial based on an allegedly deficient warrant affidavit and Applicant's "mere presence" at the Ashton home, but his objections were overruled. (Tr. 85-114). Applicant has not set forth any other valid argument counsel should have raised against the admissibility of the cup and phone and thus did not prove deficiency or prejudice in this regard.³¹

Further, in his amended applications, Applicant did not set forth what portion of the State's closing argument he believed constituted improper vouching. At the PCR hearing, when questioned about improper vouching, Applicant asserted the State improperly relied on a cup, a phone, and a gray car during closing argument. The State's reliance on this properly admitted evidence did not constitute improper vouching during closing. Applicant has not met his burden

³⁰ Due to an overlap in the testimony, this section addresses allegation (3) of the second amended application and allegation (2) of the third amended application.

³¹ Applicant also referenced testimony about a gray car at the PCR hearing. At trial, Investigator Grill testified he surveyed the area where the controlled purchase would occur and saw a gray Dodge Charger that "we knew that the Defendant was driving" near the Ashton Street home. Counsel cross-examined Investigator Grill about why he did not mention the gray car in his report. Later, trial counsel cross-examined Investigator Burk about whether he was aware of the gray Dodge Charger; Investigator Burke testified Applicant did not own that car and he did not consider it relevant to the investigation. (Tr. 312-13). During closing, Counsel referenced the gray car and Investigator Grill's failure to document it when attacking Grill's credibility. (Tr. 437-38). This Court finds Applicant did not prove counsel was ineffective in handling evidence about the gray car.

of proving deficiency or prejudice from counsel's failure to object to the State's closing argument on the basis of improper vouching, and this claim is denied.

*Internal policies*³²

Applicant contends counsel was ineffective for not objecting to the State failing to comply with its own internal policies regarding its use of CIs. Applicant did not prove this claim.

At the PCR hearing, Applicant entered as Petitioner's Exhibit 3 the City of Charleston Police Department Policy and Procedure Manual. Applicant asserted the police department violated policies 39.5 and 39.6, which require the department to maintain confidential files on informants. The policies specifically provide the information will be placed in a sealed envelope and stored in a secure location. At the PCR hearing, Applicant asserted the CI, Robert Drayton, was a prolific CI, and trial counsel should have obtained "any information related to other payments" Drayton received as a confidential informant. Applicant acknowledged, however, that he had not obtained any additional records for the PCR hearing.

Initially, Applicant has not shown any violation by the police department of its internal policies. Even if the department did violate its internal policies, this Court finds this allegation, in and over itself, does not set forth a cognizable PCR claim. This Court likewise finds Applicant did not prove counsel was ineffective in this regard. Critically, Applicant did not introduce any of these purported records at the PCR hearing, leaving this Court to speculate as to whether Drayton had in fact received any other payments as a CI. Further, counsel *did* cross-examine Detective Grill and Investigator Burke extensively about whether the department complied with its internal policies in documenting the funds Drayton received as a CI. (Tr. 175-83, 300-03). Counsel raised this very issue before the jury, and Applicant did not set forth any additional evidence or argument

³² This section addresses allegation (4) of the second amended application.

that reasonably would have changed the outcome. Applicant thus did not prove deficiency or prejudice, and this claim is denied.

*Failed to object to Solicitor Linder being in the courtroom*³³

Applicant contends counsel was ineffective for not objecting to the presence of the initial solicitor, Stephanie Bianca Linder, in the courtroom. Applicant did not prove this claim.

At the PCR hearing, Applicant testified Solicitor Linder was at the scene of his arrest when the warrant was served on the Ashton street home. He asserted she was in the courtroom during his trial, leading the State's witnesses and "making sure they say all the same things together."

Linder testified she supervised the narcotics unit at the solicitor's office and sometimes went to the scene after law enforcement served a warrant. However, she clarified she had did not go to the scene *with* law enforcement and did not go onto the scene until after it was cleared. She also stated she did not interview witnesses at the scene. Linder recalled going to the Ashton Street home after police executed the warrant. She also recalled being in court during Applicant's trial although she was not the attorney prosecuting the case. Linder explained she often attends trials as part of her role as supervisor. She testified trial counsel had listed her as a potential witness, but he told the judge before trial that he did not intend to call her as a witness. Linder clarified she was not called to testify in Applicant's case.

This Court finds Linder's foregoing testimony *credible*. Likewise, this Court finds *not* credible Applicant's testimony that Linder was telling witnesses what to say during trial. This Court further finds that Applicant did not set forth a valid objection that would have reasonably precluded Linder from attending the trial and thus did not prove deficiency. Likewise, because Linder was not a witness, this Court finds it is not reasonably likely Linder's presence in the

³³ This section addresses allegation (5) of the second amended application.

courtroom had any impact on the outcome of the proceeding. Applicant did not prove deficiency or prejudice, and this claim is denied.

*Law enforcement did not disclose notes*³⁴

Applicant avers, “Detective Burke improperly failed to disclose written notes regarding the case that were kept on his hard drive.” Prior to trial, counsel questioned Investigator Burke about a report of a debriefing he had with Drayton; Burke testified the “report is on a hard drive in my police cruiser at the Indianapolis Metropolitan Police Department.” (Tr. 41). Counsel questioned why it had not been produced, and Investigator Burke replied, “I never printed it up and turned it in. It was just kept for my file so I could reference it.” (Tr. 41). When asked whether that procedure complied with CPD policies, Investigator Burke replied, “I’m not sure. I’d have to look at the policies.” (Tr. 41).

At the PCR hearing, Applicant framed this as an allegation that counsel was ineffective by failing to obtain these notes. (PCR 26-27). This Court finds Applicant did not prove counsel was ineffective in this regard. Initially, Applicant did not enter into evidence this document that was allegedly on Detective Burke’s hard drive, leaving this Court to merely speculate about the likelihood that the disclosure of this document would have changed the outcome. Likewise, Applicant did not articulate a legal objection counsel should have raised and thus did not prove deficiency. Applicant did not show the record was material or a reasonable likelihood the outcome would be different had Investigator Burke disclosed the document. Thus, this claim is denied.

*Failed to object to State’s modification of its theory*³⁵

Applicant contends counsel was ineffective for not objecting to the State modifying its theory from a hand-to-hand transaction to hand-of-one-hand-of-all. At the PCR hearing, Applicant

³⁴ This section addresses allegation (6) of the second amended application.

³⁵ This section addresses allegation (7) of the second amended application.

averred he did not have adequate time to prepare when the State modified its theory. He explained he had been defending himself against a hand-to-hand distribution sale. However, Applicant did not set forth a valid, legal objection that counsel should have raised on this issue in his application or at the PCR hearing and thus did not prove deficiency or prejudice. Thus, this claim is denied.

*Chain of custody*³⁶

Applicant contends he did not have the opportunity to confront witnesses against him as it related to the chain of custody of the evidence bag for the drugs Applicant never saw until trial. At the PCR hearing, Applicant averred Officer Tugis was part of the chain of custody for the drugs, but Tugis was not available at trial for him to confront. He further asserted the drugs “somehow turned from cocaine to crack.” Applicant testified he wanted to confront Tugis about how the drugs changed. This Court finds Applicant did not prove this claim.

Critically, counsel *did* object to the introduction of the drugs based on the chain, and this objection was overruled. (Tr. 374). Further, this Court finds Applicant did not establish any defect in the chain or a violation of the confrontation clause based on Tugis not testifying. At trial, Investigator Burke testified he monitored the controlled buy and received the drugs from Drayton, which presumptively tested positive for the presence of cocaine. (Tr. 275). He stated based on his experience and the consistency of the drugs, he believed it was cocaine rather than cocaine base. (Tr. 275-76). Investigator Burke testified he bagged and sealed the drugs, logged it into the evidence computer, and placed it in a locked mailbox. (Tr. 276-77). On cross-examination, Investigator Burke testified the handwriting on the label appeared to be his partner Officer Tugis’ handwriting. (Tr. 319). He clarified the label would have been filled out before he placed the drugs in the bag, and “it’s not uncommon for somebody to fill out a sticker for you.” Investigator Burke

³⁶ This section addresses allegation (1) of the third amended application.

testified he would have verified the accuracy of the information before putting the drugs in and sealing the bag. He agreed Tugis' name was not on the label but stated he recognized his handwriting from working with him. (Tr. 320). Thereafter, the chain was established through evidence custodians Lori Roe and Susan Payne. (Tr. 342-44, 355-57). Renee Hilton, a forensic chemist, testified she tested the drugs and concluded it was 2.03 grams of cocaine base. She stated she would not have tested the drugs if she had seen any evidence of tampering. (Tr. 372-73).

This Court finds the State sufficiently established the chain of custody for the drugs. See, e.g., State v. Hatcher, 392 S.C. 86, 95, 708 S.E.2d 750, 755 (2011) (“[W]e have consistently held that the chain of custody need be established only as far as practicable, and we reiterate that every person handling the evidence need not be identified in all cases.”). This Court further finds Applicant's due process and confrontation clause rights were not violated by Tugis's absence from trial. Finally, this Court finds Applicant has not shown counsel was deficient or any resulting prejudice. Thus, this claim is denied.

*Solicitor's comments*³⁷

Applicant alleges the solicitor made derogatory remarks about him during closing arguments, referring to him as a Trap King and how good he was at running a drug operation. This Court finds Applicant did not prove counsel was ineffective in this regard.

“A solicitor's closing argument must be carefully tailored so as not to appeal to the personal biases of the jury.” Vasquez v. State, 388 S.C. 447, 458, 698 S.E.2d 561, 566 (2010) (citing State v. Copeland, 321 S.C. 318, 324, 468 S.E.2d 620, 624 (1996)). “The State's closing arguments must be confined to evidence in the record and the reasonable inferences that may be drawn from the evidence.” Id. “A solicitor has a right to state his version of the testimony and to comment on the

³⁷ This section addresses allegation (3) of the third amended application.

weight to be given such testimony.” Id. However, “[s]olicitors are bound to rules of fairness in their closing arguments.” Id.

“On appeal, the appellate court will view the alleged impropriety of the solicitor’s argument in the context of the entire record, including whether the trial judge’s instructions adequately cured the improper argument and whether there is overwhelming evidence of the defendant’s guilt.” Id. “Improper comments do not automatically require reversal if they are not prejudicial to the defendant, and the appellant has the burden of proving he did not receive a fair trial because of the alleged improper argument.” Id. “The relevant question is whether the solicitor’s comments so infected the trial with unfairness as to make the resulting conviction a denial of due process.” Id.

During closing argument, the solicitor argued,

I’ll give it to the Defendant. He’s good. He is good at what he does. He tried to distance himself. He didn’t do a hand-to-hand deal on the street. No, he’s better than that. He used this unique method of distribution; lowering a cup on a string from a second-story window in the back of a house not occupied by anyone, a trap house. The vehicles and phones you’ve heard mentioned in this investigation, they don’t come back to him. Perhaps he’s a trap king, but we are not in the courtroom today to reward someone for being good at dealing drugs.

(Tr. 460). This Court finds the foregoing, which is the only reference to a trap king in the solicitor’s closing argument, is a reasonable inference from the facts presented at trial and is not objectionable. Thus, counsel was not deficient for failing to object. Further, even if this comment was improper (which this Court does NOT find), this brief passing comment did not so infect the trial with unfairness as to violate due process. See Darden v. Wainwright, 477 U.S. 168, 181, 183 (1986) (finding prosecutor’s improper comments—which included statements such as “He shouldn’t be out of his cell unless he has a leash on him” and “I wish that I could see him sitting here with no face, blown away by a shotgun”—did not “so infect[] the trial with unfairness as to

make the resulting conviction a denial of due process”). Applicant did not prove deficiency or prejudice, and this claim is denied.

*Jury misconduct*³⁸

Applicant alleges jury misconduct. This Court finds Applicant did not prove this ground.

A new trial based on juror concealment is required when the court finds a juror *intentionally* concealed information that would have supported a challenge for cause or been a material factor in the other party’s use of peremptory challenges. State v. Coaxum, 410 S.C. 320, 328, 764 S.E.2d 242, 245 (2014). In contrast, when a juror’s nondisclosure is unintentional, “the moving party has a heightened burden to show that the concealed information indicates the juror is potentially biased, and that the concealed information would have been a material factor in the party’s exercise of peremptory challenges.” Id. at 329, 764 S.E.2d at 246.

At the PCR hearing, Applicant testified Mary Stewart, one of the jurors, was the mother of someone he used to date. He testified he “never knew it, because [he] never really met her mother, and me and her stopped dealing for our certain reasons, which wasn’t good.” According to Applicant, Stewart told his sister and brother “that she went back and told whoever that she knows the family, and they told her she can still go ahead and be a juror.” Applicant testified he told trial counsel about it. He testified, “Come to find out that they knew that Miss Mary was one of the jurors, but I never knew. And I should have had the opportunity to strike her down, because nobody don’t know we be feeling on bad terms or what.” He also testified that when Stewart was asked whether she had ever had a criminal case, she said “no” even though her son had drug-related charges. On cross-examination, Applicant clarified he had never met Stewart.

This Court finds Applicant’s testimony on this issue self-serving and not credible. Further,

³⁸ This section addresses allegation (4) of the third amended application.

Applicant has not met his burden of showing any intentional nondisclosure by Stewart that would constitute the basis of a new trial. Specifically, Applicant did not call Stewart as a witness or present any credible evidence that she made an intentional nondisclosure during voir dire. Finally, Applicant did not meet his heightened burden of showing any unintentional nondisclosure indicated Stewart was biased. Ultimately Applicant offered only his self-serving testimony on this issue, which this Court finds not credible. Applicant did not prove counsel was deficient for failing to raise this issue, nor did he prove resulting prejudice. Thus, this claim is denied.

Failed to call witness³⁹

At the PCR hearing, Applicant testified counsel did not call Moses Dennis to testify as a defense witness. Counsel testified he spoke to Moses before trial, who had provided a statement that Applicant had nothing to do with the drugs. Although he could not recall specifically why he decided not to call Moses, he explained the State's case was weak and calling Moses could cause the jury to infer Applicant's guilt by association. He testified he ultimately did not believe it was necessary to call Dennis.

Dennis testified he had a connection to the Ashton Street home, but he did not know Applicant was dealing drugs from the house. He stated there was furniture in the house and he believed people lived there, although the home was being renovated at the time. On cross-examination, he acknowledged he was claiming ownership of drugs that were found in the home on August 29, 2013.

Initially, this Court finds Dennis's testimony that he was unaware Applicant was dealing drugs and he believed people lived in the Ashton Street home not credible. This Court likewise finds Dennis's testimony was not material to Applicant's guilt or innocence and would not have

³⁹ Although this allegation was not raised in any of Applicant's amended applications, Applicant raised it at the PCR hearing and had Dennis Moses testify.

reasonably changed the outcome. Notably, although Dennis claimed ownership of drugs found in the home on August 29, Applicant's charge arose from a controlled buy on June 20. Based on the overall weakness of Dennis's testimony, counsel articulated a valid reason for not calling Dennis based on his concern that the jury could infer guilt by association. Likewise, based on the overall weakness of Dennis's testimony, counsel's decision to not call Dennis was reasonable under prevailing professional norms and not deficient. Finally, it is not reasonably likely the outcome would have been different had Dennis testified at trial, and this claim is denied.

CONCLUSION

Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

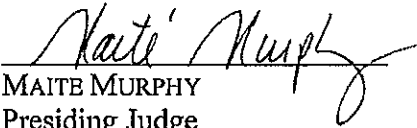
Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. Austin v. State, 305 S.C. 453, 454, 409 S.E.2d 395, 396 (1991). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant shall be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS 14 day of Feb., 2024.

Summerville, South Carolina


MAITE MURPHY
Presiding Judge
Ninth Judicial Circuit

SLB20120806437

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1210176

ARREST WARRANT NUMBER

2012A1010900184

DATE OF ARREST

August 30, 2012

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

11/28/12

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS1006779

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

November Term 2012

THE STATE

vs.

DEAN NELSON SEAGERS

DOB: 1980-
B/M

Indictment for

Distribution of Cocaine Base

801

FILED

11/28/2012 3:01:02 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

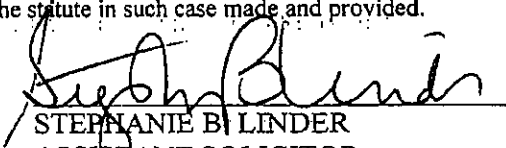
INDICTMENT

At a Court of General Sessions, convened on November 13, 2012 the Grand Jurors of Charleston County present upon their oath:

Distribution of Cocaine Base

That in Charleston County, South Carolina, on or about June 20, 2012, the Defendant, DEAN NELSON SEAGERS, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to distribute, dispense or deliver a controlled substance or a controlled substance analogue, to wit: Cocaine Base; in violation of 44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


STEPHANIE B. LINDER
ASSISTANT SOLICITOR