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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
In the Court of Common Pleas
Frank R. Addy, Jr., Circuit Court Judge

Municipal Court Uniform Traffic Ticket Nos. 8102P0992351, 8102P0992352, 8102P0992353, 8102P0992197, 8102P0992198, 8102P0992199, & 8102P0992200

Intermediate Appellate Case Nos. 2024-CP-01-080 & 2024-CP-01-081

Appellate Case No. 2024-001319

NATHANAEL WHITWOOD, ...APPELLANT,

v.

THE STATE OF SOUTH CAROLINA, TOWN OF DUE WEST, ...RESPONDENT.

INITIAL BRIEF OF RESPONDENT

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RESPONDENT'S STATEMENT OF ISSUES ON APPEAL

1. Whether the Due West municipal court had subject matter jurisdiction over the seven criminal charges brought against Appellant following his January 18, 2024, and February 5, 2024, arrests by the Due West Police Department (Appellant's Issues 4 and 9)?

2. Whether Appellant's argument that the circuit court erred in refusing to reverse his convictions on grounds that the trial court lacked personal jurisdiction over him is preserved for appellate review where it was neither raised to nor ruled upon by the trial court during the bench trial? Furthermore, even if arguably raised and rejected, whether any personal jurisdiction claims were waived where Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding? Finally, whether, as correctly found by the circuit court, the trial court had personal jurisdiction over Appellant where he was lawfully arrested and then appeared in municipal court to dispute the criminal charges. (Appellant's Issues 7 & 9)?

3. Whether Appellant's argument that the circuit court erred in failing to reverse his convictions on grounds that the trial judge, rather than acting as a fair and neutral party, acted as prosecutor in supporting and defending the arresting officer, is preserved for appellate review where this argument was neither raised to nor ruled upon by the circuit court during the bench trial? Furthermore, even if arguably raised and rejected, whether any claims of bias were waived where Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding? Even if preserved, whether the circuit court properly affirmed the convictions on appeal where Appellant failed to demonstrate any bias or prejudice from the trial court's actions (Appellant's Issue 2)?

4. Whether Appellant's argument that that the circuit court erred in refusing to reverse his convictions on grounds that the trial court violated his right to due process by: (1) failing to inform him of the nature and cause of the charges against him; (2) allowing him to be "railroaded" by the Due West Police Department and other representatives of the town of Due West where the prosecution did not present any evidence of a victim, damages, or a contract violation; (3) failing to require the State to directly address or refute his Affidavit of Denial of Corporate Existence; and (4) taking his fingerprints, picture and likeness, and personal information against his will, over his objection, and under duress, is preserved for appellate review where neither a general due process challenge nor any of the sub-arguments described were ever raised to or ruled upon by the trial court during the bench trial? Furthermore, even if arguably raised and rejected prior to his trial, whether any due process claims were waived where Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding? Finally, whether the circuit court properly concluded Appellant was provided due process by the trial court in all respects?

5. Whether Appellant's argument that the circuit court erred in refusing to reverse his convictions on grounds that the trial court should have granted a mistrial due to alleged discovery violations is preserved for appellate review where any discovery violation claims were waived because Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding? Furthermore, whether the trial court properly concluded Appellant failed to show the existence of any discovery violation where no evidence favorable to Appellant was either suppressed by the State or was material to his guilt or innocence or was impeaching?

6. Whether Appellant's argument that that the circuit court erred in refusing to reverse his convictions on grounds that his 4th and 5th amendment rights and personal liberties were violated is preserved for appellate review where it was never raised to nor ruled upon by the trial court during the bench trial? Furthermore, even if arguably raised and rejected prior to his pleas, whether any such claims were waived where Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding? Finally, whether the circuit court properly concluded that Appellant's constitutional rights and personal liberties were not violated by the police merely taking routine administrative steps incident-to-arrest which included: booking, photographing, and fingerprinting Appellant?

STATEMENT OF THE CASE

Nathanael Whitwood (Appellant) was arrested by Lieutenant Ben A. Loughner (now Captain) of the Due West Police Department (DWPD) on January 18, 2024, for driving an uninsured motor vehicle (Unform Traffic Ticket (UTT) #8102P0992351); failure to possess a registration card (UTT #8102P0992352); and driving without a license (UTT #8102P0992353). He was subsequently arrested by former DWPD Captain M. Blake Gambrell on February 5, 2024, and charged with a seatbelt violation (UTT #8102P0992197); driving without a license (UTT #8102P0992198); operating or permitting operation a vehicle which is not registered (UTT #8102P0992199); and driving an unisured motor vehicle (UTT #8102P0992200).

On February 7, 2024, Appellant appeared for trial on the January 18, 2024 charges before the Honorable Lisa E. Phillips, Municipal Judge for the town of Due West, South Carolina. Appellant appeared *pro se* and Respondent (the State) was represented by DWPD Officer Loughner.[1] Before his trial, Appellant was advised of his right to a trial by judge or by jury, as well as his rights to an attorney; however, when asked how he wanted to plead, he told the judge he was "not disputing the action (of the tickets)." Based on this representation, the trial court proceeded with a bench trial. Judge Phillips took testimony from arresting officer Loughner and gave Appellant the opportunity to ask questions on cross-examination. Based on the testimony, the trial court found Appellant guilty and sentenced him as follows: a fine of two hundred thirty-two dollars and fifty cents ($232.50) and a notation of "NRVC" [Non-Resident Vehicle Compact] for -2351; a fine of one hundred dollars ($100) and a notation of "NRVC" for -2352; and a fine of two hundred thirty-two dollars and fifty cents ($232.50) and a notation of "NRVC"

[1] Although Judge Phillips does not identify the officer who appeared on behalf of the State, Appellant names an "Officer Laughner" in his purported discovery documents, the three related traffic tickets note Lieutenant Loughner was the arresting officer, and the website for the town of Due West currently identifies a Captain Loughner employed by the DWPD. (Appellant's Interogatories dated February 2, 2024; Ticket Nos. 8102P0992351, 8102P0992352, & 8102P0992353; and https://www.duewestsc.gov/town-departments.html).

for -2353. (Return of Appeal dated and filed June 6, 2024 and Ticket Nos. 8102P0992351, 8102P0992352, & 8102P0992353).

On February 21, 2024, Appellant appeared for trial on the February 5, 2024 charges, again before Municipal Judge Phillips. Appellant appeared *pro se* and Respondent (the State) was represented by former DWPD Captain Gambrell.[2] Before his trial, Appellant was advised of his right to a trial by judge or by jury, as well as his rights to an attorney; however, when asked how he wanted to plead, he told the judge he "would not dispute the charges." Based on this representation, the trail court proceeded with a bench trial. Judge Phillips took testimony from arresting officer Gambrell and gave Appellant the opportunity to ask questions on cross-examination. Based on the testimony, the trial court found Appellant guilty and sentenced him as follows: a fine of twenty-five dollars ($25) and a notation of "NRVC" for -2197; fifteen (15) days imprisonment or a fine of two hundred thirty-two dollars and fifty cents ($232.50) for -2198; fifteen (15) days concurrent imprisonment or a fine of one hundred and fifty-five dollars ($155) for -2199; and fifteen (15) days concurrent imprisonment or a fine of two hundred thirty-two dollars and fifty cents ($232.50) for -2200. (Return of Appeal dated and filed June 6, 2024 and Ticket Nos. 8102P0992197, 8102P0992198, 8102P0992199, & 8102P0992200).

Appellant appealed both sets of convictions to the Court of Common Pleas. (2024-CP-01-0080 & 2024-CP-01-0081). On June 6, 2024, Judge Phillips submitted separate written returns to the two appeals to the Circuit Court, each consisting of a one page letter which summarized the proceedings. (Returns of Appeals dated and filed June 6, 2024). Appellant's appeal was subsequently heard before the Honorable Frank R. Addy, Jr., on July 30, 2024. (Tr.p.1).

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[2] Although Judge Phillips does not identify the officer who appeared on behalf of the State, Appellant names an "Officer Gambrell" in his purported discovery documents and the four related traffic tickets note Captain Gambrell was the arresting officer. (Appellant's Interogatories dated February 14, 2024; Ticket Nos. 8102P0992197, 8102P0992198, 8102P0992199, & 8102P0992200).

Appellant was present and appeared *pro se* and the State was represented by Assistant Solicitor Matthew Wade Dowtin of the Eighth Circuit Solicitor's Office. After hearing arguments from Appellant, Judge Addy advised he did not see any procedural problems with the trial and would be issuing an order affirming Appellant's convicitons. In a Form 4C Order filed July 30, 2024, Judge Addy: (1) found the trial court had both personal and subject matter jurisdiction over Appellant, (2) found Appellant's other arguments had no legal basis, and (3) affirmed Appellant's seven convicitons. (Form 4C dated July 30, 2024). Appellant timely served and filed a *pro se* Notice of Intent to Appeal and on November 16, 2024, he submitted a *pro se* "Brief of Appellant." On January 15, 2025, this Court issued a deficiency letter and on January 25, 2025, Appellant served and filed a corrected *pro se* "Initial Brief of Appellant." This Brief of Respondent now follows.

STATEMENT OF FACTS

On January 18, 2024, Appellant was charged by the DWPD for driving an uninsured motor vehicle (UTT #8102P0992351), failure to possess a registration card (UTT #8102P0992352), and driving without a license (UTT #8102P0992353). He was subsequently arrested on February 5, 2024, and charged by the DWPD with driving without a seatbelt (UTT #8102P0992197), driving without a license (UTT #8102P0992198), operating an unregistered motor vehicle (UTT #8102P0992199), and driving an unisured motor vehicle (UTT #8102P0992200).

On February 7, 2024, Appellant appeared for trial on the January 18, 2024 charges before the Honorable Lisa E. Phillips, Municipal Judge for the town of Due West, South Carolina. Appellant appeared *pro se* and the State was represented by DWPD Lieutenant Loughner. According to the trial court, when asked how he wanted to plead, Appellant "went on for a while,

but stated he's not disputing the action (of the tickets)." Based on this representation, the trial court proceeded with a bench trial. Judge Phillips took testimony from arresting officer Loughner and gave Appellant the opportunity to ask questions on cross-examination. Appellant argued he had not received adequate information from discovery; however, Judge Phillips noted "the officer did not testify to anything except what had been given to Appellant in response to his discovery motions." Based on the testimony, the trial court found sufficient evidence to find Appellant guilty and sentenced him as described above. (Return of Appeal dated and filed June 6, 2024 and UTT Nos. 8102P0992351, 8102P0992352, & 8102P0992353).

On February 21, 2024, Appellant appeared for trial on the February 5, 2024 charges, again before Due West Municipal Judge Phillips. Appellant appeared *pro se* and the State was represented by former DWPD Captain Gambrell. According to the trial court, when asked how he wanted to plead, Appellant "would not dispute the charges and would not enter a plea." Based on this representation, the trial court proceeded with a bench trial. Judge Phillips took testimony from arresting officer Gambrell and gave Appellant the opportunity to ask questions on cross-examination. Appellant argued he had not received adequate information from discovery; however, Judge Phillips noted "the officer did not testify to anything except what had been given to Appellant in response to his discovery motions." Based on the testimony, the trial court found sufficient evidence to find Appellant guilty and sentenced him as described above. (Return of Appeal dated and filed June 6, 2024 and Ticket Nos. 8102P0992197, 8102P0992198, 8102P0992199, & 8102P0992200).

Appellant appealed both sets of convictions to the Court of Common Pleas. (2024-CP-01-0080 & 2024-CP-01-0081). Each appeal was dated February 27, 2024, and appears to have been filed with the Abbeville County Clerk of Court on March 19, 2024. On June 6, 2024, Judge

Phillips submitted separate written returns to the two appeals to the Circuit Court, each consisting of a one page letter which summarized the proceedings. These summaries described: (1) advising Appellant of his rights, (2) the arguments raised by Appellant and the rulings by the trial court; (3) Appellant's entry of guilty pleas to all seven charges; and (4) the sentences imposed. (Returns of Appeals dated and filed June 6, 2024).

Appellant's intermediate appeal was subsequently heard before the Honorable Frank R. Addy, Jr., on July 30, 2024. (Tr.p.1). After hearing arguments from Appellant, Judge Addy stated:

> All right. I understand your arguments, Mr. Whitwood, I really can't see where there is any procedural problem with what the judge did, okay. So, I'm going to ultimately issue an order basically affirming, affirming, your convictions. If you want to take this further you would have to appeal it to the South Carolina Court of Appeals from here, okay?

(Tr.p.17, lines 17-24). The circuit court noted: "There doesn't seem to be any procedural or legal irregularities with your convictions." (Tr.p.18, lines 10-12). Appellant protested, questioning how the circuit court could **not** have found anything he listed in the documents he presented as a violation of law. (Tr.p.18, lines 18-20). He complained:

> . . . they didn't accept my affidavit, the memorandum of law, notice to abate, and discovery motion was refused to be accepted. None of my documents were ever read. It was all kind of thrown out as irrelevant without being addressed.

(Tr.p.18, lines 20-25). Judge Addy explained this was not a complicated case, noted the material handed up by Appellant seemed to be taken in part from a "sovereign citizen" website, and was "basic gibberish." He noted that where information is not germane to any issue in the case, the clerk of court does not even have to accept it for filing before the trial court. Judge Addy further advised he had now read what Appellant handed-up, but did not see how any of it would have

been germane to the issues of whether the court lacked subject matter jurisdiction or personal jurisdiction over Appellant. (Tr.p.19-p.20).

In a Form 4C Order filed July 30, 2024, Judge Addy ultimately ruled as follows:

> **THIS MATTER CAME BEFORE THE COURT** on July 30, 2024 on appeal from the Due West Muincipal Court. Appellant was *pro se*. Defendant was represented by Solicitor Wade Dowtin.
>
> Having reviewed the record and considered the argument by both Appellant and the State, the Court affirms the convictions and finds that the lower court had both personal and subject matter jurisdiction over Appellant. Furthermore, having reviewed the filings presented to the lower court, this Court finds that they have no legal basis; accordingly, the lower court was correct in not accepting them for filing. All other arguments by Appellant are similarly not supported in the law.
>
> Accordingly, Appellant's convictions are affirmed. Appellant shall have 10 days to either pay the fines or file notice of intent to appeal.

(Order filed July 30, 2024). Appellant timely served and filed a *pro se* Notice of Appeal and on November 16, 2024, he submitted a *pro se* Brief of Appellant. On January 15, 2025, this Court issued a deficiency letter and on January 25, 2025, Appellant served and filed a corrected *pro se* Initial Brief of Appellant. This Brief of Respondent now follows.

STANDARD OF REVIEW

"In criminal cases, the appellate court sits to review errors of law only." *State v. Collins*, 409 S.C. 524, 529–30, 763 S.E.2d 22, 25 (2014), *citing State v. Baccus,* 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). "An abuse of discretion occurs when the trial court's ruling is based on an error of law." *State v. Mercer*, 381 S.C. 149, 160, 672 S.E.2d 556, 561 (2009). "This Court is bound by the trial court's factual findings unless they are clearly erroneous." *State v. Collins*, 409 S.C. 524, 529–30, 763 S.E.2d 22, 25 (2014). In an appeal from a magistrate or municipal

court, the circuit court does not conduct a *de novo* review, but instead reviews the case for preserved errors raised to it by appropriate exception. *State v. Williams*, 417 S.C. 209, 218, 789 S.E.2d 582, 587 (Ct. App. 2016); *State v. Hoyle*, 397 S.C. 622, 625, 725 S.E.2d 720, 721-22 (Ct. App. 2012) ; *State v. Johnson,* 396 S.C. 182,186, 720 S.E.2d 516, 518 (Ct. App. 2011). An abuse of discretion occurs when the trial court's decision is based on an error of law or upon factual findings that are without evidentiary support. *Id.* The circuit court "may either confirm the sentence appealed from, reverse or modify it, or grant a new trial." S.C. Code Ann. § 18-3-70 (2024). The appellate court's review in criminal cases is limited to correcting the order of the circuit court for errors of law. *City of Rock Hill v. Suchenski*, 374 S.C. 12, 15, 646 S.E.2d 879, 880 (2007); *Hoyle*, 397 S.C. at 625, 725 S.E.2d at 722; *Johnson*, 396 S.C. at 186, 720 S.E.2d at 518.

ARGUMENT

I.

The Due West municipal court had subject matter jurisdiction over the seven criminal charges brought against Appellant following his January 18, 2024, and February 5, 2024, arrests by the Due West Police Department (Appellant's Issues 4 and 9).

Appellant argues the Circuit Court erred in refusing to reverse his convictions on grounds that: "there was a distinct lack of . . . subject matter jurisdiction over . . . my matters in these actions." He contends that because he did not cause harm to any individuals or property and did not violate any contract between himself and any government or corporate entity, the trial court lacked subject matter jurisdiction over his criminal charges. (Brief of Appellant, p.7-p.8). The State disagrees and submits that under clearly established constitutional and statutory law, the

Due West municipal court had subject matter jurisdiction over the seven criminal charges levied against Appellant by the DWPD.

Discussion / Analysis

The police power is an attribute of a State's sovereignty and is an essential element of the power to govern, which is reserved to the States. 72 AM. JUR. 2D *States, Etc.* § 21 (2025). It is a background principle that Congress does not normally intrude upon the police power of the States. *Id.* Under the 10th Amendment, the States, not the federal government, wield the general police power. *Id.* Specifically, the Tenth Amendment provides:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

U.S. Const. amend. X. Thus, the South Carolina Legislature has the power, within constitutional limits, to define and punish crimes. *Guinyard v. State*, 260 S.C. 220, 226, 195 S.E.2d 392, 395 (1973) (citing 22 C.J.S. *Criminal Law* § 13 & 21 AM. JUR. 2D, *Criminal Law*, § 14).

Indeed, it is widely recognized that the regulation of motor vehicles on the highway is a legitimate exercise of the police powers of the government. 7A AM. JUR. 2D *Automobiles* § 15 (2025). In general, the goal of traffic regulations is to promote highway safety. *Id.* Use of public highways and streets is subject to such reasonable and impartial regulations adopted pursuant to the police power as are calculated to secure to the general public the largest practical benefit from the enjoyment of the right of use, and to provide for their safety while they are upon such public ways in the enjoyment of such right. *Id.* A person's right and liberty to use a highway is not absolute; it may be regulated in the public interest through reasonable and reasonably executed regulations. *Id.* It would produce an intolerable situation on the public highways if

state law subscribed to a theory that they could not be summarily regulated in the interest of the public. 7A AM. JUR. 2D *Automobiles* § 15 (2025).

Subject matter jurisdiction is the power of a court to hear and determine cases of the general class to which the proceedings in question belong. *State v. Gentry*, 363 S.C. 93, 100, 610 S.E.2d 494, 498 (2005): *Pierce v. State*, 338 S.C. 139, 526 S.E.2d 222 (2000); *Dove v. Gold Kist, Inc.,* 314 S.C. 235, 442 S.E.2d 598 (1994). Our State Constitution provides that the judicial power shall be vested in a unified judicial system, which shall include a Supreme Court, a Court of Appeals, a Circuit Court, and such other courts of uniform jurisdiction as may be provided for by general law. S.C. Const. art. V, § 1. It also establishes the subject matter jurisdiction of the courts in South Carolina and provides that "The Circuit Court shall be a general trial court with original jurisdiction in civil and criminal cases..." S.C. Const. art. V, § 11. The Constitution further provides: "The Governor, by and with the advice and consent of the Senate, shall appoint a number of magistrates for each county as provided by law. The General Assembly shall provide for their terms of office and their civil and criminal jurisdiction. The terms of office must be uniform throughout the State." S.C. Const. art. V, § 26. With respect to the criminal jurisdiction of the magistrate and municipal courts, magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine or forfeiture not exceeding five hundred dollars, or imprisonment not exceeding thirty days, or both. S.C. Code Ann. § 22–3–550 (2024). The municipal court has the same jurisdiction in criminal cases as the magistrate court. S.C. Code Ann. § 14–25–45 (2024). Indeed, our Supreme Court has held that municipal courts comply with the constitutional mandate that they be part of a unified judicial system because they possess uniform jurisdiction which is identical throughout the State. *City of Pickens v. Schmitz*, 297 S.C. 253, 255-56, 376 S.E.2d 271, 272 (1989).

The General Assembly has enacted numerous laws regulating the use of motor vehicles on the public streets and highways of South Carolina. They provide, in relevant part, that: "No person, except those expressly exempted in this article shall drive any motor vehicle upon a highway in this State unless such person has a valid motor vehicle driver's license issued to him under the provisions of this article." S.C. Code Ann. § 56-1-20 (2024). A person who drives a motor vehicle on a public highway of the State without a driver's license is guilty of a misdemeanor, and the summary courts are vested with jurisdiction to hear and dispose of cases involving such a violation. S.C. Code Ann. § 56-1-440 (2024). Similarly, every motor vehicle operated or moved upon a highway in South Carolina shall be registered, and it shall be a misdemeanor for any person to drive, operate, or move upon a highway any such vehicle which is not registered. S.C. Code Ann. § 56-3-110 (2024). A person who operates, on any highway in South Carolina, a motor vehicle that does not carry a registration card required by this chapter is guilty of a misdemeanor. S.C. Code Ann. § 56-11-290 (2024). Additionally, the driver of a motor vehicle, when it is being operated on the public streets and highways of this State, must wear a fastened safety belt which complies with all provisions of federal law for its use. S.C. Code Ann. § 56-5-6520 (2024). A person who is adjudicated to be in violation of the seat belt provisions must be fined not more than twenty-five dollars, no part of which may be suspended. S.C. Code Ann. § 56-5-6540 (2024). Finally, it is unlawful for a person who owns an unisured motor vehicle licensed in this State or subject to registration in this State to operate or allow the operation of the uninsured motove vehicle in this State, and a person who violates this statute is guilty of a misdemeanor. S.C. Code Ann. § 56-10-520 (2024).

Each of these statutes is reasonably related to the promotion of highway safety. As such, they are legitimate exercises of the State's police powers in regulating public safety and welfare

of the roadways. Furthermore, the public purpose of ensuring overall safety for the public outweighs any legitimate interest, if any, of Appellant's unfettered right to travel on public roadways. *See, e.g., Curtis v. State*, 345 S.C. 557, 573, 549 S.E.2d 591, 599 (2001) (holding section 16-13-470 of the South Carolina Code was a legitimate exercise of the State's police powers in regulating public safety and welfare in the workplace and outweighed Curtis's interest in doing business).

Here, as correctly found by the circuit court, the municipal court clearly had subject matter jurisdiction over the seven criminal charges brought against Appellant by the DWPD, all of which were lawfully enacted by our legislature under its constitutionally reserved police powers. This Court should therefore affirm the decision of the circuit court finding subject matter jurisdiction and affirming Appellant's convictions and sentences.

II.

Appellant's argument that the circuit court erred in refusing to reverse his convictions on grounds that the trial court lacked personal jurisdiction over him is not preserved for appellate review because it was neither raised to nor ruled upon by the trial court during the bench trial. Furthermore, even if arguably raised and rejected, any personal jurisdiction claims were waived because Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding. In any event, and as correctly found by the circuit court, the trial court clearly had personal jurisdiction over Appellant because he was lawfully arrested and then appeared in municipal court to dispute the criminal charges. (Appellant's Issues 7 & 9).

Appellant argues the Circuit Court should have reversed his convictions because: "there was a distinct lack of personal . . . jurisdiction over myself . . . in these actions." He contends that because he did not cause direct harm to any individuals or property and did not violate any contract between himself and any government or corporate entity, the trial court lacked personal

jurisdiction over him. (Brief of Appellant, p.7-p.8). The State disagrees and submits that where Appellant failed to make a specific objection to personal jurisdiction when he appeared before the trial court, the issue is unpreserved for appeal and should be dismissed by this court. Furthermore, any objection that may have initially been raised was waived by Appellant during the trial court proceedings. Finally, under clearly established precedent, the Due West municipal court had personal jurisdiction over Appellant in regard to the seven criminal charges levied against him where he was validly arrested by the DWPD and then repeatedly appeared in municipal court to dispute those criminal charges.

Issue Preservation

"In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal." *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003). An issue that was not preserved for review should not be addressed by the appellate court. *Id.* Here, Appellant failed to appropriately address the issue of personal jurisdiction when he actually appeared before the trial court through objection, arguing a lack of personal jurisdiction, or moving for dismissal of the charges on this ground. Indeed, at each proceeding, Appellant simply stated he was not disputing the action or the charges, and then exclusively complained about the State's response to his discovery. The trial court consequently proceeded with a bench trial and did not make any ruling in regard to his personal jurisdiction claim. Appellant also did not file any post-trial motions for the trial court to make such a ruling. Because no personal jurisdiction issue is preserved for appellate review and was effectively waived by Appellant, this Court should simply affirm the ruling of the circuit court and decline to address the alleged lack of personal jurisdiction. Furthermore, this issue is not identified or ruled upon in the trial court's

written return, which similarly renders it unpreserved for review. Finally, even if these claims had been preserved for review, they are without merit because Appellant was validly arrested and appeared in court to dispute the charges.

Discussion / Analysis

It is generally recognized that jurisdiction over the person in a criminal case lies in the state or county where the crime was committed. *State v. Crocker*, 366 S.C. 394, 402, 621 S.E.2d 890, 894–95 (Ct. App. 2005) (quoting 4 Wayne R. LaFave et al., *Criminal Procedure* § 16.4(c) (2d ed. 1999)). Generally, jurisdiction of the person is acquired when the party charged is arrested or voluntarily appears in court and submits himself to its jurisdiction. *State v. Dudley*, 354 S.C. 514, 542, 581 S.E.2d 171, 186 (Ct. App. 2003), *aff'd as modified*, 364 S.C. 578, 614 S.E.2d 623 (2005); *State v. Douglas,* 245 S.C. 83, 138 S.E.2d 845 (1964). A defendant may waive any complaints he may have regarding personal jurisdiction by failing to object to the lack of personal jurisdiction and by appearing to defend his case. *Dudley*, 354 S.C. at 542, 581 S.E.2d at 186; *See State v. Bethea,* 88 S.C. 515, 70 S.E. 11 (1911); *see also State v. Castleman,* 219 S.C. 136, 138–39, 64 S.E.2d 250, 251 (1951) ("A defendant may, of course, waive his objection to the jurisdiction of the Court over his person...."); *Town of Ridgeland v. Gens,* 83 S.C. 562, 65 S.E. 828 (1909) (the court found no personal jurisdiction problem where the defendant appeared for his trial, was represented by an attorney, and defended his case on the merits).

In Appellant's case, where he was validly arrested by the DWPD and then repeatedly appeared in court to dispute the two sets of criminal charges, jurisdiction over his person was acquired. For all of these reasons, this Court should affirm the holding of the circuit court finding personal jurisdiction and affirming Appellant's convictions and sentences.

III.

Appellant's argument that the circuit court erred in failing to reverse his convictions on grounds that the trial judge, rather than acting as a fair and neutral party, acted as prosecutor in supporting and defending the arresting officer, is not preserved for appellate review because this argument was neither raised to nor ruled upon by the circuit court during the bench trial. Furthermore, even if arguably raised and rejected, any claims of bias were waived because Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding. Even if preserved, the circuit court properly affirmed the convictions on appeal where Appellant failed to demonstrate any bias or prejudice from the trial court's actions (Appellant's Issue 2).

Appellant claims the circuit court erred in failing to reverse his convictions on grounds that the trial judge "violated her position of office" by acting not "as a fair and neutral party in the interest of upholding truth, justice, and the law," and instead acting "as a prosecutor in supporting and defending the arresting officer." (Brief of Appellant, p.2; p.9). The State disagrees and submits Appellant's argument challenging the trial judge's impartiality should be denied and dismissed for a number of reasons.

Issue Preservation

First, Appellant failed to preserve this argument for appellate review because he does not appear to have articulated any specific challenge to the trial judge's impartiality to the trial court when he actually appeared before Judge Phillips, through objection or moving for recusal. Indeed, the returns filed by Judge Phillips fail to reflect any such claims. They instead show that when the trial court asked Appellant how he wanted to plead at the first proceeding, Appellant "went on for a while, but stated he's not disputing the action (of the tickets)." When the trial court asked Appellant how he wanted to plead at the second proceeding, Appellant claimed he would not enter a plea but also said he "would not dispute the charges." The trial court consequently proceeded to a bench trial and did not make any ruling in regard to any suggestion

of bias or violating the judge's position of office. Nothing in the returns suggests Appellant objected to Judge Phillips questions or procedures, or that he challenged her impartiality on the record. Appellant also did not file any post-trial motions for the trial court to make such a ruling. Because the alleged bias issue is not preserved for appellate review and was effectively waived by Appellant, this Court should simply affirm the ruling of the circuit court and decline to address the alleged partiality of the trial judge. *Dunbar*, 356 S.C. at 142, 587 S.E.2d at 693. In any event, even if this issue was arguably preserved, it is entirely without merit because Appellant failed to demonstrate any actual bias or prejudice from the trial court in how his charges were handled at the trial court proceeding.

Discussion / Analyis

Appellant complains the officer handling the prosecution did not enter any legal argument, case law, or citation in support of the validity of the charges and instead attested only to what he saw and did. He then argues Judge Phillips "acted as a prosecutor instead of the neutral party." Appellant complains Judge Phillips, while arguing for the prosecution, did not offer any case law or legal citations, but instead argued "just from how she understood the law to be." (Brief of Appellant, p.9).

Appellant appears to allege prejudice simply from the manner in which the trial court allowed the officer to present the State's case in support of the traffic violations. Appellant cites no authority for such a proposition, thus this issue should be deemed abandoned and should not be considered by this court. *Bryson v. Bryson*, 378 S.C. 502, 510, 662 S.E.2d 611, 615 (Ct. App. 2008) ("It is a well-established precedent in this State that when a party's brief fails to set forth a substantive legal argument for an issue or provide supporting citations to authority supporting a proposition, such issue is considered to be abandoned on appeal by the appellate courts. "An

issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority."). Even if not abandoned, the argument is without merit.

Judge Phillips did not commit reversible error in accepting Appellant's decision not to contest the charges and then allowing testimony from the officer followed by cross-examintion by Appellant. This is because judges are permitted broad judicial discretion in the conduct of a criminal trial, *State v. Collier*, 421 S.C. 426, 435, 807 S.E.2d 206, 211 (Ct. App. 2017) (noting the conduct of a criminal trial is left largely to the sound discretion of the trial judge, who will not be reversed in the absence of a prejudicial abuse of discretion), and because the judge's choice of procedure did not violate the South Carolina Judicial Canons. "A judge must exercise sound judicial discretion in determining whether his impartiality might reasonably be questioned." *State v. Cheatham,* 349 S.C. 101, 111, 561 S.E.2d 618, 624 (Ct. App.2002). "Under Canon 3(E)(1)(a) [of Rule 501, SCACR), a judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to, instances where he has a personal bias or prejudice against a party." *Patel v. Patel*, 359 S.C. 515, 524, 599 S.E.2d 114, 118 (2004). ". . . [T]he South Carolina Supreme Court has stated that the movant or petitioner must show some evidence of the bias or prejudice of the judge." *Simpson v. Simpson*, 377 S.C. 519, 524, 660 S.E.2d 274, 277 (Ct. App. 2008). "Absent evidence of judicial prejudice, a judge's failure to disqualify himself will not be reversed on appeal." *State v. Howard*, 384 S.C. 212, 217, 682 S.E.2d 42, 45 (Ct. App. 2009). "It is not enough for a party seeking disqualification to simply allege bias. The party must show some evidence of bias." *Id. Patel v. Patel*, 359 S.C. 515, 524, 599 S.E.2d 114, 118 (2004); *Mallett v. Mallett,* 323 S.C. 141, 473 S.E.2d 804 (Ct. App.1996). "Furthermore, the alleged bias must be personal, as distinguished from judicial, in nature." *State v. Howard*, 384 S.C. 212, 217, 682 S.E.2d 42, 45 (Ct. App. 2009).

The fact that a judge ultimately rules against a litigant is not proof of prejudice by the judge, even if it is later held the judge committed error in his rulings. *Srivastava v. Srivastava*, 411 S.C. 481, 500, 769 S.E.2d 442, 452–53 (Ct. App. 2015); *Reading v. Ball,* 291 S.C. 492, 495, 354 S.E.2d 397, 399 (Ct. App.1987).

Judges are permitted broad discretion in the conduct of a criminal proceeding, particulary where a defendant does not dispute the facts behind the underlying charges. In the instant case, Appellant alleges prejudice by the court for failing to act as a fair and neutral party. However, Appellant fails to specify or demonstrate any prejudice or bias by the trial court, other than the fact that he was found guilty of the crimes. The trial court judge was within her rights to handle the proceeding as she did, and the court's actions are not reversible error. This court should affirm Appellant's convictions and the findings of the courts below.

IV.

Appellant's argument that that the circuit court erred in refusing to reverse his convictions on grounds that the trial court violated his right to due process by: (1) failing to inform him of the nature and cause of the charges against him; (2) allowing him to be "railroaded" by the Due West Police Department and other representatives of the town of Due West where the prosecution did not present any evidence of a victim, damages, or a contract violation; (3) failing to require the State to directly address or refute his Affidavit of Denial of Corporate Existence; and (4) taking his fingerprints, picture and likeness, and personal information against his will, over his objection, and under duress, is not preserved for appellate review because neither a general due process challenge nor any of the sub-arguments described were ever raised to or ruled upon by the trial court during the bench trial. Furthermore, even if arguably raised and rejected prior to his trial, any due process claims were waived because Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding. Finally, the circuit court properly concluded Appellant was provided due process by the trial court in all respects. (Appellant's Issues 1 & 8).

Appellant claims the circuit court erred in failing to reverse his conviction on grounds that the trial court violated his right to due process in various respects. Specifically, he claims the trial court failed to provide due process by: (1) failing to inform him of the nature and cause of the charges against him; (2) allowing him to be "railroaded" by the Due West Police Department and other representatives of the town of Due West where the prosecution did not present any evidence of a victim, damages, or a contract violation; (3) failing to require the State to directly address or refute his Affidavit of Denial of Corporate Existence; and (4) taking his fingerprints, picture and likeness, and personal information against his will, over his objection, and under duress. He argues these due process violations amounted "to grounds enough to dismiss the charges as being not based in truth and justice but rather being an unlawful violation of my natural and constitutional rights." (Brief of Appellant, p.3-p.7). The State disagrees and

submits Appellant's due process argument should be denied and dismissed for a number of reasons.

Isssue Preservation

First, Appellant failed to preserve this argument for appellate review because he does not appear to have articulated any specific due process arguments to the trial court when he actually appeared before the trial court through objection, arguing any due process violations, or moving for dismissal of the charges on this ground. Instead, when the trial court asked Appellant how he wanted to plead at the first proceeding, Appellant "went on for a while, but stated he's not disputing the action (of the tickets)." When the trial court asked Appellant how he wanted to plead at the second proceeding, Appellant claimed he would not enter a plea but also said he "would not dispute the charges." The trial court consequently proceeded with a bench trial and did not make any ruling in regard to his assorted due process claims. Appellant also did not file any post-trial motions for the trial court to make such a ruling. Because no due process issue is preserved for appellate review and was effectively waived by Appellant, this Court should simply affirm the ruling of the circuit court and decline to address the alleged violation of due process. In any event, even if this issue was arguably preserved, it is entirely without merit because Appellant was provided due process by the trial court.

Discussion / Analysis

All of Appellant's alleged due process violations seem to stem from the sometimes incoherent but overarching beliefs set forth in the various "discovery" documents he provided to the circuit court during his arguments in the intermediate appeal. These included: (1) an "[A]ffidavit of Nathanael Whitwood," a "Notice to Abate," a "Memorandum of Law, in Support of Notice to Abate," and a "Motion for Discovery: Request for Production, Interrogatories." In

these documents, Appellant makes assertions declaring he is a "live Man and californian Exempt," and denying his "Corporation Existence," and he contends he is not subject to the criminal laws for which he was arrested because he: (1) "has no contract with the State or Federal governments," (2) "has not willingly opted into the governments Social Security Number," (3) has "signed no International Maritime Agreement . . . which would give Admiralty or Vice Admiratly jurisdiction to the Courts," and (4) "has never applied for Bankruptcy and never given his permission . . . for participation in any bankruptcy scheme." (See Affidavit of Nathanael Whitwood). Appellant further asserts due process required that he be furnished with a "verified complaint of injury," and that without such complaint he could not determine the nature of the offenses for which he was charged. He contends the traffic tickets he was issued failed to meet these requirements for an "accusatory pleading," leaving the municipal court with no subject matter jurisdiction and requiring that the entire proceeding "be abated or dismissed." (Notice to Abate).

Appellant then centers his challenge on his "constitutional Right to free travel upon the public roads of a South Carolina Citizen." His lengthy manifesto, which includes sections titled: "RIGHTS," "DEFINITIONS," and "CONCLUSION", boils down to an argument that: (1) because he has a fundamental, constitutional "Citizen's Right to travel and use the public highways in the ordinary course of life and business," and (2) because he was not using the public highways for private gain, to conduct business, or for commercial purposes, then neither (1) the "Police Powers" reserved to the States in the United States Constitution, nor (2) "Public Policy," permit the State or the Town of Due West to encroach upon the right to travel by enacting laws that impose licensing, registration, and insurance requirements on drivers, without their consent. Appellant claims there is no threatened danger in an individual using his

automobile on a public highway in the ordinary course of business because "there is nothing inherently dangerous in the use of an autotmobile when it is carefully managed," and he claims the regulations at issue are not reasonable because they are "oppressive and could be effectively administered by less oppressive means." He contends that, "unless or until harm or damage (a Crime) is committed, there is no cause for interference in the private affairs or actions of a Citizen." Appellant claims the real purpose of licensing requirements are insidious efforts to force citizens to surrender their rights and "consent to be prosecuted for constructive crimes and quasi-criminal actions where there is no harm done and no damaged property." He suggests the State is unconstitutionally: (1) converting the right to travel into a crime, and (2) granting a "Title of Nobility" to drivers who have obtained a driver's license. As noted above, Appellant ultimately concludes his manifesto by arguing the seat belt, licensing, registration, and insurance requirements he was charged with violating all constitute "stealthy encroachements" to exploit a "heretofore untapped source of revenue" in a way that infringes upon his fundamental and basic constitutional right to travel. (Memorandum of Law, in Support of Notice to Abate).

Due Process

Due Process is not a technical concept with fixed parameters unrelated to time, place, and circumstances; rather, it is a flexible concept that calls for such procedural protections as the situation demands. *State v. Legg*, 416 S.C. 9, 13, 785 S.E.2d 369, 371 (2016) (citing *Mathews v. Eldridge,* 424 U.S. 319, 334 (1976)). Procedural Due Process contemplates a fair hearing before a legally constituted impartial tribunal. *Id.* (citing *Daniels v. Williams,* 474 U.S. 327, 337 (1986) ("[A] guarantee of fair procedure, sometimes referred to as 'procedural due process': the State may not execute, imprison, or fine a defendant without giving him a fair trial" (footnoted citation omitted); *Vitek v. Jones,* 445 U.S. 480, 500 (1980); and *State v. Houey,* 375 S.C. 106, 113, 651

S.E.2d 314, 318 (2007)). Thus, procedural due process requires notice, the opportunity to be heard in a meaningful way, and judicial review. *Blanton v. Stathos*, 351 S.C. 534, 542, 570 S.E.2d 565, 569 (Ct. App. 2002) (citing *Grannis v. Ordean,* 234 U.S. 385 (1914)).

Here, Appellante was given written notice of each charge, the statute relied upon supporting such charge, and the date and time of his municipal court trial. (UTT Nos. 8102P0992351, 8102P0992352, 8102P0992353, 8102P0992197, 8102P0992198, 8102P0992199, and 8102P0992200). At that bench trial, Appellant was given the opportunity to be heard in a meningful way, which included being given the opportunity to question the arresting officers about the circumstances of the arrests. He has further been given the opportunity for judicial review of the trial court's actions by the circuit court—an opportunity he took full advantage of at the July 30, 2024, hearing before Judge Addy, where the circuit court reviewed not only the municipal judge's return, but also *all* filings Appellant said he submitted prior to the proceedings in the trial court—determining none of those filings or Appellant's arguments had any legal basis and were "not supported by the law." (Order filed July 30, 2024). Consequently, Appellant was provided all procedural safeguards he was due. For all of these reasons, this court should affirm the findings and judgment of the courts below.

V.

Appellant's argument that the circuit court erred in refusing to reverse his convictions on grounds that the trial court should have granted a mistrial due to alleged discovery violations is not preserved for appellate review because any discovery violation claims were waived where Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding. Furthermore, the trial court properly concluded Appellant failed to show the existence of any discovery violation because no evidence favorable to Appellant was either suppressed by the State or was material to his guilt or innocence or was impeaching. (Appellant's Issue 3).

Appellant contends the circuit court erred in refusing to reverse his convictions on grounds that the trial court should have granted a mistrial due to alleged discovery violations. He complains he "entered interrogatories and requests for production" but "received no response," and that without them, he "was not able to mount a credible defense." (Brief of Appellant, p.6). Appellant also complains his "affidavit was neither addressed nor refuted by the State, and that as a result, everythying he asserted in that affidavit must be held as truth. (Brief of Appellant, p.7). Although not clearly articulated, Appellant seems to argue the State somehow failed to disclose information and evidence in violation of *Brady*[3]and Rule 5, SCRCrimP, by failing to explicitly respond to his interrogatories, requests to admit, affidavit, and motion to abate, all of which required reversal.[4] He argues this violated his fundamental rights to a fair trial and due process and complains that the State's failed to disclose key types of information or evidence which would have allowed him to mount a defense.

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[3] *Brady v. Maryland*, 373 U.S. 83 (1963).

[4] At trial, Appellant complained about not getting an adequate response; however, he did not mention *Brady* or Rule 5, SCRCrimP to the trial court. Thus, no *Brady* or Rule 5 claim is truly preserved for appellate review because it was neither raised to nor ruled upon by the trial court. *State v. Rogers* , 361 S.C. 178, 183, 603 S.E.2d 910, 912-13 (Ct. App. 2004); *See also State v. Patterson*, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) (noting an appellant is limited on appeal solely to the grounds raised during trial); *State v. Bailey*, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989) (instructing a defendant cannot raise one argument in support of an issue at trial and then raise a different argument in support of that issue to the appellate court); *State v. Thomason*, 355 S.C. 278, 288, 584 S.E.2d 143, 148 (Ct. App. 2003) ("[A] party cannot argue one theory at trial and a different theory on appeal.").

The State disagrees and submits Appellant's arguments are entirely without merit because they failed to show any of the speculative information was favorable to Appellant, much less that it was material to guilt or punishment, or that it would have been impeaching in any way. Because Appellant failed to demonstrate a *Brady* or other due process violation occurred, the trial court properly denied his complaint to the trial court that he did not receive adequeate information. This argument should be denied and dismissed for a number of reasons.

Issue Preservation

First, Appellant arguably failed to preserve this discovery violation argument for appellate review because, although he did argue "he did not receive adequate information from discovery" at each plea proceeding, he also told the trial court he was not disputing the charges. He also failed to file any post-trial motions challenging the convictions on the basis of a discovery violation. Because this issue was effectively waived by Appellant, this Court should simply affirm the ruling of the circuit court and decline to address the alleged discovery violation. *Dunbar*, 356 S.C. at 142, 587 S.E.2d at 693. In any event, even if this issue was arguably preserved, it is entirely without merit because Appellant failed to show any evidence favorable to him was either suppressed by the State or was material to his guilt or innocence or was impeaching.

Discussion / Analysis

The *Brady* disclosure rule requires that the prosecution provide the defendant with any evidence in the prosecution's possession that may be favorable to the accused and material to guilt or punishment. *Pennsylvania v. Ritchie*, 480 U.S. 39, 57 (1987); *Hyman v. State*, 397 S.C. 35, 45, 723 S.E.2d 375, 380 (2012); *State v. Anderson*, 407 S.C. 278, 286, 754 S.E.2d 905, 909 (Ct. App. 2014). Favorable evidence is either favorable exculpatory evidence or favorable

impeachment evidence. *United States v. Bagley*, 473 U.S. 667, 676 (1985); *Anderson* at 287, 754 S.E.2d at 909. Materiality of evidence is determined based on the reasonable probability that the result of the proceeding would have been different had the evidence been disclosed to the defense. *Hyman*, 397 S.C. at 45, 723 S.E.2d at 380; *Anderson*, 407 S.C. at 287, 754 S.E.2d at 909. A reasonable probability is shown when the government's evidentiary suppression undermines confidence in the outcome of the trial. *Hyman*, 397 S.C. at 45-46, 723 S.E.2d at 380; *Anderson* at 287, 754 S.E.2d at 909. Furthermore, the prosecution has the duty to disclose such evidence even in the absence of a request by the accused. *United States v. Agurs*, 427 U.S. 97 (1976); *Hyman* at 46, 723 S.E.2d at 380; *Porter v. State*, 368 S.C. 378, 384, 629 S.E.2d 353, 356 (2005). Thus, an individual asserting a *Brady* violation must demonstrate that evidence: (1) is favorable to the accused; (2) was in the possession of or known by the prosecution; (3) was suppressed by the State; and (4) was material to the accused's guilt or innocence, or was impeaching. *Kyles v. Whitley*, 514 U.S. 419 (1995); *Riddle v. Ozmint*, 369 S.C. 39, 44, 631 S.E.2d 70, 73 (2006). The mere possibility that an item of undisclosed information may have been helpful to the defense in its own investigation is insufficient to establish constitutional materiality under *Brady*. *Agurs* at 109-10. When the exculpatory value of undisclosed information is entirely speculative, it does not fall within the rule enunciated by *Brady*. *Anderson* at 287, 754 S.E. 2d at 909.

Here, Appellant has failed to show how the trial court's ruling to allow the plea to proceed violated his due process rights or that any purported information he could have obtained from a specific response to his discovery contained anything favorable, exculpatory, material, or impeaching. The United States Supreme Court has emphasized:

> The question is not whether the defendant would more likely than not have received a different verdict with the evidence, but

> whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence. A "reasonable probability" of a different result is accordingly shown when the government's evidentiary suppression "undermines confidence in the outcome of the trial."

Kyles at 434 (quoting *Bagley* at 678). As our supreme court has noted, the burden is clearly on Appellant to establish the evidence was favorable and material such that there existed a reasonable probability he failed to receive a fair trial. *Gibson v. State*, 334 S.C. 515, 525, 514 S.E.2d 320, 325 (1999).

In the instant case, Appellant never established the required showings either before the trial court or before the circuit court on appeal. He continues to fail to demonstrate such a showing in this appeal. As the United States Supreme Court stated: "The mere possibility that an item of undisclosed information might have helped the defense, or might have affected the outcome of the trial, does not establish 'materiality' in the constitutional sense." *United States v. Agurs*, 427 U.S. 97, 109–10 (1976); *Cone v. Bell*, 556 U.S. 449, 491 (2009) ("It simply is not sufficient, therefore, to claim that 'there is a reasonable possibility that . . . testimony might have produced a different result . . . . [P]etitioner's burden is to establish a reasonable probability of a different result.'")(quoting *Strickler v. Greene*, 527 U.S. 263, 291 (1999)).

Even if one were to speculate about what was not received, it would not be exculpatory in Appellant's traffic cases where he did not contest the charges. Appellant did not testify in his own defense and did not offer any other evidence that could have supported a conclusion he acted in a lawful manner when he deliberately and knowingly disobeyed our State's highway safety laws; therefore evidence in response to his discovery documents would have been inconsequential at the proceeding. Appellant failed to demonstrate a *Brady* or other due process

violation occurred and as a result, the trial court properly denied his motions to dismiss based on allged discovery violations.

The trial court correctly declined to dismiss Appellants' charges. Its ruling was not based on an error of law and it was grounded in factual conclusions with evidentiary support. For all of these reasons, this Court should affirm the findings and judgments of the courts below, and should affirm Appellant's convictions and senetences.

VI.

Appellant's argument that the circuit court erred in refusing to reverse his convictions on grounds that his 4th and 5th amendment rights and personal liberties were violated is not preserved for appellate review because it was never raised to nor ruled upon by the trial court during the bench trial. Furthermore, even if arguably raised and rejected prior to his pleas, any such claims were waived because Appellant advised the trial court he was "not disputing the action (of the tickets)" at the first proceeding and "would not dispute the charges" at the second proceeding. Finally, the circuit court properly concluded that Appellant's constitutional rights and personal liberties were not violated by the police merely taking routine administrative steps incident-to-arrest which included: booking, photographing, and fingerprinting Appellant. (Appellant's Issues 5 & 6).

Appellant contends the circuit court erred in refusing to reverse his convictions on grounds that his 4th and 5th amendment rights and personal liberties were violated when he: (1) "was arrested and forced to provide much personal information under threat, duress, and coercion against [his] will and over [his] objection" and (2) "was threatened with indefinite incarceration without being allowed to see a judge or make a phone call." (Brief of Appellant, p.2-p.4). The State disagrees and submits these arguments should be denied and dismissed for a number of reasons.

Issue Preservation

Here, Appellant, failed to appropriately address the issues of any 4th amendment, 5th amendment, or "person liberty" claims when he actually appeared before the trial court through objection, arguing any such violations, or moving for dismissal of the charges on this ground. Indeed, at each proceeding before the trial court, Appellant simply stated he was not disputing the action or the charges, and then exclusively complained about the State's response to his discovery. As such, Appellant failed to preserve these issues for appeal and they should not be considered by this court. Furthermore, these issues are not identified or ruled upon in the trial court's written return, which similarly renders them unpreserved. *Dunbar*, 356 S.C. at 142, 587 S.E.2d at 693. Whatever the case, even if these claims had been preserved for review, they are without merit because Appellant failed to demonstrate that any of his constitutional rights or personal liberties were violated by the routine administrative steps taken by the police following his arrest.

Discussion / Analysis

The Fourth Amendment to the United States Constitution protects people from unreasonable searches and seizures and provides that no warrants shall be issued except upon probable cause, supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized. U.S. Const. amend. IV. The South Carolina Constitution provides similar protection against unreasonable searches and seizures and unreasonable invasions of privacy. S.C. Const. art. I, § 10. A search compromises the individual interest in privacy; a seizure deprives the individual of dominion over his or her person or property. *State v. Brown*, 401 S.C. 82, 88, 736 S.E.2d 263, 266 (2012); *State v. Wright,* 391 S.C. 436, 442, 706 S.E.2d 324, 327 (2011) (quoting *Horton v. California*, 496 U.S. 128, 133 (1990)).

The Fourth Amendment itself provides no remedy for a violation of the warrant requirement. *Davis v. United States*, 564 U.S. 229, 231 (2011). However, the United States Supreme Court has fashioned a judicially-created remedy, the exclusionary rule, which is a deterrent sanction by which the prosecution is barred from introducing evidence obtained in violation of the Fourth Amendment. *Id.*; *Brown*, 401 S.C. at 88, 736 S.E.2d at 266. Warrantless searches and seizures are unreasonable absent a recognized exception to the warrant requirement. *Brown*, 401 S.C. at 89, 736 S.E.2d at 266; *Wright,* 391 S.C. at 442, 706 S.E.2d at 327. These exceptions include the following: (1) search incident to a lawful arrest, (2) hot pursuit, (3) stop and frisk, (4) automobile exception, (5) the plain view doctrine, (6) consent, and (7) abandonment. *Brown*, 401 S.C. at 89, 736 S.E.2d at 266; *State v. Dupree*, 319 S.C. 454, 456, 462 S.E.2d 279, 287 (1995); *State v. Moore,* 377 S.C. 299, 309, 659 S.E.2d 256, 261 (Ct. App. 2008).

It has been widely recognized that there can be little reason to question "the legitimate interest of the government in knowing for an absolute certainty the identity of the person arrested, in knowing whether he is wanted elsewhere, and in ensuring his identification in the event he flees prosecution." 3 W. LAFAVE, SEARCH AND SEIZURE § 5.3(c), 216 (5th ed. 2012). Indeed, our United States Supreme Court has confirmed that the Fourth Amendment allows police to take certain routine "administrative steps incident to arrest—*i.e.*, ... book[ing], photograph[ing], and fingerprint[ing]." *Maryland v. King*, 569 U.S. 435, 461 (2013) (quoting *County of Riverside v. McLaughlin*, 500 U.S. 44, 58 (1991)). Because Appellant was lawfully arrested, there was simply no Fourth Amendment violation here.

The Fifth Amendment guarantees that "[n]o person ... shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law...." U.S. Const. amend. V. Appellant seems to contend that his convictions

violate the Fifth Amendment's prohibition on self-incrimination because disclosure of his name and identity at the time of his arrests led to these convictions. Yet, the Fifth Amendment prohibits only compelled testimony that is incriminating, see *Brown v. Walker,* 161 U.S. 591, 598 (1896) and protects only against disclosures that the witness reasonably believes could be used in a criminal prosecution or could lead to other evidence that might be so used, *Kastigar v. United States,* 406 U.S. 441, 445 (1972). As explained by this Court, the Fifth Amendment protection from self-incrimination "protects an accused only from being compelled to testify against himself, or otherwise provide the State with evidence of a testimonial or communicative nature . . . ." *State v. Frasier*, 341 S.C. 546, 548, 534 S.E.2d 711, 712 (Ct. App. 2000) (quoting *Schmerber v. California,* 384 U.S. 757, 761 (1966) (holding that withdrawal of blood and chemical analysis of blood does not implicate the Fifth Amendment)). Appellant's desire to refuse disclosure of his personal information was not based on any articulated real and appreciable fear that his name or identity would be used to incriminate him, or that it would furnish evidence needed to prosecute him. *Hoffman v. United States,* 341 U.S. 479, 486 (1951). Instead, it appears Appellant simply believed his fingerprints, photograph, and other identifying information were none of the arresting officer's business. Unfortunately for Appellant, the Fifth Amendment does not override the South Carolina General Assembly's judgment to the contrary, absent a reasonable belief that the disclosure would tend to incriminate him. Answering a request to disclose a name is likely to be so insignificant as to be incriminating only in unusual circumstances. See, *e.g., Baltimore City Dept. of Social Servs. v. Bouknight,* 493 U.S. 549, 555 (1990).

Our courts have declined to find a Fifth Amendment violation where: (1) a defendant in lineup was required to speak the words the robber spoke during the course of the robbery, *State*

v. Jones, 268 S.C. 227, 233 S.E.2d 287 (1977); (2) a defendant was compelled to speak into a telephone and have his voice recorded for identification purposes, *State v. Vice,* 259 S.C. 30, 190 S.E.2d 510 (1972); and (3) a defendant was compelled to submit a handwriting sample, *Frasier*, 341 S.C. at 549, 534 S.E.2d at 713. Similarly, there was clearly no Fifth Amendment violation in requiring a defendant to provide fingerprints and a photograph when he was being booked following his lawful arrest. For all of these reasons, this Court should affirm the holding of the circuit court rejecting Appellant's arguments and affirming Appellant's convictions and sentences.

CONCLUSION

For all of the foregoing reasons, the State respectfully requests that the decisions of the lower courts be affirmed and Appellant's underlying convictions and sentences likewise be affirmed.

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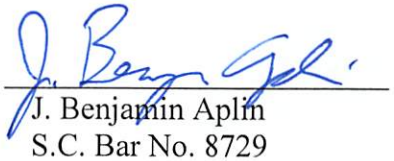
BY: 
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