

INDEX

INDEX..... 1

ARGUMENTS PRESENTED..... 2,3

STATEMENT..... 4

ARGUMENTS..... 5-13

CONCLUSION..... 14

EXHIBITS —

ARGUMENTS PRESENTED

- Argument 1. Trial counsel was ineffective for failing to object to Jack Westmoreland not being able to testify as states witness, before and during trial.
- Argument 2. Trial counsel was ineffective for failing to object to allowing the jury to hear prejudice comment referencing "crack", prior or during trial, when in fact, the term "crack" was never mentioned in the recorded conversation.
- Argument 4. Trial counsel was ineffective for failing to object to reasonable doubt instruction.
- Argument 3. Appellate argues and seeks answers to why a certain allegation was inadvertently left out and not ruled on in Judges order of dismissal.
- Argument 5. Appellant argues whether PCR Judge Mark Hayes erred by not stating the findings of facts and conclusion of law to each and every allegation that the appellate raised at the PCR hearing.
- Argument 6. Trial counsel was ineffective for failing to object and should have motion for drug evidence to be excluded from the jury for lack of proper identification.
- Argument 7. PCR counsel was ineffective for failing to raise all appellate's issues at PCR hearing.
- Argument 8. PCR counsel was ineffective for failing to "subpoena" all witnesses and documentation to the PCR hearing as requested and or motion for continuance.
- Argument 9. Trial counsel was ineffective for failing to object to CI's testimony to challenge credibility and reliability to impeach CI prior to trial.

Argument 10. Trial counsel was ineffective for lack of preparation time for second trial.

Argument 11. Trial judge erred in allowing audio portion of tape to be played in it's entirety.

Argument 12. Trial counsel was ineffective for failing to object to the altered video being played prior to trial.

Argument 13. Trial judge erred in admitting the drug evidence where the prosecution fail to establish, as far as practicable, a complete chain of custody.

STATEMENT OF THE CASE

In October of 2008, the Spartanburg County Grand Jury indicted Appellant on the charge of distribution of crack cocaine. On June 3, 2009, Appellant proceeded to trial before the Honorable E.C. Burnett, III, and a jury. Appellant was represented by Beverly Jones, and the state was represented by Abel Orlando Gray. The jury returned a verdict of guilty, and Judge Burnett sentenced Appellant to twenty-eight years as a third drug offense. Appellant's attorney filed a notice of appeal which was perfected by the filing of a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967). The South Carolina Court of Appeals affirmed Appellant's conviction and sentence. *State v. Jeter* Op. No. 2011-UP-394 (Ct. App. filed August 18, 2011).

On November 2, 2011, Appellant filed an application for Post-Conviction Relief (PCR). The state filed a return on July 17, 2012. An evidentiary hearing was held on November 9, 2012 before the Honorable J. Mark Hayes, II. Appellant was represented by Ken Shabel, and the state was represented by Suzanne White. On December 27, 2012, Judge Hayes filed an order denying Appellant's PCR application and dismissing it with prejudice. Appellant filed a notice of appeal. This petition follows.

ARGUMENT I.

Trial counsel Beverly Jones was ineffective for failing to object to Jack Westmoreland not being able to testify as states witness, before and during trial. Trial counsel fail to motion for a continuance based on his absence. The state fail to establish a complete chain of custody. There is a missing link in the chain of custody. The witness testimony was apart of the chain of custody which would have shows a break in the chain of custody (Crawford v. Washington). Appellate never had the opportunity to cross examine the witness for impeachment purposes prior or during the trial which appellate has the legal right.

Trial counsel should have objected for allowing Ashley Harris to testify for Jack Westmoreland. Appellate confrontational rights were violated, also 6th Amendment Constitution rights has been violated because appellant has the right to confront witness during trial, whether or not evidence has been tampered, Bull Comings v. New Mexico, cite at 131 S.Ct. 2705 (2011). The Supreme Court held that surrogate testimony does not meet the constitution requirements. Crime Lab technicians, custody etc... must testify and sign to certify the results. Furthermore, Jack Westmoreland did not testify nor did he give a certified sworn affidavit complete with control number, signature of proof of certification as required of Rule 6(B). Chain of custody form is defective. Therefore drug evidence should not have been admitted, State v. Chisolin, 355 S.C. at 180, 584 S.E.2d at 404; State v. Sweet, No. 26344.

Furthermore, knowing that the custodian did not give a certified sworn statement nor testify at trial, Appellate argues that there was no participation on behalf of Jack Westmerland at any time in this case, and by him not participating in this process, there is a break in the chain and the state fail to establish a complete chain of custody. It prejudice appellate from having a fair trial. Chain of custody form was not filled out in it's entirety, no control number, form was not certified, which makes it defective, nor did custodian testify. SEE EX. 1

Appellate argues that trial counsel was ineffective for failing to motion for a continuance once counsel realized that custodian wasn't able to testify. Also argues that there was no participation on behalf of Jack Westmoreland at any time in this case and appellate did not have the opportunity to confront his accuser or cross examine the witness to testify whether the best bag was sealed when he received it; what did he do with the bag after he received it; what was in the bag; was the control number

correct on the bag if there was even a number on the bag; how much did the substance weigh etc...

A party offering into evidence fungible items such as drug or blood samples must establish a complete chain of custody as far as practicable, Benton v. Pellum, 232 S.C. 26, 33, 100 S.E.2d 534, 537 (1957). Where an analyzed substance has passed through several hands, the identity of individuals who acquired the evidence and what was done with the evidence between taking and the analysis must not be left to conjecture, ID, at 33-34, 100 S.E.2d at 537. Jack Westmoreland, one of the named custodians for the drug package, did not testify so that there was no testimony by the custodian as to how the package was handled while in his custody. There were unanswered questions that only Jack Westmoreland can answer and because he did not participate in the process, the chain of custody has been broken.

Six months prior to trial, counsel motioned for fast and speedy trial, but the state would have exceeded 180 days if trial counsel would have motion for continuance. Therefore charges would have been dismissed and outcome would have been different. Appellate has proven that trial counsel's performance was deficient and ineffective for failing to object to admission of the drug evidence without the state establishing a complete chain of custody. Therefore appellate's Due Process rights was violated, also, 6th Amendment Constitutional rights were violated. If counsel motion for continuance it would have produced a different result.

ARGUMENT 2.

Trial counsel was ineffective for failing to object to allowing the jury to hear the illegal audio recording of officer Beck's comment referencing "crack", prior or during trial, when in fact, the term crack was never mentioned in the recorded conversation. First of all, it is illegal, inadmissible and highly prejudicial for allowing the interception of wire, oral or electronic communication to be played in it's entirety. The use of any devise to intercept conversation or be shown at trial is inadmissible. Trial counsel never explained to appellate about the law dealing with wire tap and surveillance/interception of wire, oral or electronic communications, but what appellate has learned is that before individuals can use devices to or intercept wire, oral, communications individuals must meet requirements according to Code of Laws of South Carolina statute 17-30-65; 17-30-70; 17-30-75. *See Ex. 2*

An application for an order authorizing or approving the interception

of wire, oral, or electronic communications must be initiated by the chief of SLED, after reviewing, then Attorney General, and then a Judge. Individual using this equipment must be authorized and trained. If not, evidence derived from illegal inception must be excluded and is a statutory violation, and violates appellates due process and constitutional rights. In appellates case, in a nut shell, requirements were not met; because CI or Spartanburg County Sheriff's Department had no authorization or training to intercept or use device to video tape or record conversation. Therefore, it was illegal and trial counsel was ineffective for failing to object prior and during trial for allowing audio to be played in it's entirety. Also, the first 15 seconds at the beginning of the audio recorded phone call. It prejudiced the appellate during the trial to allow the jury to hear the officer's comment referencing "crack", when in fact, the "term" "crack" was never mentioned by no one but officer Beck, and counsel should have objected. (Tr. pg. 10 Lines 23-25). Also, (Tr. pg. 11 Lines 1-5, The video was also played in it's entirety. Officer Beck placed in the jurors mind during the trial, that the CI was going to call and order up a quantity of crack, (Tr. pg. 10 Lines 18-25); Tr. pg. 117 Lines 20-25); Tr. pg. 118 Lines 1-6). Officer Beck was the only person that mentioned "crack" throughout the whole trial. It also prejudiced me for the jury to hear the nine (9) second interval between Beck and the CI, that was not apart of the phone conversation, (Tr. pg. 11 lines 1-5). Trial counsel was ineffective for failing to motion to suppress evidence and recorded phone call in it's entirety, due to illegal wire tap and surveillance and wire, oral or electronic communications, United States v. Giordano, 416, U.S. 505, 94, S.Ct. 1820 (1974). As far as the video is concern, it doesn't even show the CI actually putting the alleged drugs in the bag, (Tr. pg. 117 Lines 13-25). Anything derived from that audio and video recording is inadmissible in court.

Spartanburg County sheriff's Department and the CI obtained information illegally. Requirements were not met according to South Carolina Code of Law and statutes. Appellant argues that counsel was ineffective for allowing the jury to hear illegal recording of officer Beck's comment reference to "crack" which was never mentioned in recorded conversation which prejudiced appellant. It is the uninvited ear appellate sought to exclude, Katz v. U.S. 389, U.S. 347, 357 (1967). Also, wherever a man may be, he is entitled to know that he will remain free from unreasonable search and seizure under the 4th Amendment. Counsel failed to move to strike comment referencing "crack", Fossick v. State, 317 S.C. 375, 453 S.E.2d 899 (1995). Admittance of any device to record appellate conversation is also a

statutory violation and a violation of appellates constitutional rights and Due Process, Katz v. U.S. at 88 S.Ct. 507 (1967).

Also appellate argues that counsel was ineffective for failing to object to audio at the time it was being played. Therefore evidence should be excluded.

ARGUMENT 3.

Appellant argues and seeks answers to why a certain allegation was inadvertently left out and not ruled on in judges order of dismissal. The issue is that the appellate was not present at every stage of the trial. A recess was taken and there was a discussion between the trial judge and appellant's counsel that should not have taken place without appellate being present. Appellate did not waive any rights and argues that he has the right to be present at every stage of his trial under Rule 16. Appellate's rights were violated by not being present at every stage, appellant has the right to be present and confront his accuser at every stage. (Tr. pg. 127 Lines 5-11); Bull Comings v. New Mexico cite as 131 S.Ct. 2705 (2011). This issue was raised in the PCR hearing by the appellant along with several other issues that was inadvertently left out of the judges order. PCR counsel refuse to raise all appellate's issues. Appellate also attempted to preserve all other issues that were raised in original PCR Application by filing a 59(e) motion before ten (10) day time limit was due. PCR counsel abandoned the case and did not get a response back. Appellant argues that this particular issue should have been brought back up by the Attorney General to be ruled on in judges order which was in appellants original PCR Application and PCR hearing. Appellant's 6th Amendment and Due process violated. *SEE Ex. 3*

ARGUMENT 4.

Trial counsel was ineffective for failing to object to reasonable doubt instruction. Trial judge when defining reasonable doubt for the jury should give no further instruction than that reasonable doubt is the kind of doubt that would cause a reasonable person to act. Appellate argues that the trial judge confused the jury (Tr. pg. 123 lines 2-25); and also shifted the burden of proof to the appellant and counsel should have objected. (*SANDSTORM V. MONTANA 442 U.S. 510, 524 (1979)*).

ARGUMENT 5.

The appellate argues whether PCR Judge Mark Hayes erred by not stating the finding of facts and conclusion of law to each and every allegation that the appellant raised at the PCR hearing. Appellate also requested that the Honorable Court respectfully alter/amend his judgment so that appellant would not get caught in a trap trying to re-raise the other issues in a successive PCR Application (Pruitt v. State), 423 S.E.2d, 127. Appellate's Due Process and 6th Amendment rights has been violated, because judges order dismissing Appellate's PCR doesn't comply with S.C. Code Ann. 17-27-80; 17-27-90 and Rule 52(A) SCRCP because it does not contain specific findings of facts and conclusions of law with regards to each issue raised in Appellant's hearing. Also, Bryson v. State, 493 S.E.2d 500 (1997).

ARGUMENT 6.

Trial counsel was ineffective for failing to object and should have motion for drug evidence to be excluded from the jury for lack of proper identification.

Beck contradicted himself throughout the whole trial. Officer Beck testified that he did not immediately seal the bag, Tr. pg. 77 lines 7-16; in closing arguments trial counsel stated it was put in a bag and went unsealed for some period of time and layed open on the top of a car and then traveled to the Sheriff's office. Tr. pg. 116 lines 5-13; also counsel stated that on the video "we don't even see him put it in the bag", Tr. pg. 117 lines 8-19). At appellate's PCR Hearing, Attorney Kenneth Shabel entered into evidence a trial transcript page, page 77 lines 7-16, to review on the record to the PCR judge proving the fact that after officer Beck received the alleged drugs from the CI he did not immediately seal the drugs, and while the bag was unsealed, officer Beck testified that he took the alleged drugs back to his office, weighed it, field tested it, and then sealed it up. During all that time, officer Beck never took any precaution against tampering. SEE TRANSCRIPT pg. 77

Furthermore, the video never showed the alleged drug being put into the bag. Appellate argues that trial counsel failed to motion for such evidence to be excluded from the jury for lack of identification. Evidence was inadmissible and violated appellate's constitutional right to a fair trial. See PCR Tr. pg. 49 lines 9-21.

ARGUMENT 7.

PCR counsel was ineffective for failing to raise all appellant's issues at PCR hearing. Appellate raised nine (9) allegations to alter/amend in his original PCR application and counsel refused to raise all allegations.

Appellate argues that he did not get a full bite of the apple at his PCR hearing because counsel failed to represent appellate to his full potential.

SEE COVER LETTER TO ALTER/AMEND ORIGINAL PCR APPLICATION DATED MARCH 31, 2012

ARGUMENT 8.

PCR counsel was ineffective for failing to "subpoena" all witnesses and documentation to the PCR hearing as requested, or motion for continuance. Appellate requested seven (7) months prior to hearing to amend his original PCR application with nine (9) arguments and five (5) exhibits on March 13, 2012. Appellate also requested that PCR counsel "subpoena" arresting officers to hearing to show that he violated the statute under South Carolina Code of Law, also the CI to testify about his deals that was never turned over to me, which is a Brady violation under Rule (5). Also produce transcript to show deals that was made. Also needed all warrants and indictments to see if they were nolle prossed and "why", for evidence to show the deals he made with the state.

Appellate argues that PCR counsel was ineffective for failing to subpoena witnesses as requested and or motion for continuance if he couldn't do so. Counsel has proven himself deficient in this case and outcome of PCR hearing and judges ruling would have been different, and violated constitutional right to a fair trial. *ALSO SEE LETTER TO PCR COUNSEL IN ORIGINAL PCR APPLICATION DATED MARCH 31, 2012*

ARGUMENT 9.

Trial counsel was ineffective for failing to object to CI's testimony to challenge credibility and reliability to impeach CI prior to trial and these are the facts:

(1) CI's testimony in appellates first trial ended in a mis-trial; (2) CI was dealing in crimes of dishonesty such as forgery, shoplifting, and use of vehicle without owners consent, (Tr. pg. 62 lines 21-25); (3) CI testified that he was charged and convicted in two States. CI was convicted in Georgia for possession of crack cocaine in 1998, and Distribution of crack in 1996 in Spartanburg, South Carolina. (Tr. pg. 60 lines 13-25);

← Ex. 5 / RAP SHEET

(4) Also a bench warrant in 2007 for failure to appear twice, (Tr. pg. 61 lines 1-19). CI is working to get charges dropped because exhibit 4 in Appellates attachment facts profile sheet, the question was asked: Motivation of CSI to assist law enforcement? His answer was, "to help with charges on friend". And that friend was Dwan Lamont Prysock a federal inmate that was in prison for drug distribution. The CI is working to get a federal inmate out of prison. This information should be in trial counsel's file. Trial counsel has proven in her closing arguments that the CI is not a credible or reliable witness for the state and trial counsel should have used these issues to impeach the CI testimony, (Tr. pg. 118 lines 18-25; Tr. pg. 119 lines 1-23). CI has broken signed contract with the Spartanburg County Sheriff's Department that he would get into trouble while working, (Tr. pg. 54 lines 14-24), his rap sheet will show that he was charged for lying to police officer. The CI has broken all the rules concerning credibility and reliability of an informant. By failing to impeach CI's testimony, it violates appellant's due process guaranteed under the 14th Amendment and also made appellates attorney ineffective under the 6th amendment. Appellate argues that the CI's past criminal history was bad from the beginning of trial. The breaking of the signed contract, the forgery, and the shop-lifiting were all crimes of dishonesty, and trial counsel had the opportunity to demonstrate to the jury the unreliability of the CI but failed to do so. Trial counsel was ineffective for not inquiring more deeply into CI's past convictions, such as CI's rap sheet and pending charges. CI is not a credible or reliable witness. SEE Ex. 4 & 5

Appellate also argues that CI is a criminal with a very bad criminal history. Just because CI has given information in the past does not make him a credible or reliable witness. CI also broke the law by wearing and recording audio and video to illegally obtain information. Whether CI consented or not to wear equipment, there are still requirements that has to be met. Law enforcement or CI can't go around the law just to obtain information. There is no establishment by the prosecution of a crime being committed in the phone call between the appellant and the CI. There was nothing incriminating said throughout the whole conversation. Appellate has met the burden of proof and trial counsel failed to meet the two pronged test used in Strickland v. Washington, that is used in evaluating allegations of ineffective assistance of counsel.

ARGUMENT 10.

Trial counsel was ineffective for lack of preparation time for second trial. Counsel has testified that everything she did was either prior to trial; 72 hours prior to trial; or at the eve of trial, so in all actuality that leaves very very little room for counsel to meet with appellant to properly effectively prepare for trial.

Counsel did not visit me as many times as she did on the first case which ended in a mistrial. Counsel has no documentation that proves that she visited appellate six (6) or more times. Counsel brought up issues that was irrelevant to appellate's PCR allegations such as when and how she represented appellate on his first case which ended in a mistrial. Counsel already knew who the CI was from the first trial which ended in a mistrial. Counsel only met with Appellate twice within a 72 hour window prior to trial to show video. It is an inaccurate statement for counsel to say that she met with appellant multiple times on this particular case. Counsel tried to mix the two cases to make it confusing as to how many times she visited appellant.

It is obvious that counsel was deficient and did not properly and effectively prepare for this case because appellant was sentenced to 28 years. Counsel testified that she had to put in a Motion to Compel a few days before trial to get copies of the video when in fact counsel had six (6) months after appellate's December 2008 mistrial to get that information, PCR Tr. pg. 29 lines 1-7). Counsel did not meet the two pronged test that is used in evaluating allegations of ineffective assistance of counsel in Strickland v. Washington.

ARGUMENT 11.

Trial judge erred in allowing audio portion of tape to be played in it's entirety. Counsel testified that she don't object to the video portion but strenuously objects to the audio portion and trial judge agreed that the audio portion would not be admissible, (Tr. pg. 16 lines 2-16); PCR Tr. pg. 16 lines 5-7). Appellant's constitutional right to a fair trial was violated, because appellant was prejudiced by the judge allowing the unredacted audio recording of officer's comment referencing "crack", the judge abused his discretion.

ARGUMENT 12.

Trial counsel was ineffective for failing to object to altered video being played prior to trial. Appellate argues that counsel had the opportunity to suppress or exclude video evidence before the trial started, because during the course of trial, the state never establishes on video of drugs even being put in evidence bag, Tr. pg. 59 lines 11-14); Tr. pg. lines 8-19. In the closing argument counsel testified that the video has gaps and holes and a lot of footage of the ceiling. Tr. pg. 118 lines 12-15). Appellate also argues that he wanted counsel to object to video entirety because the video was altered. If counsel would have objected, the outcome would have produced different results.

ARGUMENT 13.

Trial judge erred in admitting the drug evidence where the prosecution failed to establish, as far as practicable, a complete chain of custody. The trial judge erred by allowing chemist Ashley Harris to testify for Jack Westmoreland and stating that "it meets the law", which violated appellant's 6th Amendment Constitutional Rights, Tr. pg. 20 lines 4-17. Appellant has the right to confront witness and surrogate testimony does not meet the constitutional requirement. Crime lab Technicians, custodians etc... must testify and sign to certify the results.

Custodian Jack Westmoreland must testify whether best bag was sealed or if evidence has been tampered with, "no more passing the buck", Bull Coming v. New Mexico, cite at S.Ct. 2705 (2011). There was no testimony by custodian as to how the package was handled while in his custody. Therefore, Appellant argues that trial judge erred in allowing the evidence to be admitted in evidence in the absence of a complete chain of custody. Furthermore, there was no participation at any time in this case on behalf of Jack Westmoreland.

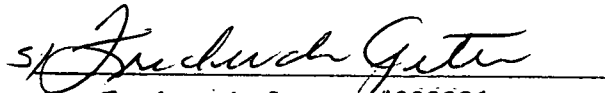
CONCLUSION

Appellate has proven that counsel's performance was deficient and fell below reasonable professional norms; and there is reasonable probability that, but for counsel's unprofessional errors, the results would have been different. The PCR judge should have found both PCR counsel and trial counsel ineffective for all the above.

Both trial and PCR counsel failed to meet the two pronged test in Strickland v. Washington that is used in evaluating allegations of ineffective assistance of counsel. Appellate's allegations does have merit.

Based on the above, Certiorari should be GRANTED and conviction and sentences VACATED and the case REMANDED for a New Trial.

Respectfully Submitted,


Frederick Jeter, #233386
Petitioner Pro Se/Appellant

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County
J. Mark Hayes, II, Circuit Court Judge

FREDERICK JETER,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2013-000181

CERTIFICATE OF SERVICE

I certify that a true copy of Petitioners Writ of Certiorari in this case have been served on Daniel E. Shearouse, Clerk of Court, P.O. Box 11330, Columbia, South Carolina, 29211, by being deposited in U.S. mail.

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P.C.I. MAILROOM

Frederick Jeter, #233386
Petitioner Pro Se

Perry Correctional
Institution Q-2 B-219
430 Oaklawn Road
Pelzer, S.C. 29669

This 22 Day of October 2013
at Pelzer, South Carolina.

CONTROL NO. _____

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM C (RULE 6)

CERTIFICATE OF PROOF OF CHAIN OF PHYSICAL CUSTODY OR CONTROL

(Subsequent Change of Custody)

7 ACH
08-0599

This is to certify that I JACK WESTMORELAND am employed by _____
(Name)

SPARTANBURG COUNTY SHERIFF as EVIDENCE OFFICER and that on _____
(Name of Agency or Department) (Capacity of Employment)

7 1, 03, I received IN PERSON
(Date) (Year) (Specify Whether by Mail or in Person)

from DROP BOX of SPARTANBURG COUNTY SHERIFF
(Name of Person) (Law Enforcement Agency)

the following substance(s) or container(s) which were originally seized by

11 IF 2586

(Name of Person making Original Seizure)

(Describe substance or container with sufficient particularity to distinguish it.)

Best bag

On 7 1, 03, I made delivery of the above described
(Date) (Year)

substance(s) or container(s) to DRUG ROOM of _____
(Name)

SPARTANBURG COUNTY SHERIFF in substantially the same condition
(Law Enforcement Agency)

as when I received it.

J. Westmoreland
(Signature)

Place: _____
Date: _____

Sworn to me on this _____ day of _____, _____

Exhibit 2

2010
Cumulative Supplement
TO

CODE OF LAWS OF
SOUTH CAROLINA 1976
Annotated

Containing Permanent General Statutes
Enacted or Approved During the
2002 through the 2010 Sessions
of the General Assembly

Prepared under the supervision and
direction of the Code Commissioner and the
Legislative Council of the General Assembly
of South Carolina

VOLUME 8

NOTICE

During its 2003 Session, the General Assembly adopted as official Volume 8 which is current through the 2001 Session. The 2002 through present cumulative supplements were not submitted for adoption as official. At the direction of the Code Commissioner, the Acts as enacted have been edited in various particulars to conform them to the style and arrangement of the Code of 1976 and to make them more readily usable by the practitioner for ordinary work. For further details see the Foreword in the Supplement to Volume 1.

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contents of any communication while in transmission on that service to any person or entity other than an addressee or intended recipient of the communication or an agent of the addressee or intended recipient.

(B) A person or entity providing electronic communication service to the public may divulge the contents of the communication:

- (1) as otherwise authorized by this chapter;
- (2) with the lawful consent of the originator or any addressee or intended recipient of the communication;

(3) to a person employed or authorized, or whose facilities are used to forward the communication to its destination; or

(4) which were inadvertently obtained by the service provider and which appeared to pertain to the commission of a crime, if the divulgence is made to a law enforcement agency.

HISTORY: 2002 Act No. 339, § 14, eff July 2, 2002.

§ 17-30-45. Use of pen register or trap and trace device.

It is lawful under this chapter to use a pen register or a trap and trace device as authorized under South Carolina law or under federal law.

HISTORY: 2002 Act No. 339, § 14, eff July 2, 2002.

§ 17-30-50. Penalty for violating §§ 17-30-20 through 17-30-45.

(A) Except as provided in subsection (B), whoever violates the provisions of Sections 17-30-20 through 17-30-45, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both.

(B) If the offense is a first offense under this chapter and is not for any unlawful purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under this chapter was committed is a radio communication that is not scrambled, encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of the communication, then:

(1) if the communication is not the radio portion of a cellular telephone communication, a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit, a public land mobile radio service communication, or a paging service communication, and the conduct is not that described in Section 17-30-35(7), the person committing the offense is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than one thousand dollars, or both;

(2) if the communication is the radio portion of a cellular telephone communication, a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit, a public land mobile radio service communication, or a paging service communication, the person committing the offense is guilty of a misdemeanor, and must, upon conviction, be fined not more than one thousand dollars for each violation.

HISTORY: 2002 Act No. 339, § 14, eff July 2, 2002.

EXH. B. 1 - 2

§ 17-30-55. Mailing or manufacturing devices for unlawful interception of wire, oral or electronic communications.

(A) Except as otherwise specifically provided in this chapter, any person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, who intentionally:

(1) sends through the mail or otherwise sends or carries any electronic, mechanical, or other device, knowing or having reason to know that the design of the device renders it primarily useful for the purpose of the unlawful interception of wire, oral, or electronic communications as specifically defined by this chapter; or

(2) manufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of the device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications.

The persons to whom this subsection applies are:

(1) a provider of wire or electronic communication service or an officer, agent, or employee of, or a person under contract with, such a provider, in the normal course of the business of providing that wire or electronic communication service; or

(2) an officer, agent, or employee of, or a person under contract with, bidding upon contracts with, or in the course of doing business with, the United States, a state, or a political subdivision of the State, in the normal course of the activities of the United States, a state, or a political subdivision of the State.

HISTORY: 2002 Act No. 339, § 14, eff July 2, 2002.

§ 17-30-60. Seizure and forfeiture.

Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed, or sold in violation of this chapter may be seized and forfeited to the State.

HISTORY: 2002 Act No. 339, § 14, eff July 2, 2002.

§ 17-30-65. Admissibility of contents of, or evidence derived from, intercepted communications; contents as public record.

(A) Whenever any wire, oral, or electronic communication has been intercepted, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the State, or a political subdivision thereof, if the disclosure of that information would be in violation of this chapter. The prohibition of use as evidence provided in this section does not apply in cases of prosecution for criminal interception in violation of the provisions of this chapter.

EXH. B-1-2

(B) The contents of any wire, oral, or electronic communication intercepted pursuant to this chapter and the contents of any application for an order and an order of authorization issued pursuant to this chapter are not included in the definition of a public record contained in Section 30-4-20(c) and may only be disclosed in a manner provided by this chapter.

HISTORY: 2002 Act No. 339, § 14, eff July 2, 2002.

§ 17-30-70. Orders authorizing interception; application process; agencies and individuals authorized to conduct interception.

(A) An application for an order authorizing or approving the interception of wire, oral, or electronic communications must be initiated by the Chief of SLED. After reviewing the application, the Attorney General or his designated Assistant Attorney General may authorize the submission of the application to a judge of competent jurisdiction for, and the judge may grant in conformity with this chapter, an order authorizing or approving the interception of wire, oral, or electronic communications by:

- (1) the South Carolina Law Enforcement Division for the investigation of the offense as to which the application is made when the interception may provide or has provided evidence of the commission of the offenses of murder (Section 16-3-10); assault and battery with intent to kill (Section 16-3-620); kidnapping (Section 16-3-910); voluntary manslaughter (Section 16-3-50); armed robbery (Section 16-1-330(A)); attempted armed robbery (Section 16-1-330(B)); drug trafficking as defined in Sections 44-53-370(c) and 44-53-375(C); arson in the first degree (Section 16-11-110(A)); arson in the second degree (Section 16-11-110(B)); accessory before the fact to commit any of the above offenses (Section 16-1-40); or attempt to commit any of the above offenses (Section 16-1-80). This interception may also be authorized when it may provide or has provided evidence of any conspiracy or solicitation to commit any violation of the offenses specified in this subsection;
- (2) the South Carolina Law Enforcement Division for the investigation of the offense as to which the application is made when the interception may provide or has provided evidence of the commission of any offense related to terrorism or the commission of a terrorist act, any offense related to bombs, destructive devices, bacteriological and biological weapons, and weapons of mass destruction as provided for in Article 7, Chapter 23, Title 16 or evidence of any conspiracy or solicitation to commit any crime specifically enumerated in this subsection; or
- (3) an individual operating under a contract with the South Carolina Law Enforcement Division for the investigation of an offense listed in subsection (1) or (2). Any interception conducted under this chapter by persons authorized by this subsection must conduct the interception under the direct supervision of an agent or officer of the South Carolina Law Enforcement Division.

(B) Any person authorized to intercept wire, oral, or electronic communications pursuant to this section must have completed training provided by SLED pursuant to Section 17-30-145.

HISTORY: 2002 Act No. 339, § 14, eff July 2, 2002.

Code Commissioner's Note

Section 16-3-620, referenced in subsection (A)(1) was repealed by 2010 Acts No. 273, § 5.

Editor's Note
2010 Act No. 273, § 7.C, provides:

Whenever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

§ 17-30-75. Disclosure of content of intercepted communication.

(A) Any SLED agent who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived from it may disclose the contents to an attorney authorized by law to investigate and institute any action on behalf of the State of South Carolina or political subdivision of the State, or to another SLED agent, investigative, or law enforcement officer to the extent that the disclosure is appropriate to the proper performance of the official duties of the officer or person making or receiving the disclosure.

(B) Any SLED agent, investigative, or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived from it may use the contents to the extent the use is appropriate to the proper performance of his official duties.

(C) Any person who has received, by any means authorized by this chapter, or by the laws of any other state or the United States, any information concerning a wire, oral, or electronic communication or evidence derived from it, intercepted in accordance with the provisions of this chapter, may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court of the State or of the United States or in any grand jury proceedings.

(D) No otherwise privileged wire, oral, or electronic communication intercepted in accordance with or in violation of the provisions of this chapter loses its privileged character.

(E) When a SLED agent, while engaged in intercepting wire, oral, or electronic communications in the manner authorized by this chapter, intercepts wire, oral, or electronic communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof and evidence derived from it may be disclosed or used as provided in subsections (A) and (B). The contents and any evidence derived from it may be used under subsection (C) when authorized or approved by a judge of competent jurisdiction when the judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. The application must be made as soon as practicable.

HISTORY: 2002 Act No. 339, § 14, eff July 2, 2002.

§ 17-30-80. Application for interception order; contents; establishing allegations of fact; additional evidence; basis for entry of order.

(A) Each application for an order authorizing or approving the interception of a wire, oral, or electronic communication under this chapter must be made in writing upon oath or affirmation to a judge of competent jurisdiction and must state the applicant's authority to make the application. Each application must include the following information:

DATE: JAN. 16, 2013 241

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

FREDERICK JETER #233386
APPLICANT,

2011-CV-42-4770

v.
STATE OF SOUTH CAROLINA,
RESPONDENT.

SWORN AFFIDAVIT

I FREDERICK JETER #233386, WENT TO A PCR HEARING THAT WAS HELD ON MY BEHALF ON NOV. 9, 2012, AND I WAS ALSO REPRESENTED BY KENNETH P. SHABEL ESQ. I RAISED SEVERAL ISSUES DURING MY PCR HEARING THAT WERE INADVERTANTLY LEFT OUT OF JUDGE'S FINAL ORDER.

I AM ATTEMPTING TO PRESERVE MY ISSUES THAT WERE RAISED IN MY ORIGINAL PCR APPLICATION, BY FILING A 59(E) MOTION BEFORE MY 10 DAY TIME LIMIT IS DUE.

AS OF THIS DATE, MY ATTORNEY HAS ABANDONED MY CASE BECAUSE I HAVE NO WAY OF CONTACTING HIM BY PHONE AND I AM FORCED TO MAKE A DECISION BY SAYING THAT I DO NOT WANT AN APPEAL RIGHT NOW BECAUSE MY ISSUES ARE NOT YET PRESERVED.

I MAKE THIS DECLARATION UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

s/ Frederick Jeter
FREDERICK JETER

FILED
STATE OF SOUTH CAROLINA
CLERK OF COURT
JAN 24 2013
AM 9:31
HOPE BLAKE

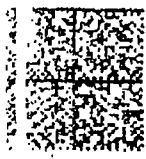
M. HOPE BLACKLEY
Clerk of Court, Spartanburg County
Post Office Box 3483
Spartanburg, South Carolina 29304-3483

Handwritten notes:
RECEIVED
JAN 11 2012
JAN 10 2012
JAN 10 2012

RETURN SERVICE
REQUESTED

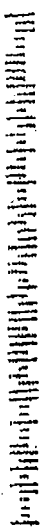
Frederick Jeter # 2333386
Perry Corr. Inst Q-4/B-124 430 Oaklwan Road
Pelzer, SC 29669

RESORTED
1ST CLASS



UNITED STATES POSTAGE
\$ 00.42
POSTAGE WILL BE PAID BY ADDRESSEE

29669



my copy of LETTER TO
PCR COUNSEL

DATE: 1-28-2013

FREDERICK JETER #233386
 PENNY CORR. INST. Q2 B-113
 430 OAKLAWN RD.
 PELZER, SC. 29669

CASE NO. 2011-CP-42-4770

RECEIVED

JAN 28 2013

P.C.I. MAILROOM

DEAR MR. KENNETH P. SHABEL,

I would like to know if ALL my ALLEGATIONS will be RULED ON by Judge HAYES THAT WAS NOT RULED ON in his ORDER OF DISMISSAL? AND I ALSO would like to know if ALL of my ALLEGATIONS will be PERSERVED since you've ALREADY put in a NOTICE OF APPEAL FOR FUTURE REFERENCES.

I ALSO WROTE YOU A LETTER ON DEC. 3, 2012 INSTRUCTING THAT YOU WOULD PLEASE MAKE SURE THAT A 59(C) MOTION IS TIMELY FILED IN ORDER TO PERSERVE ALL MY ISSUES FOR APPELLANT REVIEW AND CORRECT ANY MIS-STATEMENTS OF FACTS, THIS IS IMPORTANT FOR FUTURE REFERENCE.

IN THE NOTICE OF APPEAL, IT IS VERY IMPORTANT THAT YOU STATE THAT JUDGE HAYES DID NOT STATE THE FINDINGS OF FACTS AND CONCLUSIONS IN EACH AND EVERY ALLEGATION THAT I RAISED, ALSO AN ISSUE OR TWO THAT WAS NOT RAISED AND RULED ON AT ALL, (RULE 16 ISSUE). MR. SHABEL I AM INSTRUCTING YOU TO PLEASE TAKE CARE OF THESE ISSUES THAT I AM BRINGING BEFORE YOU IN THIS LETTER AND ANY THING ELSE THAT LEGALLY NEEDS TO BE TAKEN CARE OF IN MY CASE. IN SOME INSTANCES OR SITUATIONS, I WOULD LIKE TO KNOW WHAT YOUR STRATEGY WILL BE NEXT AND MAILING A LETTER IS NOT QUICK ENOUGH. SO WHAT DO I NEED TO DO TO CONTACT YOU BY PHONE? I LOOK FORWARD TO HEARING FROM YOU ABOUT YOUR STRATEGY ON THESE ISSUES

THANK YOU FOR YOUR HELP IN THIS MATTER.

St. Frederick Jeter
 FREDERICK JETER

EX. 4

This is the case
Officer Henry Beck
called about -
this A w working
w/ police + Beck
wanted to see
w BW could be
recalled

JS

This is proof THAT officer Beck
knew THAT CI WAS working w/ police
TO GET CHARGES Dismissed.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR -9 PM 3:37
M. HOPE BLACKLEY

CONFIDENTIAL SOURCE OF INFORMATION AGREEMENT

During my association with the Spartanburg County Sheriff's Office as a Confidential source of Information (CSI), I understand that I am bound by the following conditions and procedures:

MAJ (1) J.P.

I understand that I am not a police officer or an employee of the Spartanburg County Sheriff's Office. I will not represent myself to others as a police officer or representative of the Spartanburg County Sheriff's Office. I understand that I have no police power and that I cannot make any arrests, searches or seizures. I have no authority to carry a firearm or weapon while assisting the Spartanburg County Sheriff's Office.

MAJ (2) J.P.

I will not violate any criminal laws while gathering information or providing services for the Spartanburg County Sheriff's Office. I understand that I am not authorized to use any illicit drugs. I understand that I am not to get involved in any criminal activity without the prior knowledge of the Spartanburg County Sheriff's Office. I understand that I will be arrested and prosecuted if I engage in any illegal activity.

MAJ (3) J.P.

I understand that I am not being asked to create crime. I understand that I will not be allowed to beg, pressure, threaten or lure anyone into committing a crime. I understand that the Spartanburg County Sheriff's Office is not interested in investigating innocent people. I understand that the Spartanburg County Sheriff's Office is only interested in people that are committing crimes or intending to commit crimes in the future.

MAJ (4) J.P.

I understand that I must always tell the truth concerning everything that I do when assisting the Spartanburg County Sheriff's Office.

MAJ (5) J.P.

I understand that I will be paid (money) by the Spartanburg County Sheriff's Office for the assistance that I give them. I understand that these payments will be made on a C.O.D. basis after the successful completion of my assignment.

MAJ J.P.

I understand that I will only be paid for reliable, truthful information. I understand that the amount of money that I received will be determined by the Spartanburg County Sheriff's Office. I understand that I will have to sign a receipt for the money that I receive. I understand that two (2) police officers will have to witness all money payments that I receive.

MAJ J.P.

I understand that the Spartanburg County Sheriff's Office has no power to reduce or dismiss any criminal charges that I have against me. I understand that the Spartanburg County Sheriff's Office has no power to reduce or dismiss any criminal charges that I may have against me in the future.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR -9 PM 3:37
M. HOPE BLACKLEY

CSI AGREEMENT (con't)

MH (6) J.P.

I understand that I am fully responsible for any fines, probation payments and/or other court costs that I have against me now, or in the future.

MH (7) J.P.

I understand that I am not entitled to Worker's Compensation, Unemployment Compensation or any benefits of any kind whatsoever. I understand that the county of Spartanburg will not be liable for any injuries or damages incurred by reason of my association with the Spartanburg County Sheriff's Office.

MH (8) J.P.

I agree not to be a CSI for any other agency without prior permission of the Spartanburg County Sheriff's Office. I understand that I must not discuss the confidential relationship that I have with the Spartanburg County Sheriff's Office with anybody.

MH (9) J.P.

I understand that the information that I provide to the Spartanburg County Sheriff's Office may be used in a criminal attempt to disclose the identity of the person that assisted the police in the investigation. The Spartanburg County Sheriff's Office will use all lawful means to protect your confidentiality, but this cannot be guaranteed.

MH (10) J.P.

I understand that I will be photographed by the Spartanburg County Sheriff's Office. I understand that I will have to provide a sample of my handwriting for comparison with the payment receipts that I sign.

MH (11) J.P.

I agree to cooperate and assist the Spartanburg County Sheriff's Office of my own free will and not as a result of any intimidation, threats or promises other than those set out in this agreement.

MH (12) J.P.

I understand that while working for the Spartanburg County Sheriff's Office I will be searched before and after undercover buys, meeting with potential sources of illegal drugs, etc. I understand that the vehicle I drive will also be searched for any type of contraband. I understand that if the search produces any type of illegal contraband I will be arrested and prosecuted.

[Signature]
CSI

3-15-07
Date

[Signature]
Investigator

3-15-07
Date

Investigator

Date

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR 9 PM 3:37
M. HOPE BLACKLEY

CONFIDENTIAL SOURCE OF INFORMATION AGREEMENT

SUPPLEMENT TO BE USED WHEN CRIMINAL CHARGES PENDING AGAINST CSI

(1) I have the following criminal charges pending against me: *NEXT PAGE Ex. 5*

CHARGE

AGENCY

_____	_____
_____	_____
_____	_____

(2) I understand that I will not be paid (money) by the Spartanburg County Sheriff's Office for the assistance that I give them as long as I have criminal charges pending against me.

*Tr. pg. 54 Lines 14-25;
Pg. 55 Lines 1-25; Pg. 56 Lines 1-25*

(3) I understand that my accomplishments as a CSU for the Spartanburg County Sheriff's Office will be forwarded to the Solicitor's Office for consideration toward the criminal charges that I have pending against me.

(4) I understand that I have no guarantee that my charges will be reduced or dismissed..

(5) I understand that when I no longer have any criminal charges pending against me, I will become eligible to be paid (money) for the assistance that I give the Spartanburg County Sheriff's Office.

_____	_____	_____
CSI	Date	Time
_____	_____	_____
Investigator	Date	Time
_____	_____	_____
Investigator	Date	Time

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CLERK OF COURT
SPARTANBURG COUNTY
2012 APR -9 PM 3:37
M. HOPE BLACKLEY

*This form proves THAT
CE WAS WORKING TO GET
CHARGES DISMISSED AND
IS NOT A CREDIBLE AND
RELIABLE WITNESS. (FS)
CE Broke His CONTRACT.*

EX. 4

CSI MUST WRITE HIS/HER FULL NAME AS IT WILL APPEAR ON RECEIPTS.

SIGNATURE MUST BE LEGIBLE.

Michael L. Hope
FIRST MIDDLE LAST

Michael L. Hope
FIRST MIDDLE LAST

Michael L. Hope
FIRST MIDDLE LAST

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR -9 PM 3:37
M. HOPE BLACKLEY

PERSONS PERSENT: J. Pharis, J. Grant

NAME: Foster, Michael Lee

AKA: "Z"

RACE: B

SEX: m

DOB: [REDACTED]

HGT: 6'3

WGT: 170

SOCIAL SECURITY NO: [REDACTED]

POB: Spartanburg

ADDRESS: [REDACTED]

O.L.#: _____

CITY/STATE: Spartanburg, SC

TELEPHONE: [REDACTED]

EMPLOYER: none

OK TO CALL AT WORK —

ADDRESS: —

CITY/STATE: —

TELEPHONE: —

VEHICLE(S): —

TAG —

NEAREST RELATIVE: [REDACTED]

RELATIONSHIP: mother

ADDRESS: [REDACTED]

CITY/STATE: Spartanburg, SC

TELE: [REDACTED]

HOW DID OFFICER MEET CSI: Through city officer J. Grant

* MOTIVATION OF CSI TO ASSIST LAW ENFORCEMENT: Help with charges on friend

← Duane Lamont
PR/sock
FEDERAL INMATE
(P)

PREVIOUS CSI EXPERIENCE: (AGENCY) Spartanburg City

CSI CRIMINAL HISTORY:

*****ATTACH COPY*****

PENDING CHARGES: None

CSI PERSONAL USE EXPERIENCE WITH CONTROLLED SUBSTANCES:
(NO. OF TIMES) (LAST USE)

MARIJUANA	<u>1,000 (+)</u>	<u>3-13-07</u>
COCAINE (crack)	<u>200 (+) / 1,000 (+)</u>	<u>1-07 / 3-14-07</u>
OTHER	<u>none</u>	

CSI SALE/DELIVERY EXPERIENCE WITH CONTROLLED SUBSTANCES: yes

CSI MAKE UC INTRODUCTIONS: NO CONTROLLED PURCHASES: yes

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR -9 PM 3:37
M. NOPE BLACKLEY

Ex. 4

CONFIDENTIAL SOURCE OF INFORMATION

NAME: Foster, Michael Lee RACE/SEX: B/m

DOB: [REDACTED]

ADDRESS: [REDACTED]

CITY/STATE ZIP: Spartanburg (Meade) SC 29369

HOME TELEPHONE: [REDACTED]

EMPLOYER: none

INITIATION DATE: 3-15-07

CONTACT OFFICER (S): J. Pharis

CODE NAME: "2"

CSI NUMBER: 2586

APPROVED REJECTED

DATE 3-15-07

Sgt. J. Pharis
Supervisor
Narcotics Investigation Division

CONTENTS

-
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-
-
-
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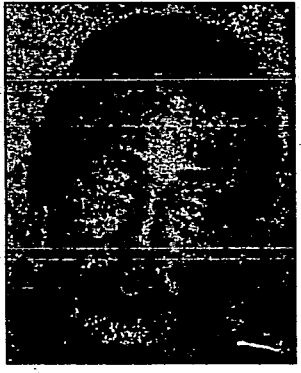
- CSI PROFILE
- CSI AGREEMENT
- CSI HANDWRITING EMPLAR
- PHOTOGRAPH
- CRIMINAL HISTORY
- RECEIPT SPECIAL FUND

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 APR -9 PM 3:37
M. HOPE BLACKLEY

Exhibit 5

FOSTER	LATOSHA	NICHELLE	03/02/90	B	F	12
FOSTER	LATOYA	DEMETRA	05/24/75	B	F	08
FOSTER	LEONARD	DALTON	06/26/71	W	M	11
FOSTER	LEONARD	JERNORCE	01/08/60	B	M	12
FOSTER	LEONARD	VERNORCE	01/11/60	B	M	04
FOSTER	LEROY	KIRK	05/25/78	B	M	07
FOSTER	LISA	L	12/21/79	W	F	08
FOSTER	MARCEL	SINCLAIR	08/28/87	B	M	09
FOSTER	MARILYN	ANNETT	09/12/60	B	F	09
FOSTER	MARILYN	ANNETTE	09/12/60	B	F	09
FOSTER	MARK	ALLEN	06/21/68	W	M	09
FOSTER	MARK	SHANNON	05/06/69	W	M	09
FOSTER	MARK	STEVEN	01/20/77	W	M	08
FOSTER	MARY	ANN	07/28/59	B	F	11
FOSTER	MARY	LINDA	06/24/48	B	F	11
FOSTER	MICHAEL		11/03/57	B	M	02
FOSTER	MICHAEL	ANTHONY	05/29/82	B	M	04
FOSTER	MICHAEL	JAMES	10/19/88	B	M	11
FOSTER	MICHAEL	LEE	04/12/59	B	M	12

Street Address:
 City/State/Zip: MOORE, SC 29369
 Race / Gender: BLACK, NON-HISPANIC / MALE
 Date of Birth: 04/12/59
 Height: 6'03"
 Weight: 170



Booking Number: 08-18030
 Arrest: SHERIFF'S OFFICE
 Agency:
 Arrest Officer: OWENS M
 Booking Time / Date: 20:48:50 11/22
 Release Time / Date: 02:41:10 11/23

Statute	Offense	Court	Warrant
00-00-0000 0612	A & B - ASSAULT & BATTERY	SPARTANBURG MAGISTRATE COURT	80500EK
16-17-0530 0622	PUBLIC DISORDERLY CONDUCT	SPARTANBURG MAGISTRATE COURT	80499EK
34-11-0060 0670	FRAUD CHECK =<\$500 1ST OFF	SPARTANBURG MAGISTRATE COURT	M183991

Booking Number: 08-18751
 Arrest: SPARTANBURG PUB SAFETY
 Agency: DEPT
 Arrest Officer: ROBERTS D
 Booking Time / Date: 03:55:45 12/07
 Release Time / Date: 11:30:15 12/07

Statute	Offense	Court	Warrant
16-21-0060 0222	USE VEHICLE W/OUT CONSENT-TEMP	SPARTANBURG MUNICIPAL COURT	M085147

FOSTER	MICHAEL	LEE	05/16/75	W	F	12
FOSTER	MICHAEL	WILLIAM	04/08/73	B	F	08
FOSTER	MILAKO	ATASHA	04/17/78	W	M	11
FOSTER	NIKITA	HAHSHAA	11/06/85	W	M	12
FOSTER	OLA	MARIE	04/26/75	W	F	08
FOSTER	PAMELA	DENISE	01/29/76	B	F	09
FOSTER	PHORIZENE	DEMETRICE	10/07/69	B	M	02

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2012 APR 9 PM 3:37
 M. HOPE BRACKLEY

EX. 5

K201841

CRIMINAL CHARGING DOCUMENT NO.

BAIL PROCEEDING FORM I

STATE OF SOUTH CAROLINA SpHbg
COUNTY OF _____

IN THE COURT OF GENERAL SESSIONS
 MAGISTRATE COURT
 MUNICIPAL COURT OF _____

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

Michael Foster
NAME OF DEFENDANT

Offense Charged: Forgery

IT IS HEREBY ORDERED

I

That the above named defendant be released from custody on his own recognizance without surety on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court, and not depart the State without permission of the court and be of good behavior.

II

That the above named defendant be released from custody upon a recognizance without surety executed by him.

On the 18th day of May, 2007, Appearance Recognizance Without Surety, personally appeared before the undersigned judge the defendant named above who acknowledged himself indebted to the State of South Carolina, in the sum of 5000 dollars, to be levied on his real and personal property for the use of the State, if the defendant shall fail in performing the conditions of the Order.

III

That the defendant will notify the court promptly if he changes his address from the one contained in this Order and will comply with the following other conditions of release: _____

IV

That the defendant shall appear at (check one):
 the term of _____ COURT OF GENERAL SESSIONS beginning on 7-19-07 at 9:00 o'clock, AM, at _____ and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.
 the session of _____ MAGISTRATE COURT _____ MUNICIPAL COURT beginning on _____ at _____ o'clock, _____ M, at _____ If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.
I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.
It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SIGNATURE OF DEFENDANT

SIGNATURE OF JUDGE

501 Old Jamm Rd
ADDRESS

DATE 5-18-07

Meow SC 29369
CITY/STATE/ZIP

249-23-7382
SOCIAL SECURITY NUMBER DRIVER'S LICENSE OR ID NUMBER

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED
Original Copy For The Trial Court - Copy For The Defendant

EX-15

YOU MUST APPEAR FOR YOUR INITIAL APPEARANCE HEARING AT THE SPARTANBURG COUNTY JUDICIAL CENTER. 180 MAGNOLIA STREET 2ND FLOOR EAST COURTROOM. ON

K 163008 CRIMINAL CHARGING DOCUMENT NO.

4-19-07-9AM

BAIL PROCEEDING FORM I

STATE OF SOUTH CAROLINA COUNTY OF Spth

IN THE [X] COURT OF GENERAL SESSIONS [] MAGISTRATE COURT [] MUNICIPAL COURT OF

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

Michael Lee Foster NAME OF DEFENDANT

Offense Charged: Use of Vehicle w/o consent

IT IS HEREBY ORDERED

I That the above named defendant be released from custody on his own recognizance without surety on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court, and not depart the State without permission of the court and be of good behavior.

II That the above named defendant be released from custody upon a recognizance without surety executed by him.

Appearance Recognizance Without Surety On the 11 day of Feb, 2007, personally appeared before the undersigned judge the defendant named above who acknowledged himself indebted to the State of South Carolina, in the sum of 1500 dollars, to be levied on his real and personal property for the use of the State, if the defendant shall fail in performing the conditions of the Order.

III That the defendant will notify the court promptly if he changes his address from the one contained in this Order and will comply with the following other conditions of release:

IV That the defendant shall appear at (check one):

[X] the term of COURT OF GENERAL SESSIONS beginning on 4-19-07 at 9:00 o'clock AM, at 180 Magnolia St, Spth, SC 2nd floor and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court. [] the session of [] MAGISTRATE COURT [] MUNICIPAL COURT beginning on at o'clock, M, at If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued. I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence. It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SIGNATURE OF DEFENDANT

SIGNATURE OF JUDGE DATE 2-11-07

301 Old Farm Rd ADDRESS 2007 SC 29369 CITY/STATE/ZIP 249-23-7387 TELEPHONE 78181887 DRIVER'S LICENSE OR ID NUMBER

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED

SPARTANBURG COUNTY CLERK OF COURT FILED 2007 FEB 13 AM 10:31

Computer

EX.5 AOG

1C185802, 1C183818 U
Criminal Charging Document No. WTHR

BAIL PROCEEDING FORM II

DEC 20 2006

STATE OF SOUTH CAROLINA
COUNTY OF SPARTA

IN THE COURT OF GENERAL SESSIONS
 MAGISTRATE COURT
 MUNICIPAL COURT OF _____

STATE OF SOUTH CAROLINA

Michael Lee Foster
NAME OF DEFENDANT

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE
YOU MUST APPEAR FOR YOUR INITIAL APPEARANCE HEARING AT THE
SPARTANBURG COUNTY JUDICIAL CENTER
180 MAGNOLIA STREET 2ND FLOOR
EAST COURTROOM, ON

Offense Charged: Forgery, Shoplifting 3rd Subj.

2-27-06 9m

Trans 1-22-0

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):
 The release of the defendant on recognizance will not reasonably assure his appearance as required.
 The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact: _____

[Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows:

CASH IN LIEU OF BOND

The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, the sum of money _____ subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of 3500.

3. That the defendant shall appear at (check one):

the term of 9 COURT OF GENERAL SESSIONS beginning on 2/22/07
at 9 o'clock A M, at 180 Magnolia St 2nd floor
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

the session of MAGISTRATE COURT MUNICIPAL COURT beginning on _____
at _____ o'clock, M, at _____
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT M L F
4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

[Signature]
SIGNATURE OF JUDGE

12-21-06
DATE

Ex-5

Select Case

Position: []
 Name Last: FOSTER [] First: MICH []
 Warrant: [] Prosecutor: [] Indictment No: []
 M085147 [] Status: Open []

Name	Indictment Number	Warrant Number	Status	Charge	Offer Letter	Attorney
Foster Michael	2008GS4202624	M020358	IND	Children / Legal custodian, unlawful negle	JAJ	Brown, Michael De
Foster Michael Lee	2007GS4202544	K185802	IND	Forgery / Forgery, value less than \$5,000	A0G	
Foster Michael Lee	2007GS4201573	K183818	IND	Shoplifting / Enhancement for 3rd or sub.	A0G	
Foster Michael Lee	2007GS4204983	K201841	IND	Forgery / Forgery, value less than \$5,000	A0G	
Foster Michael Lee	M085147		PDIA	Vehicle / Use of vehicle without permisio		
Foster Michael William		M024841	ACTV	Vehicle / Poss., conceal, sell., or dispose	TP1	

DEF: Foster Michael Lee []
 M085147 []
 2008120273 []
 0222 [] Vehicle / Use of vehicle without permission for tem [] Days: 6 []
 PDIA [] Pending IA []
 12/7/2008 [] 12/10/2008 [] 12/5/2008 []
 10/0/0000 [] Male []
 42001 [] 5013 [] Frederick 'Fred' Catt []
 2112 []

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2012 APR - 9 PM 3: 38
 M. HOPE BLACKLEY

WARR-D630345

CIT-16-11-312 FELONY
DOC-93GS4205393 WARR-D630345

ARREST CHARGE 02-BURGLARY 2ND

COURT CHARGE 01-BURGLARY,
2ND DEGREE (NON-VIOLENT) ✓
COURT DISP-CONVICTED;15 YEARS
SUS 2 YEARS REST 600.00
DURING PROB
COURT DATE-11/15/1995

CIT-16-13-30(B) (1) FELONY
DOC-93GS4205392 WARR-D630348

COURT CHARGE 02-GRAND LARCENY
, VALUE >\$1,000 BUT <\$5,000 ✓
COURT DISP-CONVICTED;5 YEARS
SUS DURING PROB REST SEE
93- 5393 07/27/2000 BEATTY
, REVOKE 1 YR
COURT DATE-11/15/1995

FOSTER, MICHAEL LEE
SC0420000 SPARTANBURG CNTY SO
CASE-007783
WARR-09434SH

04/02/1994

ARREST CHARGE 01-SIMPLE POSSE
SSION OF MARIJUANA
PHOTOGRAPH AVAILABLE
COURT CHARGE 01-SIMPLE POSSES
SION OF MARIJUANA
COURT DISP-NON-CONVICTION;
NOT GUILTY

WARR-09434SH

FOSTER, MICHAEL LEE
SC0420000 SPARTANBURG CNTY SO
CASE-007783
WARR-E367722

09/13/1995

ARREST CHARGE 01-DISTRIBUTION
CRACK COCAINE
PHOTOGRAPH AVAILABLE

CIT-44-53-375(B) (1) FELONY
DOC-95GS4204957 WARR-E367722

COURT CHARGE 01-MANUF,DISTRIB
, ETC., ICE/CRANK/CRACK
COCAINE-1ST
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-11/27/1995

FOSTER, MICHAEL
SC0420000 SPARTANBURG CNTY SO
CASE-065220
WARR-E578098

09/17/1995

ARREST CHARGE 01-DISTRIBUTE
CRACK COCAINE
PHOTOGRAPH AVAILABLE

CIT-44-53-375(B) (1) FELONY
DOC-95GS4205442 WARR-E578098

COURT CHARGE 01-MANUF,DISTRIB
, ETC., ICE/CRANK/CRACK ✓
COCAINE-1ST
COURT DISP-CONVICTED;15 YRS
& 25,000.00 SENTENCE TO
BEGIN 3-25-96
COURT DATE-08/01/1996

SC004015C PERRY RECPT & EVAL 11/30/1995 CUSTODY STATUS-RECEIVED
CASE-227514 START DATE-11/30/1995
CIT-16-11-312 FELONY

COURT CHARGE 01-BURGLARY 2ND
NON VIOLENT
COURT DISP-CONVICTED; 15YRS
SUSPENDED 2YRS

CIT-16-13-30 MISDEMEANOR

COURT CHARGE 02-LARCENY
COURT DISP-CONVICTED; 5YRS
SUSPENDED

CIT-44-53-375 MISDEMEANOR

COURT CHARGE 03-DISTRIBUTION
OF COCAINE
COURT DISP-CONVICTED; 15YRS
SUSPENDED 2YRS AND 5YRS
PROBATION CONCURRENT

FOSTER, MICHAEL LEE 11/02/1999
SC0420000 SPARTANBURG CNTY SO
CASE-007783
ATN-
WARR-F626920

ARREST CHARGE 01-GRAND LARCENY
OFFENSE DATE-11/02/1999
PHOTOGRAPH AVAILABLE

WARR-F626919

ARREST CHARGE 02-BURGLARY 1ST
OFFENSE DATE-11/02/1999

CIT-16-13-30(B)(1) FELONY
DOC-00GS42 WARR-F626920

COURT CHARGE 01-GRAND LARCENY
, VALUE >\$1,000 BUT <\$5,000
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-12/09/1999
ATN-

CIT-16-11-311
DOC-00GS42 WARR-F626919

COURT CHARGE 02-BURGLARY
(AFTER JUNE 20, 1985) -
FIRST DEGREE
COURT DISP-NON-CONVICTION;
NOLLE PROSSED
COURT DATE-12/09/1999

FOSTER, MICHAEL LEE 12/27/1999
SC0420000 SPARTANBURG CNTY SO
CASE-007783
ATN-
WARR-25446BK

ARREST CHARGE 01-FALSE INFORM
ATION TO POLICE
OFFENSE DATE-12/27/1999
PHOTOGRAPH AVAILABLE
COURT CHARGE 01-GIVING FALSE
INFORMATION
COURT DISP-NON-CONVICTION;
NOT GUILTY
ATN-

DOC-R84 WARR-25446BK

COUNSEL FAIL TO CHALLENGE STATE PRIOR CONVICTION - WITNESS UNDER RULE 404 A & B

STATE v. Mueller (5c App. 1995) CITE 960 SE 2d 909



ICHR 003F715C07 from SCCH

SPTSL432

.ICHR.003F715C07.SCCH.20090601 15:49:47

TO: SPTSL432-48486 20090601 15:49:47 003F715C07

FROM: SCCH-7429127 20090601 15:49:47

PAGE-02 DATE-06/01/2009 TIME-15:57:12

REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT

SID-SC00688569 FBI-477908KA4

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

FOSTER, MICHAEL LEE 07/05/2000
SC0420000 SPARTANBURG CNTY SO
CASE-7783
ATN-
WARR-G538954

ARREST CHARGE 01-CRIMINAL
SEXUAL CONDUCT 2ND
OFFENSE DATE-07/05/2000
PHOTOGRAPH AVAILABLE

CIT-C/L, MISDEMEANOR
DOC-01GS4201737 WARR-G538954

COURT CHARGE 01-ASSAULT/BATTE
RY OF HIGH AND AGGRAVATED
NATURE
COURT DISP-CONVICTED;18 MOS
W/CFTS SINCE 7/5/2000
COURT DATE-06/27/2001
ATN-

SC040055C R & E CENTER COLA
CASE-227514
CIT-16-13-30(B)(1)-FELONY

07/24/2000 CUSTODY STATUS-RECEIVED
START DATE-07/24/2000

COURT CHARGE 01-LARCENY/PROB
VIOL
COURT DISP-CONVICTED;1 YR
ATN-

CIT-44-53-370(B)(1)-FELONY

COURT CHARGE 02-DIST COCAINE/
PROB VIOLATION
COURT DISP-CONVICTED;1 YR CC

SC040055C R & E CENTER COLA
CASE-227514
CIT-C/L, -UNCLASSIFIED

06/28/2001 CUSTODY STATUS-RECEIVED
START DATE-06/28/2001

COURT CHARGE 01-ASSAULT/BATTE
RY OF HIGH AND AGGRAVATED
NATURE
COURT DISP-CONVICTED;18 MOS
ATN-

SC040015C SC DEPT CORRECTIONS
CASE-227514
CIT-44-53-370(B)(2)-FELONY

02/26/2003 CUSTODY STATUS-RECEIVED
START DATE-02/26/2003

Subject Description

FBI Number 477908KA4 State Id Number GA2493664J (GA) DOC Number 000398018
 Social Security Number 249237382
 Sex Male Race Black
 Height 6'03" (1998-01-19) Weight 175 (1998-01-19) Date of Birth 1959-04-12
 Hair Color Black (1998-01-19) Eye Color Brown (1998-01-19)
 Scars, Marks, and Tattoos Code Description, Comments, and Images
 SC R ARM SCAR, SCAR - ARM, RIGHT ,
 Place of Birth SOUTH CAROLINA

Caution Information

Notice CONVICTED FELON (GA)
 ***** CRIMINAL HISTORY *****
 ===== Cycle 001 =====

Tracking Number 00039592070
 Earliest Event Date 1998-01-19 Incident Date 1998-01-19

 Arrest Date 1998-01-19
 Arrest Case Number 98A2772
 Arresting Agency GA0690100
 Subject's Name FOSTER, MICHAEL LEE
 Arrest Type Adult
 Charge

Charge Number ① 00039592070001
 Charge Tracking Number 00039592070
 Charge Literal PURCHASE/POSSESS/CONTROL - DRUG NAME MUST BE ENTERED IN
 CHARGE COMMENT FIELD
 Agency GA0690100 GAINESVILLE POLICE DEPARTMENT
 Charge Description GOVT PROP
 Statute PURCHASE/POSSESS/CONTROL - DRUG NAME MUST BE
 ENTERED IN CHARGE COMMENT FIELD (16-13-30(A);
 GA)
 State Offense Code 3512
 Severity Felony

Charge ②
 Charge Number 00039592070002
 Charge Tracking Number 00039592070
 Charge Literal PURCHASE/POSSESS/CONTROL - DRUG NAME MUST BE ENTERED IN
 CHARGE COMMENT FIELD
 Agency GA0690100 GAINESVILLE POLICE DEPARTMENT
 Statute PURCHASE/POSSESS/CONTROL - DRUG NAME MUST BE
 ENTERED IN CHARGE COMMENT FIELD (16-13-30(A);
 GA)
 State Offense Code 3512
 Severity Felony

Charge ③
 Charge Number 00039592070003
 Charge Tracking Number 00039592070
 Charge Literal POSSESSION OF FIREARM OR KNIFE DURING COMMISSION OF OR
 ATTEMPT TO COMMIT CERTAIN FELONIES
 Agency GA0690100 GAINESVILLE POLICE DEPARTMENT
 Statute POSSESSION OF FIREARM OR KNIFE DURING
 COMMISSION OF OR ATTEMPT TO COMMIT CERTAIN
 FELONIES (16-11-106; GA)

FRE DERRICK JETER # 233586
Benny C.I. QR B-219
430 OAKLAWN ROAD
BELZEN, S.C. 29669

Agency
Mail

RECEIVED

OCT 22 2013

PCL MAILROOM

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL E. SHEAROUSE, CLERK OF COURT
P.O. Box 11330
COLUMBIA, SOUTH CAROLINA 29211