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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

William Jeffrey Young, Circuit Court Judge

SHANE LAMAR MOORE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001044

A P P E N D I X

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Appellate Defender

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ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT (dated September 15, 2010).....	1
APPLICATION FOR POST-CONVICTION RELIEF	16
AMENDED PETITION FOR POST CONVICTION RELIEF	24
RETURN	26
POST-CONVICTION RELIEF HEARING TRANSCRIPT	33
APPLICANT'S EXHIBITS # 1 – 4	85
ORDER OF DISMISSAL	93
COURT OF APPEALS ORDER (dated January 5, 2011).....	102
INDICTMENT AND SENTENCE SHEET	103

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE) COURT OF GENERAL SESSIONS
3) 2010-GS-23-8077
4)
4 State of South Carolina) TRANSCRIPT OF RECORD
5 vs)
6 Shane Lamar Moore)
7 -----)

8 September 15, 2010
9 Greenville, South Carolina

10 B E F O R E:

11 THE HONORABLE EDWARD MILLER, Judge

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

13 Joyce Montz, Esquire
14 Assistant Solicitor
15 Attorney for the State

16 Dorothy Manigault, Esquire
17 Attorney for the Defendant

18
19
20
21
22
23
24
25
Caroline Hiskell
Circuit Court Reporter

I N D E X

(There was no exhibits or witnesses presented.)

State versus Shane Lamar

P R O C E E D I N G S

THE CLERK: Your Honor, this is Case No. 2008-GS-23-8077, the State versus Shane Lamar Moore. He's indicted, pleading guilty to trafficking in cocaine -- base crack cocaine commenced to sentencing on this date.

Raise your right hand, please.

SHANE LAMAR MOORE, having been duly sworn, testified as follows:

State your full name for the record.

DEFENDANT MOORE: Shane Lamar Moore.

THE COURT: How many jail day?

MS. MONTZ: Your Honor, we're checking. He's been in since January 20th on a bench warrant but we'll get the exact days.

THE COURT: Okay.

In the last 24 hours, have you had any drugs, alcohol or medication?

DEFENDANT MOORE: No, sir.

THE COURT: Have you ever been treated for the abuse of alcohol, drugs, mental illness or emotional problems?

DEFENDANT MOORE: Yes, sir.

THE COURT: Tell me about that.

DEFENDANT MOORE: In 2002, it was stipulated by a county sentence back in Jersey.

State versus Shane Lamar

1 THE COURT: You were what?

2 DEFENDANT MOORE: I was stipulated to a drug
3 program on a county sentence in New Jersey.

4 THE COURT: Okay. But you're okay today?

5 DEFENDANT MOORE: Yes, sir.

6 THE COURT: Understand what's going on?

7 DEFENDANT MOORE: Yes, sir.

8 THE COURT: I've heard you testify, you seem
9 competent to me.

10 Any question, Ms. Manigault?

11 MS. MANIGAULT: No, sir.

12 THE COURT: Now, you're up here on this
13 indictment, 08-8077, alleges you did in Greenville County
14 on or about March 17, '07 knowingly sell, manufacture,
15 bring in to South Carolina or provide financial assistance
16 or otherwise aide, abet, attempt, conspire to sell,
17 manufacture, deliver, bring in to the State or you were
18 knowingly in actual or constructive possession of 100
19 grams, pleading to trafficking crack greater than 28
20 grams, second offense, and that carries from 7 to 30 years
21 and a \$50,000 fine.

22 The sentence may not be suspended, probation
23 may not be granted. It is a Serious Offense, which means
24 if you get convicted of three or more Serious Offenses,
25 you're eligible for life in prison without parole, and it

State versus Shane Lamar

1 is a no parole offense which means it's a Violent Offense.

2 Do you understand that?

3 DEFENDANT MOORE: Yes, sir.

4 THE COURT: Understanding the nature of the
5 charge against you and the maximum possible punishment,
6 how do you want to plead?

7 DEFENDANT MOORE: Guilty.

8 THE COURT: Anybody forced you in any way or
9 coerced you, threatened you, promised you anything to get
10 you to enter that plea?

11 DEFENDANT MOORE: No, sir.

12 THE COURT: Do you understand and I believe
13 you probably do but I want to go over it with you that you
14 have an absolute right to a trial by jury where you would
15 be presumed innocent unless and until the State can prove
16 you guilty beyond any reasonable doubt of each and every
17 element of the offense that you are charged with. You
18 would have a right to confront and cross-examine the
19 witnesses and the evidence put up against you by the
20 State. You have a right to use the subpoena power of the
21 State to compel in Court all relevant and competent
22 evidence in your own defense or you could remain silent.
23 Your silence will not be held against you and you could
24 never be compelled to incriminate yourself.

25 Do you understand all of those rights?

State versus Shane Lamar

1 DEFENDANT MOORE: Yes, sir.

2 THE COURT: And do you want to give up all of
3 those rights to enter this plea?

4 DEFENDANT MOORE: I would remain silent if I
5 give up those rights?

6 THE COURT: No, you give up your right to
7 remain silent if you enter this plea.

8 DEFENDANT MOORE: Okay.

9 THE COURT: Do you understand that?

10 DEFENDANT MOORE: Yes, sir.

11 THE COURT: I mean, you got all these rights
12 attached when you got a jury trial. In order to enter a
13 plea of guilty, you got to give them all up. Do you
14 understand that?

15 DEFENDANT MOORE: Yes.

16 THE COURT: And one of those rights is your
17 right to remain silent. Do you understand that?

18 DEFENDANT MOORE: Yes, sir.

19 THE COURT: Are you guilty?

20 DEFENDANT MOORE: Yes, sir.

21 THE COURT: And are you totally and
22 completely satisfied with Ms. Manigault?

23 DEFENDANT MOORE: Yes, sir.

24 THE COURT: Have you met with her for a long
25 and as often as you think is necessary to adequately

State versus Shane Lamar

1 prepare your defense in this case?

2 DEFENDANT MOORE: Yes, sir.

3 THE COURT: And you have understood your
4 talks with her?

5 DEFENDANT MOORE: Yes, sir.

6 THE COURT: And has she done anything you
7 think she shouldn't have done?

8 DEFENDANT MOORE: No, sir.

9 THE COURT: Has she not done something you
10 think she should have done?

11 DEFENDANT MOORE: No, sir.

12 THE COURT: Okay. Do you have any complaints
13 about the way you think you should have been treated in
14 the case other than losing your suppression motion?

15 DEFENDANT MOORE: That's the only one I have
16 the suppression motion. That's it.

17 THE COURT: Have you had enough time to
18 review all the evidence the State has against you? Do you
19 know what they would have and what they would show at
20 trial?

21 DEFENDANT MOORE: Yes, sir.

22 THE COURT: Okay. I think we've heard all
23 the evidence but go ahead and put something in the -- you
24 would incorporate the suppression hearing factual
25 presentation, I would assume, but put something in the

State versus Shane Lamar

1 record.

2 MS. MONTZ: Yes, Your Honor. The defendant
3 was stopped in I85 in Greenville County by the South
4 Carolina Highway Patrol for following too closely and
5 impeding traffic. The officer did develop articulable
6 suspicion. He did call for a drug dog which did come and
7 did alert on the vehicle. Search of the vehicle did
8 reveal 142.83 grams of crack cocaine in the false bottom
9 of a coffee can inside the trunk which was individually
10 packaged in a leather baggies. Officers did find a scale
11 and a pot with white residue.

12 Defendant was the driver and the owner of the
13 car and the only person in the car. He does have a prior
14 record with at least one prior drug offense.

15 THE COURT: Would agree that that's the State
16 would prove at trial?

17 DEFENDANT MOORE: Yes, sir.

18 THE COURT: Tell me his history.

19 MS. MONTZ: Your Honor, everything is in New
20 Jersey. The first is in 1994, possession of a controlled
21 dangerous substance and possession of drug paraphernalia,
22 failing to give drugs to police, selling a controlled
23 substance in public, again failing to give drugs to
24 police; 1995, possession of a handgun; 1999 possession of
25 certain bullets; 2000 selling a controlled substance in

State versus Shane Lamar

1 public; 2001 distribution of cocaine two counts; 2004
2 attempt to elude police and a probation violation and that
3 is his record, Your Honor.

4 THE COURT: Is all that pretty accurate?

5 DEFENDANT MOORE: No, sir.

6 THE COURT: Tell me what's no.

7 DEFENDANT MOORE: 2001 was?

8 THE COURT: Distribution of controlled
9 substance.

10 DEFENDANT MOORE: That's not right.

11 THE COURT: It's not. Well, I want to
12 consider it, but you have a 2000 distribution of a
13 controlled substance, right?

14 DEFENDANT MOORE: That's not accurate either.

15 MS. MANIGAULT: Do you have a drug conviction
16 prior?

17 DEFENDANT MOORE: Yes, I do, but it was in
18 '94.

19 MS. MONTZ: I've got copies of his New Jersey
20 record, Your Honor.

21 THE COURT: I don't think it really has any
22 impact. He's admitted to one. You don't remember?

23 MS. MANIGAULT: He admits to at least two
24 prior drug convictions and we're not squabbling about
25 that.

State versus Shane Lamar

1 THE COURT: It could be some violation of
2 probation or ---

3 MS. MANIGAULT: That's what it is, a
4 violation of probation.

5 THE COURT: Another thing I want to make sure
6 you understand if you enter the plea and I accept it then
7 you give up your right to challenge the Constitutional
8 propriety of the seizure of the drugs and your statement,
9 do you understand all that?

10 DEFENDANT MOORE: Could you repeat that?

11 THE COURT: If you enter the plea and you
12 accept it, then you give up your right to challenge the
13 Constitutional propriety of the seizure of the drugs and
14 the voluntariness of your statement, do you understand
15 that?

16 DEFENDANT MOORE: Yes.

17 THE COURT: You want to forward with your
18 plea?

19 DEFENDANT MOORE: Yes.

20 THE COURT: I'll accept the plea as being
21 freely, voluntarily and intelligently made with the advice
22 of a very competent attorney with whom he states he's well
23 satisfied and there is a substantial factual basis for the
24 plea.

25 Okay, what do y'all want to tell me.

State versus Shane Lamar

1 MS. MANIGAULT: Your Honor, my client is 35.
2 He was born in East Orange, New Jersey. He has a 12th
3 grade education. He did not graduate but did get his GED.
4 He has one year of college.

5 He tells me he was picked up on January 7th
6 of 2010 and held in North Carolina until he was
7 extradited back to Greenville on the 20th.

8 He has three children, 10, 9 and 2. He was
9 arrested on a traffic stop as the Court has heard and seen
10 from the video. He did not appear back in court, not
11 intentionally, change of address and didn't get the notice
12 so he has been in detention since being extradited back to
13 South Carolina.

14 Your Honor, he's asked the Court if you would
15 consider the minimum sentence in this case which I believe
16 the sentence range is 7 to 30. He's asking you to ask the
17 Court to consider the minimum sentence and he would
18 certainly ask you to consider that.

19 THE COURT: Okay. Did y'all get any jail
20 days?

21 MS. MONTZ: Yes, Your Honor, 238.

22 THE COURT: 238 days, does that sound about
23 right?

24 DEFENDANT MOORE: Yes.

25 THE COURT: Anything you want to tell me?

State versus Shane Lamar

1 DEFENDANT MOORE: She said 238 days?

2 THE COURT: 238 days. That's eight months.

3 DEFENDANT MOORE: It's a little over that. I
4 had turned myself in, in North Carolina.

5 THE COURT: January 10th.

6 DEFENDANT MOORE: January 7th and I was
7 extradited here on the 20th. I didn't have any charges in
8 North Carolina. I didn't have any other charges. This is
9 my only charge.

10 THE COURT: How about we just give it since
11 January 7th?

12 MS. MANIGAULT: Yes, sir.

13 DEFENDANT MOORE: How about the first five
14 days since I was arrested, does that count?

15 THE COURT: Sure, we'll make sure you get
16 credit for it. Let's total it all up. It's January 20,
17 so add 13 to that, Ms. Manigault. Does 256 sound right?
18 I'm not trying to make light of it.

19 MS. MANIGAULT: Yes, that sounds good.

20 THE COURT: Anything you want to tell me?

21 DEFENDANT MOORE: Yes, I do. It's rough,
22 it's rough. Let's just remember that the ends doesn't
23 always justify the means, for one. As you can see, I got
24 three kids, 10, 9, and one about to turn 3. Not once was
25 I ever on child support and I know it's a big thing down

State versus Shane Lamar

1 here. I know I've done some wrong things in my life, I
2 don't deny that, the record states that; however, some
3 things aren't as bad as they seem on paper.

4 Like I said, I done some wrong things,
5 honestly speaking and God is my witness I can honestly say
6 it's for the right reasons and that's the provide for my
7 family. Sometimes when you ignorant to something simply
8 not knowing or not knowing how to go about doing things
9 the right way, you're not held accountable for that in
10 God's eyes, but once you're aware, you are accountable.
11 And I will admit at the time of this incident, I was
12 aware. I was aware of what I was doing, I don't deny
13 that; however, if you see the tape of the incident, I was
14 doing it for the right reason.

15 The right reason was to proceed on and pay
16 for my commercial driver's license. I was supposed to go
17 to school with that money and that was the reason I
18 attempted this. Unfortunately/fortunately, the outcome
19 came out like this. I'm a firm believer that every bad
20 incident is not a bad incident. I know I'm going to get
21 some good out of this.

22 To be honest with you, this whole suppression
23 hearing and everything, I learned my lesson. Like I said
24 I tried to do everything -- the wrong thing for the right
25 reasons and that's to take care of my kids, but the end

State versus Shane Lamar

1 result is I came to the realization it's not about money
2 with kids, it's about time.

3 THE COURT: Very true.

4 DEFENDANT MOORE: I promise you, Your Honor,
5 tears are not coming down my eyes because I'm facing all
6 this time. Tears are coming down my eyes because I'm
7 going to be away from my kids knowing this is why I really
8 did it.

9 I don't even know what to say to my kids.
10 Like I said, the ends doesn't always justify the means and
11 that's all I got to say.

12 THE COURT: Well, you're an obviously
13 intelligent articulate man and you're right things
14 generally happen and there's a silver lining in every
15 cloud. And I know you'll find one in this, but it's a
16 very serious offense. It's a lot of drugs. I'm going to
17 give him 15 years and a \$50,000 fine. I wish you the best
18 of luck.

19 MS. MANIGAULT: Thank you.

20 ---END OF TRANSCRIPT RECORD---

21

22

23

24

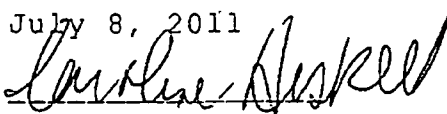
25

State versus Shane Lamar

1 I, the undersigned, Caroline Hiskell,
2 Official Court Reporter for the Thirteenth Judicial
3 Circuit of the State of South Carolina, do hereby certify
4 that the foregoing is a true, accurate, and complete
5 transcript of record of all the proceedings had and
6 evidence introduced in the trial of the captioned case,
7 relative to appeal, in the Circuit Court of Greenville
8 County, South Carolina on the 15th day of September, 2010.

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

11
12
13 July 8, 2011

14 

15 Caroline Hiskell
16
17
18
19
20
21
22
23
24
25

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF GreenvilleShane L. Moore #342772

Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
PAUL B. W. G. SIMS
GREENVILLE, S.C.
2011 MAY 10
2

INSTRUCTIONS - READ CAREFULLY 2011-CP-23-3184

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

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

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

1. Place of detention Leiber Correctional Institution
2. Name and location of Court which imposed sentence Greenville County
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: 2008-GS-23-8017/Trafficking
 - (a) _____
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 9/15/2010 / 15 years (85% and \$50,000 Fine)
 - (b) _____

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Denied
- ii. 2/2/2011
- iii. _____
- (c) the date of each such result:
- i. 2/02/2011
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Involuntary Plea
- (b) INEffective assistance of counsel
- (c) INEffective assistance of Appellate Counsel

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

- (a) Counsel told me to plead guilty after Suppression was denied.
- (b) Counsel failed to give an explanation to Rule 203(B) to the
- (c) Court of Appeals.

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

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. N/A

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

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

i. N/A

ii. _____

iii. _____

iv. _____

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

NO

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

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

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

(a) I appealed, and the appeal was dismissed.

(b) _____

(c) _____

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

- (a) your arraignment and plea? arraignment-no / plea-yes
- (b) your trial, if any? N/A
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you: Dorothy Manigault
- i. 522 North Church Street / PO Box #392 / Greenville, SC 29602
- ii. the same "
- iii. the same "
- (b) the proceedings at which each such attorney represented you:
- i. Suppression Hearing
- ii. Guilty Plea
- iii. _____
19. State clearly the relief you seek in filing this application:
new trial + belated appeal
20. Are you now under sentence from any other court that you have not challenged?
no

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

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

Mr. Shame L Moore

SWORN to and subscribed before me this 4th
 day of May, 2011

Sylla Jones (L.S.)
 Notary Public

My Commission Expires: 1/24/2018

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

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

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Mr. Shame L. Moore
Applicant

SWORN or affirmed to and subscribed before me this

44th day of July, 2011.

[Signature]
Notary Public

My Commission Expires: 1/24/2011

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Shane L. Moore,

Applicant

v.

State of South Carolina

Respondent.

) IN THE COURT OF COMMON PLEAS

) THIRTEENTH JUDICIAL CIRCUIT

) C.A. No.: 2011-CP-23-3184

) AMENDED PETITION FOR
) POST CONVICTION RELIEF

) ENTERED COMPUTER

CLERK OF COURT
GREENVILLE CO. S.C.
RECEIVED
FEB - 8 11 15

The Defendant, by and through his counsel, Caroline M. Horlbeck, respectfully amends his Petition for Post Conviction Relief to add the following allegations:

1. Ineffective assistance of counsel in that counsel failed to prove that Trooper Chastain had no reason or probable cause to stop Applicant.
2. Ineffective assistance of counsel in that counsel failed to properly challenge the second detention which was an illegal search and seizure that violated Applicant's 4th Amendment rights.
3. Ineffective assistance of counsel in that counsel failed to raise the issue of racial profiling during the suppression hearing.
4. Ineffective assistance of counsel in that counsel failed to research and subpoena information regarding camera malfunction.
5. Ineffective assistance of counsel in that counsel failed to give Applicant a copy of his case file and state's response to Applicant's discovery motions upon Applicant's request.
6. Ineffective assistance of counsel in that counsel failed to subpoena Applicant's witness.
7. Ineffective assistance in that counsel was not prepared for trial and Applicant was coerced into pleading guilty.
8. Ineffective assistance of counsel in that counsel failed to file a Motion to Quash the Indictment.

9. Ineffective assistance of counsel in that counsel failed to raise the issue that the State's own evidence reflects four different dates on which the incident allegedly occurred.

10. Trial counsel was ineffective for failing to challenge the time the state has to submit the indictment to the grand jury.

Respectfully submitted,

Caroline Horlbeck
Caroline Horlbeck
Attorney for the Defendant
101 Whitsett Street
Greenville, S.C. 29601

Greenville, South Carolina

8th day of February, 2013

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2011-CP-23-3184
COUNTY OF GREENVILLE	)	
	)	
Shane Lamar Moore,	)	
S.C.D.C. No. 342772,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the post-conviction relief application filed May 10, 2011, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the April 2009 term of General Sessions for trafficking cocaine base (2008-GS-23-8077). Dorothy A. Manigault, Esquire represented the Applicant.

On September 15, 2010, the Applicant pled guilty to trafficking cocaine base, second offense. The Honorable Edward W. Miller sentenced the Applicant to fifteen (15) years imprisonment.

A notice of appeal was filed on the Applicant's behalf at the South Carolina Court of Appeals. By order dated January 5, 2011, the Court of Appeals dismissed the appeal based on counsel's failure to provide a written explanation as to what issues could be reviewed. See Rule 203(d)(1)(B)(iv), SCACR. Counsel subsequently filed a written explanation, which the Court of

Appeals interpreted as a petition for rehearing. The Court of Appeals dismissed the appeal by order dated February 2, 2011, finding there were no preserved issues for appeal pursuant to Rule 203(d)(1)(B)(iv), SCACR.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, the plea transcript, and the appellate records.

II.

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel

“rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Applicant’s assertion that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as

one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy

between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248 (1983).

V.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

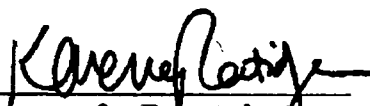
SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN C. RATIGAN
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P.O. Box 11549
Columbia, S.C. 29211

August 18, 2011

By:


Attorneys for Respondent

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2011-CP-23-3184

SHANE LAMAR MOORE, 342772)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

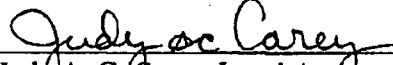
STATE OF SOUTH CAROLINA,)

Respondent.)

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

Shane Lamar Moore, 342772
 Lieber Correctional Institution
 Post Office Box 205
 Ridgeville SC 29472

DATED this 18th day of August, 2011.


 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
 COUNTY OF GREENVILLE 2011-CP-23-03184

SHANE LAMAR MOORE,

-VS-

THE STATE of SOUTH CAROLINA,

Defendant.

TRANSCRIPT OF RECORD

February 15, 2013
 Greenville, South Carolina

Ordered: June 3, 2013

Delivered: June 28, 2013

B E F O R E:

THE HONORABLE W. JEFFREY YOUNG, Presiding Judge.

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

MS. KAREN C. RATIGAN, Esquire
 Assistant Attorney General Appearing for the State

MS. CAROLINE M. HORLBECK, Esquire
 Attorney Appearing for the Applicant

Pamela Faucette
 Circuit Court Reporter

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

I N D E X**Shane Lamar Moore PCR****Page:**

Ms. Ratigan's Recitation of Procedural Background.....3

Ms. Horlbeck's Comments.....3

W I T N E S S E S**Mr. Shane Lamar Moore:****Page:**

Direct by Ms. Horlbeck.....6

Ms. Candice Grier:**Page:**

Direct by Ms. Horlbeck.....34

Cross by Ms. Ratigan.....37

Ms. Dorothy Manigault, Esquire:**Page:**

Direct by Ms. Ratigan.....38

Cross by Ms. Horlbeck.....44

E X H I B I T S**Applicant's Exhibits:****Marked:****Received:**

1 - (Copy of Warning Citation) 19 20

2 - (Towed Vehicle Report) 19 20

3 - (Applicant's Letters/Documentation) 27 27

4 - (Notice) 29 29

Respondent's Exhibits:**Marked:****Received:**

(None)

Court's Exhibits:**Marked:****Received:**

(None)

Reporter's Certification.....51

Reporter's Note: This transcript may contain quoted material. Such material is reproduced as read or quoted by the speaker.

February 15, 2013

9:59 A.M.

(Off-The-Record Comments)

THE COURT: Yes, ma'am?

MS. RATIGAN: May it please the Court, Your Honor? This is the case of *Shane Lamar Moore v. The State of South Carolina*. The docket number is 2011-CP-23-3184.

Mr. Moore was indicted for trafficking cocaine base. He was represented on that charge by Ms. Manigault.

There was a suppression hearing in this case, Your Honor, on his motion to suppress. That motion was ultimately denied.

At that point, he pled guilty on September 15th of 2010 to trafficking cocaine base second offense. He was sentenced by Judge Miller to fifteen (15) years on that charge.

He did file an appeal. The Court of Appeals, however, on January 5th of 2011, the Court dismissed the appeal based on the failure to provide a written explanation of a meritorious issue on appeal. That would be pursuant to Rule 203, Your Honor.

And, then, there was actually a petition for a re-hearing in the case, which the Court ultimately denied, again, for failure to -- to have any preserved meritorious issues for appeal, by an order dated February 2nd, 2011.

His application was timely filed and the State is ready to proceed.

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

MS. HORLBECK: And, Judge, at this point, I've spoken with Mr. Moore extensively about this case. And we do not have a transcript of the

1 suppression hearing. Let me just outline a little bit my efforts to — to — to do
2 that.

3 **THE COURT:** Well, I mean, the — the attorney made the
4 suppression or had the suppression hearing? It was just denied; is that
5 correct?

6 **MS. HORLBECK:** That's correct, yes, sir.

7 **THE COURT:** Okay. So the attorney did what he was supposed
8 to do; it's just that he — he didn't win in that?

9 **MS. HORLBECK:** That's — that's correct, Judge. My client wants
10 me to get the copy of the suppression hearing. And he and I discussed this.

11 And last week — and, when I physically sat down with him a second or
12 third time to talk with him about this, he explained to me that he had written
13 the court reporter. And, at that point, my understanding was that she had —
14 the reporter had told him that — that she did not have that.

15 Today he tells me that no, that's not what she said. She said that she
16 could not assist him with that.

17 So I took it upon myself to just check with the court reporter this week.
18 She has not contacted me back. I don't know the status of the suppression
19 hearing. So I do not have a transcript of that at this point.

20 He is requesting that I request of the Court to continue this hearing.

21 **THE COURT:** I'm not going to continue it based on that. I mean,
22 the attorney — this is focusing on whether the attorney did their job. If they
23 had not requested a suppression hearing, then, I would consider it as
24 something that didn't go right.

25 But if — if he just requested it and they had it and, then, the judge

1 ruled the other way, then, I'm — I'm not going to stop this hearing based upon
2 that.

3 **MS. HORLBECK:** And the only thing — the only other request I'd
4 make, Judge — and I told him I'd just ask this — I don't know if Your Honor
5 perhaps, at the end of the hearing, would consider possibly opening —
6 keeping this record open ---

7 **THE COURT:** I will keep it open for thirty (30) days after that.

8 **MS. HORLBECK:** Thank you, Judge.

9 **THE COURT:** Then, that way if you find it and — and have an
10 opportunity to look through it and see if anything was — you know, I don't
11 know what could have gone wrong; if the attorney didn't ask any questions at
12 all. Then, that would be one thing.

13 If he asked any questions, and the judge just ruled the other way, then,
14 of course, I — I would not grant the PCR. But I will give him the benefit of
15 finding that ----

16 **MS. HORLBECK:** Thank you, Judge. And that way I can try and run
17 this down and — and obtain it, if at all possible. And send it to all parties.

18 **THE COURT:** Okay.

19 **MS. HORLBECK:** All right. And, Judge, that's — that's my motion.

20 At this point I would call Mr. Moore to the stand.

21 **THE COURT:** Okay. Please, come forward and be sworn.

22 (The witness stepped forward to be sworn.)

23 (Off-the-Record Comments)

24 (Whereupon,

25 **SHANE LAMAR MOORE**

1 first being duly affirmed, testified as follows:)

2 (Off-The-Record Comments)

3 MADAM CLERK: Please state your full name for the record.

4 THE WITNESS: Shane Lamar Moore.

5 DIRECT EXAMINATION by MS. HORLBECK:

10:36 A.M.

6 Q. Mr. Moore, where are you currently incarcerated?

7 A. At Richland Correctional Institution.

8 Q. On what charges are you incarcerated?

9 A. Trafficking.

10 Q. And what sentence did you get for that — for the charge?

11 A. Fifteen (15) years.

12 Q. And is that a result — did you obtain — did you get this sentence as
13 the result of a guilty plea or a jury trial?

14 A. It was a guilty plea.

15 Q. Who represented you on those charges?

16 A. Dorothy Manigault.

17 Q. As a result of this representation, did you file a post-conviction relief
18 petition?

19 A. Yes. However, I — I only pled guilty under the — under the
20 circumstances that I — I thought I was going to be able to appeal the suppression
21 hearing.

22 And Dorothy Manigault did say that to me. And I don't understand why
23 there's not on the transcript, but I did pause and ask Judge Miller, as well as her, as
24 well as Dorothy Manigault, can I still appeal the — the suppression hearing.
25 And they both said "Yes."

1 And that's what made me continue on with the plea, but I had every --
2 every — every intention on going to trial.

3 **THE COURT:** Well, generally you have to go to trial actually, but,
4 if you don't agree with that, then, you take it to trial. But you pled guilty to this
5 and admitted to it. But go head, please.

6 **Q.** (By Ms. Horlbeck) All right. Mr. Moore, let's — I'm going to back you
7 up. We're going to get into that issue, okay? And — and you can explain — explain
8 fully — and explain that fully.

9 And certainly, when that comes up again, do testify further about —
10 about what you feel was — was done incorrectly.

11 But I'm just going to start you with one of the first allegations in — in
12 your petition, in your amended petition, you listed that your attorney, Ms. Manigault,
13 did not prove the unlawfulness of the traffic stop.

14 **A.** Yes.

15 **Q.** Or that she failed to prove that this — that this was a lawful traffic stop.
16 Let me correct myself. Is that — is that — we'll start with that — that allegation.

17 **A.** Yes, ma'am.

18 **Q.** Is that correct?

19 **A.** Yes.

20 **Q.** Okay. And explain to the Court why you believe there was no traffic
21 violation that day for Trooper Chastain to — to — to stop you for.

22 **A.** Because ---

23 **Q.** Well, why did the trooper say that he stopped you?

24 **A.** He said he stopped me for — for driving too slow and following too
25 close.

1 Q. Okay.

2 A. And impeding traffic.

3 Q. And — and where were you when — when the trooper stopped you?

4 A. Around about the — the I — I want to say I-85 ----

5 Q. Right.

6 A. — at around about the --- the White Horse Road exit, which I believe
7 is like 47 or 46.

8 Q. Okay. And you were the driver obviously. Were you following any
9 other cars too closely?

10 A. No, not at all.

11 Q. Okay. And the other alle — allegation or the other reason that the
12 trooper said he stopped you was he said you were going too slowly and impeding
13 traffic?

14 A. Yes

15 Q. All right. Do you recall the speed limit on I-85?

16 A. Yes. The — the maximum speed was 60 miles per hour.

17 Q. Okay.

18 A. However, the minimum speed was 45 miles per hour. Now, when
19 Trooper Chastain stated that as — or when he first — he initially seen me, he
20 clocked me at 58 miles per hour. And, at the same time, he said I was following too
21 close to a black SUV, which I wasn't.

22 Then he said, once he got behind me, he said I had dropped in
23 between 53 and 55 miles per hour. And that was the slowest that I had went, you
24 know.

25 THE COURT: Well, I'm — I'm looking at the transcript here and I

1 don't mean to interrupt you, but didn't Judge Miller explain all of this to you
2 when you pled guilty? That all of that — everything about the suppression
3 hearing was waived and you went forward?

4 A. No, no, no, Your Honor.

5 THE COURT: I'm just looking at the transcript.

6 A. I understand. I understand. However ----

7 THE COURT: Okay. But, I mean, what's in the transcript is the
8 only thing I can go by.

9 A. I understand.

10 THE COURT: I can't figure out —

11 A. Yes, sir.

12 THE COURT: — what was in your mind. All right. Proceed.

13 A. I understand. Can I say something, Your Honor?

14 THE COURT: No, sir, answer her questions.

15 Q. (By Ms. Horlbeck) Mr. Moore ---

16 A. Wow.

17 Q. — now there was a video in this case, correct?

18 A. Yes.

19 Q. Okay. Did — did the video show anything about you traveling too
20 closely behind other automobiles or impeding traffic?

21 A. No, not at all.

22 Q. All right.

23 A. Actually, that part of the video has been erased.

24 Q. Okay. When did the — to your recollection, when did the video start?

25 A. It's — it — don't you have — don't you have the transcript here?

1 Q. I'm just asking you to your recollection.

2 A. To my recollection, it started at ---

3 Q. Well, where -- where were you? Were you driving --

4 A. I was driving in the road -- I was driving on the road.

5 Q. Had your -- but did the video start when you were still driving or were
6 you pulling over?

7 A. Well, on his dash cam, it was he was driving. The -- the camera cut off
8 at two minutes and it came back on and it had me pulling over to the side of the
9 road. It had me actually on the shoulder coming to a complete stop.

10 Q. All right. And the video -- correct me if I'm wrong -- is it your
11 understanding that the video did not show any -- any of your driving, just you pulling
12 off the road, correct?

13 A. Correct.

14 Q. Okay. All right. And the -- the only evidence -- the only evidence
15 there was, was Trooper Chastain's testimony of you impeding and driving -- of
16 following too closely; is that correct?

17 A. Yes.

18 Q. Okay. All right.

19 A. Once, again, that part of the video was cut off. And there was no
20 traffic that morning.

21 Q. Okay. All right. And did your attorney, during the suppression hearing,
22 did she bring this up? Did she raise this issue to the Court?

23 (Brief Pause)

24 A. I can't really recollect that. That's why the suppression hearing will be
25 a -- is -- is a major factor to me in this case.

1 Q. All right. And where were you headed when the trooper stopped you?

2 A. To North Carolina.

3 Q. And where were you going in North Carolina?

4 A. To -- to call my -- to get my daughter from the baby sitter and spend
5 the week with her.

6 Q. Who was your daughter with?

7 A. She was with the baby sitter.

8 Q. Okay. But was she -- where was her mother?

9 A. Her mother was at work.

10 Q. Okay. Where does her mother live?

11 A. At that time, she stayed at -- it was Drive (phonetic) --

12 Q. What state?

13 A. Oh, in North Carolina. I'm sorry.

14 Q. All right. And did --

15 A. Raleigh, North Carolina.

16 Q. And did the -- did the trooper -- did you ask the trooper to contact the
17 -- the child's mother?

18 A. I asked if I could I contact her once he -- once he -- once he said he
19 was going to hold me after he gave me the paperwork back from the citation
20 (phonetic), I asked him could I contact her and let her know -- let her know that I
21 would be running a little late. And he called his self.

22 Q. All right. So the trooper was able to call -- call the child's mother,
23 correct?

24 A. From his cell phone, yes.

25 Q. All right. And, to your knowledge, did the trooper confirm that you

1 were — confirm with the child's mother that you were headed to North Carolina?

2 A. Yes, yes.

3 Q. Okay. All right. Now, during the suppression hearing, did the trooper
4 — to your recollection, did the trooper testify ----

5 A. Yes.

6 Q. — about whether — whether or not you were going to North Carolina?

7 A. Yes. He said a lot — a lot about that, that I was going to stay a week
8 with my daughter's mother. That's what he said on the stand.

9 Q. Okay. All right. And —

10 A. And she confirmed it on the phone that I was coming.

11 Q. All right. And did you — did you explain to your attorney that you had a
12 witness in North Carolina that you wanted her to try to —

13 A. Yes, I did.

14 Q. ---- get to court?

15 A. Yes, I did.

16 Q. Okay. And — and tell us about that. Tell us about that conversation
17 that you had with Ms. Manigault.

18 A. I explained to her that I -- I had a witness and I also asked her to at
19 least subpoena the officer's record, the officer's phone records, because he called
20 her from his cell phone. So, that would prove that -- what I was saying was correct.

21 And she said that, that was not needed. She didn't contact, you know, my
22 child's mother nor — nor either did she try to subpoena the — the -- the officer's
23 phone records.

24 And I felt like that was a very, very important part of my case because
25 that was one of — one of the reasons why I lost the suppression hearing because

1 the officer -- it was the officer's word against mine by him saying that I was lying
2 about that and that, that -- that stemmed from that -- it stemmed from two criminal
3 indicators that -- out of three, which Judge Miller had upheld.

4 He only upheld three criminal indicators out of seven. And two of
5 them was -- well, one was he said that -- that I was lying about going to North
6 Carolina to -- to stay all week with my daughter and my daughter's mother.

7 And the second one was because I had -- I had I think three -- three
8 outfits and -- three outfits and -- and -- and I had -- like I had -- he said being that
9 I didn't have a week's worth of clothes that I was lying about staying all week, in
10 which I got clothes in North Carolina.

11 So the -- the -- the -- the third indicator was clasped hands. That was
12 it. I --

13 Q. And is it your position today that if your -- if your child's mother had
14 been able to testify that, that would have shed some light on the trooper's lack of
15 credibility?

16 A. Yes, Absolutely, yes.

17 Q. All right.

18 A. Yes.

19 Q. All right. Now -- and, Ms. Manigault, did -- did she subpoena the
20 phone records in this case?

21 A. No.

22 Q. All right. And did she -- to your knowledge, did she speak to the
23 child's mother?

24 A. No, not at all.

25 Q. And what is the child's mother's name?

1 A. Candice Grier.

2 Q. Okay. All right. And was Ms. Grier present for your trial?

3 A. No, she wasn't.

4 Q. All right. All right.

5 A. She said she was not needed.

6 Q. All right.

7 A. Dorothy Manigault said she was not needed.

8 Q. Now, when the trooper stopped you, what did he do initially?

9 A. What did he do?

10 Q. Yes. I mean, did he question you? Did he throw you right in jail?

11 What happened?

12 A. No. See, he — he asked for my paperwork. I handed him my
13 paperwork. He asked me to get out of the car. I got out of the car.

14 And, once I got out of the car, he walked me back to his car, stood me
15 beside the car. He ran the — I guess he checked my paperwork, issued a citation.

16 Q. What was the citation for?

17 A. It was a warning citation actually ---

18 Q. Right.

19 A. — for — for impeding — impeding traffic ---

20 Q. Okay.

21 A. — and -- impeding traffic and following too close.

22 Q. All right. And, at that point, once he issued the warning citation, what
23 happened next?

24 A. He gave — he gave me my — my license, registration, and insurance
25 back. And I began — I began to walk to my car. And, I was walking -- as I was

1 walking to my car, he asked me could he search my car. And I told him I was in a
2 rush.

3 He said — he said, "Answer my question." I said, "Well, no, I'd rather
4 you not." From my understanding, I should have been let go. This is where I
5 believe my — my Fourth Amendment rights was violated because he — he kept me
6 once the stop was over.

7 The — for what he stopped me for. He gave me a warning citation and
8 it was over. Then he kept me. He said he wanted to keep me there for the drug
9 canines to come out.

10 Q. All right. And your position is that you were — you didn't — did he ask
11 you if he could search the car and you said no? Is that what happened?

12 A. Yes.

13 Q. All right. And — and, then, the trooper requested the drug dog? Is
14 your position today that your lack of consent could not be used to — to further the —
15 the — to keep you there and furthering the stop?

16 A. Excuse me?

17 Q. Is it your position today that your refusal —

18 A. Uh-huh (affirmative).

19 Q. — to consent to a search cannot be used as evidence to support
20 reasonable suspicion of a crime?

21 A. Yes.

22 Q. All right.

23 A. Absolutely.

24 Q. And did your attorney raise that during the suppression hearing?

25 A. No.

1 Q. All right.

2 A. Excuse me. From my understanding, a Fourth Circuit case that --
3 *United States v. Branch* (phonetic) it says there that "The maximum acceptable
4 length of the routine traffic cannot be stated with mathematical precision, but
5 instead, the appropriate Constitutional inquiry is whether the detention lasted longer
6 than necessary given its purpose," which it did.

7 But it says, "...Once the driver has demonstrated that he is entitled to
8 operate his vehicle and the police officer has issued the prerequisite (phonetic)
9 warning or ticket, the driver must be allowed to proceed on his way."

10 Q. Okay.

11 (Brief Pause)

12 Q. All right.

13 A. And which I wasn't.

14 Q. All right. And — and obviously the Court did not suppress the drugs,
15 correct? And you wanted to appeal that, correct?

16 A. Yes, absolutely.

17 Q. Okay. All right. And I'm going to get to that kind of towards the end.
18 Did you also raise an allegation of — of racial profiling ----

19 A. Yes, I did.

20 Q. — that you wanted your attorney to raise during the suppression
21 hearing?

22 A. Yes, I did.

23 Q. All right. And tell the Court about that.

24 (Brief Pause)

25 A. In a word, Trooper Chastain, during the observation, he said he

1 observed one occupant in the car, which was the black male driver. He also stated
2 on to the stand, in my suppression hearing, that he observed me — he observed
3 several indicators of criminal activity.

4 But more importantly, four of his criminal indicators were prior to the
5 initial traffic stop, which was the fact that I was not speeding. He said that was a
6 criminal indicator. He said that I was trying to drive too perfect. And because I was
7 not speeding, he said that was another criminal indicator.

8 The third one was my hands were positioned on the steering wheel at
9 10 o'clock and 2 o'clock. How — that's how I drive, how I was taught to drive. He
10 said that was a criminal indicator.

11 And the fourth one was because I had Georgia wildlife tags. It was
12 wildlife edition tags from Georgia and that I was the animal. And — and I have proof
13 of that.

14 He said that being that my tags said, "Wildlife," he said I was — he
15 said that — that was an indicator that I was living a — that was an indirect statement
16 that I'm living a wild lifestyle.

17 So to me I was profiled. It's — it's — it's evident. But — but,
18 nonetheless, it's evident that he had more on his mind than just a regular routine
19 traffic stop from the very start.

20 That — that — if you ask me, that was — that was a violation of my
21 Fourth Amendment right, especially when the video don't — don't show at all that I
22 was following too close or driving too slow or impeding traffic. And I was well within
23 the range of the speed limit.

24 Q. And that issue of racial profiling, was that raised during your hearing?

25 A. No.

1 Q. All right. All right. You also had -- you raised an issue of some
2 discrepancies in the dates that this incident happened; is that correct?

3 A. Yes.

4 Q. And you wanted those pursued in your hearing and at your trial,
5 correct?

6 A. Yes.

7 Q. All right. Well, let's talk a little bit about that. And I believe -- let's start
8 with the warrant. I believe that's probably in the -- in the Court's package.

9 A. The what?

10 Q. The arrest warrant. And I can give you a copy of that if you want.

11 (Brief pause while document retrieved and handed to the
12 witness.)

13 Q. (By Ms. Horlbeck) Mr. Moore, I'm just going to hand you a copy of
14 this. I'm not going to have it identified because it's in the Court's packet. But just
15 look at that and tell me what that is.

16 A. It's the arrest warrant.

17 Q. All right. And what's the -- what -- what date -- what's the date of the
18 incident listed on that arrest warrant?

19 (Brief Pause)

20 A. It says 3/17.

21 Q. Okay. What year?

22 A. Two thousand, eight (2008).

23 Q. Okay. And the indictment...

24 (Brief Pause while document is retrieved and handed to the
25 witness.)

1 Q. And this is also in the Court's packet. Mr. Moore, I'm just going to
2 hand you this. I'm not going to have it marked because I believe it's — everyone
3 has a copy of it. I'd just ask you to take a look at that and identify it for me, please.

4 A. It's the — the indictment.

5 Q. Okay. And what date is that? What incident date does the indictment
6 list?

7 A. March 17th, 2007.

8 Q. Okay.

9 A. Which is the year prior.

10 Q. All right.

11 (Brief Pause)

12 Q. And, then, we've also got two more documents.

13 (Brief pause while document shown to counsel.)

14 MS. HORLBECK: And I'm going to have these two marked.

15 (Applicant's Exhibit Numbers 1 and 2 were marked for
16 identification.)

17 (Off-The-Record Comments)

18 Q. (By Ms. Horlbeck) All right. Mr. Moore, I'm going to hand you a copy
19 of this, of Applicant's — Applicant's 1 and ask you to identify that.

20 A. This is the — the Department of Public Safety — Public Contact
21 Warning.

22 Q. Okay. Is that the warning that the — that the trooper issued to you?

23 A. Yes.

24 Q. Okay. What's — what's the date of the incident listed on that warning?

25 A. March 15th, 2008.

1 Q. Okay.

2 A. Two days prior.

3 Q. Okay. And, then, I'll ask you — I'm handing you a copy of Applicant's
4 2 need to identify that.

5 A. It's the towed vehicle report by Trooper Chastain.

6 Q. All right.

7 A. And this is dated for March 15th, 2008.

8 MS. HORLBECK: All right. And, Judge, I'd move these into
9 evidence.

10 THE COURT: All right. Any objection?

11 MS. RATIGAN: No objection.

12 THE COURT: Without objection, Plaintiff's Exhibits — is that 1
13 and 2 —

14 MS. HORLBECK: Yes, sir.

15 THE COURT: — are admitted into evidence.

16 (Whereupon, Applicant's Exhibit Numbers 1 and 2 were admitted
17 without objection.)

18 Q. (By Ms. Horlbeck) And, Mr. Moore, did you and Miss — Ms. Manigault
19 discuss the discrepancies on the dates of the documents? That were reflected in
20 the important documents in the case?

21 A. Well, we discussed one. That was the — the — the warning. It was
22 the warning. And that's the only one.

23 THE COURT: Can I see it?

24 (Documents handed up.)

25 Q. All right. You said you discuss those. What did you discuss?

1 A. Just the warning, just — just one. I had pointed out to her that the
2 warning had the wrong date. I wasn't aware because I didn't have all my paperwork,
3 but the tow — the tow report, I wasn't aware of that. Nor was I aware of the
4 indictment because I didn't have that either.

5 Q. All right. Is it your position that Ms. Manigault should have noticed
6 those discrepancies?

7 A. Absolutely, yes.

8 Q. All right. And what did you want her to do? Why — why did you think
9 that she should have noticed that and why do you think that would have been
10 helpful to your case?

11 A. Because it — it states that the — the dates that he's saying the
12 incidence took place is false. It was impossible for me to — for me to plead to
13 something that's false.

14 Q. And do you believe that, that also cast some light on the trooper's
15 credibility?

16 A. Yes, absolutely.

17 Q. And did you want — is it your position that the Court should found out
18 about that and the — the jury too?

19 A. Yes.

20 Q. All right. Now you also raised an issue of the timeliness — the
21 timeliness of the indictment, the filing of the indictment, or the — the issuance of the
22 true bill with respect to your date of arrest?

23 A. Uh-huh (affirmative).

24 Q. Okay. Let's — let's talk a little bit about that.

25 (Brief Pause)

1 A. Yes. The arrest — you said the timeliness of the — of the indictment,
2 correct?

3 Q. Yes, sir. What — what — do you recall the date that you were
4 arrested?

5 A. Yes, on March 17th, 2008.

6 Q. Okay. And when — when was the true billed issued or the indictment
7 issue, if you recall?

8 A. It was ---

9 Q. Was it April the 14th, 2009?

10 A. Yes, April 14th, 2009.

11 Q. Okay. And is it your argument that — that, that is untimely?

12 A. Yes.

13 Q. Okay. Explain that.

14 A. "Unless the prosecution on an indictment is waived, or the indictment
15 — the indictment must be filed with the Court within 30 days or the next General
16 Sessions term from the date of the arrest or from the date on which the accused
17 was served with the summons." So the — the indictment is alleged to be deemed
18 illegal. (Phonetic)

19 Q. All right. And did your attorney pursue that issue?

20 A. No.

21 Q. And did you request that she try to have the indictment quashed on
22 that basis?

23 A. No, I didn't. I wasn't aware of it. I wasn't aware of what I know now.

24 Q. Is it your argument that your attorney should have been aware —
25 aware of that ---

1 A. Yes.

2 Q. — and gone over that with you?

3 A. Yes.

4 Q. And is it your argument today that she should have presented it ---

5 A. Yes.

6 Q. --- to the Court?

7 A. Yes.

8 Q. Okay. 'All right. You also raised an issue of the sufficiency of the
9 indictment ---

10 A. Yes.

11 Q. --- and the date -- the date that the -- the date that the grand jury
12 met?

13 A. Yes.

14 Q. Do you recall that allegation?

15 A. Yes.

16 Q. Okay.

17 A. Yes.

18 Q. All right. To your knowledge -- did you write the -- the Clerk of Court
19 and request information about whether or not General Sessions was -- was in
20 session at the time the grand jury met?

21 A. Did I write the clerk of court? I believe so. I wrote a few people. But I
22 don't have those records. I know I wrote the clerk of court. I wrote the court
23 administrator. I wrote -- I wrote Jean Toal.

24 Q. Okay.

25 A. I wrote a quite a few people.

1 Q. Ultimately, did you learn that the Court of General Sessions was not in
2 session when the grand jury met?

3 A. Were they what? Am I aware that there was not -- according to the
4 calendar, they was not convening on indictments or the -- when the grand jury was
5 in session.

6 Q. Okay. So your argument is that the indictment was not true billed
7 during a time when General Session was in session? Is that your argument?

8 A. Yes, during the time when -- when the grand jury was in session.

9 Q. All right. And did you realize that was an issue in your case?

10 A. Yes.

11 Q. Did you at the time or did you realize after ----

12 A. Afterwards.

13 Q. Okay.

14 A. Afterwards.

15 Q. And is it your argument that your attorney should have recognized that
16 issue and raised it?

17 A. Yes, absolutely.

18 Q. All right. Okay.

19 A. I mean, according to -- this is Section 14-5-790 (phonetic), the Court
20 of General Sessions for Greenville County was not in session during the time the
21 alleged indictment was produced. And under no circumstances can the Courts
22 convene outside of those terms, unless an order signed by Jean Toal, has been
23 issued.

24 Therefore, that made the indictment invalid. Furthermore, the
25 indictment was not filed nor published with the clerk of court. And, from my

1 understanding, all original indictments, which have been returned by the grand jury,
2 should immediately be filed with the clerk of court. And that's ordered by Jean Toal
3 as well.

4 Q. All right. So at — at this point — ultimately you pled guilty; is that
5 correct?

6 A. Yes.

7 Q. All right. And you — you seemed to — today your testimony is that you
8 had some good appellant issues ---

9 A. Yes.

10 Q. — to — to your belief?

11 A. Yes.

12 Q. All right. Then explain to the Court why you pled — why you entered a
13 guilty plea.

14 A. For one, I was — I was unaware of what I'm aware of now. But two, I
15 was under the false pretense that I was able to — to appeal the suppression
16 hearing; that I -- I preserved grounds for appeal.

17 I was under — I was under the false pretense that I — I — I was
18 entering something like a conditional plea, which is a plea of guilty for nolo
19 contendra entered with the Court's approval and the government's consent.

20 "The Defendant reserving the right to appeal any adverse
21 determinations of one or more pre-trial motions. And, if the appeal is successful, the
22 plea is withdrawn and a new one is entered." (Phonetic)

23 That's what I was under the — the impression that I was — I was
24 accepting. I don't why it's not in the transcript. I — I really don't.

25 I — I asked the judge and I asked — I — I asked my attorney, when —

1 when they asked me was I satisfied with the — with my attorney, I paused and I
2 asked the judge, I said, "Your Honor, I can appeal the suppression hearing?" He
3 said, "Yeah, you can."

4 I said — I looked at my attorney and said, "And you're going to file the
5 appeal for the suppression hearing?" She said, "Yeah, I'm going to file it." And to
6 no avail; it — it didn't happen.

7 Q. Okay. And, if you had known that you actually waived — were waiving
8 your appellant rights by pleading guilty ---

9 A. Uh-huh (affirmative).

10 Q. — what would you — would you have done anything differently?
11 would you still have pled guilty?

12 A. No, I --, I would -- I wouldn't have pled guilty at all. I would've --

13 Q. What would you have done?

14 A. I would have went to trial, knowing that I reserved the right to -- to
15 appeal every decision.

16 Q. Okay.

17 A. That 's the only reason I pled guilty.

18 Q. Okay. What other issues? Have we missed any issues that you
19 wanted to raise or things that your attorney did — did or didn't do that she should or
20 shouldn't have done?

21 A. Oh, I'd like to — introduce this into evidence the — the — the — the
22 letters that I wrote and that I received (indicating); the court calendar, you know, the
23 — the letter from Jean Toal's office stating that there was no permission granted for
24 — for the indictment to be convened on outside of set terms. I guess I'd like — I'd
25 like to ----

1 THE COURT: Do you have any objection to these being put ---

2 MS. RATIGAN: I'd like to just ---

3 THE COURT: You'd like to look at them?

4 MS. RATIGAN: Look at it, yeah.

5 (Brief pause while documents reviewed by Ms. Ratigan.)

6 MS. RATIGAN: I have no objection, Your Honor.

7 THE COURT: All right. They'll will be entered together as Exhibit
8 Number 3 for the Applicant.

9 (Whereupon, Applicant's Exhibit Number 3 was marked and
10 admitted without objection.)

11 Q. (By Ms. Horlbeck) Okay. What --- is there anything else we have not
12 covered that you want covered?

13 A. Yes, yes.

14 (Brief Pause)

15 A. Once again, on the indictment, my attorney, my trial attorney, was,
16 again, ineffective for once again failing to challenge the invalid or insufficient
17 indictment because in order to indict me on Section 44-53-375, they had to find
18 that I violated the provisions of 44-53-370 because 44-53-375 is really defined as
19 enhanced punishment.

20 And the indictment alleged that I --- that I violated 44-53-375, which is
21 only an enhancement provision. They failed to state that I violated the general
22 provisions of 44-53-370.

23 Therefore, I should have never been indicted under four --- 44-53-370
24 first and sentenced under 44-53-375.

25 Q. Did you and your attorney --- did you all discuss this prior to ---

1 A. No.

2 Q. — your hearing —

3 A. No.

4 Q. — and guilty plea?

5 A. We didn't discuss nothing.

6 Q. All right.

7 A. No.

8 Q. And is it your position that, that's an issue you should have — that she
9 would have raised with you and in the Court?

10 A. Yes. And I'd like to mention for the record that when I — I asked for
11 the indictment, I was never given the indictment until — she — she said to me
12 "You..." — she said that — that, "You can..." When I asked for the indictment, she
13 said, "You probably haven't been indicted."

14 And I said, "Well — well, if I haven't been indicted, how can we go —
15 go to trial if I haven't been indicted? That's when she came up with the indictment.

16 Q. Okay. And you got a copy of it prior to trial?

17 A. Yes, shortly before ---

18 Q. Okay.

19 A. — going to trial.

20 Q. All right.

21 A. But I — I wasn't aware of what was going on at the time.

22 Q. Okay. All right. And is there anything else we have not previously
23 discussed that you want to raise now?

24 A. Yes.

25 (Brief Pause)

1 A. Oh....

2 THE COURT: Were these pled? I mean, we're not going to go
3 — we'll go on if it was pled in his PCR.

4 MS. HORLBECK: I believe we've just — I — I think we've hit most of
5 the things that I had — I had put in his amended petition, Judge. I just — just
6 out of an abundance of caution ----

7 THE COURT: Right.

8 MS. HORLBECK: — but I — I'm planning on wrapping it up.

9 THE COURT: Okay.

10 Q. (By Ms. Horlbeck) So bring it up now if you've got it, Mr. Moore.

11 A. Yes, I understand. I feel as though I've been deprived due process of
12 law in accordance with the South Carolina Constitution, Article 1.3 (phonetic). I filed
13 — excuse me — a preliminary hearing about two days after the incident occurred.
14 Needless to say I never had one, nor was I afforded that prelim.

15 A preliminary hearing was supposed to have taken place for me. And
16 — however, the records reflect that a prelim was held, and which I find ironic
17 because I received a notice to appear in court besides that. I — I have the notice
18 that I received that — for my prelim.

19 MS. HORLBECK: Okay.

20 A. That I would like to introduce into evidence.

21 THE COURT: Do you have any objection to them?

22 MS. RATIGAN: That's fine, Your Honor.

23 THE COURT: All right.

24 (Whereupon, Applicant's Exhibit Number 4 was marked for
25 identification and admitted without objection.)

1 A. And ---

2 THE COURT: That'll be Number 4.

3 A. I guess I would like to also — I'd also put on record that, as far as my
4 — my trial counsel being — being ineffective, for — for failing to subpoena my — my
5 — my daughter's mother.

6 Q. Okay. We've — we've already been over that one. So..

7 A. This — this is the case right here.

8 Q. Okay.

9 A. You know...

10 Q. Just give us the cite.

11 A. The cite is *Moore vs. Moore*, SC 2008, 376, S.C. 467, 657, SE 2(d),
12 743 and *The State versus Lyles* (phonetic).

13 Q. Okay.

14 A. And that's 379, S.C. 328, app. 2008.

15 MS. HORLBECK: All right. Please answer any questions that the —
16 that Ms. Ratigan may have for you.

17 MS. RATIGAN: I don't have any questions for Mr. Moore, Your
18 Honor.

19 THE COURT: That's fine. Thank you. You may step down, Mr.
20 Moore.

21 MS. HORLBECK: Judge, we have one more witness via tele-a-
22 conference.

23 THE COURT: Okay. Very good.

24 MS. HORLBECK: And I've given the — Madam Clerk the name and
25 the number. And I'm — I'm ready.

1 (Off-The-Record Comments)

2 THE COURT: You may step down.

3 THE WITNESS: Okay. Your Honor, I still have ----

4 THE COURT: Your — your — your — your attorney has quit
5 questioning you. And I can't answer ----

6 THE WITNESS: Can I put something else -- can I put something
7 on the record?

8 THE COURT: You've already been cross examined and you're
9 done. Thank you. Have a seat.

10 THE WITNESS: Wow, wow.

11 THE COURT: You may step down.

12 THE WITNESS: Your Honor, I'm still — I have one more question.

13 THE COURT: Do you have one more question to ask him?

14 MS. HORLBECK: I — I —

15 THE WITNESS: I can't figure out why I never ----

16 THE COURT: Okay. Thank you, sir. You may step down.

17 THE WITNESS: I've got something —

18 THE COURT: Sir, I need you to hold your comments ---

19 THE WITNESS: Hold my comments? This is my day in court. I — I
20 have that right, the First Amendment ---

21 THE COURT: I'm putting it on the record your attorney has
22 finished questioning you.

23 THE WITNESS: Don't I have the right to put on — on record what I
24 — what needs to be said?

25 THE COURT: You know, there's a recent case that came out

1 and I'm going to let you say what you want.

2 **THE WITNESS:** I appreciate it. I ---

3 **THE COURT:** Please sit back down. There was a recent case
4 that came out in a death penalty case where the judge did not allow the
5 Defendant to testify in his death penalty case. This is similar to that.

6 You're advising him not to testify; is that correct? This is a civil matter,
7 though. This isn't a criminal. You have no further questions?

8 **MS. HORLBECK:** I -- I have no further questions, Judge. I'm --
9 I'm done.

10 **THE COURT:** Okay.

11 **THE WITNESS:** I just want put -- put on record that --

12 **THE COURT:** I'll let -- I'm going to -- this is a civil matter, not a
13 criminal matter. I will give him the opportunity to --

14 **THE WITNESS:** I understand that; I understand that. And I just
15 want to put on record that I had requested these transcripts since -- since I --
16 I filed for my PCR. And on here it states that on the PC -- on my PCR return,
17 it states that "Attached herewith and the Court will be notified by reference
18 are the records of Greenville County Clerk of Court regarding the subject of
19 conviction, the Applicant's records from the South Carolina Department of
20 Corrections, Applicant's Appellate records, and the plea transcript and the
21 appellate records." (Phonetic)

22 Now this was dated August 18th, 2011. These transcripts here was
23 dated July 8th, 2011. Now, I wrote the -- the -- the court reporter, my -- my
24 attorney, Ms. Horlbeck, and I just received this today, as well as I ordered -- I
25 tried to obtain the -- the -- the transcripts of the suppression hearing.

1 But the point I'm making is, this is — this transcript has been prepared.
2 And I was supposed to have got a copy with my return, in which I never had a
3 copy. So it was almost impossible for me to properly prepare without this
4 transcript after I — after I ordered it.

5 THE COURT: Well, I'm — I said you could have 30 days.

6 THE WITNESS: Okay. I'm sorry. I'm sorry.

7 THE COURT: I'm going to hold this hearing open.

8 THE WITNESS: I'm sorry. I'm sorry.

9 THE COURT: I'm holding the record open for 30 days ---

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: — to see if you can provide that.

12 THE WITNESS: Okay. Pardon me, Your Honor.

13 THE COURT: No problem.

14 THE WITNESS: I'm sorry. I — I really am. Thank you.

15 THE COURT: Yes, sir. Have a good day.

16 THE WITNESS: The same to you.

17 (The witness stepped down from the witness stand.)

18 THE COURT: Does the State have any — oh, we've got one
19 more witness.

20 MS. HORLBECK: Yes, sir.

21 (Off-the-comments regarding calling the witness.)

22 (Whereupon,

23 CANDICE GRIER

24 first being duly sworn, testified as follows:)

25 MADAM CLERK: Thank you. Please, state your full name for the

1 record.

2 THE WITNESS: Candice Grier (phonetic).

3 MADAM CLERK: Spell your last name.

4 THE WITNESS: G-r-i-e-r.

5 MADAM CLERK: Thank you.

6 DIRECT EXAMINATION by MS. HORLBECK:

10:39 P.M.

7 Q. Ms. Grier, this is Caroline Horlbeck, and I just have a few questions for
8 you.

9 A. Yes, ma'am.

10 Q. All right. How do you know Mr. Shane Moore?

11 A. He is my daughter's father.

12 Q. All right. And do you recall the day that you got a telephone call from a
13 Trooper Chastain from South Carolina?

14 A. That is correct, yes.

15 Q. Okay. And on the — on the day that, that trooper called you, do you
16 recall what Shane Moore was doing? Do you know? Do you have any information
17 about where he was or what he was doing that day?

18 A. I do know that he was in Atlanta, Georgia and he was en route coming
19 to Raleigh, North Carolina at the time to come and spend some time with me and
20 his daughter. And he was supposed to watch his daughter.

21 Q. Okay.

22 A. Because I had to work.

23 Q. All right. And how long was Mr. Moore planning on being there? Do
24 you recall?

25 A. He was actually going to stay for about a week or so or — because he

1 already had clothes here. So he was just coming to — and to relief me also until we
2 find a babysitter.

3 Q. All right. And what was your understanding of why Trooper Chastain
4 called you that day?

5 A. When he called me, he asked me if I knew him. He asked me where I
6 was. He wanted to know — he — he pretty much called and said that "He's been
7 stopped."

8 Q. Okay.

9 A. And I asked for what and he said that he was being stopped for a
10 traffic violation.

11 And I said "Okay." And he said — and after that he said he would give
12 me a call back to let me — said, "Well, if he's going to be able to make it to come
13 and pick his daughter up." And he told me he would give me a call and let me know.

14 He, then, called me back. I don't remember the timing, but — and let
15 me know that Shane Moore was being detained and I asked for what. And he said
16 he cannot disclose that information.

17 Q. Okay. And were you able — able to tell the trooper where Mr. Moore
18 was traveling to, that he was traveling to see you in North Carolina?

19 A. Yes. I told him I was in North Carolina.

20 Q. All right. And did you speak to his — Mr. Moore's attorney or anyone
21 from his attorney's office about the conversation that you had with the trooper?

22 A. Yes, I did.

23 Q. Oh, you did? All right. How many times — who did you speak to? Do
24 you recall?

25 A. I just spoke with the attorney that day.

1 Q. Okay. Was it a Ms. Manigault?

2 A. I think the name was Carolyn, Caroline.

3 Q. Oh, I mean — I mean before the trial?

4 A. Oh, no, ma'am.

5 Q. Yes. You and I definitely talked about this several times in the past
6 few weeks; is that correct?

7 A. Right, with you.

8 Q. Yeah. I mean before — before Mr. Moore had a suppression hearing
9 and before he pled guilty —

10 A. The lawyer never called me.

11 Q. Okay. Until — until me, Caroline Horlbeck called you?

12 A. That is correct.

13 Q. Okay. All right. And, before I began to talk to you about this case, did
14 anyone — did any other attorney or anyone in connection with Mr. Moore's defense
15 contact you about testifying at a trial or trying to get you to voluntarily come to court
16 and testify?

17 A. Huh-uh (negative), no one has.

18 Q. Okay. All right.

19 MS. HORLBECK: That's all I have, Ms. Grier. Please — I've got the
20 Assistant Attorney General with me. She's opposing counsel. She may have
21 some questions for you, if you would just be kind enough to answer them.

22 THE WITNESS: That's not a problem.

23 MS. HORLBECK: Okay.

24 MS. RATIGAN: Thank you, Ms. Grier. This is Karen Ratigan from
25 the Attorney General's office. I just have a couple of quick questions for you.

1 Can you hear me?

2 THE WITNESS: Yes, ma'am, I can.

3 MS. RATIGAN: Okay.

4 CROSS EXAMINATION by MS. RATIGAN:

10:45 A.M.

5 Q. So, at that point you knew that Mr. Moore had been — well, at some
6 point you realized Mr. Moore had been arrested?

7 A. Yes.

8 Q. And did he ever ask you to call his attorney and talk to her?

9 A. No.

10 Q. Is that something you ever thought — is it something you maybe
11 should have done to tell her about that conversation you had with the officer that
12 day?

13 A. What do you mean? Speak to his attorney now?

14 Q. No, speak to his attorney back when he was arrested, right before he
15 was going to trial. Is that something you — you considered doing, maybe speaking
16 to the attorney about what the officer had told you?

17 A. Yes.

18 Q. Okay. And why didn't you call her? Do you remember why?

19 A. I did not know exactly who it was.

20 Q. Okay.

21 A. I was not — I didn't know who his attorney was or if it was court
22 appointed. I didn't have a lot of information.

23 MS. RATIGAN: Okay. That's all I have, Your Honor.

24 THE COURT: Any redirect?

25 MS. HORLBECK: No, sir.

1 THE COURT: All right. Thank you. Thank you, ma'am.

2 MS. HORLBECK: Thank you.

3 MS. RATIGAN: Thank you, Ms. Grier.

4 THE WITNESS: You're very welcome. Thank you.

5 MS. HORLBECK: Judge, that's all I have.

6 THE COURT: Yes, ma'am?

7 MS. RATIGAN: Judge, we call Ms. Manigault.

8 THE COURT: All right. Ms. Manigault?

9 (The witness stepped forward to be sworn.)

10 (Whereupon,

11 DOROTHY MANIGAULT, ESQUIRE

12 first being duly affirmed, testified as follows:)

13 THE COURT: Good morning.

14 THE WITNESS: Good morning.

15 (Off-The-Record Comments)

16 MADAM CLERK: Please, state your full name for the record.

17 THE WITNESS: Dorothy A. Manigault.

18 DIRECT EXAMINATION by MS. RATIGAN:

10:46 A.M.

19 Q. Ms. Manigault, do you recall representing Mr. Moore on his trafficking
20 charge?

21 A. Yes, I do.

22 Q. And were you appointed in this case or were you retained?

23 A. I was appointed.

24 Q. And did you file the usual Brady and Rule Five motions?

25 A. Yes, I did.

1 Q. Did you receive those materials from the State?

2 A. Yes, I did.

3 Q. Did it include a videotape?

4 A. Yes, it did.

5 Q. Did you have an opportunity to review those materials with Mr. Moore?

6 A. I did.

7 Q. Did he tell you his version of what happened out there on I-85?

8 A. He did.

9 Q. And, at some point, you filed a motion to suppress I guess?

10 A. Yes, I did.

11 (Brief Pause)

12 Q. And can you recall what the basis was for that suppression motion?

13 A. The basis was challenging the stop as an illegal stop. And, after the
14 stop was completed for the traffic violation that the officer noted, and the -- the
15 warning ticket was -- was given, Mr. Chastain [sic] received the warning ticket.
16 Then, the officer asked if he could search the car. And Miss -- excuse me -- Mr.
17 Moore responded no.

18 And the car was searched -- he was detained further and the car was
19 searched.

20 Q. They brought a K-9 out at that point?

21 A. They brought, yeah, a K-9 and another officer out -- came out. Also,
22 along with that motion for the suppression, I did attach as Attachment "A" a copy of
23 Trooper Chastain's report that he had given to the solicitor's office listing the
24 information about the stop saying that the stop was completed, the warning ticket
25 was issued; listing the information about calling his daughter's mother in North

1 Carolina, and other information. So, I filed that supporting my motion for
2 suppression.

3 Q. So you would have challenged — you were challenging the stop, the
4 detention, and the search?

5 A. Yes.

6 Q. Okay. And obviously we've had some testimony about there was a —
7 a hearing eventually held?

8 A. Yes.

9 Q. Now was it was it held the same day? Was it held September 15th of
10 2010, or was it held on a different day?

11 A. It was held — held the same day. We tried to get it earlier, but we
12 could not.

13 (Brief Pause)

14 Q. And was it a fairly involved suppression hearing would you say?

15 A. It lasted — lasted several hours. Halfway through the suppression.
16 hearing we took a break and had a — well, the attorneys had a talk with the judge
17 regarding some issues. But it lasted several — a couple of hours, maybe three or
18 four.

19 Q. Okay. And ultimately Judge Miller denied your motion to suppress?

20 A. That is correct.

21 Q. And, at that point, did you immediately start talking about pleading
22 guilty or was there still some talk about going to trial?

23 A. We had gone through the hearing. We had done maybe an hour and
24 a half, two hours of the suppression hearing. So we were halfway through.

25 The judge called a recess to talk to the attorneys in chambers hall —

1 hallway, did not tell us what he was -- what his ruling was, but he gave us some
2 indication the way he was leaning.

3 At that time, he gave us -- gave me and the prosecutor a time to talk
4 about any possible offers, plea deals, or anything else. We had the supervisor from
5 the prosecutor's office with us and she went to talk with the -- the Solicitor.

6 And they came back and said that we could have an offer of ten (10)
7 years if we wanted it. That was during the break.

8 I gave that offer to Mr. Moore. And he had -- Mr. Moore's family had
9 hired a private investigator name Wayne Scherz, S-C-H-E-R-Z, who was present at
10 the hearing at the time. He is now deceased. But he was present at the hearing.

11 And I talked with Mr. Moore, advised him about the possibility of taking
12 the ten (10) years. Mr. Scherz advised him against it, not to take the ten (10) years.
13 So, we did have some discussion about it.

14 Q. And did you explain to him that --- the pros and cons of -- of that ten-
15 year offer versus potentially going to trial?

16 A. Yes. I -- we -- I explained that to him. He felt that he wanted to
17 proceed to see how the suppression hearing was going to end. And, if he wanted to
18 plead guilty, then, he would consider that at that time.

19 Q. Okay. So, once the suppression motion is denied, were there any
20 other plea offers you could work out with the State or did he end up pleading without
21 a recommendation?

22 A. Once the plea offer [sic] was denied, Mr. Moore said that he wanted to
23 enter -- enter a plea; could he have the ten (10) years. I went to the Solicitor. She
24 -- the solicitor said no because we had to go through three or four hours of a
25 suppression hearing; that he could plea and maybe they would offer a cap of no

1 more than fifteen (15).

2 Q. So did you explain to him if he pled guilty that day there was not going
3 to be any kind of an offer?

4 A. I explained to him that. And I explained to him that, if he pled, that all
5 of his offenses and all the issues that we discussed in the suppression hearing
6 would be gone. However, the investigator, Mr. Scherz, advised him differently. And
7 he went with what the investigator said.

8 (Brief Pause)

9 Q. So you explained to him the minimum and maximum he could get if he
10 pled without recommendation?

11 A. Yes.

12 Q. And you also explained to him that, by entering that guilty plea, he was
13 waiving the right to challenge anything that happened in the suppression?

14 A. Correct.

15 Q. And, in your opinion, he understood your conversation?

16 A. Yes. However, he ignored my conversation and went with the
17 investigator's advice.

18 And we did -- I did have a chance to talk to the judge before he even
19 tried entering the plea again. And I asked the judge for some feelers about
20 sentencing.

21 And he -- he gave me some feelers; did not tell me exactly what he
22 was going to do. But he gave me some indication and I told him -- told Mr. Moore
23 the indication being -- would be that he would probably receive no more than fifteen
24 (15); I was not sure.

25 Q. Do you recall Judge Miller ever telling Mr. Moore that he could appeal

1 the results of that suppression hearing?

2 A. If it's not in the transcript, I don't recall it because actually he would
3 have said different. He would have said the same thing I did, that all of his defenses
4 were then gone.

5 Q. And did Mr. Moore ever ask you to contact his child's mother, Ms.
6 Grier?

7 A. No, he did not. There was actually no need for me to contact Ms.
8 Grier even — even if he said, but he did not because the officer in his report stated
9 that he had called Ms. Grier, stated that Moore was going to see his young
10 daughter, stated that he was going to stay in North Carolina for a week, but he didn't
11 have any clothes packed and talked about his job.

12 So all of that — the report was a part of my suppression hearing. So
13 the officer did admit to those things.

14 Q. Now, Mr. Moore has alleged that there are some discrepancies in
15 dates between the tow report, the officer's warning, the sentencing sheet, the
16 indictment, and the arrest warrant.

17 Do you recall discussing with him any discrepancies in any of these
18 dates?

19 A. If he said he talked to me about a warning ticket, I'm sure he did
20 because we met several times. I wouldn't dispute that.

21 Q. In your opinion, were there any discrepancies in these items that you
22 could have argued that would have resulted in a different outcome?

23 A. No. The officer's report and my suppression motion stated that, that
24 the date of the incident was March 17th, 2008. So his report also stated that.

25 As he told — testified to today the warning ticket stated 3/15/2008.

1 And, if the indictment has 2007, a scribbler's error, I agree with him, I should have
2 brought it up.

3 Q. One of the other issues that Mr. Moore brought up was that he wanted
4 you to argue racial profiling; that's why he was stopped. Is that something that you
5 did during the suppression? Do you recall?

6 A. I can't recall specifically that I argued racial profiling. I don't — I can't
7 — I'm not saying I did or did not.

8 I do know that his testimony regarding the tape and the gaps and the
9 blackout, we did argue that extensively.

10 (Brief Pause)

11 Q. And I believe the last question I have, Mr. Moore indicates he filed for
12 a preliminary hearing. He says that he was never present at one but the record
13 shows one was held. Can you shed any light on whether or not there was a prelim
14 in this case?

15 A. No. The — the files are kept in the public defender's office. And I was
16 looking — I keep notes for prelims and dates for prelims. And it's not listed on the
17 files. So I don't — I don't whether one was held or not. I can't recall.

18 MS. RATIGAN: That's all I have, Your Honor.

19 THE COURT: Okay. Ms. Horlbeck?

20 MS. HORLBECK: Just briefly, Your Honor.

21 CROSS EXAMINATION by MS. HORLBECK:

10:56 A.M.

22 Q. Was there any video tape of the actual — of — of Mr. Moore driving to
23 your recollection?

24 A. He — there was a little bit, but most of the testimony — or most of the
25 video tape was a view from the officer's car. He was right — you know, we had to

1 search for his car on the tape, which was far up.

2 And, then, the tape turned off, went black. Then, we show him pulling
3 over on the — on the shoulder.

4 Q. All right. Then, is it fair to say the video tape does not show any
5 evidence of Mr. Moore following too closely or impeding traffic?

6 A. I did not see any on the tape.

7 Q. Okay. Then, the main evidence of that would have been from the
8 trooper, Trooper Chastain?

9 A. That 's correct.

10 Q. Okay. All right. And is it fair to say with him being the main evidence,
11 in — in the suppression hearing, was his credibility important?

12 A. (No Response)

13 Q. That trooper's credibility, was that important to the suppression
14 hearing?

15 A. Yes, the credibility is always important.

16 Q. Okay. And did you --- do you -- do you -- just in hindsight, do you
17 think it might have been -- might have been helpful to have Ms. Grier testify to just
18 sort of back the reason that -- that Mr. Moore was traveling to North Carolina and
19 that he was going to stay there for a week?

20 A. The trooper never denied that. The trooper admitted that he talked
21 with Ms. Grier.

22 Q. Okay.

23 A. Admitted that Mr. Moore was coming to get -- get the child.

24 Q. Okay.

25 A. That Mr. Moore was going to stay a week. So all -- all of that was

1 already in the reports. So there was no need for me to...

2 Q. Okay. Did the — did the trooper testify to that during the hearing to
3 your rec — recollection?

4 (Brief Pause)

5 A. I thought he did. I'm — I'm not sure. I thought he did.

6 Q. All right. Is it in the report that Mr. Moore did not have enough clothing
7 with him to be traveling for a week?

8 A. Yeah. His report does say, "Moore did not pack any clothes for this
9 week long trip."

10 Q. Okay. Do you think Miss — Ms. Grier's testimony about him — Mr.
11 Moore already having clothing in North Carolina, do you think that would have been
12 helpful?

13 A. Yes.

14 Q. Okay. All right. And on Mister — on Trooper Chastain's report, did he
15 list the — in the observations before the stop portion of the report, did he list the
16 incident date as March the 27th, 2008?

17 (Brief pause while witness reviews document.)

18 A. Yes.

19 Q. All right. Do you think it would have been helpful, as far as pointing
20 out the trooper's lack of credibility during the hearing, do you think it would have
21 been helpful to point out all the different dates that he — the date discrepancies in
22 the report and the tow report and the citation and the warrant?

23 (Brief Pause)

24 A. Well, the — he testified — his report said March 27th, but he testified
25 March 17th —

1 Q. Okay.

2 A. — 2008.

3 Q. Okay.

4 A. So, yeah, there were discrepancies in the report and on his warning
5 ticket that may have — may have had some impact ----

6 Q. Uh-huh (affirmative).

7 A. — but I don't think, with the suppression hearing, that it would have
8 had that much because the judge was able to hear the testimony himself.

9 Q. Okay. And you — and you acknowledge catching a date discrepancy I
10 think in — in the warning ticket; is that correct?

11 A. That's what your client testified that he —

12 Q. Okay.

13 A. — shared that with me.

14 Q. Okay. Do you recall detecting any of the date discrepancies in some
15 of the other documents?

16 A. The — I think the only other document that I may have caught was the
17 towing, but I did not — I did not catch the 2007 in the indictment. I did not.

18 Q. All right. And, as far as the extension of the stop after the warning
19 ticket was issued, did you make those arguments and point those out to the Court
20 during the hearing and in your argument after the hearing?

21 A. Yes.

22 Q. Okay. And, obviously, ultimately the Court decided not to suppress
23 the — the drugs. Did you and Mr. Moore discuss that and the impact of a guilty
24 plea on his ability to appeal?

25 A. Restate your question.

1 Q. I'm sorry. It's been a long week. After the judge denied the
2 suppression hearing ---

3 A. Uh-huh (affirmative).

4 Q. — did you and Mr. Moore discuss that?

5 A. Yes.

6 Q. Okay.

7 A. After the suppression hearing was denied, the Court took a short
8 recess to allow me to talk to my client.

9 Q. All right.

10 A. Yes.

11 Q. All right. And do you recall him asking — do you recall Mr. Moore
12 asking you whether or not he could still appeal the suppression hearing after he pled
13 guilty?

14 A. Yes, I do recall that. We stepped out of the courtroom into the lock-up
15 area to talk with Mr. Scherz, the private investigator. And he asked me about that
16 and I told him that he could not. Mr. Scherz told him that he could.

17 And I told him that, that was not going to happen. When — when you
18 enter a plea, you give up all your previous defenses. You give up everything.

19 Q. Uh-huh (affirmative). All right. And do you recall whether or not Mr.
20 Moore asked you, in front of the judge on the record, whether or not he could still
21 appeal?

22 A. If it's on the record that he asked the judge, then, that speaks for itself.
23 I don't recall that.

24 Q. Okay.

25 A. Okay.

1 Q. All right.

2 (Brief Pause)

3 MS. HORLBECK: Beg the Court's indulgence.

4 THE COURT: Yes, ma'am.

5 (Off-the-Record Discussion)

6 Q. (By Ms. Horlbeck) Ultimately, Ms. Manigault, did you file a notice of
7 appeal in this case?

8 A. I did.

9 Q. All right. And you filed the notice of appeal even after — or even
10 knowing that — or knowing that you had advised Mr. Moore that he waived his right
11 to an appeal?

12 A. Correct.

13 Q. Okay.

14 A. Because, at the end of the guilty plea, he asked me to file an appeal.
15 And I told him it wouldn't do any good.

16 Q. All right.

17 A. Okay. And he says he wanted it filed. So I filed it on his instructions.

18 Q. All right. And what was — what was the reason for his appeal, if you --
19 if you recall? What did — why did Mr. Moore want to appeal?

20 A. The reason for his appeal — the reason for his appeal was he was still
21 going back to the suppression motion that was denied.

22 Q. Uh-huh (affirmative).

23 A. That was the reason for his appeal.

24 Q. Okay.

25 A. Okay? When I had to do an affidavit for the Appellate Court, regarding

1 the reason for appeal -- we do our affidavits and if we had gone to trial what would
2 have happened, and what were the — the issues. And so that's how I did it. And
3 the Court did not accept it.

4 Q. All right.

5 MS. HORLBECK: Beg the Court's indulgence.

6 (Off-The-Record Discussion)

7 MS. HORLBECK: That's all I have. Thank you.

8 THE COURT: Any redirect?

9 MS. RATIGAN: Nothing further. And the State would rest, Your
10 Honor.

11 THE COURT: Thank you. You may step down.

12 THE WITNESS: Thank you.

13 (Witness complied with the request.)

14 THE COURT: All right. I'm going to take the matter under
15 advisement and at least give thirty (30) days to see if the transcript of the
16 preliminary hearing — not preliminary hearing — from the suppression
17 hearing is available. And, if it is, then, I'll review it. And, if not, then, I'll go
18 ahead and make a finding on the testimony I heard today.

19 MS. HORLBECK: Thank you, Judge.

20 THE COURT: Thank you.

21 MS. RATIGAN: Okay. Thank you, Your Honor.

22 (Whereupon, the proceeding concluded at 11:05 a.m.)
23
24
25

CERTIFICATION

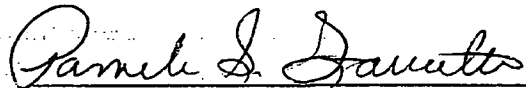
Page 51

REPORTER'S CERTIFICATE

I, the undersigned, **PAMELA S. FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the Court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 50, were transcribed by me and represent a complete and accurate transcription of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

June 27, 2013



Pamela S. Faucette
Official Court Reporter
Seventh Judicial Circuit

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

RECEIPTS FOR EXHIBITS

CASE NO. 2011-CP-23-3184JUDGE W. Jeffrey GandyPLAINTIFF Shane MoorePLT ATTY Caroline HarbuckDEFENDANT The State of SCDEF. ATTY Karen C. LeticiaTRIAL START DATE 2/15/13TRIAL END DATE 2/15/13

RECEIVED OF PAM FAUCETTE, COURT REPORTER FOR THE ABOVE CASE, THESE EXHIBITS:

PLT'S EXHIBITS

- EV 1. Citation/Warning 3/15/00
- EV 2. Tow Vehicle Report
- EV 3. Letters written by Applicant
- EV 4. Preliminary Hearing Note
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____

DEF'S EXHIBITS

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
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15. _____

COURT'S EXHIBITS

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

Pamela S. Faucette
PAMELA FAUCETTE

Jan White
CLERK OF COURT

PAGE 1 OF 1DATE 2-15-13

DEPARTMENT OF PUBLIC SAFETY
PUBLIC CONTACT / WARNING

85

FIRST NAME <i>Shane</i>		MIDDLE NAME <i>Camie</i>		LAST NAME <i>Mogge</i>	
STATE LICENSED <i>CA</i>			DRIVERS LICENSE NO.		
RACE or ETHNICITY <i>B</i>		GENDER <i>M</i>		DATE OF BIRTH <i>7-20-75</i>	
HIGHWAY TYPE AND NO. <i>I 85</i>		COUNTY <i>Greenville</i>		CODE <i>23</i>	DATE <i>3-15-08</i>
VEHICLE LICENSE NO. <i>WXA15U</i>		STATE <i>CA</i>	VEHICLE MAKE <i>Subaru</i>	YEAR	CHECK IF CMV
ISSUED BY <i>R.S. Chastain</i>		RANK <i>LT/PL</i>		BADGE NO. <i>811</i>	

NATURE OF CONTACT

- | | |
|---|---|
| ☐ SPEEDING | ☐ DISREGARDING TRAFFIC SIGNAL |
| ☐ CONTACT ONLY | ☒ FOLLOWING TO CLOSE |
| ☐ IMPROPER LANE USE | ☐ CHANGING LANES UNLAWFULLY |
| ☐ FAILURE TO DIM LIGHTS | ☐ NO RIGHT OF WAY |
| ☐ IMPROPER BACKING | ☐ DEFECTIVE EQUIPMENT |
| ☐ IMPROPER LIGHTS | ☐ IMPROPER PASSING |
| ☐ IMPROPER TURN | ☐ DRIVERS LICENSE VIOLATION |
| ☐ DISREGARDING STOP SIGN | ☐ VEHICLE LICENSE VIOLATION |
| ☐ SEAT BELT VIOLATION | ☒ OTHER (SPECIFY): <i>Impaired Test</i> |

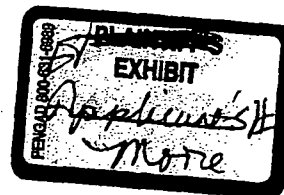


Sections Printed in Red are required to be reported to SCDPS to comply with South Carolina code of laws § 56-5-6560 (A): Any time a motor vehicle is stopped by a state or local law enforcement officer without a citation being issued or an arrest being made the officer who initiated the stop must complete a data collection form. Data must include information regarding the age, gender, and race or ethnicity of the driver of the vehicle.

AD 070282

DRIVER COPY

FORM 432 (REV 12/06)



TOWED VEHICLE REPORT

Date Towed	Towed By		Date of Release	
7-25-84	I-85 NB 47mm			
Vehicle Operator's Name (First, Middle, Last)				
SHANE LAMAR Mince				
Street	City		State	
1 N	MARIETTA		GA	
Vehicle Make	Year	Model	VIN	License Tag Number
Dodge	00	400	25ADH6K04H	6L2156
Released To	Operator Impounded		Owner Notified	
Shane Mince	☒ Yes ☐ No		☒ Yes ☐ No	
Vehicle Owner's Name (First, Middle, Last)				
Same As Driver				
Street	City		State	
Towed by	Requested by			
Latinos Wrecker Service	☒ Owner ☐ Operator ☐ Station			
Street	City	State		
350 White Horse Rd. #422	Greenville	SC	27605	
Released To (First, Middle, Last)				
Street	City	State		

☒ Glass	☒ Spare Tire	☒ Oil Pan	☒ Oil Filter	☒ Oil Drain Plug
☒ Coolant	☒ Water Pump	☒ Timing Belt	☒ Timing Chain	☒ Timing Cover
Additional Inventory				
Price Clothing & Papers				
I have received the above listed vehicle and inventory.				
Officer's Name	Department		Receiving Custody of Vehicle	Date
Items in Custody of Officer				
Nothing Taken by Troopers				

Officer's Name	Rank	Badge Number
R. S. Chasteen	1st Lt	811
Dispatch Unit	County	Time
Acc 18	Greenville	1200
		☐ A.M. ☒ P.M.

DPS - LE - 024
(9/89)

OFFICER'S COPY



Shane L. Moore #342772
Leiber Correctional Institution-Cooper B-19
P O BOX #205
Ridgeville, SC 29472

April 12, 2012

Attention: Motte L. Talley

Please find enclosed this letter requesting the Judicial Calender for the 13th Circuit of Greenville County. Please return to me a certified copy of such, during the month and year of April 2009. Thank you for your time and attention.

Sincerely and Respectfully Speaking

Mr. Shane L Moore #34272

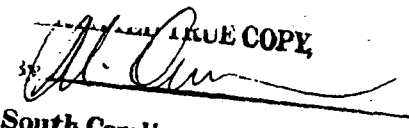


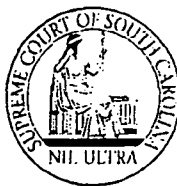
AL 01 198

cc

Terms of Circuit and Family Court April 2009

Circuit Number	4/6/2009	4/13/2009	4/20/2009	4/27/2009
13	Administrative Week Patterson, Larry DIGIROLAMO General Sessions Greenville Welmaker, G. JENKINS General Sessions Greenville Few, John JOHNSON	General Sessions Greenville Few, John JOHNSON 13, 14 am NO CR NEEDED 14 pm JOHNSON 15, 16, 17 General Sessions Greenville Griffith, Eugene JENKINS Common Pleas Greenville Miller, Edward HERRON Common Pleas Greenville Patterson, Larry DIGIROLAMO Common Pleas Non- Jury 15 Greenville Simmons, Charles HUDGINS 15	General Sessions/State Grand Jury Greenville Hill, D. HANKS 20 JOHNSON 21 NO CR NEEDED 22, 23, 24 General Sessions Pickens Miller, Edward JENKINS Common Pleas Greenville Patterson, Larry DIGIROLAMO Common Pleas Non- Jury Welmaker, G. HISKELL General Sessions 24 Greenville Simmons, Charles HERRON 24	General Sessions Greenville Griffith, Eugene JENKINS General Sessions Greenville Patterson, Larry HUDGINS Common Pleas Greenville Pyle, C. HISKELL 27, 28 NO CR NEEDED 29, 30, 1 General Sessions Pickens Welmaker, G. HANKS

TRUE COPY

 South Carolina
 on



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

MOTTE L. TALLEY
ASSISTANT DIRECTOR

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-0269
E-MAIL: mtalley@sccourts.org

April 19, 2012

Shane L. Moore #342772
LCI C-B-19
Post Office Box 205
Ridgeville, SC 29472

Dear Mr. Moore:

Your inquiry has been received by this office. Enclosed you will find the information you requested. The schedule is for that entire week (Monday-Friday) of the date shown at the top of the schedule.

Sincerely,

Court Reporting Section
South Carolina Court Administration

RECEIVED

MAY 21 2012

RECEIVED

S.C. SUPREME COURT

MAY 21 2012

OFFICE OF
CHIEF JUSTICE

Shane L. Moore #342772
 Leiber Correctional Institution - C-B-19
 P.O. Box #205
 Ridgville, SC 29472

5/18/2012

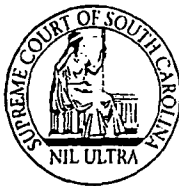
Attention: Jean Hofer Toal

Are there any motions or petitions that's been submitted to your courts from the 13th Circuit of Greenville County Court of General Sessions, asking for the Grand Jury to meet/convene on indictments outside of the set schedule for the week of April 13, 2009? If so, may I please have a certified copied in which was signed by Jean Hofer Toal permitting the procedure to take place? Thanks for your precious time and attention.

Respectfully Speaking,
 Mr. Shane L. Moore #342772
 Mr. Shane L. Moore #342772

WITNESSED TO AND SUBSCRIBED BEFORE ME
 THIS 18th DAY OF May
 2012
 Sylvia Jones
 NOTARY PUBLIC
 STATE OF SOUTH CAROLINA
 MY COMMISSION EXPIRES 1/20/2018

CC



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

MOTTE L. TALLEY
ASSISTANT DIRECTOR

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-0269
E-MAIL: mtalley@sccourts.org

June 26, 2012

Mr. Shane L. Moore, #342772
Lieber Correctional Institution
C-B-19
Post Office Box 205
Ridgeville, South Carolina 29472

Dear Mr. Moore:

Your request for copies of motions or petitions concerning the convening of the grand jury for Greenville County was referred to this office for a response. We have searched our files and can find no such documents in our possession.

Sincerely,

Motte L. Talley

cc: The Honorable Daniel E. Shearouse
Clerk of the Supreme Court

Exhibit A

A

Preliminary Hearing Notice
of: Request for Copy of Warrant(s) - Part 1

STATE vs. SHANE MOORE

Part I TO: CLERK OF COURT. A preliminary hearing has been requested by the above named defendant and will be held on _____ at _____ o'clock at _____ Defendant represented by: _____ Please provide a certified copy of the listed criminal warrant(s) for the purpose of preliminary hearing.

Warrant Number

Warrant Number

1. I430781

4.

2.

5.

3.

6.

Part II To: SOLICITOR. A preliminary hearing was held in the case of the above named defendant.

The warrant(s) listed below was dismissed on the date indicated.

Warrant Number

Date Dismissed

1.

2.

3.

4.

5.

6.

Date Transmitted: MARCH 25, 2008

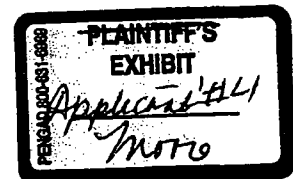
Judge Code: 5531

Signature: *Dan Cage*

Municipality -

County - GREENVILLE

SCCA/509 (4/1991)



STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

Shane Lamar Moore,
S.C.D.C. No. 342772,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
C.A. No. 2011-CP-23-3184

ORDER OF DISMISSAL

2013 APR 11 A 9:10

CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKLINSMIR

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed May 10, 2011. The Respondent made its return on August 18, 2011. An evidentiary hearing was held on February 15, 2013 at the Greenville County Courthouse. The Applicant was present and represented by Caroline Horlbeck, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying were Candice Grier (who testified over the telephone) and the Applicant's plea counsel, Dorothy A. Manigault, Esquire. The Court had before it the guilty plea transcript, the Greenville County Clerk of Court records, the South Carolina Department of Corrections records, the PCR application, the return, the appellate documents, and the Applicant's Exhibits 1-4.¹

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted

¹ This Court originally held the record open in order to allow counsel for the Applicant to investigate whether the suppression hearing transcript was available. This Court subsequently determined the matter should be denied and dismissed without having the State bear the expense of providing this transcript.

WJH

at the April 2009 term of the Greenville County Grand Jury for trafficking cocaine base (2008-GS-23-8077). He was represented by Dorothy A. Manigault, Esquire.

On September 15, 2010, the Applicant pled guilty to trafficking cocaine base (more than 28 grams), second offense. The Honorable Edward W. Miller sentenced the Applicant to fifteen years imprisonment.

A notice of appeal was filed at the South Carolina Court of Appeals. By order dated January 5, 2011, the Court of Appeals dismissed the appeal based on counsel's failure to provide a written explanation as to what issues could be reviewed. See Rule 203(d)(1)(B)(iv), SCACR. Counsel filed a written explanation, which the Court of Appeals interpreted as a petition for rehearing. The Court of Appeals dismissed the appeal by order dated February 2, 2011, finding there were no preserved issues for appeal pursuant to Rule 203(d)(1)(B)(iv), SCACR.

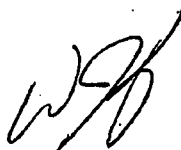
ALLEGATIONS

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.

In his "Amended Petition for Post Conviction Relief" filed February 8, 2013, the Applicant made the following allegations:

1. Ineffective assistance of counsel:
 - a. Failed to prove that Trooper Chastain had no reason or probable cause to stop the Applicant.
 - b. Failed to properly challenge the second detention which was an illegal search and seizure that violated the Applicant's 4th Amendment rights.
 - c. Failed to raise the issue of racial profiling during the suppression hearing.
 - d. Failed to research and subpoena information regarding camera malfunction.



- e. Failed to give the Applicant a copy of his case file and State's response to the Applicant's discovery motions upon the Applicant's request.
- f. Failed to subpoena the Applicant's witness.
- g. Was not prepared for trial and the Applicant was coerced into pleading guilty.
- h. Failed to file a motion to quash the indictment.
- i. Failed to raise the issue that the State's own evidence reflects four different dates on which the incident allegedly occurred.
- j. Failed to challenge the time the State has to submit the indictment to the Grand Jury.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel/Involuntary Guilty Plea

The Applicant alleges his guilty plea was involuntary and that he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the

applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

The Applicant stated plea counsel should have filed a motion to quash the indictment because it was issued more than a year after his arrest and when the Court of General Sessions was not in session. The Applicant stated plea counsel should have challenged the discrepancies between the dates listed in the arrest warrant, indictment, sentencing sheet, written warning, and tow report. The Applicant stated he was stopped for driving too slowly and following too closely but that this was untrue and not on the video. The Applicant stated he told the officer he was going to Raleigh to see his girlfriend, Candice, and the officer called her to confirm this. The Applicant stated plea counsel did not speak to Candice or subpoena the officer's cell phone records in order to challenge his credibility. The Applicant stated plea counsel should have challenged the search of his vehicle because he did not give consent but the officer called a K-9 unit to the scene. The Applicant stated plea counsel should have argued racial profiling at the suppression hearing. The Applicant stated he only pled guilty because both plea counsel and the plea judge said he could appeal the suppression hearing. The Applicant admitted, however, there



were no such statements in the plea transcript.

Candice Grier stated he and the Applicant had a daughter together. Candice stated the Applicant was coming to Raleigh to stay for a week when he was arrested. Candice stated she told this to the officer who called her after stopping the Applicant. Candice stated she knew the Applicant had been arrested but admitted she did not call plea counsel to tell her the Applicant had been on the way to see her when he was stopped.

Plea counsel testified she was appointed in this case and filed discovery motions. Plea counsel testified she reviewed the discovery materials with the Applicant and discussed his version of events. Plea counsel confirmed the Applicant's testimony that the videotape did not show he was following too closely. Plea counsel testified she filed a motion to suppress the evidence and attached a copy of the officer's report to that motion. Plea counsel testified the motion hearing lasted several hours and was the same day as the plea hearing. Plea counsel testified the Applicant did not ask her to contact Candice, but that there was no need for her to do so because all of that information was in the officer's report. Plea counsel testified she did not recall a discrepancy in the dates on some of the documents but stated arguing this would not have changed the outcome of the case. Plea counsel testified she did not recall whether or not she argued racial profiling in the suppression hearing. Plea counsel testified the plea judge met with the attorneys midway through the suppression hearing and gave them time to discuss plea offers. Plea counsel testified the Applicant turned down a ten year offer based on advice from an investigator he had hired. Plea counsel testified she advised the Applicant against rejecting this offer. Plea counsel testified she explained to the Applicant both that he was pleading guilty without a recommendation and that he would not be able to raise issues related to the suppression hearing. Plea counsel testified the plea judge would not have told the Applicant that he could



plead guilty and then appeal the suppression hearing.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds the Applicant's testimony is not credible, while also finding plea counsel's testimony is credible. This Court further finds plea counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in her representation.

The Applicant admitted to the plea judge both that he was guilty and that the facts recited by the solicitor were true. (Plea transcript, p.6; p.8). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.5-7). This Court finds the Applicant entered a knowing and voluntary guilty plea. See Boykin v. Alabama, 395 U.S. at 243-44, 89 S. Ct. at 1712.

This Court finds the Applicant failed to meet his burden of proving plea counsel should have filed a motion to quash the indictment. The Applicant's argument that the Grand Jury was not scheduled to convene when his indictment was issued is without merit. While terms of court are technically prescribed by statute, this Court notes general sessions matters may be transacted during common pleas terms of court and vice versa. See S.C. Code Ann. §§ 14-5-410, -420 (Supp. 2003). This Court also finds the Applicant failed to demonstrate plea counsel was deficient in not arguing that the indictment was issued well after he was arrested. See State v. Culbreath, 282 S.C. 38, 40, 316 S.E.2d 681, 681 (1984) ("[T]he failure of the solicitor to act upon a warrant within ninety (90) days . . . does not within itself invalidate a warrant or prevent subsequent prosecution."). Further, this Court finds the Applicant failed to provide evidence of any prejudice that resulted from the delay. See, e.g., State v. Pittman, 373 S.C. 527, 647 S.E.2d

144 (2007) (noting one must prove prejudice in order to prevail on an allegation that one's speedy trial rights were violated).

This Court finds the Applicant failed to meet his burden of proving plea counsel was deficient in not arguing the discrepancies between the dates listed in the arrest warrant, indictment, sentencing sheet, written warning, and tow report. This Court finds the Applicant has failed to demonstrate these discrepancies were in any way fatal to the State's case. This Court agrees with plea counsel that these discrepancies did not affect the outcome of the case. This Court notes that, even if an incorrect date had been listed on the indictment, it is merely a notice document. See State v. Gentry, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005). The indictment in this case was clearly sufficient to put the Applicant on notice of the charge he was facing. See State v. Tumbleston, 376 S.C. 90, 95-96, 654 S.E.2d 849, 852 (Ct. App. 2007).

This Court finds the Applicant failed to meet his burden of proving plea counsel should have contacted Candice Grier before the suppression hearing. The Applicant argued Candice could have been used to attack the officer's credibility. Plea counsel testified, however, that the information that Candice could have provided – that she spoke to the officer that day and verified the Applicant was staying with her in Raleigh that week – was also contained in the officer's report. This Court notes Candice was aware of the Applicant's arrest and did not contact plea counsel to relay any pertinent information. Regardless, this Court finds the Applicant has failed to demonstrate that plea counsel contacting Candice prior to the suppression hearing would have affected the Applicant's decision to plead guilty. See Hill v. Lockhart, 474 U.S. at 58-59, 106 S. Ct. at 370.

This Court finds the Applicant failed to meet his burden of proving plea counsel advised the Applicant that he could appeal the suppression hearing. Plea counsel testified she did not tell



the Applicant he could enter a guilty plea and still appeal the denial of the motion to suppress. This Court finds plea counsel's testimony is more credible. Once the Applicant entered a guilty plea in this case, he waived the right to challenge the denial of the suppression motion. See State v. Tucker, 376 S.C. 412, 417, 656 S.E.2d 403, 406 (Ct. App. 2008) (noting "[g]uilty pleas generally act as a waiver of all non-jurisdictional defects and defenses"). This Court notes the plea judge advised the Applicant of such. (Plea transcript, p.10).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in her representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. This Court also concludes the Applicant has failed to meet his burden of proving his guilty plea was not knowing and voluntary. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.



CONCLUSION

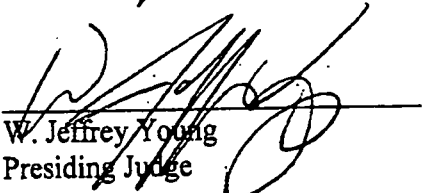
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Furthermore, the Applicant's guilty plea was entered knowingly and voluntarily within the mandates of Boykin. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 4 day of April, 2013.


W. Jeffrey Young
Presiding Judge

Sumter, South Carolina.

The South Carolina Court of Appeals

The State,

Respondent

v.

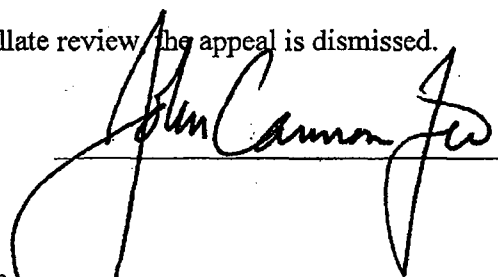
Shane Moore,

Appellant.

The Honorable Edward W. Miller
Greenville County
Trial Court Case No. 2008-GS-23-08077

ORDER

Appellant appeals his guilty plea and conviction imposed by Judge Edward W. Miller. Rule 203 (d)(1)(B)(iv), SCACR, requires "a written explanation showing that there is an issue(s) which can be reviewed on appeal....including how the issue(s) was raised below and the ruling of the lower court on that issue(s)." After careful review, we find Appellant failed to show how any issue was preserved for our review. Therefore, due to Appellant's failure to establish any preserved issues for appellate review, the appeal is dismissed.

 . C.J.

Columbia, South Carolina

cc: Chief Appellate Defender Robert M. Dudek
Dorothy Manigault, Esquire
Assistant Deputy Attorney General Salley W. Elliott
The Honorable Paul B. Wickensimer

FILED
1/5/11

WITNESSES

R. Chasteen

S. C. Highway Patrol

3/17/2008

ARREST WARRANT NUMBER

1430781

FOREMAN GRAND JURY

For person of Grand Jury

VERDICT

For person of Petit Jury

Date:

DOCKET NO. 2008-GS-23-

JLK

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April TERM 2009

PLEAD GUILTY THE STATE
VS.

SHANE LAMAR MOORE

000077

ON SUSPENSION

Did Clerk receive driver's license?

YES

NO

If not, explain

Shane Moore
Defendant

0389
0368

Indictment for

TRAFFICKING COCAINE BASE (CRACK
COCAINE)

VIOLATION § 44-53-0375

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING COCAINE BASE (CRACK COCAINE)

At a Court of General Sessions, convened on **APR 14 2009** the Grand Jurors of Greenville
County present upon their oath:

That SHANE LAMAR MOORE did in Greenville County, on or about the 17th day of March, 2007, knowingly
sell, manufacture, deliver or bring into the State of South Carolina or did knowingly provide financial assistance
or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver or bring into the State or was knowingly
in actual or constructive possession of more than 100 grams of Cocaine Base (Crack Cocaine). This is in
violation of §44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Jay M. Monts
SOLICITOR

09/15/10 04:30PM COURT ROOM 8644678574

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Shane Lamar Moore

AKA:

Race: B Sex: M Age: 35

DOB: SS#:

Address:

City, State, Zip: Raleigh, NC 27616

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Trafficking crack cocaine/cocaine base, more than 28 grams, 2nd offense

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008GS2308077

A/W#: 1430781

Date of Offense: 3/17/2008

S.C. Code § : 44-53-0375(C)(3)

CDR Code #: 0368

SENTENCE SHEET

in violation of § 44-53-0375 of the S.C. Code of Laws, bearing CDR Code # 0389

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Joyce K. Monts

65331
SC Bar#Shane Moore
DefendantDorothy A. Monts
Attorney for Defendant3615
SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ 50,000⁰⁰; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 238 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (DUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

§ 44-53-450(C) (Conditional Discharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

221 W. MC
2130
9/15/10