

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY
COMMON PLEAS COURT
J. Derham Cole, Circuit Court Judge

Case No. 2010-CP-42-6870

RECEIVED

JUN - 9 2014

S.C. Supreme Court

Reginald J. Miller, 261476,..... Petitioner,
v.
State of South Carolina,..... Respondent.

APPENDIX

Alan Wilson
Attorney General

John W. McIntosh
Chief Deputy Attorney General

Salley W. Elliott
Senior Assistant Deputy Attorney General

Suzanne White
Senior Assistant Attorney General

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-734-3737

Counsel for Respondent

J. Falkner Wilkes
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Counsel for Petitioner

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY
COMMON PLEAS COURT
J. Derham Cole, Circuit Court Judge

Case No. 2010-CP-42-6870

Reginald J. Miller, 261476,..... Petitioner,
v.
State of South Carolina,..... Respondent.

APPENDIX

Alan Wilson
Attorney General

John W. McIntosh
Chief Deputy Attorney General

Salley W. Elliott
Senior Assistant Deputy Attorney General

Suzanne White
Senior Assistant Attorney General

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-734-3737

Counsel for Respondent

J. Falkner Wilkes
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Counsel for Petitioner

INDEX

Order of Dismissal	1
Order denying Rule 59(e) relief	15
Motion Rule 59(e)	18
Transcript PCR	21
Form 5	59
Amended Form 5	66
Final Anders Brief	71
Pro Se Anders Brief	84
Opinion Court of Appeal Direct Appeal	98
Remittitur	100
Indictment 06-GS-42-1550 Trafficking Cocaine	101
Indictment 1551 Trafficking Crack	103
Indictment 1549 (February 7 th charge)	105
State's Return to PCR Application	107
Indictment 1549 Nolle prossed	112
Warrant K-077750	114
Order for Bond	115
Police report 02-07-06 incident	117
Bail papers	119
Rule 5 Request by State and disclosures 03-16-06	126
Bond Order	127
Indictment and Sentencing Sheet 1550	131
Warrant H789524 02-09-06 incident	134
Bench Warrant	139
Rule 5 Request by State and disclosures 06-14-06	143
Notice of Appeal	150
Trial exhibit release	152
Warrant H789526 02-09-06	162
State Witness List trial	163
Jury List	164
Verdict	165
Trial Transcript	172
Trial Transcript Index	173

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Reginald J. Miller, #261476,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2010-CP-42-6870

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed December 30, 2010, and amendment filed March 31, 2012. The Respondent made its Return on or about July 17, 2012. An evidentiary hearing into the matter was convened on January 11, 2013, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by J. Falkner Wilkes, Esquire. Suzanne H. White, Esquire of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant, as well as Ebony Scruggs, testified on Applicant's behalf. Thomas A. M. Boggs, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, the Appellate Court records, and the trial and sentencing transcripts.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Applicant was indicted at the May 2006 term of the Spartanburg County Grand Jury for unlawful conduct toward a child (2006-GS-42-1548), trafficking in cocaine (2006-GS-42-1549), trafficking in

cocaine (2006-GS-42-1550), and trafficking in crack cocaine +10 grams (2006-GS-42-1551). Thomas A. M. Boggs, Esquire, represented the Applicant at trial. On June 15, 2006, the Applicant was convicted *in absentia* of this charge by a jury. The Honorable Doyet A. Early III presided over the Applicant's trial and issued the sealed sentence. The Honorable J. Cordell Maddox, Jr. pronounced the Applicant's sentence on April 13, 2007, and gave him credit for time served since detention in the North Carolina Department of Corrections beginning August 1, 2006. Applicant was sentenced to twenty-three years and a \$50,000 fine for trafficking in cocaine +28 grams and a concurrent sentence of ten years for trafficking in crack cocaine +10 grams. The other indicted charges were *nolle prossed*.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Miller, Op. No. 2010-UP-020 (filed January 25, 2010). The Remittitur was returned February 10, 2010.

ALLEGATIONS

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

1. Ineffective assistance of trial counsel, in that;
 - a. Counsel failed to prepare for trial,
 - b. Counsel failed to do pre-trial investigation,
 - c. Counsel waived opening and closing statements,
 - d. Counsel failed to make a motion for mistrial or motion for acquittal,
 - e. Counsel failed to conduct meaningful cross-examination,
 - f. Counsel failed to call court's attention to substantial change in evidence that was subject to chain of custody or object to introduction of that evidence,
 - g. Counsel failed to object to probable cause for Applicant's arrest.

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

The Applicant alleges he received ineffective assistance of counsel. This Court found the testimony of Counsel to be more credible than the testimony of Applicant or Ms. Scruggs as to all allegations raised in the application and at the hearing.

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 (2003) (citing Rule 71.1(e), SCRCP). 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 upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this

prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. 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).

Failure to Investigate or Prepare for Trial

Applicant testified that Counsel began representing him approximately thirty days after his arrest on all of the charges. Prior to the trial, Applicant testified that he pled no contest to the child endangerment charge, but he and Counsel discussed that charge. Applicant testified that he only met with Counsel for the trial once, on the day before trial was supposed to begin. At that time, Applicant testified that Counsel told him that he was going to try and get the trial pushed back because Counsel was not prepared for the case. Applicant testified that he received a call from Counsel on June 14th, informing Applicant that the trial would not be held on that day, but they were going to hold the trial on June 15th. Applicant testified that he was afraid he would lose at trial, so he fled and did not appear at the trial. However, Applicant testified that he would have considered going to trial if he and Counsel had more time to prepare.

Ebony Scruggs, the mother of Applicant's child, testified that she went with the Applicant to Counsel's office for a meeting. Scruggs testified that she was present when Counsel informed Applicant that he would work on getting the trial pushed back and that Counsel was not prepared for the trial to be called this fast.

Counsel testified that he has been practicing approximately thirty-six years with sixty

percent of his practice being criminal defense. Counsel testified that at the time of this trial, in 2006, he also had five pending murder cases. Counsel testified that he has a good recall of the Applicant and his case. Counsel testified that he had been hired right after Applicant's arrest, which was approximately three to four months prior to the trial. Counsel testified that he recalls having several meetings with the Applicant because the Applicant was not in jail, some of which were also attended by Applicant's girlfriend, Ebony Scruggs. Counsel testified that based upon his general practice, he would have reviewed the discovery materials with the Applicant during one of their meetings. Counsel also testified that he did not recall any conversation with the Applicant in which he informed the Applicant that he (Counsel) would not be ready for trial; however, he could imagine that he said he was surprised at the case being called to trial so quickly.

Counsel testified that he did approach one judge about a continuance and was instructed to bring the motion up at the start of trial. However, when Counsel made the motion before trial judge, the motion was denied. Additionally, Counsel testified that he felt that he had devoted a lot of time to this case with the time he had and information he had.

This Court finds that the Applicant's allegations that Counsel did not conduct an adequate pre-trial investigation or prepare enough for trial are without merit. The "brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief

where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial).

When claims of ineffective assistance of counsel are based on lack of preparation time, an Applicant challenging his conviction must also show specific prejudice resulting from counsel's alleged lack of time to prepare. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039 (1984); U. S. v. LaRouche, 896 F.2d 815 (4th Cir. 1990). The Applicant failed to point to any specific matters Counsel failed to discover, or any defenses that could have been pursued had Counsel been more fully prepared or had additional time prior to the case being called to trial. This Court notes that Counsel has years of experience representing clients on similar charges and remains updated on case law through research. Furthermore, the Applicant failed to show any prejudice that may have resulted from Counsel's alleged inadequate preparation or lack of investigation. Accordingly, this allegation is dismissed.

Failure to Offer Opening/Closing Statements

Counsel testified that although his file has been destroyed, after reviewing the record, he believed that he made the strategic decision to not make any opening statement based upon his belief that there was no benefit, not because of how quickly the case was called. Counsel also testified that he made the decision to not offer any closing during trial because the only issue raised had been a potential chain of custody issue with the drugs and he did not believe that a closing argument would make a difference in light of the testimony and evidence.

In making a fair assessment of attorney performance, a court must make every effort to "eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." Strickland v. Washington, 466 U.S. 668, 689, 104 S. Ct. 2052, 2065, 80 L. Ed. 2d 674 (1984).

There is a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance and the "defendant must overcome the presumption that, under the circumstances, the challenged action might be considered sound trial strategy." *Id.* This Court finds that the Applicant has failed to meet his burden of proof as to this claim. He offered no testimony or evidence to support his claim that Counsel's decision to not make an opening or closing statement was anything less than sound trial strategy. Furthermore, Applicant failed to demonstrate that had Counsel made an opening or closing statement, the outcome of Applicant's trial would have been any different. Therefore, this claim is denied and dismissed.

Failure to Make Motions for Mistrial/Acquittal

This Court finds that the Applicant has failed to meet his burden of proof as to this claim. Although raised in his application, the Applicant offered no testimony or evidence in support of this allegation at his hearing. Therefore, this claim is denied and dismissed.

Failure to Conduct Meaningful Cross-Examination

The Applicant alleged that Counsel was ineffective for failing to conduct a meaningful cross-examination of the State's witnesses. Counsel testified that he did make an objection during the testimony of one of the State's witnesses because of a failure to sufficiently establish the chain of custody; however, the State was then allowed to bring in the witness after the fact to establish the chain. Counsel also objected to a reference to a pending arrest warrant the Applicant had against him as a basis for this charge and to the officer's reference to the substance of cocaine prior to the testimony of the chemist. This Court notes that the State's witnesses consisted of the two officers who arrested Applicant following his attempt to flee, the chemist from the Sheriff's office and the evidence custodian.

FILED
CLERK OF COURT
SHERIFF'S COUNTY
2013 JUL 15 PM 4:33
H. HOBBS BLACKLEY

In regards to the Applicant's allegation that Counsel was deficient in his cross-examination of the State's witnesses, this Court finds that the Applicant has failed to meet his burden of proof. The nature and scope of cross-examination is inherently a matter of trial tactics. United States v. Nersesian, 824 F.2d 1294, 1321 (2nd Cir. 1987). "[A] defendant has a 'burden of supplying sufficiently precise information,' of the evidence that would have been obtained had his counsel undertaken the desired investigation and of showing 'whether such information . . . would have produced a different result.'" United States v. Rodriguez, 53 F.3d 1439, 1449 (7th Cir. 1995). The Applicant did not proffer any questions counsel allegedly failed to ask, and did not present any testimony showing the witnesses' answers at trial would have been different. Accordingly, the Applicant has not shown that a different approach to cross-examination would have been beneficial to the defense. Therefore, this claim is dismissed.

Failure to Address Substantial Change in Evidence or Object to that Evidence

Applicant argued in his application that Counsel was ineffective for failing to object to the drug evidence, more specifically, that Counsel failed to object to the fact that the weight of the drug evidence had substantially changed between Applicant's arrest and the testimony. Counsel noted that if the weight had changed, that was often as a result of the estimation by Officers at the scene and weighing on the scene of the drugs and bag, while the evidence is weighed during testing minus the bag.

This Court finds that there was no evidence that Counsel was deficient in any way relating to a failure to object to the evidence and the change in weight. The Applicant did not demonstrate that any objection would have made an outcome in his trial, so this claim is denied and dismissed.

Failure to Object to Probable Cause for Arrest

Regarding Applicant's allegation that Counsel failed to object to the probable cause for Applicant's arrest, this Court finds that this allegation lacks merit and this Court finds that the Applicant has failed to meet his burden of proof as to this claim. The Applicant introduced a copy of the arrest warrant #K-77750 as Applicant's Exhibit #2, noting that this was the arrest warrant which the Sheriff's Office was attempting to serve on Applicant when he was arrested for this charge. However, the Applicant failed to offer any evidence that there was anything faulty with this arrest warrant. This Court notes that the charge Applicant faced at trial was as a result of drugs discovered following his attempt to flee from the arrest, when he fell and the bag containing cocaine was discovered under his body.

Counsel testified that he was aware of the arrest warrant and of the fact that the arrest warrant had been issued based on a confidential informant buy two days earlier. Counsel testified that although there was a reference to a phone call between a confidential informant and Applicant, which led to his appearance at the restaurant on that day, he cannot remember if he was provided a copy of that phone call.

This Court finds that the Applicant failed to offer any evidence to show that the arrest warrant from a prior drug sale was invalid or that if Counsel had attacked the probable cause for the arrest warrant, that it would have affected the trial. This Court notes that the Applicant attempted to flee when approached by the police at the restaurant and was subsequently charged with drugs found on his person when captured, not with anything related to the arrest warrant. Accordingly, this Court finds that the Applicant has failed to meet his burden of proof as to this claim and failed to establish that the outcome of his trial would have been different had Counsel made any motion or attack regarding the arrest warrant. Therefore, this claim is denied and

dismissed.

Failure to Communicate Plea Offer

Applicant testified that Counsel informed him that there was no plea deal, so Applicant testified that he fled because he thought he would lose. Applicant testified that he would have considered a plea, but that Counsel never conveyed the eighteen year plea offer to him.

Furthermore, Applicant testified that he believed Counsel was lying when he testified that Counsel had informed the Applicant of the two plea offers. Specifically, Counsel testified that the State had offered first a twenty year and then eighteen year plea deal, but the Applicant turned both down.

This Court notes that the transcript reflects that Counsel informed the trial court that he had conveyed the plea offer of eighteen years to the Applicant on the day before the trial was to begin. Counsel also informed the court that following the conversation regarding the plea offer and the scheduled trial, he received no additional communication from the Applicant.

"Counsel's failure to convey a plea offer constitutes deficient performance." Davie, 381 S.C. 601, 609, 675 S.E.2d 416, 420 (2009). However, prejudice is determined on a case-by-case approach in order to determine whether

"[B]ut for counsel's deficient performance a defendant would have accepted the State's proposed plea bargain and that he would have benefitted from the offer. Because presumed prejudice is reserved to very limited situations . . . a defendant must show actual prejudice. However, it is not always necessary for a defendant to offer objective evidence to support a claim of actual prejudice. Instead, depending on the facts of the case, a defendant's self-serving statements may be sufficient to establish actual prejudice." Davie, 381 S.C. at 613, 675 S.E.2d at 422 (citations omitted).

First, this Court finds Counsel's testimony regarding the conveyance of the plea offers to Applicant to be credible and does not find the Applicant's testimony to be credible. This Court

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 JUL 15 PM 4:33
MARSHALL BLACKLEY

finds, based on both the testimony and record presented, that Counsel DID convey the plea offer to the Applicant, but the Applicant chose to abscond and not accept the plea offer. Therefore, this Court does not need to reach the prejudice prong, because the Applicant failed to establish deficient performance by Counsel as it relates to conveying a plea offer. This Court finds that the Applicant has failed to meet his burden of proof as to this claim.

Overwhelming Evidence

This Court also finds that any alleged deficiency by Counsel did not prejudice the Applicant at trial because of the overwhelming evidence of Applicant's guilt. Where there is overwhelming evidence of guilt, a trial counsel's deficient representation will not be prejudicial. Ford v. State, 314 S.C. 245, 442 S.E.2d 604 (1994); See also Humbert v. State, 345 S.C. 332, 548 S.E.2d 862 (2001), Geter v. State, 305 S.C. 365, 409 S.E.2d 344 (1991). In Ford, trial counsel failed to request an alibi instruction and his representation was found deficient as a result. However, the evidence of the applicant's guilt in Ford was overwhelming and this Court held that the applicant failed to prove the second prong of Strickland, which requires that Applicant show prejudice by the deficient representation. Testimony was presented at trial by both Officers that observed the Applicant running from them and then observed the bag of white powdery substance underneath his body and in his hand once he fell and was captured. Testimony was then presented that the white powdery substance had been tested and was cocaine. Therefore, this Court finds that based on overwhelming evidence, the Applicant has failed to establish that he was prejudiced by any alleged deficiency on Counsel's behalf.

Summary

This Court finds in regards to the allegation of ineffective assistance of counsel, Applicant's testimony as a whole was not credible. This Court further finds Counsel adequately

conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his representation, in particular in light of the circumstances Counsel was faced with when his client was not present at trial, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

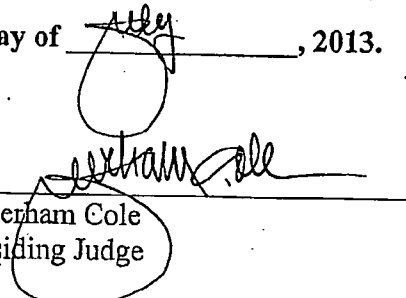
This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your

attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 10 day of July, 2013.



J. Denham Cole
Presiding Judge

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 JUL 15 PM 4:38
MARIE BLACKLEY

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

**RETURN SERVICE
REQUESTED**

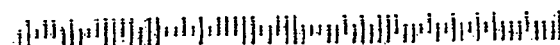
**PRESORTED
FIRST CLASS**



UNITED STATES POSTAGE
PITNEY BOWES
02 1R
0006556657 JUL 17 2013
\$ 00.68³
MAILED FROM ZIP CODE 29303

J. Falkner Wilkes
114 Whitsett St.
Greenville, SC 29601

2960133439 0007



10-68708

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Reginald J. Miller, #261476,

Applicant,

vs.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2010-CP-42-6870

ORDER

mailed 09/24/13
replied 09/20/13

col ✓

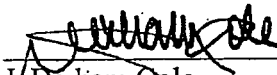
FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 SEP 24 PM 5:38
MAHOPE BLACKBERRY

This matter comes before the Court by way of Applicant's Motion pursuant to Rule 59(e), SCRCP. The Respondent made its Return to the Motion on August 15, 2013.

The Order of Dismissal in this matter was signed by me on July 10, 2013. This Court finds that the Order of Dismissal contains the findings of facts and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003) and Rule 52(a) SCRCP. See also McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991).

Based upon careful reconsideration of all the evidence in this case and upon full consideration of Applicant's Motion, this Court is not persuaded to alter or amend the judgment. This Court further finds that oral argument would not aid in the reconsideration of the original judgment. Therefore, this Court finds that the Order of Dismissal shall stand as it was written.

AND IT IS SO ORDERED this 23 day of September, 2013.


J. Derham Cole
Presiding Judge
Seventh Judicial Circuit

_____, South Carolina

SCANNED

M. HOPE BLACKLEY

Clerk of Court, Spartanburg County
Post Office Box 3483
Spartanburg, South Carolina 29304-3483

**RETURN SERVICE
REQUESTED**

PRESORTED
FIRST CLASS

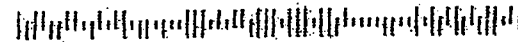


UNITED STATES POSTAGE
PITNEY BOWES
02 1R
0006556657 SEP 27 2013
\$ 00.43³
MAILED FROM ZIP CODE 29303

J. Falkner Wilkes
114 Whitsett St.
Greenville, SC 29601

10-6870 &

17 HRDUM11 29601



J. FALKNER WILKES

Attorney at Law

114 Whitsett Street
Greenville, South Carolina 29601

Telephone: (864) 282-1292
Facsimile: (864) 271-6035

July 25, 2013

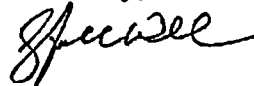
Clerk of Court
County Courthouse
2nd Floor, Suite 500
180 Magnolia Street
Spartanburg, SC 29306

Re: Reginald Miller v. State of South Carolina
C.A. No.: 2010-CP-42-06870

Dear Clerk,

Enclosed please find a Motion pursuant to common law and Rule 59(e) relating to the Order of Dismissal in the above captioned PCR case. The Order of Dismissal was entered on July 15, 2013. I am also enclosing a Certificate of Service for same.

Sincerely,



J. Falkner Wilkes

J. Derham Cole, Judge
County Courthouse
180 Magnolia Street
Spartanburg, SC 29306

Susanne H. White, Assist. Atty. General
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	C.A.: 2010-CP-42-6870
Reginald J. Miller, #261476,	)	
	)	MOTION RULE 59(e)
Applicant,	)	
	)	
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

NOW INTO COURT comes the Applicant who respectfully moves this Court, pursuant to the common law and Rule 59(e) for the Court to reconsider, alter and amend its Order of Dismissal based on the following:

The Court's Order of Dismissal fails to specifically address the holding of State v. Langford, 400 S.C. 421, 735 S.E.2d 471 (2012) as to the unconstitutionality of the Solicitor's control of the docket and its impact on the Appellant's case.

The record shows that the Applicant's attorney had five serious felony trials on the docket, all much older than the Applicant's case. The record shows that the Applicant's counsel attempted to obtain a continuance because he was not sufficiently prepared for the trial of Applicant's case which was only four months old. Counsel did not anticipate having to try the Applicant's case and testified that the Solicitor's actions in placing a four month old case on the docket was tantamount to "trial by ambush".

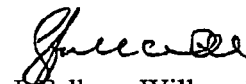
In addition to the average age of cases on the docket being a year or more in age, the other felony cases Appellant's counsel had on the docket were all far older, and as a result, counsel did

not expect that the Applicant's case would be pushed to trial so quickly. The State in this case failed to show why the Applicant's case had to be rushed to trial ahead of hundreds of other cases that were a year or more old. The Court's Order of Dismissal failed to address the application of Langford as to these facts.

Counsel in this case was unprepared for trial. He made no opening statement nor closing statement. Counsel gave no legitimate strategy behind his failure to fully defend the Applicant's interests. The record shows that the Solicitor rushed the case to trial and that it caught the Applicant's counsel off-guard and unprepared. As a result Counsel failed to provide meaningful representation and fell below the standard of competence for a criminal lawyer.

Wherefore, the Applicant moves this Court to reconsider, alter, or amend it's Order of Dismissal and grant Applicant's request for a new trial.

Respectfully submitted,



J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Counsel for Applicant

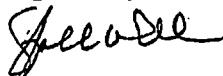
July 25, 2013.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	C.A.: 2010-CP-42-6870
Reginald J. Miller, #261476,	)	
	)	CERTIFICATE OF SERVICE FOR
Applicant,	)	MOTION RULE 59(e)
	)	
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

I certify that I have on the 25th day of July, 2013, served the Respondent with a copy of the Applicant's Motion to reconsider, alter or amend the Court's Order of Dismissal, signed by the Hon. J. Derham Cole on July 10, 2013 and entered on July 15, 2013, mailed by the Clerk on July 17, 2013, and received by counsel on July 18, 2013, by placing a copy of same addressed to counsel of record as indicated below:

Susanne H. White, Assist. Atty. General
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Respectfully submitted,



J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Counsel for Applicant

July 25, 2013.

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Reginald Miller,) 2010-CP-42-6870
7 Defendant.) January 11, 2013
8) Spartanburg, South Carolina
9)

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE
12
13

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

15 SUZANNE H. WHITE, ESQUIRE
16 Attorney for the State

17 J. FALKNER WILKES, ESQUIRE
18 Attorney for the Defendant
19

20
21 Linda D. Moffitt
22 Circuit Court Reporter
23
24
25

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

INDEX

WITNESSES

PAGE

THOMAS A.M. BOGGS (AW)

Direct examination by Mr. wilkes 5

Cross-examination by Ms. white 20

Redirect examination by Mr. wilkes 25

EBANY SCRUGGS (AW)

Direct examination by Mr. wilkes 26

REGINALD J. MILLER (AW)

Direct examination by Mr. wilkes 27

Cross-examination by Ms. white 31

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

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
A-1	Report		5
A-2	Arrest warrant		15
A-3	E-mail		18

1 MS. WHITE: Thank you, Your Honor.

2 This is the case of Reginald Miller vs. the State.
3 It's case No. 2010-CP-42-6870. He's represented today by
4 Mr. Jeff Wilkes.

5 Mr. Miller proceeded -- was indicted -- excuse me --
6 in May of '06, two counts of trafficking cocaine,
7 trafficking crack over ten grams and unlawful conduct
8 towards a child.

9 A trial was held June 15th of 2006. He was convicted
10 in his absence.

11 Sentence was read April 13th of 2007, which was a
12 sentence of 23 years on trafficking cocaine over 28 grams,
13 \$50,000 fine, and ten years on a trafficking crack charge.
14 The other charges were nolle prossed.

15 It was appealed and affirmed. The application was
16 filed December 30th of 2010 and amended March 19th of 2012.

17 We've had some various changes in his representation,
18 and he's raised various claims of ineffective assistance of
19 counsel -- counsel failed to make an opening or closing
20 statement, failed to make a motion for mistrial, failed to
21 object to probable cause for arrest, unprepared for trial,
22 failed to conduct any meaningful cross-examination, failed
23 to properly object to the evidence and the weight of the
24 cocaine.

25 And I will turn it over to Mr. Wilkes at this time.

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 THE COURT: Mr. Wilkes.

2 MR. WILKES: Thank you, Your Honor. May it please the
3 Court.

4 I'll staple a few pages together and offer them as
5 Applicant's 1, which I don't think the attorney general
6 will mind.

7 MS. WHITE: No objection.

8 (Report marked Applicant's Exhibit No. 1.)

9 MR. WILKES: Your Honor, at this time we would call
10 Mr. Boggs to the stand.

11 THOMAS A.M. BOGGS, having been
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. WILKES

14 Q Mr. Boggs, did you represent Mr. Miller in his
15 criminal case?

16 A I did.

17 Q Do you have a file for that case?

18 A My file unfortunately was shredded when I left
19 Spartanburg and moved to Clemson. It was in storage at my
20 old office, and so now it got shredded without my knowledge.

21 Q I'll show you and leave with you Applicant's Exhibit
22 1, some of the things -- a police report and some drug
23 analysis. That may help refresh your recollection.

24 Mr. Boggs, do you have personal recall of Mr. Miller?

25 A I have a pretty good idea. Oh, yeah, of Mr. Miller, I

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 do, yeah. And I have a pretty good recollection of what
2 transpired just because of the circumstances of how quick it
3 came to court.

4 Q What was he charged with?

5 A Charged with several traffickings. I remember when he
6 was arrested there was a child I guess in the back seat of
7 the vehicle. So he got a child endangerment, and I think
8 three -- three or four drug charges.

9 Q Did you represent him on the child endangerment in
10 family court?

11 A No. In family court?

12 Q Or wherever the child endangerment went.

13 A That I don't remember.

14 Q Do you recall meetings with Mr. Miller?

15 A I do.

16 Q Do you recall Ms. Ebany Scruggs being at any of the
17 meetings?

18 A I'm sure that she was some, yeah.

19 Q Okay. Do you recall meeting with Mr. Miller shortly
20 before the trial of the case?

21 A I don't remember specifically, but it wouldn't --
22 wouldn't surprise me that I did.

23 Q Tell me. You -- the transcript indicates that you had
24 several cases on the trial docket that you were preparing
25 for.

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 A Right. I had two murder trials that were on the docket
2 for that week.

3 Q How old were those murder trials?

4 A One of them was Ogden Bullard's, and that had to have
5 been almost two years old. The other one would have been in
6 excess of a year.

7 Q Okay. From your recollection what would be the normal
8 age for trials on the trial docket for someone that is not
9 incarcerated?

10 A I would say very few of them are less than a year old.

11 Q Okay. At the time that Mr. Miller's trial came up was
12 he incarcerated?

13 A No, he was not.

14 Q And do you remember how old his case was at the time
15 that it went to trial?

16 A The case was first -- about the first week in February.
17 So it would have been about four months old.

18 Q Four months old.

19 A March, April, May, June. Four months old.

20 Q Did you expect it to really go to trial at four months
21 old?

22 A No. Of course not. I think he hired me too a month
23 after that, so I had had the case about three months.

24 Q Okay. And in your meetings with Mr. Miller did you
25 express to him that you did not believe that it would be

1 going to trial so soon?

2 A I have no specific recollection, but it would not be
3 unusual for me to respond to a question from a client how
4 soon would it come up. Generally, I would tell them
5 anywhere from nine months to a year.

6 Q Okay.

7 A I don't specifically know I told him that, but that
8 would not be unusual.

9 Q Okay. Do you recall in talking about the case if you
10 were not -- well, strike that. If you were not expecting
11 it to come up for trial in four months what would have been
12 the state of your preparedness at that time?

13 A I would have reviewed the discovery, gone over it with
14 him. I probably would not have filed any motions that may
15 be associated in that short of a time.

16 Q In other words, would you agree that it would be
17 unusual at four months to really have been prepared and
18 expecting to go to trial?

19 A Without any more notice than I had, yeah.

20 Q Okay.

21 A And with the fact that they had me on the docket for
22 two murder trials, one of which was going to trial that
23 week.

24 Q Okay. Now, in a meeting with Mr. Miller do you recall
25 telling him that you weren't ready to go to trial that

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 quickly, you wouldn't be ready to go to trial that quickly
2 or couldn't be ready to go to trial that quickly, in only
3 four months?

4 A I don't remember I specifically told him that.

5 Q Okay.

6 A But, now, you mean like right before the trial, that
7 week of the trial did I tell him that?

8 Q A week or two before the trial.

9 A I don't think I knew two weeks before the trial that it
10 was even on the docket.

11 Q Okay.

12 A Seems to me it was the week before when we went to see
13 Judge Macaulay when it popped up.

14 Q Okay. So that would have been a surprise to you too
15 then.

16 A Uh-huh.

17 Q Okay. How did it get on the docket? What was --

18 A The solicitor put it on. Sarah Ganss put it on the
19 docket kind of as a -- according to her because the police
20 wanted it up there.

21 Q Okay. And was -- and at that time four months would
22 be very unusual --

23 A Yes.

24 Q -- for the age, average age. Now, do you think that
25 having put it -- having it put on the docket on short

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 notice and at four months acted to prejudice your ability
2 to prepare?

3 A Well, it certainly precluded me from doing things like
4 exploring potential suppression questions. Possibly in this
5 one as I remember there could have been a Roviaro question,
6 none of which would have been, you know, pending with that
7 short of notice.

8 Q Okay. Now, you had -- tell me about asking for a
9 continuance. You approached Judge Macaulay for a
10 continuance when you learned it was really possibly going
11 to trial?

12 A Right.

13 Q What happened?

14 A Judge Macaulay informed us that he would not make a
15 decision at that point, that when the case was called in
16 front of him to reraise it at that point and he would make a
17 decision the week it actually was called. He would make the
18 decision then whether to continue it based upon the status
19 of my other cases.

20 Q Okay. And did you devote a lot of time to the
21 preparation of the other cases?

22 A I did, yeah.

23 Q Did you devote a lot of time to the preparation of
24 this case?

25 A With what we had, I did. But, again, didn't have time

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 to develop this potential disclosure motion or the
2 suppression motion. So we tried -- that ultimately had to
3 be tried and developed during the trial itself.

4 Q And did you -- I think the record reflects you did
5 again raise the continuance issue, I think, at the
6 beginning of the trial to the trial judge. Did you not?

7 A Correct.

8 Q Is that right? Okay. And the judge denied it.

9 A Correct.

10 Q And you went to trial. And the record also I think
11 just speaks for itself, but it reflects that you had
12 indicated that you had had insufficient time to prepare.

13 A Correct.

14 Q Okay. Now, during the course of the trial and at the
15 very beginning of the trial you had indicated there were no
16 suppression motions.

17 A Correct.

18 Q And you -- I think you said you did not have time to
19 really develop any at that point anyway.

20 A Correct. Well, now, I didn't say there weren't any. I
21 said I had not filed any.

22 Q Right.

23 A But it depended on what evidence was brought in during
24 the trial whether they could establish the chain --

25 Q Right.

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 A -- which could lead to a suppression issue.

2 Q Right. And you did make two objections during the
3 trial.

4 A Correct.

5 Q Okay. Now, during the trial I noticed that you did
6 not make an opening argument. When did you make the
7 decision not to make an opening argument?

8 A Probably when the case was called.

9 Q Okay.

10 A I didn't feel that it would benefit me getting up and
11 saying anything to a jury when I didn't know exactly what
12 the testimony was going to be.

13 Q Okay.

14 A I didn't want to tell them this will happen when, in
15 fact, it doesn't.

16 Q Okay. And I believe you did not cross-examine any
17 witnesses if I remember right.

18 A I think I only asked one question.

19 Q Okay. At closing you did not give a closing argument.

20 A No, I did not.

21 Q And when did you make that decision?

22 A During the trial.

23 Q What was the basis for that decision?

24 A Seemed to me at that point the only issue was whether
25 or not the drugs should have been suppressed on failure to

1 establish the chain of custody.

2 Q Okay. And is it a normal practice not to give either
3 opening or closings?

4 A Not for me.

5 Q Okay. Would that have been affected in any way by
6 the -- by the way the case was set for trial or the amount
7 of time that you had to prepare for it?

8 A I think it was -- I would -- waiving the closing
9 argument, again, would have been based more on the only
10 issue that I saw in the trial, was the suppression issue
11 which would have been handled on appeal anyway.

12 Q Okay. Now, if I'm correct you made an objection, I
13 think a chain objection or a -- and a witness objection.
14 You did not make an objection to the introduction based on
15 a lack of probable cause, did you?

16 A No. It would have been the -- they brought in a
17 witness that had not been listed on their witness list, kind
18 of an after-the-fact thing because they had not established
19 the chain.

20 I think when they tried to first move the drugs in the
21 judge didn't let them at that point because they hadn't
22 established a chain. They did an after-the-fact bringing in
23 Margaret Greer, I believe is who it was.

24 Q That's right.

25 A And to make this up. But that was after the motions

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 had been made to suppress, and denied.

2 Q Right. Did you review the -- if you'll look on the
3 police report that's in front of you -- and you may
4 remember off the top of your head -- but do you recall the
5 probable cause for the arrest ended up being the fact that
6 they had an outstanding warrant?

7 A Yeah.

8 Q Outstanding arrest warrant from the two days before.

9 A Yeah, which always kind of confused me. Why would
10 they -- why didn't they go pick him up at his home or
11 wherever they could find him as opposed to parking at Boot's
12 and Sonny's restaurant, which, again, would have led to
13 possibly Roviario.

14 Q Right. Now, would -- would you agree that the
15 affidavit and search -- or not the search warrant, but it's
16 what led to the search, the -- the affidavit and arrest
17 warrant that they used to arrest him and then search him --
18 find drugs which this case is based on -- that prior arrest
19 warrant that they had in their hand to arrest him with and
20 then search, if it was insufficient on its face, the
21 probable cause, would that not have been a
22 suppression-motion issue?

23 A It would have, and I don't even remember what the
24 arrest warrant was they said they had on him.

25 Q Okay.

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 A I don't know if it was a driving. I don't even
2 remember what it was.

3 Q If you'll look in that, I think the 2/7 arrest warrant
4 is in there.

5 A Okay.

6 Q Let's just make sure I've given it to the Court.
7 Should be two, one from 2/9, which is this case, and then
8 the 2/7, I think was the one that they were arresting him
9 on at the time. 077750 would be the 2/7 one, February 7th.
10 Is that in there?

11 A I don't see it.

12 Q Oh, boy.

13 (Arrest warrant marked Applicant's Exhibit No. 2.)

14 MR. WILKES: We've offered that as Applicant's 2 into
15 evidence if the state doesn't have any objection.

16 MS. WHITE: No objection, Your Honor.

17 Q If you will look at Applicant's 2, that warrant from
18 February the 2nd, would you read that probable cause?

19 A "Defendant did traffic knowingly more than ten grams of
20 cocaine, a schedule II controlled substance, without legal
21 authority to so traffic said substance. Affiant's belief
22 based upon police investigation."

23 Q And if you had had time to scrutinize that as being
24 the basis of the arrest and subsequent search would you
25 have considered the affiant's belief based on police

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 investigation to be sufficient factual basis to support
2 that warrant?

3 A Certainly would have known -- wanted to know what the
4 underlying facts were.

5 Q And if there was a question -- and, again, if you'd
6 had time to prepare better -- would you have considered a
7 suppression motion based on the face of the search
8 warrant -- or not the search warrant -- but the arrest
9 warrant that they executed?

10 A If I'd found out that there was insufficient evidence
11 on this or it was an invalid warrant would I have --

12 Q Yes.

13 A -- challenged the probable cause?

14 Q Yes.

15 A I'm sure I would have.

16 Q Okay. And from the case -- and I think the
17 transcripts of everything should be in the record -- but
18 for our purposes that warrant was the basis of his arrest
19 two days later, correct?

20 A Right.

21 Q Okay. Which resulted in a search.

22 A Right.

23 Q Okay.

24 MR. WILKES: If I can have just one second, Your
25 Honor.

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 (Pause.)

2 Q Mr. Boggs, again, in the underlying warrant that
3 becomes the basis of the search, to the extent that a wire
4 recording or recording of the conversation between
5 Mr. Miller and the C.I. was involved or any other recording
6 in this case, did you make any objections or consider any
7 objections based on 17-30-65 concerning the recording of
8 the oral communications without consent?

9 A Did I consider it? I can't say that I did. I can't
10 remember.

11 Q Okay. Do you recall if there was a recording of any
12 conversations between Mr. Miller and the confidential
13 informant in either of these charges?

14 A I know that there was reference to a phone call between
15 the two. I don't know that I was ever provided a -- if
16 there was a recording, I don't know that I was ever provided
17 that.

18 Q Okay. And do you think given sufficient time and
19 additional time in discovery, time to make discovery, you
20 could have investigated?

21 A I would have found out, yeah. There's something wrong
22 with this too, this warrant.

23 Q And can you tell me what that is?

24 A Well, it's clocked in the clerk's office January the
25 14th of 2005, but it says the offense wasn't until

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 February 7th of 2006.

2 Q And noticing that now --

3 A Well, and I don't know. Maybe it's just an error.
4 It's just kind of confusing to me.

5 Q But would that be something given adequate time that
6 you would have investigated further and raised that issue?

7 A I certainly would have wanted to know why. And, again,
8 that is the first time I've noticed it.

9 Q And do you recall the plea offer that was made? If a
10 plea offer was made, do you recall the facts about that?

11 A I think in March, latter part of March or April,
12 Ms. Ganss offered a plea offer of 20 years initially, and
13 Reginald turned it down.

14 I think there was a -- either the day the case was
15 going to be tried or the day -- I guess it was the day
16 before. I think they offered 18 years.

17 Q Okay.

18 MR. WILKES: Mark this as Applicant's 3.

19 (E-mail marked Applicant's Exhibit No. 3.)

20 Q If you'll look at Applicant's Exhibit No. 3 from the
21 solicitor's-office file, do you remember an e-mail from the
22 solicitor?

23 A This would have come to my office.

24 Q What would be the date of that e-mail?

25 A April 14th of 2006.

Thomas A.M. Boggs
Direct examination by Mr. Wilkes

1 Q And what does it initially indicate?

2 A It says what -- that's he is charged with trafficking
3 in third offenses, mandatory minimum of 25.

4 There are no offers, place this on the trial docket May
5 the 1st. And that's all typed.

6 And then later on there's a handwritten note April the
7 27th, two weeks later, offer of 20 years.

8 Q Okay. Do you recollect those conversations or
9 communications?

10 A Do I recollect them? No. I mean, I have no doubt that
11 they didn't occur because it's documented there.

12 Q Do you believe that the solicitor was trying to
13 pressure you by putting this on the trial docket so
14 quickly?

15 MS. WHITE: Your Honor, I would object to speculation.

16 THE COURT: Sustained.

17 Q Did you feel pressured by the solicitor putting this
18 on the trial docket so quickly?

19 A Well, it created additional pressure just because my
20 pending cases with the cases that were way, way older than
21 that.

22 Q And from your recollection of all cases was four
23 months consistent with the general age of cases on that
24 trial docket?

25 A No.

Thomas A.M. Boggs
Cross-examination by Ms. White

1 MR. WILKES: That's all I have of Mr. Boggs.

2 MS. WHITE: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. WHITE

5 Q To go back to the arrest warrant that you noted was
6 clocked in on January 14th --

7 A I don't know anything about that.

8 Q -- did you note as well that it was signed by the
9 clerk's office or certified copy on the 14th of February?

10 A No.

11 Q Okay. So you don't know if it was just a clerical
12 error?

13 A I have no idea.

14 Q Okay. You were aware at the time that you were
15 retained in this case that he had been charged with drug
16 charges as a result or had -- they had an arrest warrant
17 for him as a result of a C.I. buy on February 7th.

18 A Right. That was the underlying case, yeah.

19 Q Okay. And then according to the incident report a
20 second C.I. buy was set up, same location, Boot's and
21 Sonny's, where they appeared as well to arrest him. Is
22 that your understanding?

23 A Right.

24 Q And at that point the defendant ran from the police.

25 A Right.

Thomas A.M. Boggs
Cross-examination by Ms. White

1 Q Was --

2 A Tackled and searched.

3 Q -- tackled and searched. A bag of drugs had
4 essentially burst, so it was there. And then he was
5 searched incident to arrest at the jail.

6 A Uh-huh.

7 Q And those charges from that February the 9th date are
8 ultimately what the trial charges were.

9 A That's correct.

10 Q How -- how long have you been practicing law?

11 A Thirty-six years.

12 Q And in those 36 years how much criminal work have you
13 done? Is it a majority or --

14 A I'd say 60 percent.

15 Q In regards to drug cases, do you handle a decent
16 amount of drug cases?

17 A I did.

18 Q What -- at the time of this trial, which was also back
19 in 2006, can you recall what percentage of cases maybe was
20 serious or what were drug charges and what were -- I know
21 you talked about murder cases but --

22 A In 2006 I had five pending murder cases that one year.
23 Now, they weren't all from that year. Obviously, they
24 were from a year or two years before. And I'm sure I had
25 some trafficking cases.

Thomas A.M. Boggs
Cross-examination by Ms. White

1 Q So you keep a case load of how many cases at any given
2 time?

3 A Counting family court I'd say at least a hundred open
4 files.

5 Q okay. And this was not your first trafficking case.

6 A No.

7 Q In regards to the evidence that the state had, not
8 looking at -- we're not looking at the prior arrest warrant
9 but the direct evidence from that day. Did you feel that
10 there were any real good defense options?

11 A Only to suppress the drugs.

12 Q And in regards to the trial on those charges, you had
13 given notice to the defendant that he was up for trial that
14 day, had you not?

15 A Right.

16 Q Did he appear?

17 A He did not.

18 Q And, in fact, on the record you state that you had
19 spoken to him --

20 A The day before.

21 Q -- the day before, conveyed the 18-year offer.

22 A Right.

23 Q Told him what time to be there that morning. And he
24 did not appear, correct?

25 A That's correct.

Thomas A.M. Boggs
Cross-examination by Ms. White

1 Q Based on the evidence the state had, your objection to
2 the chain of custody and the extra kind of witness, is
3 there anything else that you think you could have done
4 during the trial? Would an opening or closing in your mind
5 made a difference based on the evidence they had against
6 the defendant?

7 A Not the way it went, no.

8 Q Okay. And in regards to the letter you have up there,
9 or the e-mail that was just put into evidence regarding the
10 plea offer that was dated April 14th, the solicitor did
11 indicate in that e-mail that she was going to place it on
12 the trial docket May the 1st, did she not?

13 A Correct.

14 Q So that was even a little sooner, about a month
15 sooner, than it went, is that right?

16 A Right.

17 Q So at that point would you have talked to your client
18 about the potential that this is going much faster than we
19 thought?

20 A I can only surmise on that that I'd said, yeah, this
21 thing -- I don't know how I would have said, but I'm sure
22 I'd have brought it up that surely they can't be ready for
23 court that quick.

24 Q Right. But if you -- in your normal practice if you
25 got an e-mail that said it's going on May 1st --

1 A Right.

2 Q -- you would have had some discussions with your
3 client.

4 A I would have communicated that to him in that order.

5 Q Okay. And --

6 A Well, yeah, because I would have had to communicate the
7 plea offer included on the 27th.

8 Q Okay. And in your normal practice at that point do
9 you think that might have caused you to look at this case a
10 little more than you would have if you thought it was
11 coming up eight months from now?

12 A I would think -- I would -- generally, it would, but I
13 can't recall. I would imagine what I did is I wanted to
14 talk to the various solicitors to find out which one are you
15 calling, are you calling Ogden Bullard or are you going to
16 call Reggie Miller, let me know.

17 Q And your testimony -- obviously, you did talk on the
18 record about the fact that you felt kind of ambushed and
19 that this was called very quickly.

20 A No doubt about that.

21 Q And you did make a motion for a continuance as well,
22 did you not?

23 A I did.

24 Q And it was denied?

25 A It was because they switched from Judge Macaulay to

Thomas A.M. Boggs
Redirect examination by Mr. Wilkes

1 Judge Early. I was supposed to go back in front of
2 Macaulay, and the day they were going to call it they walked
3 it across the hall in front of Judge Early who denies it.

4 Q Okay.

5 MS. WHITE: One moment please, Your Honor.

6 (Pause.)

7 MS. WHITE: That's all I have at this time, Your
8 Honor.

9 REDIRECT EXAMINATION

10 BY MR. WILKES

11 Q One question. You had stated that your response was
12 surely they can't be ready to go to court that quick. You
13 didn't really expect them to go to court that quick, did
14 you?

15 A Not May 1st, no.

16 Q And at the time you went to trial just --

17 A It was still quick, yeah, from normal procedures.

18 Q Did it surprise you?

19 A Yeah, it surprised me, particularly when I had asked
20 before.

21 You know, if you're going to -- if you're going to
22 ambush me at least let me know a couple of months ahead when
23 I'm asking you a direct question, are you calling my murder
24 case or are you calling the trafficking case. I don't care,
25 but don't tell me you're going to call this one and then you

Ebany Scruggs
Direct examination by Mr. Wilkes

1 call this one.

2 MR. WILKES: No further questions.

3 MS. WHITE: The state has nothing else, Your Honor.

4 THE COURT: You may step down.

5 MR. WILKES: Your Honor, we will call Ms. Ebany
6 Scruggs.

7 EBANY SCRUGGS, having been
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. WILKES

10 Q Ms. Scruggs, what's your relation to Mr. Miller?

11 A We have a child together.

12 Q And did you go with Mr. Miller one time to Mr. Boggs'
13 office?

14 A Yes, sir.

15 Q And do you remember about how long before the trial
16 that was?

17 A It wasn't very long because we -- he wasn't even out
18 that long at all. Maybe -- I can't recall, but it was quick
19 because he wasn't out long at all.

20 Q Okay. Do you recall -- did you -- were you there when
21 Mr. Boggs and Mr. Miller discussed this coming to trial
22 potentially?

23 A Yes, sir.

24 Q And what was Mr. Boggs' opinion as far as whether or
25 not it was coming to trial?

Reginald J. Miller
Direct examination by Mr. Wilkes

1 A He was trying to push it back. That's from my
2 understanding that we was going to try to work on getting it
3 pushed back.

4 Q Okay. And did Mr. Boggs indicate anything about his
5 preparedness or ability to go to trial?

6 A Yes. He said he wasn't prepared because he wasn't
7 expecting it to go that fast.

8 MR. WILKES: No further questions.

9 MS. WHITE: The state has no questions for this
10 witness, Your Honor.

11 THE COURT: You may step down.

12 MR. WILKES: We would call Mr. Miller, Your Honor.

13 REGINALD J. MILLER, having
14 been first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. WILKES

16 Q Mr. Miller, when did Mr. Boggs begin representing you?

17 A Probably about 30 days prior to me getting arrested,
18 something like that, 30 or 35 days after -- I mean, yeah,
19 after I got arrested.

20 Q And which charges did he represent you on?

21 A He represented me on child endangerment charges and the
22 criminal proceeding charges.

23 Q And as far as the child endangerment charge goes, did
24 you appear in court on that charge?

25 A Yes. We went in front of a judge. I pled no-contest.

Reginald J. Miller
Direct examination by Mr. Wilkes

- 1 Q Okay. And when did that happen, before or after this?
- 2 A That happened before.
- 3 Q Okay. And did you and Mr. Boggs talk about that case
- 4 prior to that?
- 5 A The child endangerment case or the --
- 6 Q Yes.
- 7 A Yes, we did talk about the child endangerment case.
- 8 Q Okay. And did you focus on this case?
- 9 A No, sir, not at all.
- 10 Q How long before this trial did you resolve the child
- 11 endangerment case?
- 12 A Possibly 14 to 30 days.
- 13 Q And did you meet with Mr. Boggs after that?
- 14 A I only met with Mr. Boggs after that the day before
- 15 they had this trial.
- 16 Q Okay. When you met with him what was -- what were you
- 17 told as far as this case going to trial?
- 18 A He told me that he wasn't prepared and that he was
- 19 going to try to push his weight around to get a continuance.
- 20 Q Okay. And did he say why he would not be prepared?
- 21 A He didn't -- he didn't voice his opinion to me on why
- 22 he wasn't prepared no more than it was quickly and that he
- 23 hadn't had time to look into my -- he hadn't had time to
- 24 look into my case.
- 25 Q Okay. And what happened after that meeting?

Reginald J. Miller
Direct examination by Mr. Wilkes

1 A After that meeting -- actually, at that meeting I was
2 supposed to went to trial that day on the 14th.

3 Q Okay.

4 A And he told me that he would give me a call back if I
5 would need to go in the courtroom that day.

6 Q Okay.

7 A When he talked to me that day he told me that he had
8 some good news and bad news.

9 The good news was we not going to court that day, but
10 it was only pushed back for one day, which would be the next
11 day.

12 I asked him did I have any type of plea dealing, but he
13 told me there was no deal on the table at that time.

14 Q Okay. How did you feel about his preparedness to go
15 to trial and represent you the next day?

16 A Due to him telling me he wasn't prepared, I felt like
17 I -- I felt like I was going to lose terribly because my --
18 the guy that's representing me is not ready.

19 Q So what did you do?

20 A I fled.

21 Q Okay. If he had told you that he was fully prepared
22 to go to trial and he had had adequate time would you have
23 appeared at your trial?

24 A Yes, sir.

25 Q Would you have considered a plea offer?

1 A Yes, sir.

2 Q What plea offers were relayed to you?

3 A What was relayed to me, being that I had a simple
4 possession of marijuana charge and a P.W.I. marijuana
5 charge, that I had to do a mandatory 25. And I was asking
6 him how much does the charge that I was facing carry. And
7 he told me it carried a maximum of 25.

8 Q Okay.

9 A He did say this.

10 Q Did he convey an 18-year plea offer to you?

11 A No, sir.

12 Q If he had would you have taken it?

13 A Yes, sir.

14 Q Now, you -- if I can have just a second -- did you
15 ever miss any appointments? Did he ever set any
16 appointments with you that you failed to meet with him?

17 A No, sir.

18 Q And did you meet with him sufficiently to take care of
19 your child endangerment case?

20 A Yes, sir, I did.

21 Q Had he known -- or had you known, had he been able to
22 tell you that your case really would go to trial that
23 quickly would you have met with him more?

24 A Yes, sir. I would have wanted to know how we was going
25 to go about it. I'd've been asking him what are you doing

Reginald J. Miller
Cross-examination by Ms. White

1 to get me the best plea that I could possibly get. I
2 would've also asked him, you know, especially due to what I
3 see now, what was their probable cause to even arrest me,
4 was it sufficient.

5 Q So you would have considered going to trial if you had
6 felt prepared.

7 A Yes, sir. I have been in this situation before, and I
8 never fled before. So, I mean, yes, I would have definitely
9 been there.

10 MR. WILKES: No further questions of Mr. Miller.

11 CROSS-EXAMINATION

12 BY MS. WHITE

13 Q Mr. Miller, have you reviewed the transcript for the
14 trial?

15 A Yes, sir, yes, ma'am.

16 Q Okay. And so your testimony is you were never told of
17 an 18-year plea offer. But you did see where your attorney
18 said on the record that when he spoke to you on the day
19 before he had conveyed that plea offer to you.

20 A Right. And that was my first time seeing that 18-year
21 plea offer with me reading this transcript.

22 Q So your testimony is you believe Mr. Boggs lied to the
23 Court that day?

24 A Either he lied to the Court that day or he wasn't
25 speaking with me over that phone.

Reginald J. Miller
Cross-examination by Ms. White

1 Q Okay. So even though you're discussing today, you
2 said that you did talk with him the day before about the
3 good news and the bad news, that you weren't going that day
4 but you were going the next day.

5 Do you think you could have made a separate phone call
6 and got somebody else at your house?

7 A No. It wasn't no house phone. It's a cell phone. And
8 what I'm saying is I don't recall him ever telling me about
9 a 18-year plea deal. I'd've took it.

10 Q Okay. And you said you only met with counsel the day
11 before trial, but you had met with him obviously regarding
12 the child endangerment charge.

13 A Correct.

14 Q And he had reduced, gotten your bond reduction, and
15 gotten you bond, is that correct?

16 A Correct. When he done that he wasn't meeting with me.
17 He was meeting with Ms. Scruggs to get the bond, because I
18 was in the jail.

19 Q But did he not see you on the day of your bond
20 reduction hearing?

21 A Yes.

22 Q Okay. So you talked to him then.

23 A Yeah. I mean, the only thing that we talked about then
24 was me coming in and making a payment, but, yes, we did
25 talk.

Reginald J. Miller
Cross-examination by Ms. White

1 Q Okay. And you talked the day that y'all -- you pled
2 to the child endangerment charge, which was sometime in
3 March or -- excuse me -- May?

4 A Yes. And I asked him about that, this case right here,
5 and he told me not to worry about it because it's not coming
6 up any time soon.

7 Q So, also your testimony is that Mr. Boggs is lying
8 when he said that you turned down a 20-year plea offer?

9 A I never even knew about a 20-year plea offer. My first
10 time hearing about that was today.

11 Q And that's my question. So you believe that Mr. Boggs
12 was lying on the stand when he said you turned down a
13 20-year plea offer?

14 A Yeah, yes, yes, ma'am.

15 Q Okay. You said if you had more time you would have
16 considered going to trial but you also wanted to see if he
17 could work out any plea deals for you.

18 A Correct.

19 Q So it was -- you were just wanting to get either a
20 better plea offer or you were going to go to trial and face
21 a mandatory minimum of 25?

22 A Yes, ma'am.

23 Q Okay. And this was your third or subsequent drug
24 charge, was it not?

25 A Yes, ma'am.

Reginald J. Miller
Cross-examination by Ms. White

1 Q Okay. So you had been involved with this system
2 before and kind of understood how that worked. And you
3 were aware that this was a mandatory minimum of 25 to --

4 A No. I didn't know that, because I didn't think that
5 simple possession of marijuana was the same as being caught
6 as trafficking cocaine or crack cocaine. That was my first
7 crack cocaine or that type of conviction.

8 Q Okay. And you did talk to -- you did read the
9 transcript and see where Mr. Boggs made an objection to
10 that being included. And they were able to get that
11 reduced from a third or subsequent with a mandatory 25.
12 You're aware of that because you got 23, right?

13 A Correct.

14 Q Okay. So you did read the transcript and see where he
15 argued against that being used.

16 A He didn't argue. Well, I seen where he put a
17 suggestion, but I don't see argument where he just, you
18 know, arguing with it. I just -- I did see him raise an
19 objection.

20 Q Okay. And the Court did side with him and refused to
21 use the simple possession of marijuana to enhance your
22 sentence.

23 A Correct.

24 Q Okay.

25 MS. WHITE: Your Honor, that's all the questions I

1 have at this time.

2 MR. WILKES: No further questions of this witness.

3 THE COURT: Step down.

4 MR. WILKES: Your Honor, that'd be the applicant's
5 case.

6 MS. WHITE: Your Honor, the state has no witnesses.

7 THE COURT: I'll review the record and issue an order.

8 MR. WILKES: Your Honor, may I make one short
9 statement?

10 THE COURT: You may.

11 MR. WILKES: Thank you, Your Honor, for allowing me to
12 do that.

13 Your Honor, in this case we've raised several simple
14 issues, the failure to suppress, the most probable cause on
15 the arrest warrant, potentially 17-30-80 issue, a couple of
16 issues that could have been further investigated and
17 fleshed out and raised had counsel had proper time.

18 I would say that -- also at issue under U.S. vs.
19 Cronic on this failure to put the state to their test,
20 which counsel is always required to do, and we would submit
21 that the record would show that failing to open and close
22 or make substantial cross would violate that line of really
23 putting the state to their test.

24 The big issue though is not really the fault of
25 Mr. Boggs in the sense that he has failed, because, as he

1 said, he was ambushed as well.

2 The State vs. Langford case that has recently come
3 down that has indicated that it is unconstitutional to put
4 on the solicitor the ability to call the docket -- and I
5 think the amicus brief filed in the case was I think drove
6 at some of the abuses that can happen when the solicitor
7 has that ability picking and choosing and deciding just
8 arbitrarily who they will pick up and rush to the top of
9 the docket.

10 I think according to Mr. Boggs' testimony it seems
11 that this might have been one of those for a case of a
12 nonjailed individual to suddenly be on the docket and go to
13 trial at four months.

14 It was not an unnecessarily reasonable expectation.
15 Mr. Boggs believed that that case would never go to trial
16 in front of all of those other older cases of much more --
17 I guess more serious -- but other cases much, much older
18 than that case.

19 In this case I think that the State vs. Langford
20 applies. And the solicitor raising a case in front of all
21 other cases put pressure on Mr. Boggs, prejudiced
22 Mr. Boggs' ability to do what he would have liked to have
23 done in the defense of the case.

24 So we would commend to the attention of the Court
25 State vs. Langford. Thank you, Your Honor.

1 MS. WHITE: Just briefly, Your Honor.

2 I think that the burden is on the applicant to show
3 that had something been done different by counsel the
4 outcome of his trial would have been different.

5 There has been no indication that any drugs would have
6 been suppressed. He did -- Mr. Boggs did make motions
7 regarding chain. An Anders brief was filed raising the
8 Cronic issue, and then also a pro se brief by Mr. Miller
9 which raised the two issues of objections.

10 The appeal was denied or the sentence and conviction
11 were affirmed.

12 I think Mr. Boggs is a very-well experienced attorney.
13 He was -- could probably do -- he handles a lot of these
14 cases as he testified.

15 He said there would have been nothing really different
16 he would have done other than maybe review some of the
17 documents which have not been shown to have made any
18 difference.

19 So we would ask that -- in regards to State vs.
20 Langford, Your Honor, I don't believe there's been any
21 indication that it should apply retroactively to any case
22 particularly on collateral attack.

23 So we would ask that you deny the application.

24 THE COURT: I will issue an order.

25 END OF REQUESTED TRANSCRIPT OF RECORD

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

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 11th day of January 2013.

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

November 22, 2013



Linda D. Moffitt
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
Reginald J Miller #261476	)	
Full name and prison number (if any) of Applicant.	)	
	)	AMENDED
v.	)	APPLICATION FOR
	)	
State of South Carolina	)	POST-CONVICTION RELIEF
	)	

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to 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 McCormick Correctional Institution
2. Name and location of Court which imposed sentence Spartanburg Ct of General Sessions
3. Name(s) of co-defendant(s) (if any) NA
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2006-GS-42-1550
 - (b) 2006-GS-42-1551
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) June 15, 2006 (Sealed sentence) April 13, 2007 (Sentence Unsealed)
 - (b) Applicant sentenced 23 years on #1550, 10 years concurrent on #1551

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 <Check>
- (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. Appeal Dismissed.
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. January 25, 2010.
- 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) Mr. Miller had ineffective assistance of Counsel at the trial level and his defense

was materially prejudiced by the absence of trial counsel assured him by the Sixth Amendment to the United States Constitution.

(b) _____

(c) _____

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

(a) Trial Counsel talked for 3 transcript pages about how unprepared he was.

(b) Mr. Miller's counsel failed to prepare for the hearing, failed to make an opening or closing argument even when the State made use of both opportunities, failed to conduct any meaningful cross examination, failed to make a motion for a mistrial, failed to call to the Court's attention a substantial change in evidence that was subject to the chain of custody, and failed to make a motion for acquittal. Trial Counsel objected to the bag of cocaine, but did not call to the court's attention that the bag taken into custody was 32 grams. The next custodian of the evidence testified the bag was 22.4 grams. While there is some loss for testing, the other baggy only took a little over 2 grams to test. There is a substantial discrepancy that calls into question the admissibility of the evidence that convicted Mr. Miller. If Trial Counsel had properly objected to the evidence that was subject to the chain of custody, the prosecution could not have met its burden on the crack cocaine charge. Trial Counsel's failure to prepare and present this evidence substantially prejudiced Mr. Miller's case.

Further, Trial Counsel failed to object to the probable cause for Mr. Miller's arrest. Specifically, the arrest warrant and informant used by the Police in apprehending Mr. Miller on February 9 stemmed from an arrest warrant of February 7, just two days prior. There is a lack of evidence that the police followed proper wire tapping procedures that substantiated that arrest warrant. Without that arrest warrant from February 7, there would have been insufficient grounds to chase Mr. Miller or apprehend Mr. Miller on February 9. Accordingly, Trial Counsel should have objected under Wong Sun v. United States, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963). Trial Counsel's failure to object prejudiced Mr. Miller's defense.

(c) Trial counsel waived opening and closing arguments. Trial Counsel did not make a motion for mistrial or motion for acquittal.

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

(a) any petition in a State Court under South Carolina Law? N/A

(b) any petition in State or Federal Courts for habeas corpus or post-convictions

Revised 3/2003

relief? N/A

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A

(d) any other petitions, motions or applications in this or any other Court? N/A

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. _____

Revised 3/2003

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?
N/A
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) N/A
 - (b) _____
 - (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
 - (b) your trial, if any? Yes
 - (c) your sentencing? Yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Thomas A.M. Boggs, Clemson, SC 29631
 - ii. Kathrine Hudgins, P.O. Box 11589, Columbia, SC 29211
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:

Revised 3/2003

- i. Arraignment
- ii. Trial
- iii. Appeal

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

New trial awarded and all other relief deemed necessary by the Court, sentence vacated, conviction reversed, and all such other relief as the Court deems just and proper.

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

No.

Respectfully submitted,



R. Patrick Martin

LAZENBY LAW FIRM, LLC

134 Oakland Ave. (29302)

Post Office Box 6099

Spartanburg, SC 29304

Phone: (864) 804-5050

Fax: (864) 804-5051

Email: patrick@lazenbylawfirm.com

ATTORNEY FOR APPLICANT

March 19, 2012

2010-6870

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Reginald J Miller #261476

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

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

AMENDED

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to 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 McCormick Correctional Institution
2. Name and location of Court which imposed sentence Spartanburg Ct of General Sessions
3. Name(s) of co-defendant(s) (if any) NA
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2006-GS-42-1550
 - (b) 2006-GS-42-1551
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) June 15, 2006 (Sealed sentence) April 13, 2007 (Sentence Unsealed)
 - (b) Applicant sentenced 23 years on #1550, 10 years concurrent on #1551

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 <Check>
 - (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. Appeal Dismissed
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. January 25, 2010.
 - 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) Mr. Miller had ineffective assistance of Counsel at the trial level and his defense

2012 MAR 21 PM 2:53
CLERK OF COURT
JUDICIAL BRANCH
JULIUS ROBERTS JR. COURT
JULIUS ROBERTS JR. COURT

was materially prejudiced by the absence of trial counsel assured him by the Sixth Amendment to the United States Constitution.

- (b) _____
- (c) _____

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

(a) Trial Counsel talked for 3 transcript pages about how unprepared he was.

(b) Mr. Miller's counsel failed to prepare for the hearing, failed to make an opening or closing argument even when the State made use of both opportunities, failed to conduct any meaningful cross examination, failed to make a motion for a mistrial, failed to call to the Court's attention a substantial change in evidence that was subject to the chain of custody, and failed to make a motion for acquittal. Trial Counsel objected to the bag of cocaine, but did not call to the court's attention that the bag taken into custody was 32 grams. The next custodian of the evidence testified the bag was 22.4 grams. While there is some loss for testing, the other baggy only took a little over 2 grams to test. There is a substantial discrepancy that calls into question the admissibility of the evidence that convicted Mr. Miller. If Trial Counsel had properly objected to the evidence that was subject to the chain of custody, the prosecution could not have met its burden on the crack cocaine charge. Trial Counsel's failure to prepare and present this evidence substantially prejudiced Mr. Miller's case.

Further, Trial Counsel failed to object to the probable cause for Mr. Miller's arrest. Specifically, the arrest warrant and informant used by the Police in apprehending Mr. Miller on February 9 stemmed from an arrest warrant of February 7, just two days prior. There is a lack of evidence that the police followed proper wire tapping procedures that substantiated that arrest warrant. Without that arrest warrant from February 7, there would have been insufficient grounds to chase Mr. Miller or apprehend Mr. Miller on February 9. Accordingly, Trial Counsel should have objected under Wong Sun v. United States, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963). Trial Counsel's failure to object prejudiced Mr. Miller's defense.

(c) Trial counsel waived opening and closing arguments. Trial Counsel did not make a motion for mistrial or motion for acquittal.

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

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions

Revised 3/2003

relief? N/A

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A

(d) any other petitions, motions or applications in this or any other Court? N/A

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?
N/A
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) N/A
 - (b) _____
 - (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
 - (b) your trial, if any? Yes
 - (c) your sentencing? Yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Thomas A.M. Boggs, Clemson, SC 29631
 - ii. Kathrine Hudgins, P.O. Box 11589, Columbia, SC 29211
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:

i. Arraignment

ii. Trial

iii. Appeal

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

New trial awarded and all other relief deemed necessary by the Court, sentence vacated, conviction reversed, and all such other relief as the Court deems just and proper.

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

No.

Respectfully submitted,


R. Patrick Martin

LAZENBY LAW FIRM, LLC
154 Oakland Ave. (29302)
Post Office Box 6099
Spartanburg, SC 29304
Phone: (864) 804-5050
Fax: (864) 804-5051
Email: patrick@lazenbylawfirm.com

ATTORNEY FOR APPLICANT

March 19, 2012

FILED
CLERK OF COURT
ANDREWS COUNTY
2012 MAR 21 PM 2:53
MARIETTA, GEORGIA

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Cordell Maddox, Jr., Circuit Court Judge
Doyet A. Earley, III Circuit Court Judge

THE STATE,

RESPONDENT,

V.

REGINALD JAMES MILLER,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS	1
TABLE OF AUTHORITIES.....	2
STATEMENT OF ISSUE ON APPEAL.....	3
STATEMENT OF THE CASE	4
ARGUMENT.....	5
CONCLUSION.....	7
PETITION TO BE RELIEVED AS COUNSEL.....	8

TABLE OF AUTHORITIES

Cases

United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed.2d 657 (1984).....5, 6

STATEMENT OF ISSUE ON APPEAL

Whether Miller's constructive denial of counsel requires reversal for a new trial on direct appeal?

STATEMENT OF THE CASE

In May of 2006, the Spartanburg County Grand Jury indicted Miller for trafficking in cocaine and trafficking in crack cocaine, indictments #06-GS-42-1550, 1551. On June 15, 2006, The State called the case for trial. Miller did not appear and he was tried in his absence. Miller was represented by counsel. The jury returned verdicts of guilty on both indictments. Judge Early sealed the sentences. On April 13, 2007, Miller appeared before the Honorable J. Cordell Maddox, Jr. for sentencing. Judge Maddox unsealed the sentence and imposed Judge Early's sentence of 23 years for trafficking in cocaine and 10 years concurrent for trafficking in crack. A timely notice of intent to appeal was filed on April 20, 2007. This appeal follows.

ARGUMENT

Miller's constructive denial of counsel requires reversal for a new trial on direct appeal.

Miller was constructively denied the right to counsel. While Miller was represented by counsel, counsel failed to subject the prosecution's case to a meaningful adversarial testing. Miller's attorney waived opening statement, (R. p. 22, line 12) and failed to cross examine the arresting officers and the chemist, (R. p. 30, line 5; p. 36, line 2; p. 50, line 14). The only cross examination conducted by counsel consisted of three questions of the evidence custodian. (R. p. 54, lines 22 – p. 55, lines 1-13). Counsel made only two objections during the course of the entire trial. Counsel objected to an officer's reference to the fact that Miller had a pending warrant. (R. p. 24, lines 4-7). The objection was sustained and the judge instructed the jury to disregard the statement. Counsel failed to move for a mistrial. Counsel also objected to the chain of custody because the State had not yet called the evidence custodian as a witness. (R. pp. 42-47). The State completed the chain by calling the evidence custodian as a witness. (R. p. 47, lines 17-21; pp 50 – 57). Miller's attorney failed to move for a directed verdict at the close of the State's case and instead simply renewed the objection in regard to the chain. (R. p. 57, lines 13 – p. 58, lines 1-13). Miller's attorney waived closing argument. Not surprisingly, based on counsel's complete failure to subject the State's case to a meaningful adversarial testing, the jury returned verdicts of guilty.

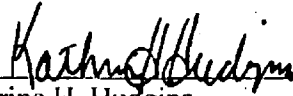
A defendant has the right to the effective assistance of counsel under the Sixth Amendment to the United States Constitution. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed.2d 657 (1984). "...[I]f counsel entirely fails to subject the

prosecution's case to a meaningful adversarial testing, then there has been a denial of Sixth Amendment rights that makes the adversarial process itself presumptively unreliable." Cronic at 659. While normally issues involving ineffective assistance of counsel are raised in the context of post conviction relief, Miller's constructive denial of the right to counsel requires reversal on direct appeal.

CONCLUSION

Based on the above argument, Miller's sentence and conviction should be reversed and the case remanded for a new trial.

Respectfully submitted,



Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of October, 2008.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Cordell Maddox, Jr., Circuit Court Judge
Doyet A. Earley, III Circuit Court Judge

THE STATE,

RESPONDENT,

V.

REGINALD JAMES MILLER,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Reginald James Miller states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

2. She has reviewed the record of appellant's trial before Judge J. Cordell Maddox, Jr., which was held on April 13, 2007, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Reginald James Miller.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

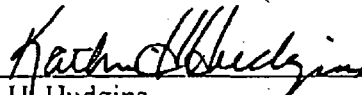
ATTORNEY FOR APPELLANT

This 7th day of October, 2008.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 7, 2008


Kathrine H. Hudgins
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Cordell Maddox, Jr., Circuit Court Judge
Doyet A. Earley, III, Circuit Court Judge

THE STATE,

RESPONDENT,

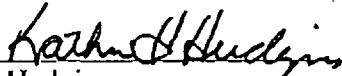
V.

REGINALD JAMES MILLER,

APPELLANT

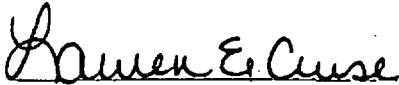
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201; and a copy of the Final Anders Brief of Appellant and Record on Appeal have been served on Reginald James Miller, #261476 at McCormick Correctional Institution, 386 Redemption Way McCormick, SC 29899 this 7th day of October, 2008.


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of October, 2008.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: August 23, 2014

RECEIVED

NOV 07 2008

STATE OF SOUTH CAROLINA
Appeal From Spartanburg County
J. Cordell Maddox, Jr., Circuit Court Judge

SC Court of Appeals

ANDERS RESPONSE BRIEF

THE STATE.

RESPONDET.

V.

REGINALD JAMES MILLER

APPELLANT

Pro-se BRIEF

Reginald James Miller #261476
McCormick C.I. F-1A/161
386 Redemption Way
McCormick, S. C. 29899
Appellant, Pro-se

INDEX

Index.....	1
Table of AUTHORITIES.....	2
Statement of Issues on Appeal.....	3
Statement of the Case.....	4
Issue #1.....	5
Issue #2.....	8
Conclusion.....	10
Certificate of Service.....	11

Table of Authorities

State v. Chisolm, op. no.: 3649, heard March 12, 2003-files June 2, 2003.....	6
State v. Carter, 334 S.C. 419, 554 S.E.Zd 835 (2001).....	6
State v. Joseph, 328 S.C. 352, 491 S.E.Zd 275 (ct. app. 1997).....	7
Trumbo v. Finley, 18 S.C.305 (1882).....	9
Rule-5, SCRCrimp.....	8

Statement of Issues on Appeal

Issue #1

Did the trial Court err in admitting the alleged cocaine and crack cocaine into evidence when the State failed to establish a sufficient chain of custody.

Issue #2

Did the trial court err in allowing Margaret Greer to testify at trial when she was not listed on the prosecution's witness list as a prosecution witness, which violated the disclosure rules as set forth in Rule-5, of the SCRCrimp.

Statement of the Case

Appellant was indicted by the Spartanburg County in May of 2006, for trafficking in cocaine and trafficking in crack cocaine, Indictments # 06-GS-42-1550, 1551. Appellant was tried in his absence on June 15, 2006. Appellant was represented by counsel. Appellant was found guilty as charged at the conclusion of trial. The sentence was sealed by Judge Early. On April 13, 2007, Appellant appeared before the Honorable Judge J. Cordell Maddox Jr. for sentencing. Judge Maddox unsealed the sentence and imposed Judge Early's sentence of 23 years for trafficking in cocaine and ten (10) concurrent for trafficking in crack. Appellant file a timely notice of intent to appeal on April 20, 2007. Appellate counsel file an Anders brief. This Pro-se Anders brief follows:

Issue #1

THE TRIAL COURT ERRED IN ADMITTING THE ALLEGED COCAINE AND CRACK COCAINE INTO EVIDENCE WHEN THE STATE FAILED TO ESTABLISH A SUFFICIENT CHAIN OF CUSTODY.

During trial of the instant case, the state moved to enter "Exhibit 1" into evidence, which was identified as 51.65 grams of cocaine. (Tr.p.42, 11-9-21). Trial counsel object and stated that "the chain hasn't been established yet." (Tr.p.42, 11-22-23). As the trial progressed, the State moved to enter "Exhibit 2" into evidence, and trial counsel again objected for the same previous reason. (Tr.p.56, 11-19-22). "Exhibit 2" is identified as 22.40 grams of crack cocaine. (Tr.p.50, 11-8-9).

Counsel's argument to support his chain of custody motion went

As follows: (Tr.p.45, 11-1-25p.46, 11):

Mr. Boggs: What she's basically saying is you only go from the top man to the bottom man. So, there will never be a, a question of custody. I understand the law is the purpose for the chain of custody is to establish that the items seized in this case by either Hutchins was not, was in the same situation when in the evidence bag. I mean put it in the evidence bin.

Now this officer can't testify to that. She can not verify that is even the same product that was put in by, by officers Hutchins or Chris Raymond. I think both of them--Officer Raymond and Officer Hutchins.

Their testimony was they put it in one depository. Her testimony is she pick it up out a second depository. But to complete the chain, particularly when you're talking about fungible items, items that can be mixed, destroyed, spilled, my understanding is that chain is got to be established completely from the time that the police officer got it in his

Sonny's until the time she put it on the, on
chemical test to, to test what the substance was.
ing party that actually had control of it for
-it was deposited with the third party on the
et it till the 10th.
was an intervening party that gave

a report that she handled the alleged drugs. This is party was not listed on the prosecutions witness list to testify concerning the chain of custody of the alleged drugs.

This case is similar to that of State v. Chisolm. Op.no.:3649, heard March 12, 2003-field June 2, 2003 in that the state presented testimony of the first and last links in the chain of custody. In the instant case, the State presented testimony of Officer Hutchins and Officer Raymond, the first link in the chain of custody of the alleged cocaine and crack cocaine. (Tr. Pp. 23-36. The State also presented testimony from Lieutenant Both Vaughn, a Chemist, who was the last link in the chain of custody. But as counsel argued, "There was an intervening party that actually had control of it for almost a day. (Tr. P. 45, 11. 23-24).

The trial judge erred in allowing the alleged cocaine and crack cocaine to be entered into evidence, because without the testimony of the surprise witness, the complete chain was not established.

The law is "a complete chain of evidence, tracing possession from the Evidence's initial control to its final analysis, must be established as far as practicable. "State vs. Carter, 334 s.c.419, 554 s.e. zd 835 (2001)
A missing link in a chain of custody creates an issue of admissibility.

Id. If a substance has, as in this case, passed through multiple custodians, it must not be left to conjecture concerning who had the evidence and what was

done with it between the taking and the analysis. State v. Joseph, 328 s.c. 352, 491 s.e. 2d 275 (ct. App. 1997).

For the reasons set forth here, appellate counsel's motion to be relieved should be denied and future briefing should be ordered in this matter by this Court.

ISSUE #2

THE TRIAL COURT ERRED IN ALLOWING MARGARET GREER TO TESTIFY AT TRIAL WHEN SHE WAS NOT LISTED ON THE PROSECUTION'S WITNESS, WHICH VIOLATED THE DISCLOSURE RULES AS SET FORTH IN RULE-5, OF THE SCRCRIMP.

At the beginning of trial in the instant case, the Court identified by name the witnesses the prosecution planned to call during trial in an effort to prove their case. (Tr.p.6, 11. 5-25-p. 7, 1.1). There was no mention of Margaret Greer.

During trial, counsel objected to the alleged drugs being entered into Evidence because the chain of custody had not been established, (Tr.p.46,11. 22-25). Apparently the witness list was received in the rule-5discovery material. (Tr.p 43, 11.1-2).

Rule-5(a) (1) (c) of the SCRCrimp States as follows

(c) Document and Tangible objects. Upon request of the defendant the prosecution shall permit the defendant to inspect and copy books, paper, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the prosecution, and which are material to the preparation of defense or are intended for use by the prosecution as evidence in chief at trial.

Her in this case, the prosecution had in its possession,

Custody, and control the knowledge that it intended to use Margaret Greer as a prosecution witness during trial of the instant case. This information that Margaret Greer would testify to aid the prosecution in establishing a chain of custody, counsel would have employed a different trial strategy.

The trial judge abused his discretion when he allowed Margaret Greer to Testify in this case after counsel had objected to her testifying. (Tr.p.46,11. 1-2). The South Carolina Supreme Court has long held that an "abuse of discretion by the trial court is reversible if it deprives a party of a substantial right." *Trumbo vs. Finley*, 18 s.c.305 (1882). When the trial judge made his ruling to allow Margaret Greer to testify in this case, that ruling deprived Appellant of his substantial right to have information to aid him in preparing his defense to present during trial In this case. Appellant was ambushed with the surprise witness to assist the prosecution in presenting it's case.

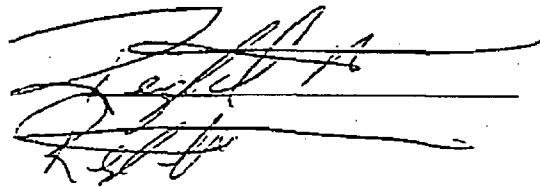
For the reason set forth in this issue, appellant counsel's motion to be relieved should be denied and further briefing should be ordered in this matter by this court.

Conclusion

Appellant believes he is entitled to a new trial based on the trial court improperly admitting the substance into evidence and allowing an unlisted person to testify as a witness in this case.

This 04 day of November, 2008

Respectfully submitted
Reginald Miller, # 261470

A handwritten signature in black ink, appearing to read 'Reginald Miller', is written over three horizontal lines.

MCCI F-1A/161
386 Redemption Way
McCormick, S.C. 29899
Appellant, pro-se

STATE OF SOUTH CAROLINA

IN THE COURT of APPEALS

Appeal From Spartanburg County

J. Cordell Maddox, Jr., Circuit Court Judge

RECEIVED

NOV 07 2008

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

REGINALD JAMES MILLER

APPELLANT.

CERTIFICATE OF SERVICE

The undersigned Appellant, Pro-se, certifies that he has served a true copy of the attached pro-se Anders brief upon Salley W. Elliot. Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, by delivering a true copy of same to the McCormick Correctional Institution mail room with postage prepaid on the 04 day of November, 2008.

Sworn to and subscribed before me this 04 day of November, 2008

James C. F. Smith
Notary Public of South Carolina
My Commission Expires 01-31-2010

Reginald J. Miller #261476

Reginald J. Miller
MCCI F-1A/161

386 Redemption Way
McCormick, S.C. 29899

Appellant

11

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,

Respondent,

v.

Reginald James Miller,

Appellant.

Appeal From Spartanburg County
J. Cordell Maddox, Jr., Circuit Court Judge
Doyet A. Early, III, Circuit Court Judge

Unpublished Opinion No. 2010-UP-020
Submitted January 4, 2010 – Filed January 25, 2010

APPEAL DISMISSED

Appellate Defender Kathrine H. Hudgins, of
Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief
Deputy Attorney General John W. McIntosh, and
Assistant Deputy Attorney General Salley W. Elliott,

all of Columbia; and Solicitor Harold W. Gowdy, III,
of Spartanburg, for Respondent.

PER CURIAM: Reginald James Miller appeals his convictions and sentences for trafficking in cocaine and trafficking in crack cocaine, arguing the constructive denial of counsel he suffered at trial requires reversal and a new trial. Miller filed a separate pro se brief, arguing the circuit court erred in admitting the powder and crack cocaine into evidence because the State failed to establish a proper chain of custody and in allowing Margaret Greer to testify at trial, despite the fact she was not listed as a prosecution witness. After a thorough review of the record and both briefs pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss¹ Miller's appeal and grant counsel's motion to be relieved.

APPEAL DISMISSED.

HUFF, A.C.J., GEATHERS, J., and CURETON, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



RECEIVED

FEB 11 2010

CLERK OF COURT

The South Carolina Court of Appeals

TANYA GEE
CLERK

W. CLAUDE ALLEN
DEPUTY CLERK

PO BOX 1000
COLUMBIA, SOUTH CAROLINA 29201
COLUMBIA STREET
COLUMBIA, SOUTH CAROLINA 29201
TEL: 803/735-1234
FAX: 803/735-1234
WWW.SCCOURTS.GOV

February 10, 2010

REMITTITUR

The Honorable Ponda A. Caldwell
180 Magnolia Street
Spartanburg, SC 29304

Re: The State v. Miller, Reginald James
2006-GS-42-01550; 2006-GS-42-01551

Dear Ms. Caldwell:

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

Sincerely,

V. Claude Allen, Deputy Clerk

Tanya A. Gee
Clerk of Court

TAG/m

cc: Appellate Defender Kathrine H. Higgins
Reginald James Miller, #261476
Assistant Deputy Attorney General Salley W. Elliott
Harold W. Gowdy, III, Esquire

06-GS-42-1550

WITNESSES

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

ARREST WARRANT NUMBER

H789524

THE STATE

VS.

ACTION OF GRAND JURY

REGINALD JAMES MILLER

Foreperson of Grand Jury

Date: 5-11-06

VERDICT

Indictment for

TRAFFICKING IN COCAINE

SC Code: 44-53-370

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

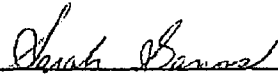
MAY 11 2006

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE

That Reginald James Miller did in Spartanburg County on or about February 9, 2006, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (28) twenty-eight grams of Cocaine, a schedule I controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

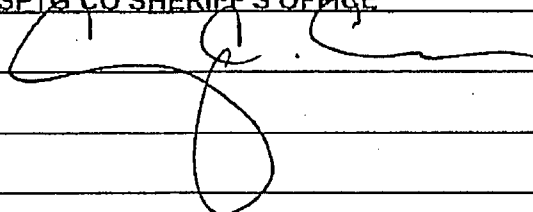
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

06-GS-42-1551
DOCKET NO.

WITNESSES

SPTO CO SHERIFF'S OFFICE



ARREST WARRANT NUMBER

H789526

ACTION OF GRAND JURY



Amy E Cronan
Foreperson of Grand Jury
Date: 5-11-06

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE
VS.

REGINALD JAMES MILLER

Indictment for

TRAFFICKING IN COCAINE BASE
AND/OR CRACK COCAINE

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 17 2006

At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE BASE AND/OR CRACK COCAINE

That Reginald James Miller did in Spartanburg County on or about February 9, 2006, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (10) ten grams of Cocaine Base and/or Crack Cocaine, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

06-GS-42- 1549

WITNESSES

SPTG CO SHERIFF'S OFFICE

ARREST WARRANT NUMBER

K077750

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: 5-17-06

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE
vs.

REGINALD JAMES MILLER

Indictment for

TRAFFICKING IN COCAINE

SC Code: 44-53-370

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

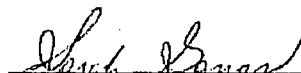
INDICTMENT

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE

That Reginald James Miller did in Spartanburg County on or about February 7, 2006, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (10) ten grams of Cocaine, a schedule I controlled substance, in violation of §44-53-370, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
Reginald J. Miller, #261476,	)	2010-CP-42-6870
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the post-conviction relief application filed on December 30, 2010, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Applicant was indicted at the May 2006 term of the Spartanburg County Grand Jury for unlawful conduct toward a child (2006-GS-42-1548), trafficking in cocaine (2006-GS-42-1549), trafficking in cocaine (2006-GS-42-1550), and trafficking in crack cocaine +10 grams (2006-GS-42-1551). Thomas A. M. Boggs, Esquire, represented the Applicant at trial. On June 15, 2006, the Applicant was convicted *in absentia* of this charge by a jury. The Honorable Doyet A. Early III presided over the Applicant's trial and issued the sealed sentence. The Honorable J. Cordell Maddox, Jr. pronounced the Applicant's sentence on April 13, 2007, and gave him credit for time served since detention in the North Carolina Department of Corrections beginning August 1, 2006. Applicant was sentenced to twenty-three years and a \$50,000 fine for trafficking in cocaine +28 grams and a concurrent sentence of ten years for trafficking in crack cocaine +10 grams. The other indicted charges were *nolle prossed*.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The

South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Miller, Op. No. 2010-UP-020 (filed January 25, 2010). The Remittitur was returned on February 10, 2010.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, appellate records, and the trial and sentencing transcripts. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of trial counsel, in that;
 - a. Counsel failed to prepare for trial,
 - b. Counsel failed to do pre-trial investigation.

III.

Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland v. Washington. 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, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that 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. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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

V.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel was ineffective.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By:



Attorneys for the Respondents

P.O. Box 11549

Columbia, S.C. 29211

(803) 734-3737

February 14, 2012.



ALAN WILSON
ATTORNEY GENERAL

PCR DIVISION: 803.734.3737
PCR FACSIMILE: 803.734.4113

February 15, 2012

The Honorable M. Hope Blackley
Spartanburg County Clerk of Court
P.O. Box 3483
Spartanburg, South Carolina 29304-3483

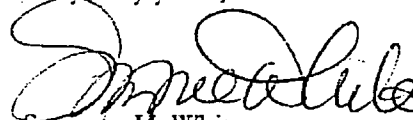
RE: **Reginald J. Miller v. State of South Carolina**
2010-CP-42-6870

Dear Ms. Blackley:

Enclosed please find the original Return in the above-captioned case, Reginald J. Miller v. State, for filing in your office. I am also sending you copies of the following documents to accompany our Return:

- 1) PCR Application
- 2) General Sessions records: 2006-GS-42-1550;1551
- 3) SCDC Records
- 4) Transcript
- 5) Direct Appeal Records: Final Anders Brief of Appellant, Anders Response Brief, Remittitur

Very truly yours,


Suzanne H. White
Assistant Attorney General

SHW/ked
Enclosures

cc: D. Alan Lazenby, Esquire (w/enclosures)

WITNESSES

SPTG CO SHERIFF'S OFFICE

1. SENTENCE MADE ☒

2. REPORT ENDED ☒

3. CARD PULLED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

6. JUDGED SIGNATURE ☒
ARREST WARRANT NUMBER

7. ASSESSMENT AND
FINE CARD MADE ☒

K077750 TRAFFIC VIOLATIONS COPY ☒

ACTION OF GRAND JURY

True Bill

Amy E. Cronican

Foreperson of Grand Jury

Date: *5-17-06*

VERDICT

Foreperson of Petit Jury

Date:

UB-GS-42- 1549

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE

vs.

Nolle prossed
Δ found guilty at Trial
on other charges.
REGINALD JAMES MILLER

6-15-06

Sarah Granss

Sarah Granss

Indictment for

TRAFFICKING IN COCAINE

SC Code: 44-53-370

2006 JUN 15 AM 10:04

WARD KITCHENS

2006 MAY 15 PM 3:46
WARD KITCHENS

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

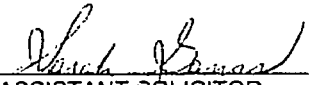
INDICTMENT

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE

That Reginald James Miller did in Spartanburg County on or about February 7, 2006, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (10) ten grams of Cocaine, a schedule II controlled substance, in violation of §44-53-370 , *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

ARREST WARRANT
K- 077750 2/14/06

STATE OF SOUTH CAROLINA
☐ County/ ☐ Municipality of
SPARTANBURG COUNTY

THE STATE
against
JAIL

MILLER, REGINALD JAMES
Address: 819 RIDGEDALE DR
SPARTANBURG, SC 29301
Phone: SSN:
Sex: Race: Height: Weight:
DL State: DL #:
DOB: Agency ORI #:
Prosecuting Agency:
Prosecuting Officer: RAYMOND, C/50
Offense: DRUGS / TRAFFICKING IN
COCAINE, 10 G OR MORE
Offense Code: 0278
Code/Ordinance Sec. 44-53-0370(E)(2)(A)1

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)
Date:

RETURN
A copy of this arrest warrant was delivered to
defendant MILLER, REGINALD JAMES
on
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
JAMES E. TALLEY
180 MAGNOLIA STREET
SPARTANBURG, SC 29306

STATE OF SOUTH CAROLINA
☐ County/ ☐ Municipality of

SPARTANBURG COUNTY
Personally appeared before me the affiant RAYMOND, C/50
being duly sworn deposes and says that defendant MILLER, REGINALD JAMES
did within this county and state on 02/07/06 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of SPARTANBURG
in the following particulars:

DESCRIPTION OF OFFENSE: DRUGS / TRAFFICKING IN COCAINE, 10 G OR MORE
44-53-0370(E)(2)(A)1
I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID TRAFFIC KNOWINGLY MORE THAN 10 GRAMS OF COCAINE, A
SCHEDULE II CONTROLLED SUBSTANCE, WITHOUT LEGAL AUTHORITY TO SO TRAFFIC
SAID SUBSTANCE

AFFIANTS BELIEF BASED ON POLICE INVESTIGATION

Signature of Affiant CD Raymond
Affiant's Address P O BOX 771
SPARTANBURG, SC 29301
Affiant's Telephone 000-0000 000-0000

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
SPARTANBURG

ARREST WARRANT
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY
It appearing from the above affidavit that there are reasonable grounds to believe that
on 02/07/06 defendant MILLER, REGINALD JAMES
did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of SPARTANBURG) as set forth below:

DESCRIPTION OF OFFENSE: SPARTANBURG
DRUGS / TRAFFICKING IN COCAINE, 10 G OR MORE,
44-53-0370(E)(2)(A)1

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me
on FEBRUARY 07, 2006
Signature of Issuing Judge James E. Talley (L.S.)
Judge Code: 024
JAMES E. TALLEY ORIGINAL

Judge's Address 180 MAGNOLIA STREET
SPARTANBURG, SC 29306
Judge's Telephone
Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2005 JAN 14 PM 10:39
MARC KITCHENS

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

Reginald J. Miller,

Defendant,) GENERAL SESSIONS COURT
) SEVENTH JUDICIAL CIRCUIT

) ORDER FOR BOND

) Warrant No: H-789524, K-077750
) 21587CO, H-787527
) H-789526
)

This matter was before me on Defendant's Motion to reduce a previously set bond in the amount of \$100,565.00, set by a magistrate on the above charges. Defendant was present with his attorney and the State was represented by Sarah Ganss.

After listening to argument of both counsel, it appears that the Defendant is a lifelong resident of Spartanburg County, and has no ties outside the jurisdiction. It further appears, based upon the charges, that the bond is excessive, and should be reduced, contingent on Defendant being supervised by the Spartanburg County Detention Center's home monitoring program.

IT IS ORDERED THAT the Defendant's bond be reduced to \$25,000.00, surety to be secured by professional bondsman or real estate or cash.

IT IS FURTHER ORDERED that the defendant be released under

MARC KITCHENS

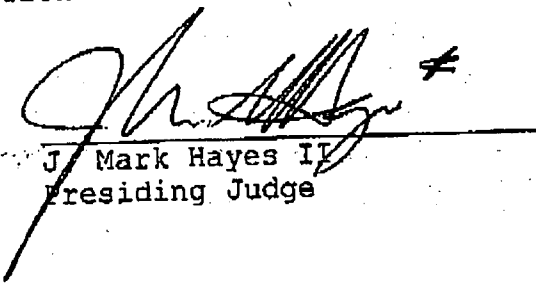
2006 MAR -6 PM 2:12

FILED
CLERK OF COURT
SPARTANBURG COUNTY

the Spartanburg County Detention Center home monitoring program.

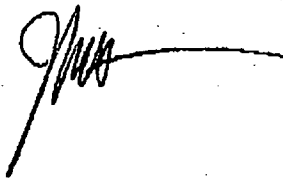
AND IT IS SO ORDERED.

March 6, 2006


J. Mark Hayes II
Presiding Judge



*Can not be on Boots & Sunny's property.



FILED
CLERK OF COURT
SPARTANBURG COUNTY
2006 MAR -6 PM 2:12
MARC KITCHENS

AGENCY I.D.
SC0420000

INCIDENT REPORT

CASE NUMBER

NCIC

2006020404

INC. ENT.

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
1. TRAFFICKING COCAINE OVER 10 GRAMS		☒ YES ☐ NO	☐ YES ☒ NO	PARKING LOT		☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc. / Public ☐ Other ☐ Unknown ☐ Police Off.	
2.		☐ YES ☐ NO	☐ YES ☐ NO				
3.		☐ YES ☐ NO	☐ YES ☐ NO				
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)		SPARTANBURG, SC		ZIP CODE	WEAPON TYPE		
S. CHURCH ST. AND EAST HENRY ST.				29301	N/A		
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.
2-7-06	1349				DISP. DATE	DISP. TIME	300
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
SCSO-NARCOTICS UNIT		#1 #2 #3		*X S O U			
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	
8045 HOWARD ST.		SPARTANBURG		SC	29301	31	
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
SOCIETY-PUBLIC		#1 #2 #3		*J S O U			
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.			
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	
VISIBLE INJURY (VICT. 1) ☐ YES ☐ NO EXPLAIN -		COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☐ NO					
VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☐ NO ☐ UNK. DRUGS: ☐ YES ☐ NO ☐ UNK. TYPE:							
TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ * J - This Jurisdiction S - State O - Out of State U - Unknown							
SUBJECT NO. 1	☒ SUSPECT	NAME (LAST, FIRST, MIDDLE)		RACE	SEX	AGE	ETH.
	☐ RUNAWAY	MILLER, REGINALD, JAMES		B	M	26	N
	☐ WANTED	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
	☐ WARRANT	ADDRESS		DE LOCATION NO			
	☐ ARREST						
☐ JAIL	SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☐ NO ☒ UNK. DRUGS: ☐ YES ☐ NO ☒ UNK. TYPE:		ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST
☐ SLIMMONS			TOTAL # ARRESTED		2-7-06/1349		
NARRATIVE	ON THE ABOVE DATE AND TIME, A CONFIDENTIAL RELIABLE INFORMANT WORKING FOR THE SPARTANBURG COUNTY SHERIFF'S OFFICE NARCOTICS UNIT WAS DIRECTED BY THE R/O TO THE ABOVE LOCATION TO MEET THE ABOVE SUBJECT AND PURCHASE A QUANTITY OF COCAINE. PRIOR TO THE MEETING, THE CRI CALLED THE ABOVE SUBJECT AT 205-5245 TO SET UP THE DEAL. ONCE AT THE ABOVE LOCATION, THE ABOVE SUBJECT ARRIVED AS A PASSENGER IN AN OLDER MODEL BLUE IN COLOR VEHICLE WITH A TAG OF 395 TYU, SOUTH CAROLINA. AFTER A SHORT PERIOD OF TIME, THE ABOVE SUBJECT GOT OUT OF THE VEHICLE IN THE PARKING LOT OF BOOTS AND SONNY'S, AND MET THE CRI. THE ABOVE SUBJECT HANDED THE CRI A BAG CONTAINING WHITE POWDER, AND WAS HANDED \$500 CASH BY THE CRI. THE MONEY HAD BEEN GIVEN TO THE CRI BY THE SHERIFF'S OFFICE AND THE SERIAL NUMBERS WERE RECORDED. THE CRI THEN LEFT THE SCENE AND MET THE R/O WHERE THE DRUG EVIDENCE WAS HANDED OVER TO THE R/O, AND A STATE-						
					JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY
	TYPE (GROUP)	COCAINE				TOTAL VALUE	
	STOLEN						
	DAMAGED						
	BURNED						
	RECOVERED	15 GRAMS					
	SEIZED						
ADMINISTRATIVE	SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY						
	REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE UNIT NUMBER
	C.D. RAYMOND		2-7-06	N-38	APPENDIX PAGE 117		
M. HUTCHINS		2-7-06	N-33	FOLLOW-UP OFFICER			

AGENCY I.D.
SCO 420000

SUPPLEMENTARY REPORT

CASE NUMBER

2006020404

NCIC

(NO. ENTD.)

☒ ORIGINAL
REPORT

☐ MODIFIES
ORIGINAL

☐ SUPPLEMENTAL
REPORT

☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY

☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 of 2 PAGES.

MENT WAS GIVEN BY THE CRI. THE CRI WAS SEARCHED PRIOR TO AND AFTER THE BUY, AS WAS THE VEHICLE
USED BY THE CRI. AUDIO IS AVAILABLE, AND VIDEO OF THE SUBJECT WALKING THROUGH THE PARKING
LOT IS ALSO AVAILABLE. THE SUBSTANCE WEIGHED ABOUT 15 GRAMS, AND WAS PLACED IN BEST BAG #
SO08772 BY INV. C.D. RAYMOND.

THE CRI WAS PRESENTED WITH A SIX PICTURE PHOTO LINEUP AND CORRECTLY IDENTIFIED THE ABOVE
SUBJECT FROM THIS LINEUP BY CIRCLING HIS PHOTO.

NARRATIVE

ADMINISTRATIVE

SUBJECT IDENTIFIED
☒ YES ☐ NO

SUBJECT LOCATED
☒ YES ☐ NO

☐ ACTIVE ☐ ADM. CLOSED
☐ UNFOUNDED

☐ ARRESTED UNDER 18
☒ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18
☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE-NO CUSTODY

REPORTING OFFICER(S)

DATE

UNIT
NUMBER

APPROVING OFFICER

DATE

UNIT
NUMBER

C.D. RAYMOND

2-7-06

N-38

M. HUTCHINS

2-7-06

N-33

FOLLOW-UP
INVESTIGATION

☐ YES ☐ OFFICER

APPENDIX PAGE 118

SH106 RECORDS

Reginald J. Miller
Name of Defendant

K077150
Warrant/Ticket Nos.

County/Municipality of Dptnburg

Charges Trafficking Cocaine

Trial Court:

- ☒ General Sessions
☐ Magistrate
☐ Municipal Court

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

DIRECTIONS: Magistrates and municipal court judges must use this checklist for **ALL GENERAL SESSIONS CASES** and for **ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE**. The judge should attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections.

- ☒ BAIL PROCEEDING
☐ FIRST APPEARANCE (Non-Bailable Offenses)

1. Form used at bail proceeding
 - a. Bond Form I. (personal recognizance)
 - b. Bond Form II. (surety, cash, percentage)
 - c. None (Non-Bailable Offense)
2. For cases in which bond is set, defendant was informed:
 - a. Warrant for arrest will be issued for violation of any condition of bail bond order.
 - b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
 - c. Failure to appear in court as required will result in institution of additional criminal charges. For failure to appear in connection with a felony, additional charge has penalty of fine of not more than \$5,000 or imprisonment for not more than five (5) years, or both. For failure to appear in connection with a misdemeanor, additional charge has penalty of fine of not more than \$1,000 or imprisonment for not more than one (1) year, or both.
3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:
 - a. Orally
 - b. In writing
[NOTE: Defendant must be informed of right both orally and in writing]
4. Defendant was informed of the right to trial by jury.
5. In all general sessions cases and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:
 - a. Charges against defendant and nature of the charges.
 - b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel
 - c. [(Optional: Local procedures may require judge to refer defendants to indigency screener. If so, note referral here) Required to appear before _____ on _____, 20____ for appointment of counsel.]

Appearance or
Hearing Date:

2/10/06

J. Ashmore
Judge's Signature

It is unlawful to print this form without written consent of home office.

POWER OF ATTORNEY
INTERNATIONAL FIDELITY INSURANCE COMPANY Power No. IK- 916879
Bond Department - 1-800-835-2245
P.O. Box 9810, Calabasas, CA 91372-9810
THIS POWER OF ATTORNEY NULL AND VOID
UNLESS USED BEFORE 12/31/06

KNOW ALL MEN BY THESE PRESENTS, that INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation duly organized and existing under the laws of the State of New Jersey has constituted and appointed, and does hereby constitute and appoint,

its true and lawful attorney-in-fact, with full power and authority to sign the company's name and affix its corporate seal to, and deliver on its behalf as surety, any and all obligations as herein provided, and the execution of such obligations in pursuance of those presents shall be as binding upon the company as fully and to all intents and purposes as if done by the regularly elected officers of said company at its home office in their own proper person; and the said company hereby ratifies and confirms all and whatsoever its said attorney-in-fact may lawfully do and perform in the premises by virtue of these presents.

THIS POWER OF ATTORNEY IS VOID IF ALTERED OR ERASED, THE OBLIGATION OF THE COMPANY SHALL NOT EXCEED THE SUM OF THIRTY THOUSAND DOLLARS (\$30,000.00) 1-789,526-27 AND MAY BE EXECUTED FOR RECOGNIZANCE ON CRIMINAL BAIL BONDS ONLY.

NOTICE
Bond Amt \$25,000 Case # K07750/H789526
Defendant Reginald J. Miller OF POWER

Appearance Date 06/12/06 IS STRICTLY PROHIBITED!
Court City G.S. - Dallas 5012-06 No more than one power

Court County 5012-06 State SC
Offense 1st degree murder/robbery/possession of a deadly weapon
Date Filed 3-16-06

Atty In fact Sharon Benke
SIGNATURE (If applicable, add your COURT assigned Agent's name)
one bond.



Francis Mitterhoff, Chairman of the Board

Norman Kowitz, Secretary

1. A separate Power of Attorney must be attached to each bond executed.
2. Powers of Attorney must not be returned to attorney-in-fact, but should remain a permanent part of court records.
3. The undersigned hereby warrants and guarantees that the execution of this Power of Attorney is in full compliance with the laws of the State of New Jersey and the laws of the State of Texas.

ENTER SURETY-ASSIGNED EXECUTING AGENT CODE # HERE:

Ticket or Warrant No.: K077750 / H 789524 / H 789524
IN THE (x) COURT OF GENERAL SESSIONS
() MAGISTRATE'S COURT
() MUNICIPAL COURT OF _____

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE
(Bail Proceeding Form 2)

☐ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☒ The release of the defendant on recognizance will result in an unreasonable danger to the community.
 This determination was based upon the following findings of fact:

This determination was based upon the following findings of fact:

prior drug chgs + conviction —
 weapon charges —

THEREFORE, IT IS HEREBY ORDERED:

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

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

☐ The defendant acknowledges himself to be indebted to the State of South Carolina in the sum of \$_____, his release to be obtained by payment to the court of _____ (%) of this bond in cash, this amount being \$_____. The defendant will be obligated to the State in the full amount of \$_____, such sum to be levied on his real and personal property for the use of the State, should he fail to perform the conditions of this Order.

☐ The defendant will provide good and sufficient surety approved in the court, in the form set forth on the reverse side, acknowledging an indebtedness to the State in the amount of \$ - 25,000 w/ Spartanburg Co. Name Detention

- final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

Initials of Defendant

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described on the reverse which are marked.

Signature of Judge

Date _____

I understand that if I violate any condition of this Order, including any conditions included on the reverse side of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, an additional criminal charge will be instituted against me. If the failure to appear is in connection with a felony charge, or while awaiting sentence, or pending appeal or certiorari after conviction, the penalty is a fine of not more than \$5,000 or imprisonment for not more than five years, or both; if I fail to appear in connection with a misdemeanor charge, the penalty is a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

I acknowledge the receipt of a copy of this Order and understand the conditions of my release and the penalties applicable to me in the event I violate any condition of the Order or fail to appear as required.

210 11 11 11 11 11

Sptbcg SC 29306

Signature of Defendant

Date _____

Social Security Number/Telephone No.

Attorney Representing Accused (If known)

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

SCCA/511 (3/90)

Original copy for the Trial Court ~ Copy for the Defendant
FORM CONTINUES ON BACK

APPENDIX PAGE 121

SPECIAL CONDITIONS OF RELEASE

a. ☐ Placement in custody. The defendant is placed in the custody of _____
 Name of person or organization _____

Address _____ City _____ State/Zip _____ Telephone _____
 who agrees (1) to supervise the defendant in accordance with conditions set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

 Signature of Custodian (If Appointed) _____ Date _____

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. ☐ Part-time Release. The defendant will be released from custody from _____ o'clock, _____ M. to _____ o'clock, _____ M. on _____
 on condition that he return to the custody of _____ as designated.

d. ☒ Other Conditions. The defendant will comply with the following other conditions of release:

Can not be on Boots + Sonny's Property

YOU MUST APPEAR FOR YOUR INITIAL APPEARANCE HEARING AT THE SPARKLE HILL
 COUNTY JUDICIAL CENTER, 180 MAGNOLIA STREET, 2nd FLOOR, EAST COURTROOM

5-12-06 @ 9am

APPEARANCE RECOGNIZANCE WITH SURETY

On the 7th day of March, 2006 personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$25000, such sum to be levied on his real and personal property for the use of the State, if the within named defendant shall fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

Giscio Bonding Co
 Name of Surety (Printed or Typed)

PO Box 16133/910 E. North
 Address of Surety

Greenville, SC 29606
 City/State/Zip

Ron Baker
 Signature of Surety

Whinnice CC
 Signature of Judge

3-7-06
 Date

271-7386

Form Approved by
 S.C. Attorney General
 Section 17-15-40
 March 4, 2000

SHERRILL JEN
 67-1 MAR -8 PM 1:49
 CLERK OF COURT
 FILED

NAME OF JURISDICTION THAT ISSUED CITATIONS

Sc50

NUMBER OF CITATIONS ATTACHED None

FROM: MAGISTRATE'S COURT

NUMBER OF LICENSE ATTACHED *None*

MUNICIPAL COURT

CIRCUIT COURT

ADDRESS OF COURT: 180 Magnolia St Spartanburg SC 29306
STREET CITY STATE ZIP

TRANSMITTAL FORM SUBMITTED BY: Paul Roberts Jr. Daniel Manning Jr.
CLERK OF COURT MAGISTRATE OR JUDGE

TELEPHONE #: (864) 686-3895 DATE 6/16/06

MAIL COMPLETED FORM AND ATTACHMENTS TO:

S. C. DEPARTMENT OF PUBLIC SAFETY

POST OFFICE BOX 100178

COLUMBIA, S.C. 29202-3178

TELEPHONE: 737-1727

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

FILED
CLERK OF COURT
2006 MAR 27 PM 3:02

MANDATE CHENS

SCG
IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

INDICTMENT NOS:

WARRANT NOS:

16077750

1+789524

AFFIDAVIT

1+789526-27

THE STATE OF SOUTH CAROLINA

VS.

Reginald Miller

PERSONALLY APPEARED BEFORE ME the undersigned deponent who being duly sworn, says that he/she copied the following materials:

- ☐ Warrant or Ticket
- ☐ Investigation Report
- ☐ Voluntary Statement
- ☒ Sol. Rule 5 Request
- ☐ Sol. Rule 5 Request Mailed _____

- ☐ Incident Report
- ☐ Supplemental Reports
- ☐ Witnesses Written Statement
- ☐ Defendant's Rap Sheet (NCIC)
- ☐ Drug Report

Other:

pgs 1-4, additional 3-24-06

Copied Number of Pages: _____

I, T. Briggs, attorney for the defendant(s) or his/her designee, have reviewed copies of the above referenced documents and accept them as the response to the Rule 5/Brady Motion in this matter. I also accept service of the Solicitor's Reciprocal Rule 5.

Signed / Accepted this 24 day of March, 2006.

[Signature]
Representative or designee for Attorney

Tam Briggs
Attorney-At-Law

Sworn to before me this

24 day of March, 2006

[Signature]

Notary Public for South Carolina

My Commission Expires: 7-6-08

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

SCG
IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

INDICTMENT NOS:
WARRANT NOS:

1077750
H789524, H789526-27
AFFIDAVIT

THE STATE OF SOUTH CAROLINA

VS.

Reginald Miller

PERSONALLY APPEARED BEFORE ME the undersigned deponent who being duly sworn, says that he/she copied the following materials:

- | | |
|---|---|
| ☐ Warrant or Ticket | ☐ Incident Report |
| ☐ Investigation Report | ☐ Supplemental Reports |
| ☐ Voluntary Statement | ☐ Witnesses Written Statement |
| ☒ Sol. Rule 5 Request | ☐ Defendant's Rap Sheet (NCIC) |
| ☐ Sol. Rule 5 Request Mailed | ☐ Drug Report |

Other:

Pgs 1-20, 3-16-06

Copied Number of Pages: _____

I, Jim Briggs, attorney for the defendant(s) or his/her designee, have reviewed copies of the above referenced documents and accept them as the response to the Rule 5/Brady Motion in this matter. I also accept service of the Solicitor's Reciprocal Rule 5.

Signed / Accepted this _____ day of _____, 2006.

Jim Briggs
Representative or designee for Attorney

Jim Briggs
Attorney At Law

Sworn to before me this
16 day of March, 2006

Notary Public for South Carolina

My Commission Expires: 3/20/2011

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

Indictment No(s):

Warrant No(s): k077750, H789524
H789526-27

VS.

REQUESTS FOR DISCLOSURE
(Recip. Rule 5)

Reginald Miller

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2006 MAR 16 PM 3:57
MALE MITCHELL

TO: DEFENDANT AND HIS ATTORNEY Tam Boggs:

Pursuant to Rule 5, Rules of Criminal Procedure, the State in the above captioned matter requests the disclosure of the following evidence to the State by the Defendant:

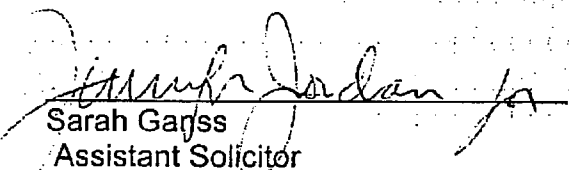
1) That the Defendant permit the prosecution to inspect and copy books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the Defendant and which the Defendant intends to introduce as evidence in chief at the trial;

2) That the Defendant permit the prosecution to inspect and copy any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the Defendant, which the Defendant intends to introduce as evidence in chief at the trial or which were prepared by a witness whom the Defendant intends to call at trial when the results or reports related to his testimony.

3) The prosecution requests that the Defendant serve upon the prosecution a written notice if he intends to offer an alibi defense, stating the specific place or places at which the Defendant claims to have been on February 7 through 9, 2006, the names, address, and birthdays of the witnesses upon whom he intends to rely to establish such alibi.

The State further requests that the Defendant notify the State of the Defendant's intention to rely upon the defense of insanity or plea of guilty but mentally ill at the time of the crime.

These requests are continuing requests for disclosure and any relevant matters arising subsequent to the date hereof should be regarded as included in this request.


Sarah Garss

Assistant Solicitor

Seventh Judicial Circuit

Spartanburg, South Carolina

Dated: March 16, 2006

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

Reginald J. Miller,

Defendant,

)

)

)

)

)

)

)

)

)

)

)

)

GENERAL SESSIONS COURT
SEVENTH JUDICIAL CIRCUIT

ORDER FOR BOND

Warrant No: H-789524, K-077750
21587CO, H-787527
H-789526

This matter was before me on Defendant's Motion to reduce a previously set bond in the amount of \$100,565.00, set by a magistrate on the above charges. Defendant was present with his attorney and the State was represented by Sarah Ganss.

After listening to argument of both counsel, it appears that the Defendant is a lifelong resident of Spartanburg County, and has no ties outside the jurisdiction. It further appears, based upon the charges, that the bond is excessive, and should be reduced, contingent on Defendant being supervised by the Spartanburg County Detention Center's home monitoring program.

IT IS ORDERED THAT the Defendant's bond be reduced to \$25,000.00, surety to be secured by professional bondsman or real estate or cash.

IT IS FURTHER ORDERED that the defendant be released under



MAKING KITCHENS

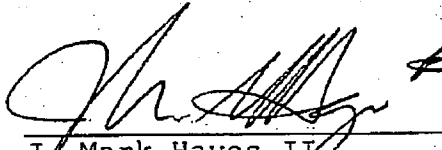
2006 MAR -6 PM 2:12

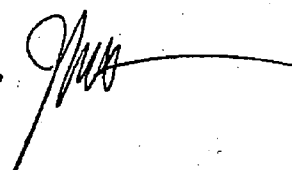
CLERK OF COURT
SOUTH CAROLINA
JAN 1 2006

the Spartanburg County Detention Center home monitoring program.

AND IT IS SO ORDERED.

March 6, 2006


J. Mark Hayes II
Presiding Judge

*Can not be on Boots & Sunny's property. 

MARC KITCHENS

2006 MAR -6 PM 2:12

MODE = MEMORY TRANSMISSION

START=MAR-06 13:03

END=MAR-06 13:04

FILE NO.=592

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	2	95963426	002/002	00:00:20

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

Reginald J. Miller,

Defendant,

)
) GENERAL SESSIONS COURT
) SEVENTH JUDICIAL CIRCUIT

) ORDER FOR BOND

)
) Warrant No: H-789524,K-077750
) 21587CO, H-787527
) H-789526
)

This matter was before me on Defendant's Motion to reduce a previously set bond in the amount of \$100,565.00, set by a magistrate on the above charges. Defendant was present with his attorney and the State was represented by Sarah Ganss.

After listening to argument of both counsel, it appears that the Defendant is a lifelong resident of Spartanburg County, and has no ties outside the jurisdiction. It further appears, based

upon the charges, that the bond is excessive, and should be reduced, contingent on Defendant being supervised by the Spartanburg County Detention Center's home monitoring program.

IT IS ORDERED THAT the Defendant's bond be reduced to \$25,000.00, surety to be secured by professional bondsman or real estate or cash.

IT IS FURTHER ORDERED that the defendant be released under



MARC KITCHENS
2006 MAR -6 PM 2:12
CLERK OF COURT
SPARTANBURG COUNTY

MODE - MEMORY TRANSMISSION

START=MAR-06 13:00

END=MAR-06 13:02

FILE NO.-591

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	2	95963423	002/002	00:01:08

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

Reginald J. Miller,

Defendant,

)

)

)

)

)

)

)

)

)

)

)

)

)

GENERAL SESSIONS COURT
SEVENTH JUDICIAL CIRCUIT

ORDER FOR BOND

Warrant No: H-789524,K-077750
21587CO, H-787527
H-789526

This matter was before me on Defendant's Motion to reduce a previously set bond in the amount of \$100,565.00, set by a magistrate on the above charges. Defendant was present with his attorney and the State was represented by Sarah Ganss.

After listening to argument of both counsel, it appears that the Defendant is a lifelong resident of Spartanburg County, and has no ties outside the jurisdiction. It further appears, based upon the charges, that the bond is excessive, and should be reduced, contingent on Defendant being supervised by the Spartanburg County Detention Center's home monitoring program.

IT IS ORDERED THAT the Defendant's bond be reduced to \$25,000.00, surety to be secured by professional bondsman or real estate or cash.

IT IS FURTHER ORDERED that the defendant be released under

[Signature]

MARC KITCHENS

2006 MAR -6 PM 2:12

SPARTANBURG COUNTY

CLEAR OF COURT

FILED

APPENDIX PAGE 130

WITNESSES

1. SENTENCE MADE
2. REPORT MADE
3. CARD FILLED
4. INDEXED
5. CHECKED WARRANTS
6. CHECKED SIGNATURES
7. ASSESSMENT AND
8. TRAFFIC ARREST WARRANT NUMBER

H789524

ACTION OF GRAND JURY

True Bill
Amy E. Clunna
Foreperson of Grand Jury
Date: 5-11-06

VERDICT

Foreperson of Petit Jury
Date:

06-08-42-1550

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE
vs.

REGINALD JAMES MILLER

Indictment for
TRAFFICKING IN COCAINE

SC Code: 44-53-370

FILED
2006 MAY 15 PM 3:47
MARCO MITCHENS

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

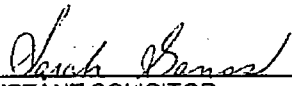
MAY 11 2006

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE

That Reginald James Miller did in Spartanburg County on or about February 9, 2006, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (28) twenty-eight grams of Cocaine, a schedule II controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATESpartanburg

AKA:

Reginald James Miller

Race:

BSex: M

Age:

DOB:

Address:

City, S

DL#

INDICTMENT/CASE#:

2006

-GS-

421550

AW#:

W-789524

Date of Offense:

2-9-06

S.C. Code §:

44-53-370

CDR Code #:

2 1 3 1 5 1 9☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADSTO: Trafficking in Powder Cocaine > 28 grams (net: 7-25 yrs. & \$50K) ns/pIn violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 2 1 3 1 5 1 9☐ NON-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 23 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$5000; 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.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

\$50-21-114(BUI Breath Test Fee)

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$50,000.00

\$

\$100 \$100.00

\$100 \$

\$12 \$

\$500 \$

\$25 \$25.00

\$100 \$

\$50 \$

\$40/ea \$

\$316.25

\$10,000.00

PTUP:

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

H. G. T. Harvey

Clerk of Court/ Deputy Clerk

Court Reporter:

Donna G. BrownW. P. Early Jr.0136 1 1 1 1June 15, 2006

ARREST WARRANT

H-789524 2/14/06

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG COUNTY

THE STATE

against

JAIL

MILLER, REGINALD JAMES

Address:

S

Phone:

Sex:

DL Sta

JOB:

Prosecuting Officer:

Prosecuting Officer: RAYMOND, C/SO

Offense: DRUGS / TRAFFICKING IN

COCAINE, 28 G OR MORE Offense Code: 2359

Code/Ordinance Sec. 44-53-0370(E)(2)(B)1

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

copy of this arrest warrant was delivered to defendant

MILLER, REGINALD JAMES

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

KENNETH DOVER
7 MILL STREET
INMAN, SC 29349

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG COUNTY

Personally appeared before me the affiant RAYMOND, C/SO who being duly sworn deposes and says that defendant MILLER, REGINALD JAMES did within this county and state on 02/09/06 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of SPARTANBURG) in the following particulars:

DESCRIPTION OF OFFENSE: DRUGS / TRAFFICKING IN COCAINE, 28 G OR MORE, 65
44-53-0370(E)(2)(B)1

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID KNOWINGLY TRAFFIC MORE THAN 28 GRAMS OF COCAINE, A SCHEDULE II CONTROLLED SUBSTANCE, WITHOUT LEGAL AUTHORITY TO SO TRAFFIC SAID SUBSTANCE

AFFIANTS BELIEF BASED ON POLICE INVESTIGATION

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG

Affiant's Address P O BOX 771

SPARTANBURG, SC 29301

Affiant's Telephone 000-0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that defendant MILLER, REGINALD JAMES did violate the criminal laws of the State of South Carolina (or ordinance of SPARTANBURG) as set forth below:

DESCRIPTION OF OFFENSE: DRUGS / TRAFFICKING IN COCAINE, 28 G OR MORE, 65
44-53-0370(E)(2)(B)1

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on FEBRUARY 09, 2006

Signature of Issuing Judge

Judge Code: 741

KENNETH DOVER ORIGINAL

Judge's Address 7 MILL STREET

INMAN, SC 29349

Judge's Telephone

Issuing Court:

☐ Magistrate

472-4447

☐ Municipal☐ Circuit

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 618

APPENDIX PAGE 134

MARC KITCHENS

2005 JAN 14 PM 10:33

FILED
CLERK OF COURT
SPARTANBURG COUNTY

MILLER, REGINALD
Name of Defendant

4-789524
Warrant/Ticket Nos.

County/Municipality of SPARTANBURG

Charges: TRAFFICKING COCAINE
OVER 28 GRAMS

Trial Court:

☒ General Sessions
☐ Magistrate
☐ Municipal Court

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

DIRECTIONS: Magistrates and municipal court judges must use this checklist for **ALL GENERAL SESSIONS CASES** and for **ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE**. The judge should attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections:

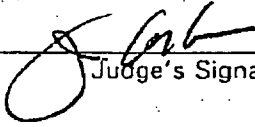
☐ BAIL PROCEEDING
☐ FIRST APPEARANCE (Non-Bailable Offenses)

1. Form used at bail proceeding
 - ☒ a. Bond Form I (personal recognizance)
 - ☒ b. Bond Form II (surety, cash, percentage)
 - ☐ c. None (Non-Bailable Offense)
2. For cases in which bond is set, defendant was informed:
 - ☒ a. Warrant for arrest will be issued for violation of any condition of bail bond order.
 - ☒ b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
 - ☐ c. Failure to appear in court as required will result in institution of additional criminal charges. For failure to appear in connection with a felony, additional charge has penalty of fine of not more than \$5,000 or imprisonment for not more than five (5) years, or both. For failure to appear in connection with a misdemeanor, additional charge has penalty of fine of not more than \$1,000 or imprisonment for not more than one (1) year, or both.
3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:
 - ☒ a. Orally
 - ☒ b. In writing

(NOTE: Defendant must be informed of right both orally and in writing)
- ☒ 4. Defendant was informed of the right to trial by jury.
5. In all general sessions cases and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:
 - ☒ a. Charges against defendant and nature of the charges.
 - ☒ b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.
 - ☐ c. (Optional: Local procedures may require judge to refer defendants to indigency screener. If so, note referral here) Required to appear before _____ on _____, 20____ for appointment of counsel.]

Appearance or
Hearing Date:

2/10/06


Judge's Signature

WITNESSES

SPTG CO SHERIFF'S OFFICE

ARREST WARRANT NUMBER

H789524

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

06-08-42-1550

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE

VS.

REGINALD JAMES MILLER

Indictment for

TRAFFICKING IN COCAINE

SC Code: 44-53-370

BW # 15406 - Issued 6-15-06

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 11 2006

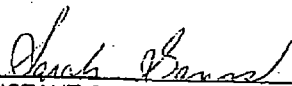
At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE

That Reginald James Miller did in Spartanburg County on or about February 9, 2006, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (28) twenty-eight grams of Cocaine, a schedule II controlled substance, in violation of §44-53-370 , *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR

COPY

COPY

BENCH WARRANT #: BWD0015406

STATE OF SOUTH CAROLINA
COUNTY : SPARTANBURG COUNTY

COURT : GENERAL SESSIONS
2006-GS-42-1550,1551

STATE OF SOUTH CAROLINA

VS.

MILLER, REGINALD JAMES

DATE SERVED _____

SERVED BY _____

- OR -

DATE RETURNED _____

REASON FOR RETURN _____

AGENCY _____

BENCH WARRANT

DATE ISSUED: 06/15/2006

HOME ADDRESS:

[REDACTED]

BUSINESS ADDRESS:

DEFENDANT DESCRIPTION:

[REDACTED]

COPY

STATE OF SOUTH CAROLINA

VS.

MILLER, REGINALD JAMES

STATE OF SOUTH CAROLINA

COUNTY : SPARTANBURG COUNTY

COURT : GENERAL SESSIONS

IND #: 2006GS4201550,1551

CHARGED WITH:

BENCH WARRANT-# BW00015406
H789524-TRAFFICKING IN COCAINE
H789526-TRAFFICKING IN COCAINE
BASE AND/OR CRACK COCAINE

To all the Sheriffs, Deputy Sheriffs, Constables, and Other Peace Officers of the State:

WHEREAS, at the term of the aforestated Court JUNE 15, 2006
it was among other things ordered by Judge EARLY, DOYET A. that a Bench
Warrant should be issued for the arrest of MILLER, REGINALD JAMES
FAILED TO-APPEAR FOR GENERAL SESSIONS COURT DURING THE WEEK
OF JUNE 12, 2006.

It is, therefore, ordered that you make diligent search for the above named
and take him/her to the county jail/detention facility where he/she will be
safely held until he/she may be brought before this Court, or otherwise
discharged by due course of law.

It is further ordered that the county jail/detention facility notify the
clerk of court immediately, during the normal operating hours of the office of
the clerk of court, that the above named is in custody.

WITNESS, the Clerk of Court for the County of SPARTANBURG COUNTY
on the 15 day of JUNE, 2006.

Marc Kitchens
Clerk of Court

Gail Moffitt
By: Deputy Clerk

APPENDIX PAGE 140

TO: MARC KITCHENS, CLERK OF COURT
FROM: TREY GOWDY, SOLICITOR
SUBJECT: BENCH WARRANT

Please issue a Bench Warrant on Reginald James Miller [REDACTED]
D/L# : , charged with Trafficking Crack Cocaine, Trafficking Powder Cocaine Indictment(s). 00-1331, 00-1330
Warrant(s): H789526, H789524, for failure to appear for General Sessions Court during the week of June 12, 2006.
The undersigned attests:

- (1) The Defendant was found guilty of the above charges on Thursday, June 15, 2006, at a trial in his absence after a finding that the defendant was warned and put on notice that he would be tried in his absence if he failed to appear.
- (2) The Defendant was not incarcerated in the South Carolina Department of Corrections during the week of June 12, 2006 according to the official records of the Department of Corrections.
- (3) The Defendant was not enrolled in the Pre-Trial Diversion Program.
- (4) Nolle Prosequi has not been entered on the charges against the Defendant.
- (5) Defendant's Bondsman was notified by letter dated June 6, 2006, to have defendant to appear for court the week of June 12, 2006.
- (6) The defendant's attorney was notified by the General Sessions Court Docket, which was clocked in Spartanburg County Clerk of Courts Office on June 5, 2006.
- (7) The Defendant was not detained in the Spartanburg County Detention Facility during the week of June 12, 2006, according to the Director of the Facility or the Warden on duty at the Facility.

Joseph C. Brown
Assistant Solicitor
6-15-06
Date

APPROVED: M. E. Early Jr.
CIRCUIT COURT JUDGE
6-15-06
DATE

A BENCH WARRANT MAY BE WITHDRAWN ONLY BY WRITTEN ORDER OF THE CIRCUIT COURT
FILED WITH THE CLERK OF COURT.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2006 JUN 15 PM 2:56
MARC KITCHENS

CHECK LIST FOR REQUESTING BENCH WARRANTS

____ WAS RESPONDENT PERSONALLY SERVED
____ FILE HAS BEEN PULLED AND REVIEWED
____ REMARK SCREEN HAS BEEN REVIEWED
✓____ MOST CURRENT ADDRESS HAS BEEN VERIFIED
✓____ ORDER FOR REQUESTING BENCH WARRANT HAS BEEN PREPARED FOR JUDGES
SIGNATURE
____ JUDGE SIGNED ORDER REQUESTING BENCH WARRANT ON 6-15-06
____ BENCH WARRANT HAS BEEN PRINTED AND PLACE IN PICK-UP TRAY FOR
SHERIFF'S OFFICE

DATE: 6-15-06

BY: Patry Williams

____ BENCH WARRANT FORM COMPLETED IF NEEDED

6-15-06

The original indictments are sealed and Sarah
gave me copies to issue the BW. Sentenced in
absence.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

SCG
IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

INDICTMENT NOS:

WARRANT NOS: 4789524
4789526
4789527

THE STATE OF SOUTH CAROLINA

AFFIDAVIT

VS.

Reginald Miller

PERSONALLY APPEARED BEFORE ME the undersigned deponent who being duly sworn, says that he/she copied the following materials:

- | | |
|---|---|
| ☐ Warrant or Ticket | ☐ Incident Report |
| ☐ Investigation Report | ☐ Supplemental Reports |
| ☐ Voluntary Statement | ☐ Witnesses Written Statement |
| ☐ Sol. Rule 5 Request | ☐ Defendant's Rap Sheet (NCIC) |
| ☐ Sol. Rule 5 Request Mailed _____ | ☐ Drug Report |

Other:

pgs 1-10, 10-14-06 additional

Copied Number of Pages: _____

I, T. Boggs, attorney for the defendant(s) or his/her designee, have reviewed copies of the above referenced documents and accept them as the response to the Rule 5/Brady Motion in this matter. I also accept service of the Solicitor's Reciprocal Rule 5.

Signed / Accepted this _____ day of _____, 2006.

T. Boggs
Representative or designee for Attorney

Tam Boggs
Attorney-At-Law

Sworn to before me this
14 day of June 2006

Deed Bump
Notary Public for South Carolina

My Commission Expires: 5/22/2011

COPY

COPY

BENCH WARRANT #: BW00015406

STATE OF SOUTH CAROLINA
COUNTY : SPARTANBURG COUNTY

COURT : GENERAL SESSIONS
2006-GS-42-1550,1551

STATE OF SOUTH CAROLINA

VS.

MILLER, REGINALD JAMES

DATE SERVED _____

SERVED BY _____

- OR -

DATE RETURNED _____

REASON FOR RETURN _____

AGENCY _____

B E N C H W A R R A N T

DATE ISSUED: 06/15/2006

HOME ADDRESS:



BUSINESS ADDRESS:

DEFENDANT DESCRIPTION:



COPY

STATE OF SOUTH CAROLINA

VS.

MILLER, REGINALD JAMES

STATE OF SOUTH CAROLINA

COUNTY : SPARTANBURG COUNTY

COURT : GENERAL SESSIONS

IND #: 2006GS4201550,1551

CHARGED WITH: BENCH WARRANT-# BW00015406
H789524-TRAFFICKING IN COCAINE
H789526-TRAFFICKING IN COCAINE
BASE AND/OR CRACK COCAINE

To all the Sheriffs, Deputy Sheriffs, Constables, and Other Peace Officers of the State:

WHEREAS, at the term of the aforestated Court JUNE 15, 2006
it was among other things ordered by Judge EARLY, DOYET A. that a Bench
Warrant should be issued for the arrest of MILLER, REGINALD JAMES
FAILED TO APPEAR FOR GENERAL SESSIONS COURT DURING THE WEEK
OF JUNE 12, 2006.

It is, therefore, ordered that you make diligent search for the above named
and take him/her to the county jail/detention facility where he/she will be
safely held until he/she may be brought before this Court, or otherwise
discharged by due course of law.

It is further ordered that the county jail/detention facility notify the
clerk of court immediately, during the normal operating hours of the office of
the clerk of court, that the above named is in custody.

WITNESS, the Clerk of Court for the County of SPARTANBURG COUNTY
on the 15 day of JUNE, 2006.

Marc Kitchens
Clerk of Court

Gail Moffitt
Deputy Clerk

APPENDIX PAGE 145

COPY

COPY

COPY

BENCH WARRANT #: BW00015406

STATE OF SOUTH CAROLINA
COUNTY : SPARTANBURG COUNTY

COURT : GENERAL SESSIONS
2006-GS-42-1550,1551

STATE OF SOUTH CAROLINA

VS.

MILLER, REGINALD JAMES

DATE SERVED _____

SERVED BY _____

- OR -

DATE RETURNED _____

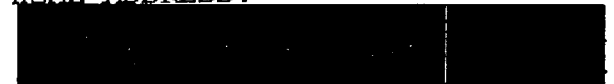
REASON FOR RETURN _____

AGENCY _____

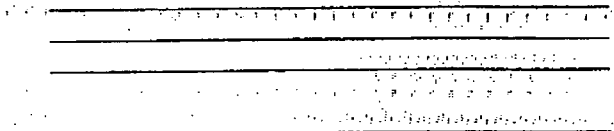
B E N C H W A R R A N T

DATE ISSUED: 06/15/2006

HOME ADDRESS:



BUSINESS ADDRESS:



DEFENDANT DESCRIPTION:



STATE OF SOUTH CAROLINA

VS.

MILLER, REGINALD JAMES

IND #: 2006GS4201550,1551

STATE OF SOUTH CAROLINA

COUNTY : SPARTANBURG COUNTY

COURT : GENERAL SESSIONS

CHARGED WITH: BENCH WARRANT-# BWD0015406
H789524-TRAFFICKING IN COCAINE
H789526-TRAFFICKING IN COCAINE
BASE AND/OR CRACK COCAINE

To all the Sheriffs, Deputy Sheriffs, Constables, and Other Peace Officers of the State:

WHEREAS, at the term of the aforestated Court JUNE 15, 2006

it was among other things ordered by Judge EARLY, DOYET A. that a Bench
Warrant should be issued for the arrest of MILLER, REGINALD JAMES

FAILED TO APPEAR FOR GENERAL SESSIONS COURT DURING THE WEEK

OF JUNE 12, 2006.

It is, therefore, ordered that you make diligent search for the above named
and take him/her to the county jail/detention facility where he/she will be
safely held until he/she may be brought before this Court, or otherwise
discharged by due course of law.

It is further ordered that the county jail/detention facility notify the
clerk of court immediately, during the normal operating hours of the office of
the clerk of court, that the above named is in custody.

WITNESS, the Clerk of Court for the County of SPARTANBURG COUNTY

on the 15 day of JUNE, 2006.

Marc Kitchens
Clerk of Court

Gail Moffitt
By APPENDIX PAGE 147

THOMAS A.M. BOGGS

ATTORNEY AT LAW

147 East St. John Street
Spartanburg, South Carolina 29306

864-597-0990
Fax: 864-597-0322

May 8, 2007

Marc Kitchens
Clerk of Court
Spartanburg County
180 Magnolia Street
Spartanburg, South Carolina 29306

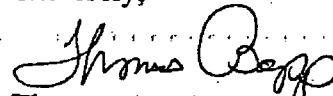
Re: The State v. Reginald James Miller
Case No: 2006-GS-42-1550, 06-GS-42-1551

Dear Marc,

Enclosed please find an Amended Notice of Appeal for the above
referenced
appellant.

Thank you for your attention to this matter.

Sincerely,


Thomas A. M. Boggs

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Doyet A. Early, III, Circuit Court Judge
Cordell Maddox, Circuit Court Judge

Case No. 2006-GS-42-1550
2006-GS-42-1551

The State.....Respondent

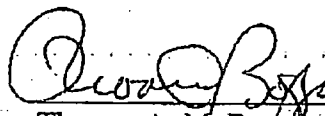
v.

Reginald James Miller.....Appellant

AMENDED NOTICE OF APPEAL

Reginald James Miller, Appellant above, herein appeals the rulings of the law, the jury verdict and the sentence imposed by the Honorable Doyet A. Early, III, as a result of a trial in Appellant's absence held June 15, 2006, with the sentence being sealed. Appellant further appeals the sentence as read and imposed by the Honorable Cordell Maddox April 13, 2007.

May 8, 2007



Thomas A. M. Boggs
147 E. Saint John Street
Spartanburg, S.C. 29306
(864) 597-0990
Attorney for Appellant

Other counsel of record:

Sarah Ganss
Assistant Solicitor
180 Magnolia Street
Spartanburg, S.C. 29306
864-596-2575

Computer

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Doyet A. Early, III, Circuit Court Judge
Cordell Maddox, Circuit Court Judge

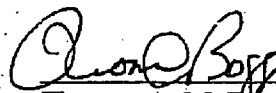
Case No. 2006-GS-42-1550
2006-GS-42-1551

The State.....Respondent
v.
Reginald James Miller.....Appellant

NOTICE OF APPEAL

Reginald James Miller, Appellant above, herein appeals the rulings of the law, the jury verdict and the sentence imposed by the Honorable Doyet A. Early, III and The Honorable Cordell Maddox on June 15, 2006 and April 13, 2007.

April 18, 2007



Thomas A. M. Boggs
147 E. Saint John Street
Spartanburg, S.C. 29306
(864) 597-0990
Attorney for Appellant

Other counsel of record:

Sarah Ganss
Assistant Solicitor
180 Magnolia Street
Spartanburg, S.C. 29306

MARC KITCHENS

2007 APR 23 PM 4:26

FILED
CLERK OF COURT
SPARTANBURG COUNTY

THOMAS A.M. BOGGS
ATTORNEY AT LAW

147 East St. John Street
Spartanburg, South Carolina 29306

864-597-0990
Fax: 864-597-0322

April 18, 2007

Marc Kitchens
Clerk of Court
Spartanburg County
180 Magnolia Street
Spartanburg, South Carolina 29306

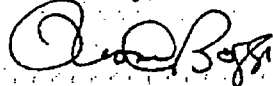
Re: The State v. Reginald James Miller
Case No: 2006-GS-42-1550, 06-GS-42-1551

Dear Marc,

Enclosed please find a Notice of Appeal for the above referenced
appellant.

Thank you for your attention to this matter.

Sincerely,



Thomas A. M. Boggs

MARC KITCHENS

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 APR 23 PM 4:26

EXHIBITS FILES

2006-GS42-1550, 1551

STATE VS. REGINALD MILLER

RELEASE TO RECORD CUSTODIAN ON: DATE: 6/15/06

RELEASE TO: *Angie Clement*

FROM: *Kimberly McHunney*

1 ENVELOPE
SEALED SENTENCE

Exhibit receipt 06-GS-42-1550-1551

State

-vs Reginald Miller

✓ 51-2 drugs IRS

✓ 3- scales

✓ C-1 letter

Court Reporter: [REDACTED] Pamela Green

Received by Clerk of Court: Kimberly [REDACTED]
Khush Navy

Date: June 15, 2006

NAME OF JURISDICTION THAT ISSUED CITATIONS

[illegible]

FROM: MAGISTRATE'S COURT

MUNICIPAL COURT

CIRCUIT COURT

SPARTANBURG
CITY

SC	29306
STATE	ZIP

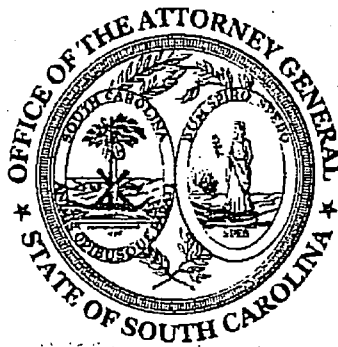
TRANSMITTAL FORM SUBMITTED BY: MARC KITCHENS

CLERK OF COURT, MAGISTRATE OR JUDGE

TELEPHONE #: (864) 596-2591

DATE 4/13/07

APPENDIX PAGE 154



HENRY McMASTER
ATTORNEY GENERAL

February 17, 2010

The Honorable Harold W. Gowdy, III
Solicitor, Seventh Judicial Circuit
County Courthouse
180 Magnolia Street, 3rd Floor
Spartanburg, South Carolina 29306-2335

RE: State v. Miller, Reginald James #261476
2006-GS-42-01550/2006-GS-42-01551

Dear Solicitor Gowdy:

In its Opinion No. 2010-UP-020, filed January 25, 2010, the South Carolina Court of Appeals dismissed the above appeal. The Remittitur has been sent to the Spartanburg County Clerk of Court. Therefore, with this letter, we are closing our direct appeal file in this matter.

This Office has verified through the South Carolina Department of Corrections' computer that Mr. Miller is presently incarcerated. Please ensure that the conviction and sentence have been carried out.

Sincerely,

Salley W. Elliott
Assistant Deputy Attorney General

SWE/bd
Enclosure

cc: The Honorable Ponda A. Caldwell
David M. Tatarsky, Esquire
Ms. Trisha Allen, Victim Services

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 MAR -1 AM 9:19

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State,

Respondent,

v.

Reginald James Miller,

Appellant.

Appeal From Spartanburg County
J. Cordell Maddox, Jr., Circuit Court Judge
Doyet A. Early, III, Circuit Court Judge

Unpublished Opinion No. 2010-UP-020
Submitted January 4, 2010 – Filed January 25, 2010

APPEAL DISMISSED

Appellate Defender Kathrine H. Hudgins, of
Columbia, for Appellant.

Attorney General Henry Dargan McMaster, Chief
Deputy Attorney General John W. McIntosh, and
Assistant Deputy Attorney General Salley W. Elliott,

all of Columbia; and Solicitor Harold W. Gowdy, III,
of Spartanburg, for Respondent.

PER CURIAM: Reginald James Miller appeals his convictions and sentences for trafficking in cocaine and trafficking in crack cocaine, arguing the constructive denial of counsel he suffered at trial requires reversal and a new trial. Miller filed a separate pro se brief, arguing the circuit court erred in admitting the powder and crack cocaine into evidence because the State failed to establish a proper chain of custody and in allowing Margaret Greer to testify at trial, despite the fact she was not listed as a prosecution witness. After a thorough review of the record and both briefs pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss¹ Miller's appeal and grant counsel's motion to be relieved.

APPEAL DISMISSED.

HUFF, A.C.J., GEATHERS, J., and CURETON, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

06-155



The South Carolina Court of Appeals

TANYA GEE
CLERK
V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
WWW.SCCOURTS.ORG

February 10, 2010

REMITTITUR

The Honorable Ponda A. Caldwell
180 Magnolia Street
Spartanburg, SC 29304

Re: The State v. Miller, Reginald James
2006-GS-42-01550; 2006-GS-42-01551

Dear Ms. Caldwell:

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

Sincerely,

V. Claire Allen, Deputy Clerk

Tanya A. Gee
Clerk of Court

TAG/lm

cc: Appellate Defender Kathrine H. Hudgins
Reginald James Miller, #261476
Assistant Deputy Attorney General Salley W. Elliott
Harold W. Gowdy, III, Esquire

2010 FEB 11 PM 5:01

05-LS-42-1551
DOCKET NO.

WITNESSES

1. SENTENCE MADE ☐ **Computer**
2. REPORT MADE ☐
3. CARD FILLED ☐
4. INDEXED ☐
5. CHECKED SIGNATURE ☐
6. CHECKED SIGNATURE ☐
7. ASSESSMENT AND
FILE CARD MADE ☐ **Computer**
8. TRAFFIC VIOLATIONS COPY ☐

ARREST WARRANT NUMBER

H789526

ACTION OF GRAND JURY

True Bill

Amy E. Cronica

Foreperson of Grand Jury

Date: 5-11-06

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE

vs.

REGINALD JAMES MILLER

Indictment for

TRAFFICKING IN COCAINE BASE
AND/OR CRACK COCAINE

SC Code: 44-53-375

FILED
2006 MAY 15 PM 3:57
MARC KITCHENS

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 11 2006

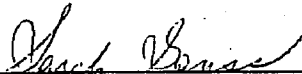
At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE BASE AND/OR CRACK COCAINE

That Reginald James Miller did in Spartanburg County on or about February 9, 2006, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (10) ten grams of Cocaine Base and/or Crack Cocaine, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Spartanburg
VS. Reginald James Miller

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2006 -GS- 42 - 1551
AW#: H-789520
Date of Offense: 2-9-06
S.C. Code §: 44-53-375
CDR Code #: 0141510
☐ CASE RESTORED
SENTENCE
☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Trafficking in Crack Cocaine > 10 grams 1st (max: 3-10 yrs & \$25K) ns/np
in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0141510
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Joseph S. Sasser
Solicitor

Reginald James Miller
Defendant

David R. Smith
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ 2500.00; 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: 06-65-112-1550
☒ 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine: \$ 2500.00
§14-1-206 (Assessments 107.5%) \$ 2625.00
§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§14-1-211(A)(2) (DUI Surcharge) \$100 \$ 100.00
§56-5-2995 (DUI Assessment) \$12 \$ 12.00
§ 35.13 (Public Def/Prob) \$500 \$ 500.00
§73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
§33.7, 1B TP (Drug Court Surcharge) \$100 \$ 100.00
§50-21-114(BUI Breath Test Fee) \$50 \$ 50.00
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 40.00
3% to County (if paid in installments) \$ 157.50
TOTAL \$ 3550.00

K. G. McKinnon
Clerk of Court/ Deputy Clerk

Court Reporter: Heidi Gibson

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: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 0136

Sentence Date: June 15, 2006

ARREST WARRANT

H-789526

2/14/06

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

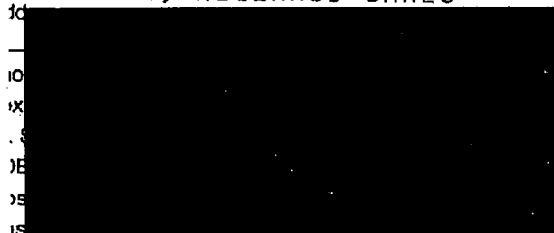
SPARTANBURG COUNTY

THE STATE

against

JAIL

MILLER, REGINALD JAMES



RAYMOND, C/SO

Offense: DRUGS / TRAFFICKING IN ICE,
CRANK OR CRACK - 2 Offense Code: 0392
 de/Ordinance Sec. 44-53-0375(C)(2)(A)

s warrant is CERTIFIED FOR SERVICE in the
 County/ ☐ Municipality of CS

The accused
 to be arrested and brought before me to be
 it with according to law.

Signature of Judge

(L.S.)

RETURN

copy of this arrest warrant was delivered to
 ndant

MILLER, REGINALD JAMES

Signature of Constable/Law Enforcement Officer

JRN WARRANT TO:

KENNETH DOVER
 7 MILL STREET
 INMAN, SC 29349

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG COUNTY

Personally appeared before me the affiant RAYMOND, C/SO who
 being duly sworn deposes and says that defendant MILLER, REGINALD JAMES
 did within this county and state on 02/09/06 violate the criminal laws of the
 State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of SPARTANBURG)
 in the following particulars:

DESCRIPTION OF OFFENSE: DRUGS / TRAFFICKING IN ICE, CRANK OR CRACK - 2
44-53-0375(C)(2)(A)

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID KNOWINGLY TRAFFIC MORE THAN 28 GRAMS OF COCAINE, A
 SCHEDULE II CONTROLLED SUBSTANCE, WITHOUT LEGAL AUTHORITY TO SO TRAFFIC SAID
 SUBSTANCE

AFFIANTS BELIEF BASED ON POLICE INVESTIGATION

Signature of Affiant

CO Raymond

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

SPARTANBURG

Affiant's Address P O BOX 771Affiant's Telephone SPARTANBURG, SC 29301000-0000 000-0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe that
 on 02/09/06 defendant MILLER, REGINALD JAMES
 did violate the criminal laws of the State of South Carolina (or ordinance of SPARTANBURG) as set forth below:

☐ County/ ☐ Municipality of

SPARTANBURG

DESCRIPTION OF OFFENSE:

DRUGS / TRAFFICKING IN ICE, CRANK OR CRACK - 244-53-0375(C)(2)(A)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
 defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
 the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on FEBRUARY 09, 2006

Signature of Issuing Judge

Judge Code: 741

KENNETH DOVER ORIGINAL

Judge's Address

7 MILL STREET

Judge's Telephone

INMAN, SC 29349

Issuing Court:

☒

Magistrate

☐

Municipal

☐

Circuit

Form Approved by
 S.C. Attorney General
 April 21, 2003
 SCCA 618

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2005 JAN 14 PM 10:39
 MARC KITCHENS

APPENDIX PAGE 162

IN THE COURT OF
GENERAL SESSIONS

STATE OF SOUTH CAROLINA

versus

State's Potential Witness List

Reginald Miller,

2006-GS-42-1549-1550

Defendant

- | | |
|-----------------------|-------------------------------------|
| 1. Inv. Chris Raymond | Spartanburg County Sheriff's Office |
| 2. Lt. Beth Vaughn | Spartanburg County Sheriff's Office |
| 3. Inv. Matt Hutchins | Spartanburg County Sheriff's Office |

June 15, 2006

Spartanburg, South Carolina

THE STATE)

Against

Reginald Miller

Defendant

In The Spartanburg County
General Session Court

Charged With Traffic King

Cocaine ; Crack Cocaine

1. Marisa Broadhead 179

2. Margaret Bryan 24

3. Donald Robinson 129

4. Evelyn Dalton 39

5. Michael Turner 192

6. Dale Wood 161

7. Myra Jones 40

8. Maria Freeman 58

State atty - Sara Ganss

Defense atty - TAM Beggs

Judge Dept Early
CRT - Ann Green

Builds
Seay
Riley
Hipp

Deputy
Tuxley
Smith

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

COURT OF GENERAL SESSIONS
CASE NUMBER: 2006-GS-42-1550

State of South Carolina,)
v.)
Reginald James Miller)

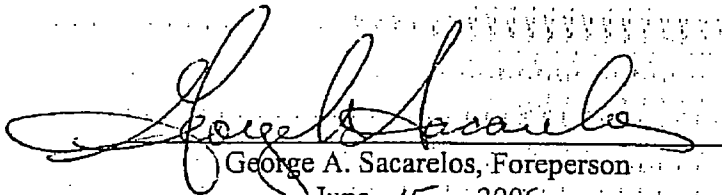
VERDICT FORM

We, the Jury, find the Defendant in this case, Reginald James Miller, to be:

 NOT GUILTY

 X GUILTY

of Trafficking in Cocaine.


George A. Sacarellos, Foreperson

June 15, 2006

Please notify the bailiff when you have completed your deliberations.

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

COURT OF GENERAL SESSIONS
CASE NUMBER: 2006-GS-42-1551

State of South Carolina,)
)
)
v.)
)
)
Reginald James Miller)
_____)

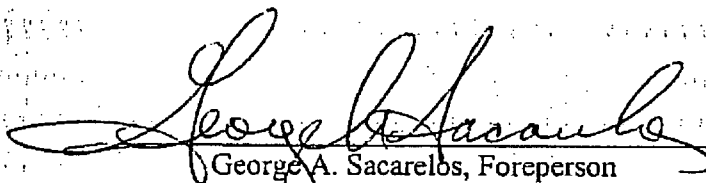
VERDICT FORM

We, the Jury, find the Defendant in this case, Reginald James Miller, to be:

___ NOT GUILTY

☒ GUILTY

of Trafficking in Cocaine Base and/or Crack Cocaine.


George A. Sacarellos, Foreperson
June 15, 2006

Please notify the bailiff when you have completed your deliberations.

750

CHT13300 SCDC OFFENDER MANAGEMENT SYSTEM 01/21/04
ONCOMTJA RELEASE DATE SCREEN 004859
SCDC# : 9241474 LOC: MCCORMICK
HILLER, RERINALD JAMES SCDC CLASSIFICATION... UTOLINT
OFFENDER TYPE... ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY... N
SEXUAL PREDATOR... NOT APP
DNA STATUS... COMPLETED
GPS REQUIREMENT... N
PREA DECISION...
CURRENT SENTENCE: 023-00-000 CONSECUTIVE SENTENCE... N
023-00-000 CURRENT SENT START DATE: 08/01/2006
PROJECTED COMPLETION DATES
MAXOUT DATE... 02/12/2026 CURRENT EDC... S F S
YOA SIX YEAR DATE: / / CURRENT EED... NOT CURRENTLY EARNING EED
INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL RT DAYS EARNED... 000000 LABOR CREW/WORK PROG DATE: 99/99/999
TOTAL EARNED WORK CREDITS... 000230 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS... 000000 CATEGORY 4 OR 5 OFFENSE
TOTAL EXTRA EARNED CREDITS... 000
TOTAL SERVICE TIME EARNED... 001610

PEKEYS: 5: HISTORY OF DATE CHANGES

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 01/21/11

COAR

MILLER, REGINALD JAMES FBI # 918295ERO STD# SC01131475 SCCC # 241474

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION.: MCCORMICK CORR INST

SECURITY/CUST.: 3 MENTIM

CURR INCARC SENT.: 23 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: NO

SOCIAL SECURITY #.: [REDACTED]

BOOK

F00270A

PROJ MAXOUT DATE: 02/12/2024

PROJ PAROLE DATE: 00/00/0000

EUC JOB.: WARDKEEPER ASSISTANT

EUC PRG.: NO CURR EDUC PROGRAM

EUC LEVEL: SFS SEC LEVEL:

ASSIGNMENT.: RIDING DETAIL BLT

CURRENT PROGRAM.: NO CURRENT PROGRAM

AGE.: 31 DATE OF BIRTH.: [REDACTED]

PREVIOUS NUMBERS:

Y00241474

CURRENT OFFENSES	SENTENCE			COUNTY	SENTENCE			START	U/NU	CATEGORY
	YRS	MOS	DYS							
MARIJUANA POSSESS	0	0	1	GREENVILLE	11/14/20	7	N			2
DRIVING INFLUENCE LIQUOR	0	0	1	GREENVILLE	11/14/20	7	N			2
TRAF CRACK(10-286,1ST)	10	0	0	SPARTANBURG	8/ 1/20	6	U			4
TRAFFICKING IN COCAINE	23	0	0	SPARTANBURG	8/ 1/20	6	U			4

PRIOR COMMITMENTS OVER 90 DAYS:

AND PRIOR COMMITMENTS OVER 90 DAYS

DETAINERS (HOLD, WANTED, NOTIFY):

TRAFFICKING IN COCAINE NOTIFY OPEN ARREST NOTIFICATION CATEG: 4

ESCAPE WANTED JUDGE DOVER CATEG: 4

AND DETAINERS

ESCAPES:

4/11/ 7 ESCAPE CLASS I

CRIMINAL CHARGES:

AND CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

5/16/10 POSSESSION OF A WEAPON CONVICTED MAJOR

NON-ASSAULTIVE DISCIPLINARIES:

5/16/10 USE, POSS NARC, MARIJ, UNAN NOT GUILTY MAJOR

5/16/10 POSS. OR/ATTEMPT TO POSS NOT GUILTY MAJOR

5/11/10 USE, POSS NARC, MARIJ, UNAN CONVICTED MAJOR

1/ 6/10 POSS. OR/ATTEMPT TO POSS CONVICTED MAJOR

9/12/ 9 T/M UNDER INFLUENCE/POSS DROPPED MAJOR

9/12/ 9 POSS. OR/ATTEMPT TO POSS DROPPED MAJOR

8/26/ 8 USE, POSS NARC, MARIJ, UNAN DROPPED MAJOR

5/ 9/ 0 STEALING CONVICTED MINOR

4/ 4/ 0 REFUSING OR FAILING OBEY CONVICTED MINOR

HISTORY OF MOVEMENTS:

4/ 5/10 MCCORMICK INCARCERATED ADMINISTRATIVE

4/ 5/10 KIRKLAND INCARCERATED MEDICAL

2/22/10 MCCORMICK INCARCERATED ADMINISTRATIVE

2/22/10 KIRKLAND INCARCERATED MEDICAL

2/11/10 MCCORMICK INCARCERATED ADMINISTRATIVE

2/ 3/10 KIRKLAND INFER INCARCERATED MEDICAL

2/ 1/10 PALMETTO RCHLAN AUTH ABSENCE (AWL) MEDICAL

12/18/ 9 MCCORMICK INCARCERATED ADMINISTRATIVE

12/18/ 9 RICH AND CO AUTH ABSENCE (AWL) MEDICAL

9/18/ 9 MCCORMICK INCARCERATED ADMINISTRATIVE

9/18/ 9 RICH AND CO AUTH ABSENCE (AWL) MEDICAL

7/30/ 9 MCCORMICK INCARCERATED ADMINISTRATIVE

7/30/ 9 SUMTER CO AUTH ABSENCE (AWL) MEDICAL

11/15/ 7 MCCORMICK INCARCERATED ADMINISTRATIVE

11/15/ 7 PERRY INCARCERATED ADMINISTRATIVE

6/ 6/ 7 MCCORMICK INCARCERATED ADMINISTRATIVE

APPENDIX PAGE 168

COUNTY PAROLE HEARING UTA
ADMINISTRATIVE

HILLER, RICHARD JAMES FBI # 918295FRO SID# SC01131A75 SODC # 261474 (CONTIN
 4/16/ 7 KIRKLAND INCARCERATED RAE PROCESSING
 4/16/ 7 PERRY INCARCERATED NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB
WARDKEEPER ASSISTANT	04/22/10	07/07/0		108
WARDKEEPER ASSISTANT	01/08/10	4/21/10	CUSTODY REVIEW	101
WARDKEEPER ASSISTANT	04/03/08	1/ 7/10	CUSTODY REVIEW	5F5
FOOD SERVICE AIDE	06/21/07	4/ 2/ 8	LATERAL TRANSFER	5F5
FOOD SERVICE AIDE	01/07/00	7/31/ 0	RELEASED/PAROLED	5F5
FOOD SERVICE AIDE	12/28/99	1/ 6/ 0	MT ELIGIBLE FOR LEVEL 2	5F5
FARM WORKER	11/05/99	12/22/99	INSTIT TRANSFER	5F5

HISTORY OF EARNED EDUCATION CREDITS:

EDC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
-----------------	------------	----------	--------------------

AND SCHOOL ASSIGNMENTS:

***** END OF REPORT *****

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

J. Cordell Maddox, Jr., Circuit Court Judge
Doyet A. Earley, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

REGINALD JAMES MILLER,

APPELLANT

RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

HENRY DARGAN MCMASTER
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

HAROLD W. GOWDY, III
Solicitor, Seventh Judicial Circuit
Spartanburg County Courthouse
180 Magnolia Street, 3rd Floor
Spartanburg, SC 29306-2335
(864) 596-2575

Attorneys for Respondent

INDEX

INDEX.....	i
TRIAL TRANSCRIPT.....	1
SENTENCING TRANSCRIPT.....	70
INDICTMENTS.....	78
SENTENCING SHEETS.....	82
CERTIFICATE OF COUNSEL	84

1 STATE OF SOUTH CAROLINA

2 COUNTY OF SPARTANBURG

} COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,

5 PLAINTIFF,

6 vs.

7 REGINALD MILLER,

8 DEFENDANT.

} TRANSCRIPT

} OF

} RECORD

} 06-GS-42-1550

} 06-GS-42-1551

9
10 June 15th, 2006
11 Spartanburg, South Carolina

12
13 B E F O R E:

14 THE HONORABLE DOYET A. EARLY, III, JUDGE; and a jury.

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

17 SARA GANSS
18 ASSISTANT SOLICITOR
Attorney for the State

19 THOMAS A.M. BOGGS
20 ESQ.
21 Attorney for the Defendant

22
23
24 PAMELA E. GREEN
25 Circuit Court Reporter
Seventh Judicial Circuit

I N D E X O F W I T N E S S E S

WITNESSES

PAGE

Jury Selection

5

Motions

11

Opening by The Court

17

Opening by Solicitor Ganss

20

CHRIS RAYMOND

Direct examination by Sol. Ganss

22

MATT HUTCHINS

Direct examination by Sol. Ganss

30

BETH VAUGHN

Direct examination by Sol. Ganss

36

MARGARET GREER

Direct examination by Sol. Ganss

51

Cross-examination by Mr. Boggs

54

Direct examination by Sol. Ganss

55

Motions

57

Closing by Solicitor Ganss

60

Charge by The Court

60

Verdict

65

Sentencing

66

Certificate

69

1	<u>EXHIBITS</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
3		<u>State's Exhibits</u>		
4				
5	S-1	Baggy	25	55
6	S-2	Baggy	25	56
7	S-3	Scales	32	35
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2		<u>Court's Exhibits</u>		
3				
4	C-1	Letter	16	
5	C-2	Copy of Indictments	68	
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 P R O C E E D I N G S

2
3 THE COURT: Ladies and gentlemen, we have one trial
4 left, and I'm told it is not a long trial. We're gonna draw
5 the jury for that and get started. Those of you who are not
6 drawn will be excused for the balance of the week unless you
7 want to stick around.

8 Okay. We'll go through the same procedure we've been
9 going through.

10 Ms. Ganss, if you would, please call the case.

11 SOLICITOR GANSS: Thank you, Your Honor.

12 The State calls the case of The State of South Carolina
13 versus Reginald James Miller on Indictment Number
14 2006-GS-42-1550, trafficking in cocaine, and also, and on
15 Indictment Number 2006-GS-42-1549, again trafficking in
16 cocaine.

17 May I approach, Your Honor?

18 THE COURT: You may.

19 SOLICITOR GANSS: Thank you.

20 THE COURT: Mr. Boggs, you ready?

21 MR. BOGGS: Yes, sir, Your Honor.

22 THE COURT: Ladies and gentlemen of the jury, I remind
23 you you're still under oath from the oath you took on
24 Monday. So, let me ask you a few questions and we'll go
25 ahead and draw our jury so the rest of you can be excused.

1 Has any member of the jury panel ever been related by
2 blood or marriage to the defendant, Reginald Miller, if so,
3 please stand.

4 (No response.)

5 THE COURT: The witnesses in this case -- hold on just
6 a second.

7 Has anyone ever been, had a close personal or social
8 relationship with Mr. Reginald Miller, if so, please stand.

9 (No response.)

10 THE COURT: The witnesses in the case are Investigator
11 Chris Raymond.

12 Stand please.

13 (Witness stands.)

14 THE COURT: Lieutenant Beth Vaughn. She's with -- you
15 may be seated.

16 (Witness complies.)

17 THE COURT: And Investigator Matt Hutchins.

18 (Witness stands.)

19 THE COURT: Thank you.

20 Any witnesses?

21 MR. BOGGS: (Nods affirmatively.)

22 THE COURT: Has anyone ever been related by blood or
23 marriage to any of the people I've just listed or has anyone
24 ever had a close personal or social relationship with any of
25 them, if so, please stand.

1 (No response.)

2 THE COURT: The State in this case is being represented
3 by Ms. Sara Ganss. She's an assistant solicitor with the
4 Seventh Circuit Solicitor's Office.

5 (Solicitor Ganss stands.)

6 THE COURT: And the defendant is represented by Mr. Tam
7 Boggs of the Spartanburg County Bar.

8 Practice by yourself, is that correct, sir?

9 MR. BOGGS: Yes, sir.

10 THE COURT: Any member of the jury panel ever been
11 represented by either of the lawyers, or have you ever been
12 related by blood or marriage, or have you had a close
13 personal or social relationship with any of the lawyers, if
14 so, please stand.

15 (No response.)

16 THE COURT: In this case, the indictments allege -- and
17 these are simply allegations. It is not evidence. But it
18 is alleged that in Spartanburg County on or about
19 February 7th, 2006---

20 SOLICITOR GANSS: Your Honor, I apologize.

21 May I approach briefly?

22 THE COURT: Yes, ma'am.

23 SOLICITOR GANSS: Thank you.

24 (Whereupon, a bench conference was held out of the
25 hearing of the jury at this time.)

1 THE COURT: All right. Let the record reflect that
2 the, there was a wrong -- not the wrong indictment. The
3 wrong number was handed up to me.

4 We're proceeding in 06-GS-42-1550 and 1551. 1550 is an
5 indictment for trafficking in cocaine. 1551 is an
6 indictment for trafficking in cocaine base and or crack
7 cocaine.

8 And ladies and gentlemen, it's simply allegations that
9 the defendant was involved in trafficking either crack
10 cocaine or cocaine on or about February 9, 2006, here in
11 Spartanburg County. These are simply allegations. The
12 burden is on the State of South Carolina to prove each and
13 every allegation in each and every indictment beyond a
14 reasonable doubt.

15 But does anybody know anything about the facts in this
16 ~~case, formed any opinion, or expressed any opinion, or read~~
17 about it on, in the newspapers, seen anything on the TV, or
18 heard anything on the radio, streets, or anywhere?

19 Do you know anything at all about the case, if so,
20 please stand.

21 (No response.)

22 THE COURT: Any member of the jury panel a member of
23 the Spartanburg County Grand Jury which returned a true bill
24 of indictment on May 11 of '06 in these cases, if so, please
25 stand.

1 THE COURT: Any member of the jury panel know of any --
2 are you aware of any bias or prejudice towards either the
3 State or the defendant in this case, if so, please stand.

4 (No response.)

5 THE COURT: Any member of the jury panel know of any
6 reason whatsoever why he or she should not serve as a juror
7 in this case with particular emphasis being placed on your
8 ability to be fair and impartial both to the State of South
9 Carolina and to the defendant here, if so, please stand.

10 (No response.)

11 THE COURT: Any additional questions on behalf of the
12 State?

13 SOLICITOR GANSS: None, Your Honor. Thank you.

14 MR. BOGGS: None, Your Honor.

15 THE COURT: Okay. Five and five, is that right?

16 ~~SOLICITOR GANSS: Yes.~~

17 THE COURT: As your name is called, please come
18 forward.

19 (Whereupon, a jury panel was selected at this time.)

20 THE COURT: All right. Give me one alternate just in
21 case.

22 (Whereupon, an alternate juror was selected at this
23 time.)

24 THE COURT: Any motions on behalf of the State in
25 regards to the selection of the jury?

1 SOLICITOR GANSS: None, Your Honor. Thank you.

2 MR. BOGGS: None, Your Honor.

3 THE COURT: I've got to release the rest of the jury
4 panel. I've got a verdict in my other case. Got to take
5 and do that. It is 11:15. Let's start at quarter till
6 12:00.

7 Y'all want a Chick-Fil-A sandwich?

8 (Jurors nod affirmatively.)

9 THE COURT: Then we can, we can work straight through
10 or would you rather have a lunch break?

11 (Jurors nod negatively.)

12 THE COURT: All right. Why don't you go back to, show
13 them to the jury room, and the clerk will give you a menu.
14 And once you fill out your menu, you're welcome to leave, go
15 downstairs, whatever. Be back at, in thirty minutes, which
16 is quarter till 12:00.

17 We'll start into the trial and lunch gets here, we'll
18 take a break and let y'all have a lunch break, and then
19 we'll start right back up so we get, move on down the road.

20 Is that fair, everybody?

21 (Jurors nod affirmatively.)

22 THE COURT: All right. Everybody else please remain
23 seated.

24 Mr. Riley, you got a place to put them?

25 BAILIFF: Yes, sir.

1 (Whereupon, a short recess was taken at this time.)

2 THE COURT: All right. Anything, Ms. Ganss?

3 SOLICITOR GANSS: Your Honor, yes, a couple of things.

4 THE COURT: Well, first of all, I want you to put on
5 the record the notice that was given so we can comply with
6 the appropriate statutes on notice to the defendant and the
7 defendant's lawyer.

8 SOLICITOR GANSS: Your Honor, may I approach?

9 THE COURT: Yes, ma'am.

10 SOLICITOR GANSS: I just wanted to give the Court the
11 correct indictment. That's just a copy, photocopy. That's
12 the original.

13 THE COURT: Thank you.

14 SOLICITOR GANSS: Thank you.

15 Your Honor, with regard to trying the defendant,
16 Mr. Miller, in his absence, State would like to put on the

17 record that Mr. Miller was notified, through his attorney,
18 Mr. Boggs, on June 1st that his case would be on the trial
19 docket for the week of June 12th, and that the case may be
20 called at any time during this week.

21 He was also put on notice to be in attendance this week
22 through his bondsman, G.G.'s Bonding. The defendant was
23 specifically told that he must attend General Sessions Court
24 for the June 12th, 2006, term of Court beginning 8:30 a.m.
25 on Monday June 12th, 2006, in the west courtroom at the

1 Spartanburg County Courthouse. The defendant must also
2 report each day thereafter until excused by Assistant
3 Solicitor Sara Ganss, and, of course, I never did excuse the
4 defendant, Mr. Miller, from attending. So, he certainly had
5 notice.

6 Also, Your Honor, the defendant was warned -- and I, I
7 do believe that South Carolina law requires that the
8 defendant be warned and put on notice. In terms of warning
9 that he would be tried in his absence, that is on the bond
10 sheet that the defendant did sign, and it reads I understand
11 and have been informed that I have a right and obligation to
12 be present at trial. And should I fail to attend court, the
13 trial will proceed in my absence. So, he got that warning,
14 he got notice he needed to be here, and the State is
15 prepared to go forward with his charge.

16 The State did notify the bondsman, ~~G.G. Bond, G.G.'s~~
17 Bonding, this morning also that Mr. Miller needed to be
18 here. So, the State has done everything within its power to
19 put the defendant on notice and warned him that the trial
20 would proceed in his absence should he choose or select not
21 to appear.

22 THE COURT: Thank you.

23 Mr. Boggs, how about -- be glad to hear from you.

24 MR. BOGGS: Yes, sir, I'll put some things on the
25 record. First of all, this case was February 9th of this

1 year case. So, it's four months old. Couple days past four
2 months old, and it was put, for some reason, jumped over the
3 5,000 we have that are older than it. It got put on the
4 docket as well as two other cases of mine that were called
5 for trial this week.

6 The two, the two other cases we knew preceded this one.
7 One of them was worked out on Monday morning, ended up
8 pleading yesterday. The second one that I was preparing
9 for, we went in front of Judge MacCaulay to draw a jury. It
10 was reduced down from trafficking, trafficking guns and
11 pills down to simple possession with an offer, offer of
12 probation and obviously my client took it whether he was
13 guilty or not.

14 My point being, as I was trying, I was preparing for
15 two other trials. I get back to my office on, whenever it
16 was, Tuesday afternoon, received a phone call that Reggie
17 Miller's case was gonna be up for trial, a four month old
18 case. And I don't run the docket. The Court doesn't run
19 the docket. But you know, trial by ambush I, I guess can be
20 effective.

21 However, as far as the notice, on June 6th we sent a
22 letter to Mr. Miller. He did respond. He was actually in
23 my office yesterday morning at eight o'clock. I talked to
24 him at that point. We actually approached Judge MacCaulay
25 about a continuance. He held that in abeyance until the

1 actual call of the case. My motion for continuance was
2 based on the fact that I was actually preparing for two
3 other trials this week. Both of which were called. Neither
4 of which actually went through a jury trial, but both of
5 which had to be prepared in that way, and like I said, one
6 of them we were preparing to draw the jury.

7 And the other thing was that with the other cases that
8 I'd been put on notice, which include five murder cases of
9 mine coming up for trial this year, a four month old case
10 was not one that I paid a tremendous amount of attention to.

11 However, going back to the notice to my client, we did
12 send him a letter June 6th. I have a copy in my file. I
13 did meet with him.

14 THE COURT: You have your file with you?

15 MR. BOGGS: Yes, sir.

16 ~~THE COURT: Let's make that a part of the record please~~
17 to protect you.

18 MR. BOGGS: This is the only copy I've got.

19 THE COURT: I ask the Court make me a copy.

20 MR. BOGGS: All right. I would like to at least keep a
21 copy of it.

22 THE COURT: Sure. Make me a copy.

23 MR. BOGGS: And again, Your Honor, I met with him
24 yesterday. I had two other phone calls with him from the
25 court. One of them was about eleven o'clock in the morning.

1 At that point I informed him that it was possible that we
2 would be up at 1:30, that I would contact him at 1:30.

3 THE COURT: That was yesterday?

4 MR. BOGGS: Yes, sir. At 1:30, Judge MacCaulay started
5 another trial. So, I called my client on my cell phone from
6 the courthouse at 1:45. At that time there had been a plea
7 offer made of eighteen years on his case. I relayed that to
8 my client, and told him his case would be up at 9:30 today,
9 which is the 15th of June. I told him he had to meet me
10 at the courthouse. He was not here at 9:30. About ten
11 o'clock I called the cell phone number I had for him. No
12 answer. And over the break between 11:15 and 11:45 I
13 attempted to make another phone call to that, to that
14 number. No response. And I did call my office to determine
15 whether he had made any contact with my office. My
16 secretary said he did not.

17 So, as far as notice, yes, my client had it. As far as
18 the case getting called this quickly, under the
19 circumstances of two other trials, I'm not, I'll reserve my
20 thoughts to myself about that.

21 THE COURT: Certainly. Well, I'm a little miffed at
22 Judge McCauley.

23 Has he got a motion for continuance under advisement or
24 did he just---

25 MR. BOGGS: No, sir, we did not actually -- we, we

1 discussed it in chambers.

2 THE COURT: Okay.

3 MR. BOGGS: He said when the case was called he would
4 want that put on the record.

5 THE COURT: Okay.

6 MR. BOGGS: All right. I find that, under Rule 16 of
7 the South Carolina Rules of Criminal Procedure and State v.
8 Ritch, R-I-T-C-H, that the State is made a finding or I find
9 that the fact that the State is provided ample notice to the
10 defendant to be present today at trial, and that he has been
11 warned that he would be tried in his absence should he fail
12 to attend. I respectfully deny the motion to continue.
13 We'll proceed with the trial in his absence.

14 Anything else for the record before we start,
15 Ms. Ganss?

16 Mr. Boggs?

17 MR. BOGGS: No.

18 SOLICITOR GANSS: Nothing from the State, Your Honor.

19 THE COURT: Thank you.

20 Mark this as Court's Exhibit No. 1 or Defendant's,
21 however you want to do it.

22 (Whereupon, the letter was marked as Court's Exhibit
23 No. 1 for identification purposes only at this time.)

24 (Whereupon, the following takes place within the
25 presence of the jury.)

1 THE COURT: Ladies and gentlemen, would y'all please
2 stand and let the jury, let the clerk swear you in for this
3 particular case.

4 (Whereupon, the jury was placed under oath at this
5 time.)

6 THE COURT: All right. Ladies and gentlemen of the
7 jury, when y'all take your first break when the lunch comes
8 if y'all please select a foreperson among yourselves
9 excluding the alternate, and if y'all can't do it, I'll draw
10 a name out of a hat.

11 Some of you have already served this week, haven't you?
12 How many?

13 I know you have.

14 (Jurors raise their hands at this time.)

15 THE COURT: So what I'm gonna tell you might be a
16 little redundant and repetitive, but just bear with me a
17 second please.

18 A couple things in this case. You've noticed that the
19 defendant is not present. He has been advised to be here
20 today, and this case has been called. The case can be
21 tried -- a person can be tried in their absence, but please,
22 please, I charge you and I instruct you and I tell you, the
23 law in this state is that you are to give absolutely no
24 adverse inferences, consider it, or do anything else to the
25 fact that he's not here. Do not hold that against him in

1 any manner whatsoever.

2 He has the right to be here. He has the right not to
3 be here. The fact that he's not here should not, and will
4 not, must not enter into your decisions in this case as to
5 how you, try how you decide the case.

6 Is that perfectly clear?

7 (Jurors nod affirmatively.)

8 THE COURT: Don't give that any thought whatsoever. He
9 has that right not to be here.

10 He's pled not guilty to the indictment. So, that puts
11 the burden of proof on the State of South Carolina to prove
12 each and every element of both indictments beyond a
13 reasonable doubt. Okay. So, he's presumed, presumed to be
14 innocent.

15 He's charged in this case with indictments for
16 trafficking in cocaine and trafficking in cocaine base
17 normally known as crack. Those are simply allegations.

18 It's not evidence. The burden is on the State to prove each
19 and every allegation beyond a reasonable doubt to you before
20 he can be convicted.

21 As I told some of you earlier this week, the judge has
22 a function and the jury has a function. My function is to
23 preside over the trial of the case. I rule on the
24 admissibility of evidence and I charge you what the law is
25 in the case.

1 And under the oath that you just took, if you think the
2 law should be something other than what I tell you it is or
3 if you have some preconceived idea as to what the law is and
4 those do not agree with me, you must set aside those ideas
5 and accept the law as I give it to you. Y'all can't tell me
6 what the law is. I tell you what the law is.

7 Likewise, you tell me what the facts are. What that
8 means is that, from this witness stand, you will hear
9 testimony, and from that testimony you decide what the true
10 facts are in the case. I can't tell y'all what the facts
11 are. You can't tell me what the law is. You're the fact
12 finder. I'm the judge of the law. That's sort of how it
13 works.

14 I rule on the admissibility of evidence. All the
15 evidence has to be, come in under our rules of evidence.
16 But once it is admitted into the trial of the case, then
17 it's up to the twelve of you acting collectively as one to
18 determine what and who you believe and whether or not, based
19 on that evidence, the State has proven the defendant's guilt
20 beyond a reasonable doubt.

21 So, that's your job. You're to find the facts, and I
22 tell you what the law is. So, you're the fact finders and
23 I'm the judge of the law.

24 I will tell you each time we take a break don't start
25 your deliberations until all the evidence is in and we've

1 had an opportunity to make final arguments and I charge you
2 on the law, and at that time you start your deliberations.
3 So, when we take breaks, talk about anything you want to
4 except for deliberating the case please.

5 In just a few minutes the State and the defendant
6 will -- they have the right to make an opening statement. I
7 don't know whether they will or not. But opening statement
8 likewise is not evidence. That's simply what the lawyers
9 contend their positions will be. Sort of a road map to the
10 case. But the only evidence you can consider, the only
11 thing you can consider comes from that witness stand by way
12 of sworn testimony and or exhibits that are relevant to the
13 case that may be introduced from time to time.

14 So, at the end, you will have all of that, take the law
15 as I charge it to you, and you'll apply the law to the facts
16 as you find them to be, and then you'll be in a position to
17 make a decision in this case, a decision that speaks the
18 truth.

19 Any objections to my opening remarks by the State?

20 SOLICITOR GANSS: No, Your Honor. Thank you.

21 THE COURT: Mr. Boggs.

22 MR. BOGGS: No, Your Honor.

23 THE COURT: Thank you.

24 Madam Solicitor.

25 SOLICITOR GANSS: Thank you, Your Honor.

1 Mr. Boggs.

2 May it please the Court.

3 We're here today because on February 9th, 2006, the
4 defendant, Reginald James Miller, was caught here in
5 Spartanburg County with crack cocaine and cocaine. That's
6 why we're hear.

7 Just gonna tell you briefly what the State's gonna
8 present as to the facts that you're gonna hear through
9 Investigator Chris Raymond and then you're gonna hear
10 through Investigator Matt Hutchins on how they caught
11 Reginald Miller with this crack and powder cocaine.

12 They came into contact with Mr. Miller on
13 February 9th, 2006, outside of Boots & Sonny's, a
14 restaurant and eatery right here in Spartanburg. And when
15 they tried to come into contact with the defendant, he fled.
16 ~~And when he fled, they were able to tackle him.~~ And when
17 they tackled him, they found something in his hand, cocaine,
18 a white substance that you're gonna hear testimony field
19 tested positive for some fifty plus grams.

20 They arrested him with that cocaine. Then they take
21 him back to the police department, Sheriff's Office.

22 And you know what they do?

23 They do a search incident to arrest, and they searched
24 Mr. Miller. And low and behold they find something else.
25 They find some crack cocaine, and you're gonna hear

1 testimony about how much that crack cocaine weighed. And
2 they found that crack cocaine not in his hand, but in
3 another part of his body. It was on his person. All these
4 drugs you're gonna hear about today were found on the very
5 person of Mr. Miller.

6 That's the State's case. Ask you please listen today
7 with an open mind, and at the end of this trial I'm gonna
8 ask you to simply please find the defendant guilty on both
9 indictments.

10 Thank you for your time today.

11 THE COURT: Mr. Boggs.

12 MR. BOGGS: Waive opening, Your Honor.

13 THE COURT: Thank you.

14 You may call your first witness, Ms. Ganss.

15 SOLICITOR GANSS: Thank you, Your Honor.

16 ~~State calls Investigator Chris Raymond to the stand.~~

17 THE COURT: Come around, sir, please.

18 CHRIS RAYMOND, being first duly
19 sworn, testified as follows:

20 THE COURT: Ms. Ganss, your witness.

21 SOLICITOR GANSS: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY SOLICITOR GANSS:

24 Q Investigator Raymond, could you please introduce
25 yourself to the jury this morning?

Chris Raymond - Direct examination
by Solicitor Ganss

1 A I'm Chris Raymond with the Spartanburg County Sheriff's
2 Office.

3 Q And how long have you been working with Spartanburg
4 County Sheriff's Office?

5 A About seven years.

6 Q And what is your -- what do you do there?

7 A I work in narcotics.

8 Q And when you work in narcotics, what does that include?

9 A Investigations of all type of drug activity within
10 Spartanburg County.

11 Q Is part of your duties to buy -- and explain things
12 more in detail what you might do as a narcotics
13 investigator.

14 A General -- just investigating all type of drug
15 activity, buying drugs, selling drugs, anything pretty much
16 related to drug activity.

17 Q What were your duties on February 9th, 2006?

18 A I was assigned to the narcotic's unit and we were
19 running investigation on the defendant, Reginald James
20 Miller.

21 Q Okay. Can you please tell this jury what happened that
22 day?

23 A We, through the use of a confidential informant, had
24 set up a deal to purchase.

25 Q Well, if I may, just how did you come into contact with

Chris Raymond - Direct examination
by Solicitor Ganss

1 the defendant that very day, the day of February 9th...

2 A We were---

3 Q ---2006?

4 A We were set up doing surveillance at Boots & Sonny's
5 Restaurant in Spartanburg County. The defendant had a
6 pending arrest warrant on him.

7 MR. BOGGS: Objection, Your Honor.

8 THE COURT: Sustained.

9 Disregard that last statement, ladies and gentlemen of
10 the jury.

11 Q All right. So, let me back up. You're at Boots &
12 Sonny's.

13 Do you come into contact with the defendant?

14 A Yes, he arrived at Boots & Sonny's Restaurant.

15 Q All right. And how did you come into contact with him?

16 A We were doing surveillance and we noticed him arrive in
17 the parking lot.

18 Q What did you do?

19 A We attempted to approach him at this time. He got out
20 of the vehicle which he was in. He was seated in the
21 passenger side of the vehicle and he took off on foot
22 running toward the restaurant from the parking lot.

23 Q Okay. So, when he took off running towards Boots &
24 Sonny's, what did you do next?

25 A Several members of the unit chased him on foot. I was

Chris Raymond - Direct examination
by Solicitor Ganss

1 with -- I was in a different vehicle and we kind of go out
2 in the street and came into a different entrance in the
3 parking lot. I observed him running towards the door.

4 Q Okay. Did he make it to the door?

5 A He made it. He didn't get in the door, but he made it
6 to the door.

7 Q What happened when he got to the door?

8 A He was tackled by a couple of investigators.

9 Q Do you remember what time of day this was?

10 A Right at five o'clock.

11 Q And when he was tackled, what happened next?

12 A From my -- and I wasn't right close to seeing. I was a
13 bit of distance away. I remember him falling to the ground.
14 And when I got to the scene, there was a substance in his
15 hand, which is tucked underneath him. It was a baggy
16 containing white powder.

17 SOLICITOR GANSS: All right. Your Honor, beg the
18 Court's indulgence. I could have these marked please.

19 MR. BOGGS: Marked for identification I assume?

20 SOLICITOR GANSS: Yes.

21 THE COURT: That's correct.

22 (Whereupon, one baggy was marked as State's Exhibit No.
23 1. Another baggy was marked as State's Exhibit No. 2. Both
24 of the exhibits were for identification purposes only at
25 this time.)

Chris Raymond - Direct examination
by Solicitor Ganss

1 Q I want to show you, Investigator Raymond, what's been
2 marked State's Exhibit No. 1 for identification purposes
3 only.

4 Do you recognize it?

5 A Yes, I do.

6 Q How do you recognize it?

7 A This was the, the baggy that was found in the
8 defendant's hand tucked underneath him that day and that's
9 what I recovered.

10 Q Okay. Is there a way you know that this is indeed---

11 A Yes.

12 Q ---the---

13 A The date and then my signature on this.

14 Q Okay. And the date is?

15 A February 9th, 2006.

16 Q Okay. ~~When you recovered this substance from the~~
17 defendant's hand you said, what did you do with it?

18 A We ran a field test on it, which came back positive for
19 cocaine, and then placed it into that bag and put it into
20 evidence at the Sheriff's Office.

21 MR. BOGGS: Your Honor, I object to it. He can say
22 it's one, one of the substances that has the -tine. But he
23 doesn't know if it's ketamine or cocaine or whatever it is.
24 It field tested positive for something in that group unless
25 he can be qualified as an expert.

Chris Raymond - Direct examination
by Solicitor Ganss

1 THE COURT: Sustained.

2 Just disregard the reference to the cocaine.

3 What did it test positive for in the group as Mr. Boggs
4 just stated?

5 Do you understand the question?

6 Q Did it test positive for an illegal substance?

7 A It tested positive. Based on the test we run, it came
8 back positive.

9 Q Okay. Can you describe the test that you run for the
10 jury, please?

11 A It's basically called Voltox and cause Voltox is kind
12 of sprayed on a little sample of the substance, and it turns
13 blue meaning a positive test.

14 THE COURT: Y'all excuse me for my phone going on
15 vibrate. My daughter-in-law just had my second grandchild
16 and that's my son probably calling. That's why I had it up

17 here this morning. I know I'm not suppose to have it in
18 here, but I thought I could have it cause I'm having a grand
19 baby.

20 Q Let me then ask you is -- what do you call that kind of
21 testing when you test out there at the scene?

22 A It's a field test.

23 Q Okay. So, after this field test came up positive you
24 say, what did you do with that white substance that we just
25 talked about earlier?

Chris Raymond - Direct examination
by Solicitor Ganss

1 A That was placed into a B.E.S.T. Bag and put it into
2 evidence at the Sheriff's Office.

3 Q Okay. Can you tell us a little bit about this B.E.S.T.
4 Bag?

5 A It's basically a tamper proof bag. Once you seal it,
6 if you try to open it or anybody tries to open it will show
7 a distortion and you will be able to tell if it was tampered
8 with.

9 Q And then when you said you placed it then in the
10 evidence box, please describe to the jury what do you mean.

11 Where are you taking it?

12 What are you actually doing?

13 A At the Sheriff's Office there's a secure big metal box
14 with a, a lock on it. It basically slides down. You drop
15 it in and you shut it and then it falls down and only people
16 with the key will be able to get access to that, which I

17 don't have and basically no one has except the evidence
18 custodian.

19 Q Okay. When you placed that white substance in the
20 B.E.S.T. Bag, did you alter that B.E.S.T. Bag in any way,
21 shape, or form?

22 A No, I just sealed it.

23 Q All right. You are one of how many officers present
24 that day outside of Boots & Sonny's?

25 A Roughly I estimate about eight to ten.

Chris Raymond - Direct examination
by Solicitor Ganss

1 Q Okay. Can you describe, just in case, Boots & Sonny's
2 is located where?

3 A It's on South Church Street in Spartanburg County kind
4 of near the post office on the opposite side of the street.

5 Q And what kind of restaurant is it?

6 A Basically they, they serve hot dogs and it's kind of
7 opened for lunch and dinner.

8 SOLICITOR GANSS: Okay. Beg the Court's indulgence
9 just one moment Your Honor please.

10 (Pause.)

11 Q Investigator Raymond, let's go back just briefly. You
12 said the defendant ran from a vehicle to Boots & Sonny's.

13 Where was that vehicle in relationship to the
14 restaurant?

15 A The vehicle was parked -- I think the side street is
16 ~~Henry Street, and it was parked in a spot facing, actually~~
17 ~~facing Henry Street.~~ But that would be here and the
18 restaurant would be over here.

19 Q Okay. Were you able to -- what did you observe, if we
20 just backtrack a little bit, what did you observe as relates
21 to that vehicle?

22 A I observed the vehicle pull in, park, I believe it was
23 still running at the time, and I observed the defendant get
24 out of the passenger front and kind of take off running on
25 foot.

Chris Raymond - Direct examination
by Solicitor Ganss

1 Q Okay. Thank you, Investigator Raymond. No more
2 questions at this time. Please answer any questions Mr.
3 Boggs may have.

4 THE COURT: Cross please.

5 MR. BOGGS: I have no questions, Your Honor.

6 THE COURT: You may step down.

7 Call your next witness please.

8 SOLICITOR GANSS: Thank you, Your Honor.

9 Your Honor, may we approach?

10 THE COURT: You may.

11 (Whereupon, a bench conference was held out of the
12 hearing of the jury at this time.)

13 THE COURT: Next witness, please.

14 SOLICITOR GANSS: State calls Investigator Matt
15 Hutchins to the stand, Your Honor.

16 ~~THE COURT: Come around, Mr. Hutchins.~~

17 MATT HUTCHINS, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY SOLICITOR GANSS:

21 Q Investigator Hutchins, please introduce yourself to the
22 jury here.

23 A Investigator Matt Hutchins, Spartanburg County Vice and
24 Narcotic's Unit.

25 Q Okay. How long you been with the Spartanburg County

Matt Hutchine - Direct examination
by Solicitor Ganss

1 Sheriff's Office?

2 A I been with the Spartanburg County Sheriff's Office
3 four years. I've been in law enforcement for a total of
4 eight.

5 Q Okay. And in your capacity with the Narcotic's
6 Division, what do you do?

7 A Investigate drug offenses, vice offenses. Anywhere
8 from street level narcotics to major organizations.

9 Q Can you tell us what you were doing on February 9th,
10 2006?

11 A We had a narcotic operation that was taking place.

12 Q Okay. On that date, did you happen to come into
13 contact with the defendant, Reginald Miller?

14 A I did.

15 Q And how did you come into contact with him that day?

16 A ~~Mr. Miller arrived at the location in the vehicle. As~~
17 I went to attempt to arrest Mr. Miller, he fled from the
18 passenger's, passenger's side of the vehicle. Myself and
19 Deputy Calderon gave chase. Deputy Calderon laid hands on
20 him at the door of Boots & Sonny's. Mr. Miller was making
21 attempt to get inside Boots & Sonny's. And the door,
22 instead of pushing open, pulls open.

23 He went to push. Of course, the door didn't open.
24 Deputy Calderon basically grabbed him to attempt to arrest
25 him, and I got there immediately. What I observed is when

Matt Hutchine - Direct examination
by Solicitor Ganss

1 he went to push the door, white powder basically went
2 everywhere. You could see the substance coming from his
3 hand.

4 Q And that white powdery substance, is that the substance
5 that investigator -- who collected that substance?

6 A Investigator Chris Raymond.

7 Q Okay. All right. So, what did you do next?

8 A We went to the ground trying to execute the arrest and
9 handcuff Mr. Miller. His hands went to his midsection.
10 When I went to roll him over, the bag obviously had torn,
11 had a hole in it because it had busted against the door.
12 Investigator Raymond preserved the evidence while we
13 finished handcuffing Mr. Miller.

14 As I patted Mr. Miller down, I located some, a set of
15 digital scales in his pocket.

~~16 Q Okay. Let's see here. Let me show Mr. Boggs.~~

17 Let me get this marked for identification purposes.

18 MR. BOGGS: I have no objection to her taking it out of
19 the bag.

20 SOLICITOR GANSS: Thank you.

21 (Whereupon, the scales were marked as State's Exhibit
22 No. 3 for identification purposes only.)

23 Q Okay. I'm gonna show you what's been marked as State's
24 Exhibit No. 3.

25 Do you recognize it?

Matt Hutchine - Direct examination
by Solicitor Ganss.

1 A I do.

2 Q What is it?

3 A This is a set of digital scales that I recovered from
4 Mr. Miller.

5 Q And can you -- how, how do you know those are digital
6 scales?

7 A From my experience in narcotics I come into contact
8 with these pretty often. Also it has the operation and on
9 the back it's got a tag says Digiweigh, readable one
10 point grams.

11 Q Okay. And after you recovered this from the
12 defendant -- where on -- where did you recover this from?

13 A It was in his pocket.

14 Q In whose pocket?

15 A Mr. Miller's.

16 Q Okay. What did you do with it when you recovered it?

17 A It was placed and sealed into an evidence bag where I
18 signed and dropped it into our evidence container.

19 Q Okay. Okay. I also want to show you, if I may, what's
20 been marked State's Exhibit No. 2 for identification
21 purposes only.

22 Do you recognize this?

23 A I do.

24 Q How do you recognize it?

25 A When Mr. Miller was taken to the Spartanburg County

Matt Hutchine - Direct examination
by Solicitor Ganss

1 Detention Facility, it's our policy that we do a search and
2 procedure of their person, which we referred to as a strip
3 search. As this began, Mr. Miller was, I could see, getting
4 a little nervous, and I asked Mr. Miller if he had anything
5 on him he needed to inform me of. He then was down to his
6 boxers and he informed me he had something in his boxers,
7 underwear that he would hand over to me.

8 At that point I told him that he needed to not do
9 anything that, make any rash moves and to remove it and hand
10 it to me. At that time he reached inside his underwear and
11 handed me this, this substance.

12 Q Okay. What did you do with it when you recovered it
13 from the defendant's person?

14 A I seal it to, what we call our narcotics B.E.S.T. Bag
15 where it's a tamper proof bag, as Investigator Raymond
16 stated, ~~and then it's dropped into evidence and then it was~~
17 sent to be tested.

18 Q And how do we know from that bag that that's the
19 substance you recovered from Mr. Miller's person that day?

20 A Cause I signed it as the one taking it into custody.
21 It's also got the case number on it.

22 Q Okay. How do we know it's from that day?

23 A Because it is dated 2/9/06.

24 Q Okay. After you sealed it in this B.E.S.T. Evidence
25 Bag, did you tamper with it, alter with it, or do anything

Matt Hutchine - Direct examination
by Solicitor Ganss

1 with that bag, or alter its contents in any way, shape, or
2 form?

3 A Other than drop it into the evidence box.

4 Q Okay. Let's see. So, just for clarification, before
5 you went back to the Sheriff's Office, Office and was strip
6 searched, had the defendant been arrested?

7 A Yes, ma'am.

8 Q And he was arrested when and where or placed under
9 arrest?

10 A He was placed under arrest at Boots & Sonny's when he
11 was apprehended.

12 SOLICITOR GANSS: Beg the Court's indulgence just one
13 moment, Your Honor.

14 THE COURT: Is No. 3 in evidence?

15 Did you put it in?

16 SOLICITOR GANSS: Not yet, Your Honor.

17 (Pause.)

18 SOLICITOR GANSS: Your Honor, at this time the State
19 would like to move State's Exhibit No. 3 into evidence.

20 THE COURT: Mr. Boggs.

21 MR. BOGGS: No objection.

22 (Whereupon, State's Exhibit No. 3 was received into
23 evidence at this time.)

24 SOLICITOR GANSS: No more questions at this point for
25 Mr. Hutchins.

Matt Hutchine - Direct examination
by Solicitor Ganss

1 THE COURT: Mr. Boggs.

2 MR. BOGGS: No questions, Your Honor.

3 THE COURT: You may step down.

4 Call your next witness.

5 SOLICITOR GANSS: State calls Lieutenant Beth Vaughn to
6 the stand, Your Honor.

7 THE COURT: Come around, Lieutenant.

8 BETH VAUGHN, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR GANSS:

12 Q Lieutenant Vaughn, please introduce yourself to the
13 jury.

14 A I'm Beth Vaughn.

15 Q And where do you work?

16 A Spartanburg County Sheriff's Office.

17 Q How long have you worked for Spartanburg County
18 Sheriff's Office?

19 A Three years.

20 Q And what's your role over at the Spartanburg County
21 Sheriff's Office?

22 A I'm a forensic chemist.

23 Q Okay.

24 THE COURT: Lieutenant Vaughn, please speak up a little
25 bit for me.

Beth Vaughn - Direct examination
by Solicitor Ganss

1 WITNESS: Yes, sir.

2 THE COURT: Pull up a little bit to that mike.

3 (Witness complies.)

4 THE COURT: Thank you, ma'am.

5 Q As a forensic chemist, what kind of training have you
6 received for that?

7 A I have a Bachelor's of Science in Chemistry, a
8 Bachelor's of Science in Biochemistry, a Master's in
9 Chemistry. Also I did four months in drug training. I've
10 been to the DEA Forensic Chemist School, the DEA Clandestine
11 Lab School. I've been to instrumentation classes, and every
12 year we have forty years of continuing education that we do
13 in our field.

14 Q Okay. So, as a forensic chemist at the Sheriff's
15 Office, what are your duties specifically?

16 A ~~We do drug analysis, poison analysis, fire degree~~
17 analysis, and clandestine labs, meth labs.

18 Q So, how many times have you been able to chemically
19 analyze a substance to determine whether or not it's a
20 narcotic?

21 A Over 750.

22 Q Have you testified as an expert in court before?

23 A Yes.

24 Q How many times?

25 A Nine.

Beth Vaughn - Direct examination
by Solicitor Ganss

1 Q Okay. Were they all here in South Carolina?

2 A Yes.

3 SOLICITOR GANSS: At this time, Your Honor, I'd like to
4 offer Beth Vaughn, Lieutenant Beth Vaughn with the Sheriff's
5 Office as an expert in the analysis of narcotics?

6 MR. BOGGS: Have no objection to her being offered as
7 an expert analyst, which is what I understand the
8 limitations are as opposed to an expert chemist, correct?

9 SOLICITOR GANSS: Well, actually, if I could---

10 THE COURT: She's a chemist too sounds like to me.

11 SOLICITOR GANSS: So, in the field of chemistry and
12 narcotics analysis. I'll put it that way.

13 THE COURT: I don't know that it matters.

14 MR. BOGGS: I don't think it does either. But she said
15 analyst and that's what I was agreeing to.

16 ~~THE COURT: Well, do you agree to a chemist?~~

17 SOLICITOR GANSS: Chemistry and---

18 THE COURT: Hold on. You've already said it.
19 You want to cross-examine on qualifications?

20 MR. BOGGS: No, we'll go ahead.

21 THE COURT: Thank you.

22 MR. BOGGS: It's approximately the same thing.

23 THE COURT: It is. Thank you.

24 Madam -- well, nobody. Ladies and gentlemen of the
25 jury, I don't have a foreperson yet. Lieutenant Vaughn will

Beth Vaughn - Direct examination
by Solicitor Ganss

1 be qualified as an expert in the field of chemistry and
2 narcotics analysis. What that means is normally witnesses
3 can not testify about opinions. They only can testify about
4 what they see, smell, hear, taste, et cetera.

5 There is an exception to that rule. Someone, because
6 of education and experience, and or experience, is a, has
7 special knowledge in a, in a limited field, they are allowed
8 to give opinions in that field.

9 So, I'm gonna qualify her as an expert in the fields of
10 chemistry and drug analysis and Mrs. Vaughn, Lieutenant
11 Vaughn will be allowed to give opinion testimony.

12 SOLICITOR GANSS: Thank you, Your Honor.

13 Q Lieutenant Vaughn, when your lab receives a substance
14 to determine if it's a narcotic in it or not, what steps do
15 you make sure that the substance you received is not indeed
16 tampered with?

17 A Okay. I'll walk you through the process.

18 Q Thank you.

19 A We go to evidence to pick up any item that needs to be
20 analyzed. At that point, while we're in evidence, we'll
21 look at the B.E.S.T. Bag and the B.E.S.T. Bag is just a
22 standardized way for everyone to submit drugs to the lab.
23 It's a tamper evident bag. So, if somebody wanted to cut
24 into it they could. But you would be able to tell. The
25 sides would stretch out. You have to cut the top or cut at

Beth Vaughn - Direct examination
by Solicitor Ganss

1 the bottom. You'd be able to tell.

2 So, before I even check out the evidence, I look at it
3 in there, make sure it's sealed. At that point I assign it
4 a lab number and I take it back to the lab with me. It's
5 kept in a safe until we work it. The safe can only be
6 accessed by myself and my first lieutenant, who is also
7 another chemist in the lab.

8 Once we take the case out to be worked, we look at the
9 B.E.S.T. Bag again rechecking that it's still in tact and
10 sealed at that point. We initial it, date it, and put an
11 okay on it, and that let's us know it was sealed before we
12 ever opened it to work it. At that point we'll open the
13 case and work it.

14 Q Okay. Would you ever test a substance that had come to
15 you in a bag that had been altered or opened or disturbed in
16 any-way, shape, or-form?

17 A No, he won't even accept it from evidence.

18 Q Okay. So, after you accept that sealed bag from
19 evidence, then please tell us about your testing.

20 A We do what we call a presumptive test and what we call
21 a confirmatory test, and the presumptive test is basically
22 just a color change test where we put chemicals on and it
23 will change colors. That just gives us an idea of the next
24 test we need to run.

25 The confirmatory test are instrumental test. We have

Beth Vaughn - Direct examination
by Solicitor Ganss

1 instruments that we actually put the sample on the
2 instrument and get analytical data to what the substance is.

3 Q And let's see here.

4 When you -- let's see.

5 I'm gonna show you right now, if I may, what's been
6 marked State's Exhibit 1 for identification purposes only.

7 Do you recognize it?

8 A I do.

9 Q Can you please tell us how you recognize that
10 substance?

11 A Yes, it's gotten my initials on it, the date that I
12 opened it, and okay saying it was sealed before I opened it.
13 Also in the seal of the outer bag are my initials, the date,
14 and the lab number where I resealed it after I worked it.

15 Q After you tested this particular substance, were you
16 able to determine what it was?

17 A Yes.

18 Q And can you please share with the jury what that
19 substance was?

20 A Yes, it was found to be cocaine at a weight of
21 51.65 grams.

22 Q And can you also tell the jury, just for their
23 information, when you talk about weight, do you take that
24 whole -- how do you, how do you weigh the substance?

25 A What we'll do is however it's packaged, we'll take the

Beth Vaughn - Direct examination
by Solicitor Ganss

1 substance out of the packaging. We lay down a drop cloth on
2 our table, and we'll take all of the contents that's in the
3 packaging and put it out on to the drop cloth. At that
4 point I'll take a bag and put it on my balance, and you do,
5 do what's called tearing it out, which just means you put
6 the bag on the balance, you hit a button and it sets that
7 bag weight to zero so that that bag weight no longer comes
8 into play. It means nothing anymore.

9 Then I will take all my samples that I need for testing
10 from the substance. After I've taken my sample for testing,
11 I put the substance back into that bag that I've set equal
12 to zero and weigh it then so that nothing is been weighed
13 but the actual substance itself, and all my samples have
14 been taken from the substance before I ever weigh it.

15 Q And again then, this came back for what substance and
16 what weight?

17 A Cocaine at 51.65 grams.

18 Q Thank you.

19 At this time, Your Honor, the State would like to move
20 what's been marked State's Exhibit 1 for identification
21 purposes into evidence.

22 MR. BOGGS: Your Honor, we object. The chain hasn't
23 been established yet. You may have to hear it in camera.
24 But---

25 SOLICITOR GANSS: May we approach, Your Honor?

Beth Vaughn - Direct examination
by Solicitor Ganss

1 MR. BOGGS: According to, according to the discovery
2 I've been provided---

3 THE COURT: All right. Y'all step out a second please.
4 Check and see if that lunch is here yet. It's on the
5 way. But we're gonna keep on moving. It won't take but a
6 minute to do this.

7 (Whereupon, the following takes place outside the
8 presence of the jury.)

9 THE COURT: Glad to hear your objection, Mr. Boggs.

10 MR. BOGGS: Well, Your Honor, it's incumbent upon the
11 State, my understanding, to establish a chain of custody
12 particularly when you're talking about fungible items
13 wherein every person that handles that product can verify
14 that there's been no alterations. I understand they're
15 exceptions to things like guns, et cetera.

16 ~~THE COURT: --I'm very well aware of the rules concerning--~~
17 chain of custody.

18 MR. BOGGS: And in this---

19 THE COURT: How does this not apply?
20 What's wrong with the chain here?

21 MR. BOGGS: Well, she is not the one that took it from
22 the, the depository that Officer Raymond or Officer Hutchins
23 put the substance in. There was an intervening party.

24 THE COURT: An evidence, an evidence custodian?

25 SOLICITOR GANSS: Yes, Your Honor. There is an

Beth Vaughn - Direct examination
by Solicitor Ganss

1 evidence custodian.

2 THE COURT: Okay. Well, is he or she here to testify?

3 SOLICITOR GANSS: Your Honor, the State would offer
4 State v. Taylor.

5 May I approach?

6 THE COURT: You may.

7 SOLICITOR GANSS: Thank you.

8 THE COURT: You comply with Rule 6, then they're
9 statements you can sign as to Rule 6 about continue, about
10 chain of custody.

11 SOLICITOR GANSS: It's my understanding, Your Honor,
12 as, that under State v. Taylor, if the State produces
13 testimony that the substance was sealed and placed into the
14 evidence box and then the recipient, the final recipient,
15 the chemist testifies that it was not disturbed when she
16 took it for ~~testing~~, that we do not have to have the
17 evidence technician.

18 MR. BOGGS: Your Honor?

19 THE COURT: Hold on a second.

20 Mr. Boggs.

21 MR. BOGGS: Well, Your Honor, that -- I don't think
22 that's what the case says. But---

23 THE COURT: Well, the law is---

24 MR. BOGGS: ---what she -- excuse me.

25 THE COURT: Go ahead. Go ahead. I'm listening.

Beth Vaughn - Direct examination
by Solicitor Ganss

1 MR. BOGGS: What she's basically saying is you only go
2 from the top man to the bottom man. So, there will never be
3 a, a question of custody. I understand the law is the
4 purpose for the chain of custody is to establish that the
5 items seized in this case by either Hutchins was not, was in
6 the same situation when it was received by this officer,
7 Officer Vaughn as it was when Hutchins put it in the
8 evidence bag, I mean put it in the evidence bin.

9 Now, this officer can't testify to that. She can
10 testify only as to the condition it was in when she found
11 it. She can not verify that that is even the same product
12 that was put in by, by Officer Hutchins or Chris Raymond. I
13 think both of them -- Officer Raymond and Officer Hutchins.

14 Their testimony was they put it in one depository. Her
15 testimony is she picked it up out of a second depository.
16 But to complete the chain, particularly when you're talking
17 about fungible items, items that can be mixed, destroyed,
18 spilled, my understanding is that chain is got to be

19 established completely from the time that the police officer
20 got it in his possession, and out of the Boots & Sonny's
21 until the time she put it on the, on the scale to weigh it
22 and on the chemical test to, to test what the substance was.

23 Here we have an intervening party that actually had
24 control of it for almost a day. We don't know -- it was
25 deposited with this third party on the 9th. This police

Beth Vaughn - Direct examination
by Solicitor Ganss

1 officer didn't get it till the 10th.

2 SOLICITOR GANSS: Your Honor, if I may, the State---

3 THE COURT: Maybe he's not through arguing.

4 SOLICITOR GANSS: Oh, I apologize. I apologize.

5 MR. BOGGS: That's the substance of it. We have a
6 critical middle person that had that item in her possession
7 from the 9th to the 10th. And by her own affidavit, handled
8 it.

9 THE COURT: Ms. Ganss.

10 SOLICITOR GANSS: Your Honor, the State is happy to
11 call Margaret Greer to the stand.

12 THE COURT: Is she here?

13 SOLICITOR GANSS: Yes, she is, Your Honor.

14 MR. BOGGS: She's not listed as a witness.

15 SOLICITOR GANSS: She is not. But the State moves

16 ~~that's curable-- If you would just ask the jury please if~~
17 anyone knows Margaret Greer with the Spartanburg County
18 Sheriff's Office.

19 MR. BOGGS: Or her husband who's a police officer in
20 the Lyman Duncan area. In fact, the police chief out there
21 I believe one, controlling one part of Spartanburg County.

22 THE COURT: What's her name?

23 SOLICITOR GANSS: Margaret Greer, Your Honor.

24 MR. BOGGS: And for the record, we object to her being
25 allowed to be called, Your Honor.

Beth Vaughn - Direct examination
by Solicitor Ganss

1 THE COURT: Certainly.

2 What's Mrs. Greer's husband name?

3 MR. BOGGS: Joel.

4 THE COURT: Joel?

5 MR. BOGGS: Joel.

6 THE COURT: He's an officer in Lyman?

7 MR. BOGGS: The Lyman Duncan area. He use to be the
8 police chief in Lyman I think.

9 SOLICITOR GANSS: He's actually retired.

10 MR. BOGGS: He's retired now. Excuse me.

11 It was Lyman?

12 SOLICITOR GANSS: It was Wellford.

13 MR. BOGGS: Wellford. Excuse me.

14 THE COURT: Wellford, is that a town?

15 MR. BOGGS: Yes, sir, Lyman, Duncan, Wellford. They
16 kind-of-go-together.

17 THE COURT: All right. Ms. Ganss tells me she's gonna
18 offer the evidence custodian. So, that should clear up any
19 objection you would have. That would be a complete chain.
20 However, I would probably have allowed it in anyway, but I
21 will let you call Mrs. Margaret Greer.

22 SOLICITOR GANSS: Thank you, Your Honor.

23 THE COURT: Hold on.

24 SOLICITOR GANSS: Oh, I'm sorry. I was just gonna put
25 these back.

Beth Vaughn - Direct examination
by Solicitor Ganss

1 THE COURT: All right. Bring the jury back in.

2 Anything else for the record, Mr. Boggs?

3 I think we've covered it?

4 MR. BOGGS: No, I've already noted my objection to
5 this.

6 THE COURT: You certainly may.

7 Thank you.

8 (Whereupon, the following takes place within the
9 presence of the jury.)

10 THE COURT: Y'all would have to vote for somebody I
11 can't pronounce their last name. Let me try it.

12 Soschdas?

13 JUROR: Soschdas.

14 THE COURT: Congratulations. You won an election.
15 Maybe you need to get in politics.

16 ~~Let me ask y'all a question, ladies and gentlemen of~~
17 the jury. When I qualified the jury panel, when I qualified
18 you to serve on this jury, I asked if you knew certain
19 people. Another witness has been added. Her name is
20 Margaret Greer, G-R-E-E-R. She works for the Sheriff's,
21 Spartanburg County Sheriff's Department. She's also married
22 to Joel Greer, who is the former police chief at Wellford
23 South Carolina, who is now retired.

24 Any member of the -- ma'am, would you stand for me
25 please?

Beth Vaughn - Direct examination
by Solicitor Ganss

1 (Witness complies.)

2 THE COURT: Thank you.

3 Any member of the jury panel related by blood or
4 marriage or know Mrs. Greer or, social relationship, any
5 type relationship with Mrs. Greer or her husband, if so---

6 (No response.)

7 THE COURT: Thank you.

8 Okay. You may proceed, ma'am.

9 SOLICITOR GANSS: Thank you, Your Honor.

10 THE COURT: I sustained Mr. Boggs objection. That No.
11 1 will not come into evidence at the present time.

12 SOLICITOR GANSS: Thank you.

13 CONTINUED DIRECT EXAMINATION

14 BY SOLICITOR GANSS:

15 Q Lieutenant, I'd like to show you what's been marked for
16 identification purposes only as State's Exhibit No. 2.

17 Do you recognize that?

18 A I do. Once again, like the other bag, it has my
19 initials, the dates, and okay on it from when I opened it to
20 work it, also my initials, the date, and the lab number when
21 I resealed it after I work the case.

22 Q Okay. This, this item two, had it been disturbed in
23 any way, shape, or form before you testified, before you
24 tested it?

25 A I wouldn't have took it out of evidence. That's when I

Beth Vaughn - Direct examination
by Solicitor Ganss

1 assigned the lab number to it. Also, once again, when I'm
2 preparing to work the case, I look it over, make sure that
3 it hasn't been tampered with, and then put my initials, the
4 date, and then okay on it. It let's me know that it wasn't
5 disturbed before I opened the case for it.

6 Q And can you please tell this jury what that substance
7 tested for and how much it tested for, if anything?

8 A Yes, it tested for cocaine base or crack at a weight of
9 22.40 grams.

10 Q And again, where did you get this substance from?

11 A From evidence.

12 Q Okay. I have no more questions for---

13 THE COURT: Mr. Boggs.

14 MR. BOGGS: No questions, Your Honor.

15 THE COURT: You may step down, lieutenant.

16 May she be excused please?

17 Well, you want her to stay?

18 SOLICITOR GANSS: I'd like her to stay.

19 THE COURT: Thank you.

20 SOLICITOR GANSS: Thank you.

21 THE COURT: Please stay with us.

22 Next witness.

23 SOLICITOR GANSS: The State calls Margaret Greer to the
24 stand, Your Honor.

25 THE COURT: Mrs. Greer, come around please.

Margaret Greer - Direct examination
by Solicitor Ganss

1 MARGARET GREER, being first duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY SOLICITOR GANSS:

5 Q Mrs. Greer, please introduce yourself to the jury.

6 A My name is Margaret Greer. I work for the Spartanburg
7 County Sheriff's Office in the evidence room.

8 Q And how long have you been at the Spartanburg County
9 Sheriff's Office?

10 A I have been at the Sheriff's Office for a little over
11 two years. Before that I worked for Spartanburg Public
12 Safety for eleven years.

13 Q Okay. And how long have you been the evidence tech at
14 Spartanburg County Sheriff's Office?

15 A About a year and a half.

16 ~~Q Okay. So, were you the evidence tech on the date in~~
17 question we're talking about, February -- were you the
18 evidence tech on February 9th, 2006?

19 A Yes, ma'am.

20 Q Please tell the jury what your job is as the evidence
21 technician at the Spartanburg County Sheriff's Office.

22 A Basically any evidence that comes in to, to the
23 evidence room, anything that has to do with court, the
24 officers, we have a couple different ways that they put the
25 evidence in. We have lockers that they can place the

Margaret Greer - Direct examination
by Solicitor Ganss

1 evidence into that they being locked, and we also have an
2 evidence drop box. It's kind of like a mailbox that's
3 locked and they drop it in there or if it's during the time
4 where I or the other evidence custodian is working, they can
5 bring it directly to us.

6 Q Okay. And who has access then to that evidence drop
7 box?

8 A Just me and the other evidence technician.

9 Q Okay. I'm gonna show you what has been marked State's
10 Exhibit No. 1 for identification purposes only.

11 Do you recognize it?

12 A I do.

13 Q How do you recognize it?

14 A I can see -- what we generally do when the drugs come
15 in in the sealed B.E.S.T. Bag is I would write the suspect's
16 ~~name on the B.E.S.T. Bag and that's my writing there.~~

17 Q Okay. And does it tell you -- do you know from whom
18 you received that item?

19 A I don't have access to the Form B's or Form C's. I do
20 know that, that Chris Raymond's name is sealed on the bag.
21 So, that would probably be who was on the Form B.

22 Q Okay.

23 A And then I would sign the Form C whenever I got it.

24 Q Okay. And then when you get -- does it show you what
25 date you received that?

Margaret Greer - Direct examination
by Solicitor Ganss

1 A This does not show me what date. He sealed it on
2 February 9th and I'm not aware if, if he sealed it and
3 dropped it in the drop box because I don't have the other
4 forms with me at this time. But basically what would happen
5 is if he sealed it and dropped it into the drop box on the
6 9th, I would usually pick it up the next morning. I pick up
7 at seven o'clock in the morning on Wednesdays, Thursdays,
8 and Fridays. And the other evidence tech picks up early on
9 Mondays and Tuesdays.

10 Q Okay. Thank you.

11 A You're welcome.

12 SOLICITOR GANSS: May I have one moment, Your Honor?

13 THE COURT: Yes, ma'am.

14 (Pause.)

15 Q Deputy Greer, if I show you a form from the date in
16 ~~question, will these help you better remember~~

17 A Yes.

18 Q ---from whom you received the drugs and on what date
19 you received or I should say this evidence?

20 A Yes, ma'am, this particular one---

21 THE COURT: Which one please?

22 SOLICITOR GANSS: As it relates to---

23 A As it relates to the bag---

24 Q State's Exhibit 1.

25 A Yeah.

Margaret Greer - Direct examination
by Solicitor Ganss

1 Q State's Exhibit 1.

2 A The bag she initially asked me about, we write the
3 B.E.S.T. Bag number at the top of the sheet. So, I know
4 this relates to this one. It looks like Chris Raymond
5 dropped it in the evidence drop box and then I picked it up
6 on -- he dropped it on February 9th and I picked it up on
7 February 10th from the drop box and then I placed it into
8 our drug vault after I entered it into the computer.

9 Q Okay. And do you know who took it from the drug vault?

10 A That's not listed here, but I would have probably taken
11 it from the vault and given it to Lieutenant Vaughn.

12 Q Okay. Thank you.

13 A You're welcome.

14 SOLICITOR GANSS: At this time, Your Honor, I'd like to
15 move what's been marked State's Exhibit 1 for identification
16 ~~purposes only into evidence.~~

17 THE COURT: Mr. Boggs.

18 MR. BOGGS: I might ask the witness one question.

19 THE COURT: You may.

20 CROSS-EXAMINATION

21 BY MR. BOGGS:

22 Q Did you say you weren't sure who got it, you probably
23 were the one that took it?

24 A We put it into the, the drug vault. And then when the
25 chemist, either Lieutenant Vaughn or Lieutenant Harris, come

Margaret Greer - Cross-examination
by Mr. Boggs

1 to pick it up, generally one of either I or the other
2 evidence tech will walk them to the drug vault and give
3 them -- you know, they take it from the box that we keep in
4 the drug vault.

5 Q All right. So, you're referring to actually the one
6 who escorted the chemist, but not who actually handled---

7 A No, I actually handled the evidence. And once I was
8 done with it, I placed it into a box in the drug vault and
9 then---

10 Q So, when you say probably, you were talking about
11 escorting the chemist to get it?

12 A Correct. I was probably the one. I can't remember
13 that in particular.

14 MR. BOGGS: Thank you. No objection, Your Honor.
15 Well, subject to my previous objection.

16 ~~THE COURT: Certainly. No. 1 --- that was No. 1?~~

17 SOLICITOR GANSS: Yes, Your Honor.

18 THE COURT: Into evidence. Thank you.

19 SOLICITOR GANSS: Thank you.

20 THE COURT: Subject to Mr. Boggs' objection.

21 (Whereupon, State's Exhibit No. 1 was received into
22 evidence at this time.)

23 CONTINUED DIRECT EXAMINATION

24 BY SOLICITOR GANSS:

25 Q I'd like to now show you what's been marked State's

Margaret Greer - Direct examination
by Solicitor Ganss

1 Exhibit No. 2 for identification purposes only.

2 A Yes, ma'am.

3 Q And again, do you recognize that?

4 A I do. My, my writing is on there also.

5 Q Okay. And with regards to State's Exhibit No. 2, do
6 you know from whom you received that evidence?

7 A This was also placed into the drop box. This was
8 placed by Officer Matt Hutchins. He placed it on
9 February 9th and then I received it the next morning when
10 I picked up February 10th from the drop box. And then I
11 placed it into the drug vault.

12 Q Okay. So, you were the evidence technician then that
13 handled, that handled these drugs?

14 A That's correct.

15 Q Do you know who then took these drugs for testing?

16 ~~A Lieutenant Vaughn's initials are here. So, she's the~~
17 one who took them.

18 Q Okay. Thank you.

19 At this time, Your Honor, the State would like to
20 introduce into evidence, evidence State's Exhibit No. 2.

21 THE COURT: Mr. Boggs, the same, same---

22 MR. BOGGS: Yes, sir.

23 THE COURT: ---consideration?

24 MR. BOGGS: Yes, sir.

25 THE COURT: Thank you.

Margaret Greer - Direct examination
by Solicitor Ganss

1 (Whereupon, State's Exhibit No. 2 was received into
2 evidence at this time.)

3 Q Thank you.

4 The State has no more questions for Deputy Greer.

5 THE COURT: Mr. Boggs, cross?

6 MR. BOGGS: No questions, Your Honor.

7 THE COURT: You may step down, ma'am.

8 WITNESS: Thank you.

9 THE COURT: Next witness please.

10 SOLICITOR GANSS: Your Honor, the one -- beg your
11 indulgence's one moment.

12 (Pause.)

13 SOLICITOR GANSS: Your Honor, the State has no more
14 witnesses at this time. The State rests.

15 THE COURT: Thank you. That concludes the State's
16 testimony.

17 (Pause.)

18 THE COURT: I got to hear some motions and it's
19 probably gonna be a good time to eat for lunch. At the
20 conclusion of the State's case I have to entertain motions
21 on behalf of the defendant. So, let me do that. So, I'll
22 ask you to go to your jury room.

23 If the food is back there we'll go ahead and take our
24 lunch break cause the next part might take a little time. I
25 hate to get started on the arguments and then the food come

1 and break in-between. So, let's -- it ought to be here in
2 just a second. So, let's take a break right now and don't
3 discuss the case yet.

4 Okay. Thank you.

5 (Whereupon, the following takes place outside the
6 presence of the jury.)

7 THE COURT: Mr. Boggs.

8 MR. BOGGS: Your Honor, the only thing I move is to
9 renew my motion which I guess would be phrased in a motion
10 to suppress based on the failure to establish the chain and
11 coupled with my objection to allow her to bring in the
12 witness. Just renew, renew that.

13 THE COURT: Thank you. Respectfully denied.

14 You got any witnesses?

15 MR. BOGGS: No, sir.

16 ~~THE COURT: So, you get to go last in the argument is~~
17 my understanding.

18 MR. BOGGS: I'll, I'll be more than happy to waive mine
19 if she'll waive hers and you just send it to the jury. I
20 mean I know I'm smiling. But I'm serious. I don't have any
21 closing argument.

22 THE COURT: Ms. Ganss.

23 MR. BOGGS: I don't know if the State wants to argue or
24 not.

25 SOLICITOR GANSS: Mine will be extremely short.

1 THE COURT: It's up to y'all.

2 All right. Let's take a five minute break.

3 MR. BOGGS: I'll -- I would think that the Court's
4 charge is argument enough. But you know, it's up to the
5 State. She can argue if she wants to I guess.

6 THE COURT: No, I'm gonna let her argue if she wants
7 to.

8 (Whereupon, a short recess was taken at this time.)

9 THE COURT: Bring them in.

10 (Whereupon, the following takes place within the
11 presence of the jury.)

12 THE COURT: Mr. Foreman, ladies and gentlemen, the,
13 first of all, the solicitor has promised me that her
14 argument will be succinct. In the legal term, be short,
15 short. So, I told her -- I'm gonna give her thirty seconds.
16 I'm--just-cutting-up.

17 She is gonna do a short argument. I think the defense
18 may waive their closing argument. The filet chickens or
19 whatever we got is on the way. But I thought we could get
20 the argument out. They're just leaving the Chick-Fil-A, and
21 the problem was that Judge MacCaulay also ordered at the
22 same time. So, they got overwhelmed with two orders out
23 there. And you know how that goes. So, I'm not trying to
24 starve you out. Just hang with us.

25 Ms. Ganss.

1 SOLICITOR GANSS: Thank you, Your Honor.

2 May it please the Court.

3 THE COURT: Yes, ma'am.

4 SOLICITOR GANSS: They found the cocaine in Reginald
5 Miller's hand. They found the crack in his boxers back at
6 the Sheriff's Office, Police Department where they did the
7 strip search. They found the drugs on Reginald Miller. And
8 they also found in his pocket out by Boots & Sonny's right
9 here in Spartanburg County on February 9th, 2006, some
10 scales. It was all on the defendant.

11 Didn't belong to anyone else. Didn't go anywhere else.
12 It all was right there. Cocaine that came back positive for
13 I think it was 51.65 grams, and the crack that came back
14 positive for 22.40 grams. It came from nowhere else. It
15 was on no one else. He was with no one else except the
16 defendant.

17 Thank you.

18 THE COURT: First time in my judicial career I have a
19 lawyer that lived up to my instructions.

20 Thank you.

21 Mr. Boggs, you have any argument?

22 MR. BOGGS: Waive it, Your Honor.

23 THE COURT: Thank you.

24 Number one, the defendant pled not guilty to these
25 charges. That puts the burden of proof on the State of

1 South Carolina to prove him guilty beyond a reasonable
2 doubt.

3 He has a Constitution -- under the Constitution he is
4 presumed to be innocent until the State has met their burden
5 of proof of proving him guilty beyond a reasonable doubt.

6 Reasonable doubt, under the law, means a doubt, a doubt
7 that would cause a reasonable person to hesitate to act, and
8 the State, like I said, has to prove him guilty beyond that
9 reasonable doubt.

10 He's charged with two separate offenses, trafficking
11 cocaine and trafficking cocaine base and or crack cocaine.
12 You have to decide each of those separately, independently
13 of the other.

14 I further charge you that the fact that he is not here,
15 the law allows him to be tried in his absence. But the fact
16 ~~that he is not present may not be considered against the~~
17 defendant in any manner whatsoever. Please remember that.

18 It is up to you, ladies and gentlemen of the jury, to
19 determine the credibility of the witnesses. That means you
20 determine who you believe and what you believe in this
21 matter, and apply those facts to the law that I'm gonna now
22 give it to you.

23 I further charge you the fact that the defendant, not
24 only was not absent, but he did not testify, you're not to
25 discuss that matter in your jury room at all. Don't even

1 consider the fact that he did not testify when you
2 deliberate his guilt or innocence.

3 Now, the law on trafficking is this. He is charged
4 with trafficking in cocaine in one indictment and
5 trafficking in a cocaine base and or crack cocaine in the
6 second indictment.

7 The State must prove, beyond a reasonable doubt, that
8 the defendant knowingly sold, manufactured, cultivated,
9 delivered, purchased, brought into this state, provided
10 financial assistance, or otherwise aided, abetted,
11 attempted, or conspired to sell, manufacture, cultivate,
12 deliver, purchase, or bring into this state, or was
13 knowingly in actual or constructive possession, or knowingly
14 attempted to become in actual or knowing, actual or
15 constructive possession of cocaine in one indictment, and or
16 ~~cocaine base or crack cocaine in the other indictment.~~

17 To be guilty of trafficking in cocaine the State must
18 prove, beyond a reasonable doubt, that the amount of the
19 cocaine or any mixture containing cocaine was
20 twenty-eight grams or more but less than a hundred grams.
21 That's on the cocaine. Twenty-eight to a hundred.

22 To be found guilty of trafficking in crack cocaine or
23 cocaine base, the State must also prove beyond a reasonable
24 doubt that the, that the amount of the cocaine base and or
25 crack cocaine was ten grams or more, but less than

1 twenty-eight grams. To prove possession, the State must
2 prove beyond a reasonable doubt that the defendant had both
3 the power and the intent to control the disposition or the
4 use of the cocaine and or cocaine base and or crack cocaine.

5 Possession may be either actual or constructive.

6 Actual possession means that the cocaine and or cocaine base
7 and or crack cocaine was in the actual physical custody of
8 the defendant.

9 Deliver means to actually constructively attempt to
10 transfer the drug. Distribute means to deliver.

11 Manufacture means to produce. That's basically the law on
12 trafficking in crack cocaine and or cocaine base and or
13 cocaine.

14 They're two possible verdicts in the case. You're to
15 decide each of the indictments separately of the other.

16 ~~It's either guilty or not guilty.~~

17 The verdict must be unanimous. And once you've reached
18 a verdict, you will knock on the door and let us know. We
19 will receive the verdict.

20 I'm gonna ask you to go back to your jury room except
21 for my alternate. Don't start the deliberations until I
22 send word back. I have to ask the lawyers if I've left
23 anything out.

24 I need two of you to go get the food and bring it back
25 there and just one of you can take them out.

1 Okay?

2 BAILIFF: (Nods affirmatively.)

3 THE COURT: I just need -- just let Mr. Riley stay with
4 me. If you two will go help them get the food, both of you.

5 Y'all sit tight just for a second and then I'm gonna
6 send the, the evidence back there with you and then you can
7 start deliberations once that gets back there.

8 Okay. Step out, and Mr. Riley, you help them back
9 there please, and put the alternate in the other jury room.
10 You got one back there or the assembly room. We can bring
11 them all down.

12 (Whereupon, the following takes place outside the
13 presence of the jury.)

14 THE COURT: Is there any objections to the charge on
15 behalf of the State, request or additions?

16 ~~SOLICITOR-GANSS: None, Your Honor. Thank you.~~

17 THE COURT: Mr. Boggs.

18 MR. BOGGS: No, sir, Your Honor.

19 THE COURT: All right.

20 MR. BOGGS: Your Honor, what---

21 THE COURT: I'm sorry. You need to make your motions
22 too, don't you?

23 MR. BOGGS: No, sir, I'm fine on that. The -- I think,
24 a lot of times, it's customary to inform the jury that they
25 may begin their deliberations, and I have no problem with

1 the bailiff telling them that, that they can deliberate
2 through lunch, eat, then deliberate, or they can deliberate
3 before lunch.

4 THE COURT: I'm gonna send the verdict form back with
5 the evidence. Y'all come up and make sure the evidence is
6 here.

7 And Mr. Riley, I don't have any objection from Mr.
8 Boggs or Ms. Ganss, when you take the evidence and that,
9 tell them they can deliberate while they're eating or they
10 can eat and then start deliberating, however they want to do
11 it. They're in charge back there.

12 Any objection to that?

13 MR. BOGGS: No, sir.

14 SOLICITOR GANSS: No objection. None, Your Honor.
15 Thank you.

16 ~~THE COURT: All right. We'll stand at ease, lady and~~
17 gentlemen.

18 SOLICITOR GANSS: Thank you, Your Honor.

19 (Whereupon, the jury began deliberations at 1:22 and
20 returned with a verdict at 2:03.)

21 THE COURT: I understand we have a verdict.

22 Ready to receive the verdict, ma'am?

23 SOLICITOR GANSS: Yes, Your Honor.

24 MR. BOGGS: Yes, sir.

25 THE COURT: Bring the jury in, please.

1 (Whereupon, the following takes place within the
2 presence of the jury.)

3 THE COURT: Mr. Foreman, y'all reached a verdict?

4 FOREMAN: Yes, sir.

5 THE COURT: If you pass it up to the bailiff please.

6 CLERK: State of South Carolina, County of Spartanburg,
7 State of South Carolina versus Reginald James Miller,
8 Indictment Number 06-GS-42-1551, we, the jury, find the
9 defendant in this case, Reginald James Miller, to be guilty
10 of trafficking in cocaine base or crack cocaine. Signed
11 George Soschdas.

12 And then Indictment Number 06-GS-42-1550, we, the jury,
13 find the defendant in the case, Reginald James Miller, to be
14 guilty of trafficking in cocaine. Signed George Soschdas,
15 June 15th, 2006.

16 ~~Ladies-and-gentlemen-of-the-jury, is this your verdict~~
17 and still your verdict, if so, please raise your right hand.

18 (Whereupon, all jurors raise their hands at this time.)

19 THE COURT: Thank you.

20 Anything from the jury before we dismiss them?

21 MR. BOGGS: No, sir.

22 (Whereupon, the jury was dismissed at this time.)

23 THE COURT: Ms. Ganss, if you'll hand me a sentence
24 sheet. What I will do is I will execute my sentence, and I
25 will seal it, and put it in with the verdict, and the

1 verdict forms. And when he is apprehended, then they can
2 publish them.

3 SOLICITOR GANSS: Your Honor, one thing before I do
4 that. It's the State's position, and Mr. Boggs may have
5 something to say about this, that this is a third or
6 subsequent offense. So, we do have the three prior
7 certified convictions. They were for possession of
8 marijuana. But he was represented by counsel on each of
9 these convictions, and they were pleas of guilt that he
10 actually entered with the Court. One in Transfer Court, two
11 in General Sessions.

12 THE COURT: All right. Let those certified documents
13 into the record so there won't be any question about that.

14 Mr. Boggs, anything you want to put in the record
15 concerning that?

16 ~~MR. BOGGS: Just that I don't think marijuana, simple~~
17 possession of marijuana should count as a prior offense for
18 enhancement purposes.

19 THE COURT: Okay.

20 MR. BOGGS: I think, I think he ought to be sentenced
21 one, seven to twenty-five, and on the other, three to ten I
22 guess.

23 THE COURT: Three to ten and seven to twenty-five?

24 MR. BOGGS: Yes, Your Honor, I think they're some---

25 THE COURT: Well, let me ask you this.

1 If it were third or more offense, what, what would he
2 be facing?

3 MR. BOGGS: Mandatory twenty-five.

4 THE COURT: And so, under your position, I can sentence
5 him to what, to what?

6 MR. BOGGS: Seven to twenty-five. If you serve --
7 still sentence him to the mandatory---

8 THE COURT: I'll grant your motion. I'll sentence it
9 and I won't enhance it.

10 MR. BOGGS: Again, I think -- well, I better keep my
11 mouth shut.

12 Thank you, Your Honor.

13 SOLICITOR GANSS: If I just have one moment, Your
14 Honor. I'll put that right here for you.

15 (Whereupon, the copy of the indictments were marked as
16 Court's Exhibit No. 2-for-identification-purposes-only-at
17 this time.)

18

19 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

20

21

22

23

24

25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 11th day of December, 2002.

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

January 22nd, 2004

PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

2006-GS-42-1550, 1551

THE STATE OF SOUTH CAROLINA,

-VS-

REGINALD JAMES MILLER,

Defendant.

TRANSCRIPT OF RECORD

April 13, 2007

Spartanburg, South Carolina

Ordered: May 16, 2007
 Delivered: July 18, 2007

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JR., Presiding Judge.

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

MS. SARAH GANSS, Esquire
 Assistant Solicitor for the State

MR. THOMAS (TAM) BOGGS, Esquire
 Attorney for the Defendant

Transcript of the sentencing of Reginald James Miller
 before The Honorable J. Cordell Maddox, Jr. in Spartanburg
 County on April 13, 2007.

Pamela Faucette
 Circuit Court Reporter

PAMELA FAUCETTE, CVR - (684) 574-9534 OR (336) 260-2864

APPENDIX PAGE 241

I N D E X

I N D E X O F W I T N E S S E S

(No witnesses were called by the State or the Defense.)

STATE'S EXHIBITS:

MARKED:

RECEIVED:

(None)

DEFENDANTS' EXHIBITS:

MARKED:

RECEIVED:

(None)

COURT'S EXHIBITS:

MARKED:

RECEIVED:

(None)

PAGE:

REPORTER'S CERTIFICATION:.....8

1 April 13, 2007

12:55 p.m.

2 (Mr. Boggs and his client step forward.)

3 THE COURT: You're Mr. Miller?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You all go ahead and let me know. I'll ---

6 (Off-the-Record Discussion)

7 MS. GANSS: May it please the Court, Your Honor?

8 THE COURT: Yes, ma'am.

9 MS. GANSS: Okay. Standing before you is Mr. Reginald
10 Miller. He is represented by Mr. Tam Boggs. He stands before
11 you today -- this case was actually tried, in front of Judge
12 Early, sometime ago.

13 When the case was called to trial, by the State, the
14 Defendant failed to appear. The State made the motion to
15 proceed with the trial in the Defendant's absence.

16 Judge Early agreed to allow the State to do that. He was
17 tried, found guilty by a jury, and he was sentenced. But,
18 because he was not present, Judge Early sealed the sentence.

19 A bench warrant was issued, for the Defendant, and he was
20 picked up on that bench warrant and has been sitting in the
21 Spartanburg County Jail awaiting sentencing.

22 THE COURT: How long has he been in jail?

23 MR. BOGGS: He's actually been up in the Department of
24 Corrections in North Carolina.

25 (Off-the-Record Discussion)

1 MR. BOGGS: He's been in the Department of Corrections in
2 North Carolina since August the 1st, part of which this hold was
3 -- was because of the bench warrant.

4 THE COURT: All right. Mr. Miller, do you understand that
5 they tried you in your absence and basically Judge Early issued
6 a sentence. What I've got to do today is just open the file and
7 unseal it. And, whatever his sentence was, I have to impose on
8 you. Do you understand that? I don't have any option.

9 THE DEFENDANT: Yes, sir.

10 MR. BOGGS: He wasn't the trial judge.

11 (Off-the-record discussion between Mr. Boggs and Mr.
12 Miller)

13 THE COURT: Okay. Mr. Miller, it looks like on June 15th,
14 two thousand and six (2006), you were tried in your absence by
15 Judge Early. And his sentence, which is imposed today, is
16 "Committed to the Department of Corrections for a period of
17 twenty-three (23) years and pay a fine of fifty thousand dollars
18 (\$50,000)."

19 Now, the only thing I can do today is I can give you credit
20 for the time served since August 1st of two thousand and six
21 (2006). And I'll do that. But I'm not going to change his
22 sentencing sheet. I just need -- I guess you may have to do an
23 order and send it up to me. That's the way I do these.

24 MS. GANSS: So, I need to do an order?

25 THE COURT: Just a one sentence that gives him credit.

1 That way I'm not changing this.

2 MS. GANSS: Okay. I'll do it ---

3 THE COURT: I'll tell you what, never mind.

4 MS. GANSS: Okay.

5 THE COURT: It doesn't matter. I'm going to -- what I'm
6 going to do is, I'm just going to alter his sentence and give
7 you credit for time served since August 1st, two thousand and
8 six (2006).

9 MS. GANSS: All right.

10 THE COURT: And I'll initial it.

11 MR. BOGGS: Your Honor, and I -- I will put this on the
12 record. I've explained to Mr. Miller his appeal rights. I've
13 explained to him that me stating on the record he desire to
14 appeal is not sufficient.

15 THE COURT: Right.

16 MR. BOGGS: We do have to file something, but I made him
17 aware that he has ten (10) days, from today's date, to file a
18 notice of appeal.

19 THE COURT: To file his notice of appeal. Okay. Good
20 luck to you.

21 MS. GANSS: Thank you, Your Honor.

22 THE COURT: Sure. All right. This is all unsealed, so,
23 for what it's worth. And I just changed it and initialed it.

24 MS. GANSS: Thank you.

25 THE COURT: Thank you. Good luck on the marriage.

1 (Off-the-Record Comments)

2 (Mr. Miller was escorted out of the courtroom.)

3 (Mr. Boggs exited the courtroom.)

4 THE COURT: There's Sarah. Sarah ---

5 (Off-the-record discussion concerning the sentencing on Mr.
6 Miller's second indictment.)

7 (Mr. Boggs and Mr. Miller were summoned back into the
8 courtroom.)

9 THE COURT: Tam, I'm going to get you out of the way. I'm
10 going to do the Miller matter first. I'm sorry for bringing you
11 back over here.

12 MR. BOGGS: That's fine.

13 THE COURT: Apparently, there were two indictments.

14 (Off-the-record discussion between Mr. Boggs and Mr.
15 Miller.)

16 ~~THE COURT: Yeah, Mr. Miller, what happened was, after you~~
17 left and we looked through it, apparently, there were two
18 indictments. The first sentence ---

19 BAILIFF: Order in the court.

20 THE COURT: Yeah, everybody be quiet. The first sentence
21 was twenty-three (23) years and fifty thousand dollars
22 (\$50,000). And the second sentence is just to run concurrent.
23 It's ten (10) years and twenty-five thousand dollars (\$25,000).

24 So, that runs concurrent and I'm still giving you credit
25 on that one for time since August 1st, two thousand and six

PAMELA FAUCETTE, CVR - (684) 574-9534 OR (336) 260-2864

1 (2006). You just have to be here and be present when I tell
2 you that.

3 Still, the appeal rights are the same as before. And I'm
4 sure your lawyer has explained it to you. Thank you. I'm
5 sorry about that.

6 MS. GANSS: Thank you, Your Honor.

7 THE COURT: Sure.

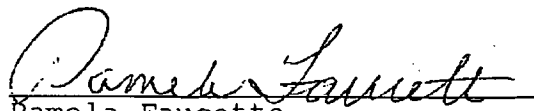
8 (Whereupon, the proceeding concluded at 1:00 p.m.)
9
10
11
12
13
14
15
16

REPORTER'S CERTIFICATE

I, the undersigned **PAMELA 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 7, 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.

July 17, 2007


Pamela Faucette
Official Court Reporter
Seventh Judicial Circuit

WITNESSES

06-08-42-1550

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE
VS.

REGINALD JAMES MILLER

Indictment for
TRAFFICKING IN COCAINE

SC Code: 44-53-370

1. SENTENCE MADE
SPTG 60 SHERIFF'S OFFICE

2. REPORT MADE

3. CARD FILED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

8. CARD MADE

9. TRAFFIC ARREST WARRANT NUMBER

H789524

ACTION OF GRAND JURY

True Bill

Amy E. Cronin

Foreperson of Grand Jury

Date: 5-11-06

VERDICT

Foreperson of Petit Jury

Date:

FILED
CLERK OF COURT
2006 MAY 15 PM 3:47
MARC KITCHENS

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

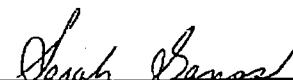
MAY 11 2006

At a Court of General Sessions, convened on _____ the
 Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE

That Reginald James Miller did in Spartanburg County on or about February 9, 2006, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (28) twenty-eight grams of Cocaine, a schedule II controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


 ASSISTANT SOLICITOR

WITNESSES

1. SENTENCE MADE ☐2. REPORT ENTERED ☐3. CARD PULLED ☐

SPTB CO SHERIFF'S OFFICE

4. INDEXED ☐5. CHECKED WARRANTS ☐6. CHECKED SIGNATURES ☐7. ASSESSMENT AND
FINE CARD MADE ☐8. TRAFFIC VIOLATIONS COPY ☐

Computer

Computer

ARREST WARRANT NUMBER

H789526

ACTION OF GRAND JURY

True Bell

Amy E. Cronica

Foreperson of Grand Jury

Date: 5-11-06

VERDICT

Foreperson of Petit Jury

Date:

06-GS-42-1551

DOCKET NO.

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE

VS.

REGINALD JAMES MILLER

Indictment for

TRAFFICKING IN COCAINE BASE
AND/OR CRACK COCAINE

SC Code: 44-53-375

FILED
2006 MAY 15 PM 3:47
HARC KITCHENS

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 11 2006

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE BASE AND/OR CRACK COCAINE

That Reginald James Miller did in Spartanburg County on or about February 9, 2006, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (10) ten grams of Cocaine Base and/or Crack Cocaine, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

SOUTH CAROLINA

OF

Spartanburg

Reginald James Miller

B

Sex: M

Age:

SS#:

Address:

City, State, Zip

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2006 GS- 42 - 1550

AW#:

W-789524

Date of Offense:

2-9-06

S.C. Code §:

44-53-370

CDR Code #:

2 1 3 1 5 1 9

☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADSTO: Trafficking in Powder Cocaine > 28 grams (more: 7-25 yrs. + \$50K) nsl/pin violation of §44-53-370 of the S.C. Code of Laws, bearing CDR Code # 2 1 3 1 5 1 9☐ NON-VIOLENT☒ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 23 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$5000; 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.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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) \$100 \$ 100.00

\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$35.13 (Public Def/Prob) \$500 \$ _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

\$50-21-114(BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3116.25TOTAL \$ 10641.25

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: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 0136Sentence Date: June 13, 2006

H.G. McKinnon

Clerk of Court/ Deputy Clerk

Court Reporter: Tom Green

SCCA/217 (2/2006)

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

APPENDIX PAGE 253

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg
 STATE VS. Roginald James Miller
 AKA: _____
 Race: B Sex: M Age: _____
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL# _____ SID# _____

INDICTMENT/CASE#: 2006-GS-42-1551
 AWW#: H-7895210
 Date of Offense: 2-9-06
 S.C. Code §: 44-53-315
 CDR Code #: 0141510
☐ CASE RESTORED
 SENTENCE
☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
 TO: Trafficking in Crack Cocaine > 10 grams (memo: 3-10 yrs + \$25K) ns/np
 in violation of § 44-53-315 of the S.C. Code of Laws, bearing CDR Code # 0141510
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST: _____

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ 2500; 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: 06-65-12-1550
☒ 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ set by SCDPPPS _____

Recipient: _____
 *Fine: \$ 2500.00
 § 14-1-206 (Assessments 107.5%) \$ 2108.75.00
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
 § 56-5-2995 (DUI Assessment) \$12 \$ _____
 § 35.13 (Public Def/Prob) \$500 \$ _____
 § 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
 § 33.7, 1B TP (Drug Court Surcharge) \$100 \$ 100.00
 § 50-21-114(BUI Breath Test Fee) \$50 \$ _____
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 3% to County (if paid in installments) \$ 157.50.00
 TOTAL \$ 3556.00.00

PTUP _____
 days/hours Public Service Employment _____
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.

K.G. McKinnon
 Clerk of Court/ Deputy Clerk
 Court Reporter: Pam Green

PRESIDING JUDGE MPE
 Judge Code: 0136
 Sentence Date: June 15, 2006

White - Clerk Green - Corrections Canary - Probation

Pink - Defendant

SCCA/217 (7/2003)

APPENDIX PAGE 254

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 10th, 2008


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
Reginald J Miller, #261476

Plaintiff(s),

-vs-

State Of South Carolina,
Defendant(s).

IN THE COURT OF COMMON PLEAS
7th JUDICIAL CIRCUIT
CASE NO.: 2010CP4206870
APPOINTMENT OF COUNSEL OR GAL
(Select one.)

☒ ORDER

☐ AMENDED ORDER

TYPE OF CASE/PROCEEDING: (Check one.)

☒ Post-Conviction Relief (PCR)/habeas case

☐ Adoption

☐ Juvenile

☐ SVP case

☐ Custody and/or Visitation

☐ Abuse and Neglect

☐ Minor Name Change

☐ Other: Post Convict Rel 500

It appears Reginald J Miller, who is a litigant in this case, is entitled to court-appointed counsel or a guardian ad litem.

It further appears that: (Select only one.)

☒ counsel/guardian ad litem has not yet been appointed by the court; therefore, an appointment for counsel/guardian ad litem is necessary.

☐ counsel or a guardian ad litem was previously appointed by the court but has indicated either a possible conflict of interest, an entitlement to exemption, or other good cause warranting the appointment of new counsel or guardian ad litem based on: Attorney General Letter

☐ counsel was previously appointed by the court but has not indicated that the litigant has retained private counsel and is no longer entitled to appointed counsel.

☐ court appointed counsel has obtained, Esquire as substitute counsel pursuant to Rule 608(h)(2); provided, however, only the member who originally received the appointment and who sought substitute counsel shall receive credit.

☐ Other: .

Therefore, it is ordered that Paul Lindemann, hereby is appointed as (Select one.)

☐ counsel ☐ lead counsel (if capital PCR case) ☐ guardian ad litem

for the above-named person. Any counsel or GAL previously appointed is/are hereby relieved.

☐ (If Death Penalty PCR Case) It is further ordered that Esquire, is hereby appointed as second counsel in this capital PCR case.

The clerk of court is directed to forward a copy of this order to all persons entitled to notice.

IT IS SO ORDERED

January 24, 2011

M. Hope Blackley

☐ Circuit Judge

☒ Clerk of Court

Plaintiff Attorney:

Paul Lindemann

115 Sun Meadow Rd.

Greer, S. C. 29650 (864) 989-6929

Defendant Attorney:

NOTICE: SC Supreme Court Order of September 29, 2006, requires appointed counsel entitled to payment from the Office of Indigent Defense (OID) to register the case online with OID within fifteen (15) days of this appointment at www.scoid.sc.gov, and further directs that reimbursement vouchers be submitted directly to SCCID and not to the trial judge or clerk of court. See SCCID website for further details.

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

REGINALD J. MILLER, # 261476)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2006-CP-42-1870

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to 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 MCCORMICK CORR. INST.
2. Name and location of Court which imposed sentence SPARTANBURG Co. COURT OF GENERAL SESSIONS
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2006-65-42-1550
 - (b) 2006-65-42-1551
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) JUNE 15, 2006, SEALED SENTENCE / APRIL 13, 2007, SENTENCE UNSEALED
 - (b) APPLICANT SENTENCED 23 yrs on Ind. 1550, 10 yrs Concurrent on Ind. # 1551

- (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. APPEAL DISMISSED
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. JANUARY 25, 2010
- 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) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

(b) _____

(c) _____

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

(a) TRIAL COUNSEL FAILED TO PREPARE FOR TRIAL

(b) TRIAL COUNSEL FAILED TO DO PRE-TRIAL INVESTIGATION

(c) _____

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

(a) any petition in a State Court under South Carolina Law? N/A

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A

(d) any other petitions, motions or applications in this or any other Court? N/A

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

(a) the specific nature thereof: N/A

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof: N/A

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition: *N/A*

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

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? *N/A*

15. If you answered "yes" to (14) identify: *N/A*

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised: *N/A*

i. _____

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: *N/A*

(a) _____

(b) _____

(c) _____

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

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

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. THOMAS A. M. BOGGS, LEMSON SC. 29163
 - ii. KATHARINE H. HODGINS, P.O. Box 11539 COLUMBIA SC. 29211
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. ARRAIGNMENT, TRIAL, SENTENCING
 - ii. APPEAL
 - iii. _____

19. State clearly the relief you seek in filing this application: SENTENCE VACATED, CONVICTION REVERSED, NEW TRIAL AWARDED AND ALL OTHER RELIEF DEEMED NECESSARY BY THE COURT.

20. Are you now under sentence from any other court that you have not challenged?
NO

STATE OF SOUTH CAROLINA)

VERIFICATION

County of SPARTANBURG)

~~REGINALD~~
I, ~~BOILER~~, 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.

SWORN to and subscribed before me this 29
day of Dec, 2010

Joelle L. Young (L.S.)
(Notary Public)

My Commission Expires: 8-28-2011

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

REGINALD

I, MILLER, 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 therefor.

[Signature]
Applicant

SWORN or affirmed to and subscribed before me this
29 day of Dec, 2010

[Signature]
Notary Public

My Commission Expires: 8-28-2011