STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. Supreme Court

Appeal from Laurens County

Clifton Newman, Circuit Court Judge

BENJAMIN R. NABORS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001797

APPENDIX

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STATE OF SOUTH CAROLINA	
	COURT OF GENERAL SESSIONS
COUNTY OF LAURENS	2011-CP-30-00308
STATE OF SOUTH CAROLINA PLAINTIFF	
vs.	TRANSCRIPT OF RECORD
BENJAMIN R. NABORS DEFENDANT	

October 18-19, 2010
Laurens, South Carolina

B E F O R E:

THE HONORABLE J. DERHAM COLE, Judge; and a jury.

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

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Attorney for the State

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Attorney for the Defendant

APRIL HERRON
Official Court Reporter

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October 18, 2010

THE COURT: All right, ladies and gentlemen, we are ready to begin with jury selection in the first case. It is going to require some of your participation. The title of the case is The State vs. Benjamin Nabors. Mr. Nabors has been accused by the prosecutor with having committed three separate and distinct criminal offenses. Although they are alleged to have arisen out of one particular events or course of events which the State alleges occurred back on or about June the 10th of 2009. When a person is accused of a crime, when they're brought into this court to stand trial for that charge, they're brought here by way of a document that's referred to as an indictment. The indictment is simply the charging paper. It sets forth what charge the State has brought against a Defendant. In this particular case, there are three.

One indictment charges Mr. Benjamin Ray Nabors with having committed the crime of criminal conspiracy. And the State alleges by way of this indictment that Mr. Nabors did, along with another person or persons, here in Laurens County, did willfully and unlawfully unite, combine, conspire, confederate, agree between and among themselves and

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then have an understanding with each other or other persons whose names are unknown for the purpose of committing the act of armed robbery. In violation of a particular statutory reference.

The State also alleges that the Defendant did commit the crime of carjacking. And by of a separate indictment they allege that Mr. Nabors did here in Laurens County on or about June 10th, 2009, willfully and unlawfully take or attempt to take a motor vehicle from another person by force and violence or by intimidation while the person was operating the motor vehicle. Or while the person was inside the motor vehicle. And they specifically allege that Mr. Nabors did by force and violence take a silver Ford Escape automobile which was being operated by one Toni Edwards in violation of a particular statutory reference.

And by way of a third indictment the State alleges that Mr. Nabors did here in Laurens County, on or about June 10th of 2009, willfully and unlawfully and while armed with a deadly weapon, or while alleging either by action or words that he was armed with a deadly weapon or while using a representation of a deadly weapon or by using some object which a person present during the commission

of the robbery reasonably believed to be a deadly weapon. And that he did take, steal and carry away from the personal presence of Toni Edwards by the use of force and or intimidation, a pocketbook. And that he intended to deprive the true owner with use and possession of the property. So, the Defendant is charged with the crime of criminal conspiracy, with the crime of carjacking and with the crime of armed robbery.

Now, as to these allegations and as to each of the charges that are set forth in this indictment, and each of the indictments, the Defendant has entered a plea of not guilty. And the plea of not guilty places upon the State the burden of proving the allegations that they have set forth in each of the indictments. The burden is upon the State to prove each of the essential elements of the crimes that are alleged against the Defendant. And therefore, the burden is upon the State to establish the Defendant's guilt to the satisfaction of 12 jurors beyond a reasonable doubt before any verdict of guilt could be returned as to any of the particular charges. And therefore, we're going to be selecting 13 of you. There will be 12 primary jurors and one additional juror to serve as an alternate.

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We may pick two alternates, so 14.

And the function of the jury is going to be to simply listen to the testimony that will be elicited from witnesses during the trial. To consider any other evidence in the case. From that evidence you will determine what the facts are. After determining the facts you will apply the law that I will provide you as it relates to these charges. And the jury will determine whether or not the Defendant's guilt has been proven beyond a reasonable doubt.

Now, before we begin with that jury selection, I got a number of questions that I'm going to be asking you as a group. And the purpose of the questions is to determine whether or not there is some reason why any one of you jurors should not be selected to serve in the trial of this particular case. In other words, do you have some reason why in this case you could not be fair and impartial. So, during the course of this process, as these questions are asked, you'll need to respond to them, if they apply to you. And also, during the course of this process, if you think of any other reason that you're not asked about but you believe you have some circumstance or some reason that would prevent you from being able to be fair and impartial in this case, I'll need you to let

me know that fact.

Now, the first thing I'm going to do is I'm going to introduce some people to you. And that's going to include the Defendant, the person alleged to have been a victim, the lawyers, as well as any other potential witnesses that might be called during the trial. And the purpose of introducing these people is to find out if any juror has any connection with any of these people. In other words, are you related to them by blood or marriage? Do you have any friendship connection, do you go to church with them, do you work with them? Do you socialize with them? Or have you met them in some fashion? Just simply, do you know these people? And if so, as the names are called, I'll ask that you please stand then I'll address with any standing juror who you know, what the connection is and whether or not it would impair your ability to be fair and impartial in this case if your called upon to serve.

So first of all, as I told you, the Defendant in this case is Benjamin Ray Nabors.

Mr. Nabors, if you'll stand and face the jury panel, please, sir. Okay, thank you, be seated.

Seated at the defense table with Mr. Nabors is Alex Stalvey. He's Mr. Nabors' lawyer, he will

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assisting him in the trial of the case. The person who is alleged to have been the victim of these incidents on the date in question is Toni Edwards.

Ms. Edwards, if you'll please stand and face the jury panel.

And presenting the case on behalf of the State is Yates Brown, an Assistant Circuit Solicitor for the Eighth Judicial Circuit. In addition to those who have already been introduced, I'm going to recite a list of potential witnesses. All of these people may not necessarily be called as witnesses but they all have some information that might be necessary to present so they are all potential witnesses. And I'll recite the list, again, in order to find out if you have any connection whatsoever with any of these persons. If so, please stand.

In addition to Toni Edwards, the State has potential witnesses including Jamie Edwards, who's a deputy sheriff with Laurens County. Joy Avery, with Laurens County 911. He's the records custodian.

Is the is female or male, S. Wilbanks?

MR. BROWN: It's a male.

THE COURT: All right. A Mr. Wilbanks, also with Laurens County 911. He's a operator with 911. Have a Jeffrey Tucker, with Laurens County Sheriff's

Department. Jamie Crawford --

Is that Abbeville County Sheriff's Department?

MR. BROWN: Anderson County.

THE COURT: Anderson County.

Jamie Crawford with Anderson County Sheriff's Department. Jennifer Anne Hughes.

A resident of what county?

MR. BROWN: A resident of Laurens County.

THE COURT: A resident of Laurens County. Robert Wilkie of the Laurens County Sheriff's Department. Robert Plaxico with the Laurens County Sheriff's Department. Gaile Heath with the State Law Enforcement Division. That's commonly referred to as SLED, you may have heard of it. Michael Gassen, a Ph.d. He's a psychologist with the Department of Mental Health. Also have Officer with Etris with the Greenville County Detention Center. Vernetta Anderson with the Greenville County Detention Facility. Ernet Martin, a medical doctor, a psychiatrist. Charles Boyce with the Laurens County Sheriff's Department. Deputy Champagne with the Laurens County Detention Facility. Mr. Pangle with the Laurens County 911. And Brian Kurta with Laurens County Sheriff's Department.

Any other witnesses, potential witnesses, on

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behalf of the State?

MR. BROWN: Not from the State, Your Honor.

THE COURT: The Defendant?

MR. STALVEY: No, sir, Your Honor.

THE COURT: All right. Now, I need to know if any juror knows any of those people who just been introduced to you. Either in person or by name. I also need to know if any member of the jury panel knows any other person employed in the Eighth Judicial Circuit Solicitor's Office. Whether or not he or she is actually involved in the trial of the case, whether you know anybody in the Solicitor's Office. And if that's the case I would ask you please stand.

All right. Now, I'm going to start -- the way I'll do this, I'll start on the row closet to me and work my way back. I'll work from right to left and back. And so what I need for why to do, if you'll give me your name and your juror number. Then tell me how the question relates to you, what connection you have with any potential witness or what person you happen to know. Okay?

I'll start with you, ma'am.

PROSPECTIVE JUROR: Kelly Plaia.

THE COURT: And your number's what?

PROSPECTIVE JUROR: Seventy-one.

THE COURT: Seventy-one.

PROSPECTIVE JUROR: I'm not positive but think I may have went to school with Mr. Nabors.

THE COURT: Okay. What school would that have been?

PROSPECTIVE JUROR: Gray Court Owens.

THE COURT: Okay. And you're not certain but you think could have been the case?

PROSPECTIVE JUROR: I'm not sure.

THE COURT: Well, is there anything about that connection, if it is in fact accurate, is there anything about that connection that would have a bearing upon your decision in this case?

PROSPECTIVE JUROR: No, I just wanted it to be made known.

THE COURT: Okay, thank you, may be seated.

All right, I'm going to go to the next row. I'm not sure but I think I got two or three on that row.

Yes, ma'am, in the red.

PROSPECTIVE JUROR: Debby Young, 127. And I know Robert Plaxico.

THE COURT: How do you know Mr. Plaxico?

PROSPECTIVE JUROR: As an acquaintance.

THE COURT: Okay. Would it have any bearing

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whatsoever on our decision in the case?

PROSPECTIVE JUROR: I don't think so.

THE COURT: Well, when you say you don't think so, are you fairly certain it would not?

PROSPECTIVE JUROR: I'm fairly certain it would not.

THE COURT: Okay, thank you, ma'am. You may be seated.

Yes, ma'am?

PROSPECTIVE JUROR: Donna Whitlock.

THE COURT: And your juror number?

PROSPECTIVE JUROR: One twenty-one.

THE COURT: Thank you.

PROSPECTIVE JUROR: I know Yates Brown. I was his kindergarten teacher.

THE COURT: How did he do?

PROSPECTIVE JUROR: He did good.

THE COURT: Is there anything about that connection that would impair your ability to be fair and impartial?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, ma'am, you may be seated.

Yes, ma'am.

PROSPECTIVE JUROR: I know Mr. Boyce.

THE COURT: Tell me your name and number again,

please.

PROSPECTIVE JUROR: Charlene Speaks, 106?

THE COURT: 106. And you know who?

PROSPECTIVE JUROR: Mr. Boyce.

THE COURT: Mr. Boyce.

PROSPECTIVE JUROR: Yeah.

THE COURT: All right. And how do you know Mr. Boyce.

PROSPECTIVE JUROR: Friend of mine. He know him and stuff but I had a run-in with him before.

THE COURT: Okay. Is there anything about that connection that would have any bearing upon your decision in the case?

PROSPECTIVE JUROR: No, sir.

THE COURT: You said you were 106?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Thank you, be seated.

Next row. Yes, sir.

PROSPECTIVE JUROR: Yes, sir, Randall Hostetler, juror 49. I know Jamie and Ms. Edwards.

THE COURT: All right. You know Toni Edwards and Jamie Edwards?

PROSPECTIVE JUROR: Yes, sir, I do.

THE COURT: All right. And is there anything about either one of those connections that would have

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any bearing upon your decision in the case?

PROSPECTIVE JUROR: No, sir, it wouldn't.

THE COURT: All right. Thank you, you may be seated.

Yes, ma'am.

PROSPECTIVE JUROR: Dana Seay, 99. I work with Ms. Edwards.

THE COURT: And where is that?

PROSPECTIVE JUROR: UNIFOR Brass Forgings.

THE COURT: All right. Is there anything about that connection that would have any bearing upon your decision in this case?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, you may be seated.

Next row. Yes, sir.

PROSPECTIVE JUROR: Number 52, Matthew Hughes. I know Mr. Plaxico as well as the majority of the people you mentioned associated with 911 through Laurens County Fire Service.

THE COURT: Okay, you work for the fire department?

PROSPECTIVE JUROR: Yes, sir, in Taylors. I also volunteer in Laurens County, though.

THE COURT: All right. And you said your number was 52?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: All right. So you know Mr. Plaxico and those others who are identified as working for 911?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Is there anything about any of those connections that would have any bearing upon your decision in the case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Okay. Thank you, be seated.

Yes, ma'am.

PROSPECTIVE JUROR: Barbara Holcombe, number 47. And I know Jeff Tucker.

THE COURT: How do you know Officer Tucker?

PROSPECTIVE JUROR: He's my cousin.

THE COURT: Of what degree?

PROSPECTIVE JUROR: First.

THE COURT: First cousin. Is there anything about that connection that would have any bearing upon your decision in the case?

PROSPECTIVE JUROR: No.

THE COURT: All right. Thank you, you may be seated.

Yes, sir.

PROSPECTIVE JUROR: My name is Gill Thomas, I

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actually don't know my juror number. But I know Yates Brown.

THE COURT: You're not sure of your juror number?

PROSPECTIVE JUROR: No.

THE CLERK: 113.

THE COURT: 113 is your number. 113. You know who?

PROSPECTIVE JUROR: Yates Brown.

THE COURT: How do you know Mr. Brown?

PROSPECTIVE JUROR: Just friends as kids.

THE COURT: Just friends from childhood?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Would it have any bearing upon your decision in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: All right, thank you, you may be seated.

Anyone else know any person who's been identified for your benefit? If so, please stand.

(WHEREUPON, there was no response.)

MR. STALVEY: Judge, may we approach?

(WHEREUPON, an off-the-record bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, we have one other witness that was left off the list and that's Stanley Smith who is a resident of Laurens County. So, I'll include Stanley Smith on the witness list. Anyone know Stanley Smith?

Yes, sir.

PROSPECTIVE JUROR: Sam Mabry, juror number 68.

THE COURT: Okay.

PROSPECTIVE JUROR: There was a Stanely Smith from Laurens County that worked at the church that I go to. But I don't know if it's the same person.

THE COURT: Your number was 68?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: And know you a Stanley Smith that works at the church?

PROSPECTIVE JUROR: I knew -- there was a Stanley Smith from Laurens County that worked at the Church I go to, Fountain Inn First baptist. I don't know if it's the same person or not.

THE COURT: Well, just for the purposes of this question let's assume it is. Would it have any bearing upon your decision in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Okay, thank you, be seated.

All right anyone else think you know any person

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who's been identified? If so, please stand.

(WHEREUPON, there was no response.)

THE COURT: All right. As I told you, these are charges that arise out of what the State claims was an event occurring on June the 10th, 2009. As I told you, the Defendant is accused of conspiracy, carjacking and armed robbery. And the person alleged to be the victim was Toni Edwards who's been introduced to you. Does any member of the jury panel believe that you have heard, seen or read something that relates to this particular case? Does any juror have any information about this case that you have received from any source whatsoever? Whether it be media coverage, if there was any. Television, radio or newspaper. Or from just somebody talking about it at work or church or anywhere else. Do you think you've heard something about the case? If so, please stand.

(WHEREUPON, there was no response.)

Has any member of the jury panel or any members of your immediate family, and I'm going to define any immediate family member as a parent, a spouse, a child or a sibling. Parent, spouse, child or sibling. And I need to know if you or any members of your immediately family, as I've just defined them,

have ever been the victim of any type of criminal offense which might be characterized as a violent type of crime. Am I'm going to tell you that included in that category would be crimes such as murder, manslaughter, burglary, armed robbery, criminal sexual conduct, criminal domestic violence of a high and aggravated nature, assault and battery with intent to kill, assault and battery of a high and aggravated nature, carjacking, or any other similar type of offense. I need to know if you or a family member has ever been the victim of such an offense. As well as whether or not you or a family member has ever been accused of having committed any of those types of offenses. So, have you been the victim or have you been accused of having committed those types of offenses? You or some member of your immediate family? If so, I would ask that you please, stand.

All right. I have two jurors standing -- I have three jurors standing. Now, I need you to respond to the question. It might be personal to you. You might prefer not to answer the question standing where you are in front of the audience. If that's the case, feel free to step down here and respond to it. But either way I need you to respond. So, you

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can stay where you are or come down here. I'll leave that you.

If you'll give me your name and juror number, please, ma'am.

PROSPECTIVE JUROR: Angela Oberdier, juror 80.

THE COURT: 80. All right, how does that question relate to you?

PROSPECTIVE JUROR: My son has just been accused of assault and battery.

THE COURT: All right. Is that a case that's being--

PROSPECTIVE JUROR: It hasn't went to court yet. It's supposed to go November 10th.

THE COURT: Is that a case that's being handled by the Eighth Circuit Solicitor's Office or not?

PROSPECTIVE JUROR: I don't even know.

THE COURT: You don't know whether it is or not?

PROSPECTIVE JUROR: No.

THE COURT: All right. Is there anything about that personal experience that you have that would have any bearing upon your decision in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, be seated.

Yes, sir.

PROSPECTIVE JUROR: Sam Mabry, juror 68. Judge

Cole, you used the term burglary. Back in the 90's I had a good deal of furniture stored in a rented storage building that was broken into and the furniture was taken.

THE COURT: All right. Would that experience have any bearing upon your decision in this case if you were selected?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, be seated.

Yes, sir.

PROSPECTIVE JUROR: I had a --

THE COURT: Wait a minute, let me get the one closest to me. You want to respond?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Okay, tell me your name and number, please.

PROSPECTIVE JUROR: Russell Baker, juror number six.

(WHEREUPON, prospective jurors approached.)

THE COURT: Six?

PROSPECTIVE JUROR: Yes, sir. About two years ago I was accused of criminal domestic violence but he girl dropped the charges. It was nothing.

THE COURT: What would have any bearing on your decision?

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PROSPECTIVE JUROR: No, of course not.

THE COURT: Okay, thank you.

THE BAILIFF: Juror number 125, Your Honor.

PROSPECTIVE JUROR: My husband was found guilty of assault and battery of a high and aggravated nature. And that's been about seven or eight years ago.

THE COURT: Would it have any bearing on your decision in this case?

PROSPECTIVE JUROR: No, it wouldn't.

THE COURT: Thank you, be seated.

Next.

THE BAILIFF: Juror 95.

PROSPECTIVE JUROR: A very long time ago when I was in high school our house burglarized.

THE COURT: Would it have any bearing on your decision in the case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, have a seat.

THE BAILIFF: Juror number 22.

PROSPECTIVE JUROR: Yes, sir, I had a sister murdered in 2006 and. . .

THE COURT: You had a sister that was married?

PROSPECTIVE JUROR: Murdered.

THE COURT: Murdered, oh, I'm sorry. Was that

here in Laurens County?

PROSPECTIVE JUROR: (The juror nods.)

THE COURT: Was somebody charged with it?

PROSPECTIVE JUROR: It was murder/suicide.

THE COURT: Okay. Is there anything about that experience that you think would affect your judgment in this case?

PROSPECTIVE JUROR: I'm not sure.

THE COURT: Well, you understand what this case is about. Well, I told you basically what it's about. Do you think there's anything about it that would. . .

PROSPECTIVE JUROR: I wouldn't think so but. . .

THE COURT: Well, do you think there's a reasonable probability that it could affect your decision or not?

PROSPECTIVE JUROR: I can't say really until I heard the evidence and stuff.

THE COURT: Well, you understand in this case that nobody's charged with murder. Nobody's charged with even assault and battery.

PROSPECTIVE JUROR: I don't think I would have any problem.

THE COURT: Could you put aside any consideration from your personal experience and not

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allow it to influence your decision?

PROSPECTIVE JUROR: I don't know, that was my baby sister.

THE COURT: Well, I guess I'm trying to understand how you think it might impact you in this case. They're not similar cases.

PROSPECTIVE JUROR: I don't believe it will. I just want to let y'all know.

THE COURT: Well, I'm glad you do that. But the reason I need to know, the reason I ask the question is not to pry but to ask if your personal experience would affect your judgment in this case. So, I just need to know if you think it would or would not?

PROSPECTIVE JUROR: I don't think it will.

THE COURT: You don't feel it would? So, you feel like you can put that aside?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Thank you. You're 22?

PROSPECTIVE JUROR: Yes, sir.

THE BAILIFF: Juror number 46.

THE COURT: Forty-six, okay.

PROSPECTIVE JUROR: My husband's vehicle was stolen out of our front yard. It was found abandoned two months later. And they don't know who did it.

THE COURT: Is there anything about that that

would affect your judgment in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Okay, thank you, be seated.

All right, responding to that question were jurors No. 80, 68, 6, 125, 95, 22, and 46. Did I leave anybody out?

(WHEREUPON, there was no response.)

THE COURT: Okay. Is there any member of the jury panel who is a member of or do you contribute time or money to any type of organization that might be characterized as a law enforcement support organization or a victim's advocacy type of group? And those might include organizations like Mother's Against Drunk Drivers, Citizens Against Violent Crime, The Honorary Sheriff's Association, The Troopers Association, The Fraternal Order of Police, a Neighborhood Watch Program, the Children's Advocacy Center or any other -- a safe homes network organization. Any type of organization like those. Do you contribute time or do you contribute money? Or do you belong to any of those types of organizations? If so, please stand.

All right, I'll start on the row closest to me and work my way back.

If you'd give me your name and juror number,

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please, sir.

PROSPECTIVE JUROR: Leonard Joslyn, number 57.

THE COURT: How does that question relate to you?

PROSPECTIVE JUROR: Two years ago I contributed to the State Troopers Association.

THE COURT: Okay, thank you, be seated.

Juror 68.

PROSPECTIVE JUROR: Yes, sir, Sam Mabry, juror 68. I contribute to the Sheriff's Association and to the Troopers Association.

THE COURT: Okay, thank you, be seated.

Juror 46.

PROSPECTIVE JUROR: I contribute to the Troopers Association.

THE COURT: Okay, thank you, be seated.

All right, is there any member of the jury panel who has -- who is now have or has ever been employed as any type of law enforcement officer, civilian or military as well as is there any member of your immediately families who are now or have ever been employed as any type of law enforcement officer civilian or military? So you or family member now or ever been employed as a law enforcement officer? Now, that's going to include not just deputy sheriffs

and city and town or municipal law enforcement officers, that also includes the correction officers, detention facility officers, county jail and the like. State Law Enforcement Division, State Department of Parole and Probation, Federal Bureau of Investigation, any type of law enforcement agency. If so, please stand.

All right, I'll start on this second row and I'll start on my right and work to the left and work my way back. If you'd give me your name and juror number, please, sir.

PROSPECTIVE JUROR: Douglas Davis, juror number 28.

THE COURT: Okay.

PROSPECTIVE JUROR: And I have a brother that's retired with the Miami, Dade County Sheriff's Department in Florida.

THE COURT: Okay, thank you, be seated.

Yes, sir.

PROSPECTIVE JUROR: Mark Burke, juror 17. Nephew, Tracy Burke, was formally employed as Laurens City Police.

THE COURT: All right, thank you, be seated.

Yes, sir.

THE WITNESS: Leonard Johnson, juror number 57.

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From November 2008 to December 2009 I was employed with American Security.

THE COURT: All right, thank you, be seated.

PROSPECTIVE JUROR: Sam Mabry, juror 68. My brother, Anthony, works for the South Carolina Attorney General's Office handling death penalty appeals for the State. And he has a badge and I didn't know if that qualified for law enforcement or not.

THE COURT: That will qualify. Thank you, be seated.

Yes, ma'am.

PROSPECTIVE JUROR: Janet Vassallo, 118. I served in the Air Force as military police back in the 70's.

THE COURT: Thank you, be seated.

Yes, sir.

PROSPECTIVE JUROR: Mark Pannozo, 84. I was security specialist in the Air Force.

THE COURT: Thank you, be seated.

Yes, ma'am, 46.

PROSPECTIVE JUROR: My husband's currently a state trooper with the South Carolina Highway Patrol.

THE COURT: All right, thank you, ma'am, please be seated.

Has any member of the jury panel ever been involved in a case where you were called to testify as a witness either by the State or by a Defendant. Anyone ever been involved in a case in General Sessions Court where you were called to testify as a witness either by the State or Defense? If so, please stand.

Yes, ma'am.

PROSPECTIVE JUROR: Juror number 64, Jannie Lindsay. And I was called as a witness where I was working at National Health Care in Laurens. One of our employees were caught stealing. And I had to testify against them.

THE COURT: Okay, thank you, ma'am, you may be seated.

During the course of the trial there may be testimony regarding someone having suffered or suffering from some type of mental health condition or mental health disease. So, I need to ask if any member of the jury panel has any connection or has a family member who suffers from any type of mental health disease, mental health condition or defect. Whether it be schizophrenia, schizo-effective disorder, depression, bipolar, any type of mental health condition. I need to know if you or a family

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member has ever suffered any type of a condition or you have any particular knowledge about those types of conditions? If so, please stand.

All right. Juror 106.

PROSPECTIVE JUROR: Charlene Speaks 106, my momma suffers from depression.

THE COURT: Okay. And do you think it would have any bearing upon your decision in this case in any way?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, be seated.

Is there anything about the nature of the charges themselves, that is what the allegations are they have been brought against the Defendant, that would impair any jurors ability to be fair and impartial to both sides if you were selected? Anything about the nature of the case itself that would impair a jurors ability to be fair and impartial? If so, please stand.

(WHEREUPON, there was no response.)

THE COURT: Does any juror know of any reason whatsoever, why you believe you could not be fair and impartial if you were called upon to serve as a juror in this case? If so, please stand.

(WHEREUPON, there was no response.)

THE COURT: Any other questions by the State?

MR. BROWN: No, Your Honor.

THE COURT: By the Defendant?

MR. STALVEY: None from the Defense, Your Honor.

THE COURT: Okay. Draw us a jury, please, ma'am.

Now, the way a jury is selected is that all of your names are in a juror pool. And the computer is going to select them randomly. You will be asked to come forward as your name is called. Just come to the gate and stand right here. You see the Bailiff standing there with the table, just right there in the middle, looking back towards the back two doors. Each side has an opportunity to have you excused from service in this case or to have you seated for service in this case. If either ask that you be excused from serving just go back and have a seat where you are now. If both agree to have you seated for serving in the case, then you will be having a seat in the jury box to your left and to my right. So, please come forward as your name is called and you will be instructed, if you've been selected or excused from service in the case.

THE CLERK: Juror number 118, Janet Vassallo.

(Janet Vassallo, a white female, came forward.)

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What says the State?

MR. BROWN: Please excuse Ms. Vassallo.

THE CLERK: Juror number 67, Robert A. Lyons.

(Robert A. Lyons, a white male, came forward.)

What says the State?

MR. BROWN: Please present Mr. Lyons.

THE CLERK: What says the Defense?

MR. STALVEY: Please seat the juror.

THE CLERK: Juror number 113, Gill P. Thomas, Jr.

(Gill P. Thomas, a white male, came forward.)

What says the State?

MR. BROWN: Please present Mr. Thomas.

THE CLERK: What says the Defense?

MR. STALVEY: Please seat the juror.

THE CLERK: Juror number 30, Irene J. Devlin.

(Irene Devlin, a black female, came forward.)

What says the State?

MR. BROWN: Please present Ms. Devlin.

THE CLERK: What says the Defense?

MR. STALVEY: Please seat the juror.

THE CLERK: Juror number 47, Barbara T. Holcombe.

(Barbara Holcombe, a white female, came forward.)

What says the State?

MR. BROWN: Please present Ms. Holcombe.

THE CLERK: What says the Defense?

MR. STALVEY: Please seat the juror.

THE CLERK: Juror number 116, Wayne D. Tollison, Jr.

(Wayne Tollison, a white male, came forward.)

What says the State?

MR. BROWN: Please present Mr. Tollison.

THE CLERK: What says the Defense?

MR. STALVEY: Please seat the juror.

THE CLERK: Juror number 86, Bruce M. Polskin.

(Bruce Polskin, a white male, came forward.)

What says the State?

MR. BROWN: Please present Mr. Polskin.

THE CLERK: What says the Defense?

MR. STALVEY: Please present the juror.

THE CLERK: Juror number 84, Mark Pannozo.

(Mark Pannozo, a white male, came forward.)

What says the State?

MR. BROWN: Please present Mr. Pannozo.

THE COURT: What says the Defense?

MR. STALVEY: Please seat the juror.

THE CLERK: Juror number 99, Dana Seay.

(Dana Seay, a white female, came forward.)

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What says the State?

MR. BROWN: Please present Ms. Seay.

THE CLERK: What says the Defense?

MR. STALVEY: Please excuse the juror from this case.

THE CLERK: Juror number 48, Tina Honeycutt.

(Tina Honeycutt, a white female, came forward.)

What says the State?

MR. BROWN: Please present Ms. Honeycutt.

THE CLERK: What say the Defense?

MR. STALVEY: Please present this juror.

THE CLERK: Juror number 74, Clarence McNeil.

(Clarence McNeil, a white female, came forward.)

MR. BROWN: Could you repeat the number, please,ma'am?

THE CLERK: Seventy-four.

What says the State?

MR. BROWN: Please present Ms. McNeil.

THE CLERK: What says the Defense?

MR. STALVEY: Please seat the juror.

THE CLERK: Juror number 102, Ashley Smith.

(Ashley Smith, a white female, came forward.)

What says the State?

MR. BROWN: Please present Ms. Smith.

THE CLERK: What says the Defense?

MR. STALVEY: Please seat the juror.
THE CLERK: Juror number 46, Amber Hoffer.
(Amber Hoffer, a white female, came forward.)
What says the State?
MR. BROWN: Please present Ms. Hoffer.
THE CLERK: What says the Defense?
MR. STALVEY: Please excuse the juror from this case.
THE CLERK: Juror number 98, Burke Schulz?
(Burke Schulz, a white male, came forward.)
What says the State?
MR. BROWN: Please present Ms. Schulz.
THE CLERK: What says the Defense?
MR. STALVEY: Please seat the juror.
THE CLERK: Juror number 72, Jennie Mcglohon.
(Jennie Mcglohon, a white female, came forward.)
What says the State?
MR. BROWN: Please excuse Ms. Mcglohon.
THE CLERK: Jury number 78, Kinnie Neely.
(Kinnie Neely, a black male, came forward.)
What says the State?
MR. BROWN: Please present Mr. Neely.
THE CLERK: What says the Defense?
MR. STALVEY: Please seat the juror.
THE CLERK: This is your alternate.

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THE COURT: Let's do two alternates.

THE CLERK: First alternate juror number 17, Mark Burke.

(Mark Burke, a white male, came forward.)

What says the State?

MR. BROWN: Please present Mr. Burke.

THE CLERK: What says the Defense?

MR. STALVEY: Please excuse this jury.

THE CLERK: Juror number 65, Bobbie B. Lomax.

(Bobbie B. Lomax, a white female, came forward.)

What says the State?

MR. BROWN: Please excuse Ms. Lomax.

THE CLERK: Juror number 57, Leonard Joslyn.

(Leonard Josely, a white male, came forward.)

What says the State?

MR. BROWN: Please present Mr. Joslyn.

THE CLERK: What says the Defense?

MR. STALVEY: Please excuse the juror from this case.

THE CLERK: Juror number 66, Clemmie W. Lyons.

(Clemmie Lyons, a black female, came forward.)

State challenge for cause?

MR. BROWN: No challenge.

THE CLERK: Would the Defense?

MR. STALVEY: No, ma'am.

THE CLERK: Okay. Juror number 127, Debby S. Young.

(Debby S. Young, a white female, came forward.)

What says the State?

MR. BROWN: Please present Ms. Young.

THE CLERK: What says the Defense?

MR. STALVEY: Please present the juror.

THE COURT: Okay. All right, those jurors who have been selected, I'm going to ask you to please go with the Bailiff to the jury room and I'll bring you back in just a few minutes.

(WHEREUPON, the jury left open court at approximately 12:43 p.m.)

THE COURT: Are there any matters that need to be addressed regarding jury selection by the State?

MR. BROWN: No, Your Honor.

THE COURT: By the Defendant?

MR. STALVEY: Judge, I may have one motion but we can do that now or we can wait until --

THE COURT: Well, let me see y'all up here for just a minute.

(WHEREUPON, an off-the-record bench conference was held.)

THE COURT: All right, for those jurors who were not selected, you're excused for the balance of the

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afternoon. I you would ask that you, please, call this evening after six o'clock to the number that you have on the jury information card, call the 8800 number. Call after six to receive further reporting information. Now, when you call that number, it may instruct you to report tomorrow at a particular time. But also, it may simply ask that you call back at a particular time in order to receive reporting information. Because we might still be involved in this case. So, just be sure that when you call the juror information line, that you follow the instructions and either report when you're supposed to or call back. If you're instructed to. Okay? Have a good afternoon. Call back after six to receive that information.

(WHEREUPON, the jury venire left open court at approximately 12:45 p.m.)

THE COURT: All right, now I understand that we may have some pre-trial motions to address prior to being able to begin with the trial. What motions do we have?

MR. STALVEY: Judge, we're going to request a Jackson v. Denno motion. There are two statements. Actually, they're three possible statements that we've been made aware of. And, Judge, we're

challenging the voluntariness of those statements.

THE COURT: All right.

And how many witnesses does the State have on the voluntariness motion?

MR. BROWN: On the voluntariness of one statement, it's actually a traffic stop. I have one witness there. We also have a video to go along with that. And also, with the second statement, voluntarily statement, we have two officers here that were part of questioning and Mirandizing of Mr. Nabors. And we have one that could, I think, cover the voluntariness of it. And if need to we have two. So, really two witnesses.

THE COURT: Okay, how long do you think your presentation is going to take?

MR. BROWN: Just long enough to get through the necessary questions to establish. . .

THE COURT: Well, I know that but I got to. . .

MR. BROWN: Probably for each one 15 minutes. And the video actually -- the video's actually about 40 minutes long. And that video is of the stop in Anderson County.

THE COURT: Okay.

All right, Mr. Stalvey, do you intend to present any witnesses or other evidence in the motion

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hearing?

MR. STALVEY: Judge, I'd like to talk to Mr. Nabors over the lunch break. I don't know if he's going to testify or not. But I don't anticipate him testifying. However, there is another matter that I'd like to bring to the Court's attention that may require a little bit more time.

THE COURT: Okay.

MR. STALVEY: Judge, there's a 911 recording where the victim called 911 and reported this crime. Mr. Nabors has not heard that yet. I met with Mr. Brown last week and he let me listen to it. But we couldn't make a copy of it last week for Mr. Nabors to listen to. So, we were going to do that this morning before we started the trial. So, I need probably 30, 45 minutes to go over that with Mr. Nabors. I've explained to him what it is but it's our position that he's entitled to actually listen to the actual tape.

THE COURT: Well, I guess y'all have to do that during lunch.

MR. STALVEY: Yes, sir, Your Honor.

THE COURT: Okay, I'll have the jury come back at 3:45. And y'all just have to -- well are there any other motions beside that Jackson v. Denno?

MR. BROWN: I think that's all that we would want to do pre-trial is make sure these statements get in.

THE COURT: Okay. All right. Bring the jury back, please.

(WHEREUPON, the jury came into open court at approximately 12:50 p.m.)

THE COURT: Ladies and gentlemen, it's lunch time so we're going to recess now for lunch and excuse you for that purpose. And during the course of the week, there are all types of matters that the Court addresses. Some require jurors participation, some do not require jurors participation. But nevertheless, I address those matters throughout the course of the week whether you're involved or not. We try to set a time aside for those matters that don't involve the jury so we don't impose upon your time anymore than is absolutely necessary. But I do have some things that I have to address before we can actually begin with the trial of the case, but we didn't want to impose upon the rest of the jurors so we went ahead and selected the jury in this case. But, as you are excused for lunch, I'm going to ask that you report back to your jury room this afternoon at 3:45. At 3:45 this afternoon. I got some other

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matters that I need to address. I'm hopeful that at that time we will be in a position to begin with the trial of this case.

So as you leave, keep in mind, as I referred to earlier, you are not permitted to talk about the case with anybody whatsoever, in any fashion whatsoever. Do not permit anyone to attempt to discuss the case with you. Do not expose yourselves to any type of media coverage that might relate to the case. I don't know that there will be any but sometimes there is. So, you're to avoid any television, radio or newspaper information that relates to the case. Avoid it under all circumstances. And also, as I say, you can't talk about the case. You go home you might have a spouse or a friend or somebody in your family that knows you got selected for jury duty, they want to know what you're doing down here, you just tell them that you've been selected in a case and you can't talk about it.

As I say, when the case is over you can talk about it all you want to. But until that time comes or until you reach a decision, you're not permitted to discuss the case with anybody whatsoever. In any fashion whatsoever. And that includes your fellow jurors. You can't even discuss it among yourselves

unless and until you've been instructed to begin jury deliberations. And that won't be until in the end of the trial after all of the evidence has been received and I've instructed you on the law and have told you to go back and begin jury deliberations. That way we'll be certain that your decision is based solely upon the evidence received during the trial and you won't be influenced by any outside or extraneous information.

So, as you leave, leave directly. When you come back, you don't have to be back until 3:45, but when you do come back, please go directly to your jury room. In other words, don't stand out in the parking lot, don't stand out in the hallway because there might be people involved in the case, they might be talking about the case. You might hear something, it might be accurate it might be inaccurate. And it might influence your decision. So, that we can try to avoid you being exposed to any type of extraneous information. So, no discussion, no exposure to media coverage.

Also, you can't conduct any research or do your own investigation into any issue that might arise during the trial. Something might come up and you say, Well I don't really know anything about that.

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Doesn't matter. You got to base a decision on what you see and hear during the trial. So, you can't conduct any research, you can't do your own investigation into any issue. You will be provided with all the information in this case in order for you to arrive at a decision. So, just be patient in that regard. But as I say, when you leave, please leave the courthouse property directly for lunch. When you come back, go directly to your jury room. And hopefully we'll be in a position to begin at 3:45. So, please be back not later than 3:45. But if you come back early, go to the jury room. Okay? Have a good lunch, we'll see you at 3:45.

(WHEREUPON, the jury left open court at approximately 1:00 p.m..)

THE COURT: All right. Court is recess until 2:15. Let me see lawyers before we leave.

(WHEREUPON, a lunch break was taken.)

THE COURT: All right, ready to proceed on Jackson v. Denno hearing?

MR. BROWN: Yes, Your Honor.

MR. STALVEY: Judge, we're ready to proceed. As far as the statement taken by Laurens County Sheriff's Office, there were two investigators -- it's my understanding there were two investigators

that were present during the taking of that statement. Investigator Wilkie and Detective Plaxico. I think they're both in the courtroom right now, we request they be sequestered for purposes of this hearing.

THE COURT: Okay, sequester the witnesses.

All right, ready to begin?

MR. BROWN: Yes, Your Honor.

THE COURT: Okay.

MR. BROWN: State calls Lieutenant Robert Wilkie.

ROBERT WILKIE, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q Lieutenant Wilkie, please, state your name.

A Robert Wilkie.

Q What's your profession?

A I'm a investigator with the Sheriff's Office.

Q And you're employed by the Laurens County Sheriff's Office?

A That's correct.

Q How long have you been employed with Laurens County Sheriff's Office?

A Approximately ten years.

Q Do you have any previous law enforcement experience?

A No, sir.

Q And what are your duties there at Laurens County Sheriff's Office?

A Investigate reports after they've -- after a report is generated it comes to investigation, we follow up on it.

Q So, you're a investigator?

A Right.

Q Are you familiar with the so called Miranda warnings on a suspect's Constitutional rights?

A Yes, sir.

Q Have you had an occasion to advise a suspect of those rights during the course of your work in law enforcement?

A Yes, sir.

Q Were you employed in your present capacity on June 11th, 2009?

A Yes, sir.

Q How did you become involved with the investigation of this case?

A I was assisting Lieutenant Plaxico who was the lead investigator on the case.

Q And what time did you become involved?

A It was the morning of June 11th, 2009.

Q How were you brought into this case?

A Lieutenant Plaxico received a call that Anderson County Sheriff's Office had stopped the vehicle in question and placed two individuals under arrest. At which time we proceeded to the Anderson County Detention Center to interview those individuals.

Q After your arrived in Anderson, did you obtain a statement from the Defendant, Ben Nabors?

A I did.

Q At what time was this taken?

A Approximately 11:51 a.m., I believe it was.

Q And who was present during this questioning?

A Lieutenant Plaxico.

Q Along with Mr. Nabors?

A Mr. Nabors and myself.

Q Was the Defendant under the influence of alcohol or drugs to the extent that would impair his ability to understand?

A No, sir.

Q Did Mr. Nabors have any physical or mental disability that would impair his ability to understand what was being said and asked?

A No, sir.

Q Where was the questioning begun?

A It was in a what appeared to me to be a break room at the Anderson County Detention Center.

Q What did the room look like?

A It was a room, I believe it had some tables in there. Like I said, just kind of looked like a little break room area.

Q How long was Mr. Nabors questioned?

A I would say approximately 30 to 45 minutes.

Q Were there any breaks taken?

A No, sir.

Q Was Mr. Nabors denied access to a telephone, bathroom, food or drink?

A No, sir, not by us. He was incarcerated but not by us.

Q Were any threats, promises made in exchange for the statement?

A No, sir.

Q And was the Defendant under arrest at the time?

A Yes, sir.

Q Was Mr. Nabors advised of the nature of the investigation?

A Yes, sir.

Q Was Mr. Nabors advised of his Constitutional rights pursuant to Miranda prior to any questions regarding the crime?

A He was.

Q Was he advised of his warnings -- rights?

A Yes, sir.

Q Advisement of Rights form?

A That's correct.

(WHEREUPON, State's Exhibit No. 1 was marked for identification only.)

MR. BROWN: Let the record reflect to opposing counsel what's been marked for identification purposes as State's Exhibit No. 1.

MR. STALVEY: No objection, Your Honor.

MR. BROWN: May I approach, Your Honor?

THE COURT: Yes.

BY MR. BROWN:

Q Mr. Wilkie, please take a look at that and tell me what that is.

A This is the Advisement of Rights form which I read to Mr. Nabors before any questioning.

Q How can you tell that's the form that you advised Mr. Nabors of?

A I witnessed it, he initialed at each question. I also signed the form at the bottom.

Q And what are some of the questions that you asked Mr. Nabors from that form?

A Of course, I read him the rights.

Q What are those rights?

A You have a right to remain silent, anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we'll ask you any questions to have him or her with you during questioning. If you have no money to pay a lawyer's fees the Court will appoint one to represent you if you wish. If you decide to answer questions now without a lawyer present you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer. And then it goes on to say, Do you understand each of these rights I've explained to you? Do you want a lawyer? Do you want to answer questions now?

Q After you read those last three questions, what was his answer to you, Do you understand each of these rights I've explained to you?

A Yes.

Q Was there a no option?

A Yes, there was a no option. He initialed in the yes box.

Q Do you want a lawyer?

A He initialed in the no box.

Q What about the question, Do you want to answer questions now?

A He initialed in the yes box.

Q Is there another spot on this form Waiver of Rights?

A There is.

Q Did you read him that?

A I did.

Q What does that say?

A It says, I have read the statement of my rights, I understand what my rights are and willing to make a state and answer questions. I do not want a lawyer at this time. I understand and know what I'm doing. No promises or threats have been made to me. And no pressure or coercion of any kind has been used against me.

Q Mr. Nabors sign that?

A He did.

Q Did you sign that?

A Yes, sir.

Q What time did he sign that?

A 11:53 a.m.

Q Mr. Nabors appear to have any trouble understanding his rights?

A No, sir.

Q Did he appear to have the ability to understand English?

A Yes, sir.

Q Did he appear his ability to understand was

effected by any alcohol, drugs or any type of physical or mental impairment?

A No.

Q Mr. Nabors demonstrate whether or not he could read?

A Well, like I said I read the statement to him. I offered him the opportunity to read it. He never actually read anything out loud. But I mean, yes he appeared to have been able to read it.

Q Did Mr. Nabors answer to the questions appear rational and responsive?

A Yes, sir.

Q He wasn't emotional or any concerns that he just over -- overcome with emotion?

A No.

Q Did you or anyone in your presence threaten or coerce Mr. Nabors in any fashion or offer any promise of hope of reward?

A No, sir.

Q Mr. Nabors did not ask for an attorney?

A No.

Q Mr. Nabors ever later changed his mind and ask to stop questioning while been asked questions?

A No, sir.

Q To the best of your knowledge, was Mr. Nabors

statement freely and voluntarily given?

A Yes, sir.

Q Was this statement reduced to writing?

A Yes, sir.

Q Who wrote the statement?

A I wrote it for Mr. Nabors.

Q Was this done at the request of Mr. Nabors?

A Yes.

Q Mr. Nabors sign the statement?

A Correct.

(WHEREUPON, State's Exhibit No. 2 was marked for identification only.)

MR. BROWN: Let the record reflect I showed opposing counsel what's been marked for identification purposes as State's Exhibit No. 2.

MR. STALVEY: No objection.

MR. BROWN: May I approach, Your Honor?

BY MR. BROWN:

Q Take a look at that for a moment and tell me what that is.

A This is the statement I wrote out for Benjamin Nabors.

Q How can you tell that's the statement?

A It's signed by Mr. Nabors. Also, initialed by him at the beginning and end. And once towards the bottom

of the statement.

Q Lieutenant Wilkie, what did Mr. Nabors say in that state?

A You want me to read the statement.

Q Yes, sir.

THE COURT: Excuse me, just a minute. This hearing is just for the purposes of the voluntariness, it really doesn't matter what it says.

MR. BROWN: Okay.

THE COURT: I mean, it's introduced, I can read it myself.

MR. BROWN: Your Honor, I'll move to introduce this into evidence at this time?

THE COURT: All right, it's admitted.

MR. BROWN: Exhibit 1 and Exhibit No. 2.

THE COURT: All right, 1 being the Rights Form and 2 being the statement?

MR. BROWN: That's right, Your Honor.

THE COURT: Okay.

(WHEREUPON, State's Exhibits Nos. 1 & 2 were admitted into evidence.)

MR. BROWN: No further questions, Your Honor.

THE COURT: All right, Mr. Stalvey.

CROSS-EXAMINATION

BY MR. STALVEY:

Q Lieutenant Wilkie, you testified that the Advisement of Rights Form that you signed regarding the time on this, that's accurate, correct?

A Yes.

Q And you agree with me that that time is 11:51 a.m. to 11:53 a.m., correct?

A Yeah.

Q So that's two minutes, right?

A Correct.

Q And in those two minutes, you went through every right that's on this form?

A Yes.

Q But you never afforded him the opportunity to actually read the form, did you not?

A Yes, sir, he had an opportunity to read the form.

Q Okay. But your testimony is that he didn't read the form.

A I gave him the opportunity to read it.

Q Okay --

A He never actually read it out loud.

Q What was his response to you when you asked him if he wanted to read it?

A I showed it to him and allowed him to read it. I don't recall him giving any specific response.

Q So how did you know if he didn't want to read it?

A It was totally up to him.

Q Yeah, but you just said he didn't give you a specific response when you asked him if he wanted to read it. But you also testified that he didn't want to read it.

A I gave him the opportunity to read it if he wanted to. He could have read it to himself.

Q Well, it's your testimony that he did not respond to that opportunity, correct?

A Correct.

Q Lieutenant Wilkie, it is typical when you're advising a Defendant in your custody of his Miranda rights that it takes two minutes to go over that?

A It can.

Q So, in that two-minute span of time, was there any other discussion about Mr. Nabors giving a statement?

A No, sir.

Q Okay. Let me ask you this, when did you first, and I guess keeping in mind the timeframe of 11:51 a.m., when did you first meet with Mr. Nabors?

A Approximately 11:51: a.m.

Q Okay. So your conversation beginning at 11:51 a.m., was it just about this Advisement of Rights

Form?

A Correct. And to explain to him what we were there for, naturally.

Q Okay. And that explanation and I guess of why y'all were there and the rights, that only took two minutes?

A Correct.

Q Okay. Did you ask him in those two minutes, if he had been to sleep since the incident?

A No, sir.

Q And what is your understanding of when this incident occurred?

A My understanding is that it occurred on June the 10th.

Q About what time of the day?

A 2009. Later in the evening, I'm not sure of the time.

Q Okay. Did you ask him if he had been to sleep the night before?

A No, sir.

Q Where did he stay the night before?

A Well, when we talked to him he was incarcerated. I'm not sure exactly what time he was picked up by Anderson County.

Q But it was overnight, correct?

A I'm not sure.

Q Well, if he was picked up on June 10th and y'all spoke to him on June 11th, that morning, it had to be overnight, correct?

A It could have been, yes, sir.

Q Did Mr. Nabors ever indicate to you that he wanted to the write the letter himself? Excuse me, that he wanted to write the statement himself?

A No, sir.

Q Okay. Did you offer him the opportunity to write the letter -- or excuse me, the statement himself?

A Yes, sir.

Q And did he give you a reason why he didn't want to write it out?

A Prefer that I write it for him.

Q Did you or Lieutenant Plaxico at any time prior to him giving the statement or during his statement, suggest to him that a Judge would go easy on him if he cooperated.

A No, sir.

Q Did y'all ever have that conversation with him?

A No, sir.

Q Did y'all ever talk about the circumstances that would most likely occur if he was cooperative with the police?

A No, sir.

Q Did you ever talk to Mr. Nabors about his wife's involvement in the case?

A Not that I recall. Other than what he told us and was written in his statement.

Q Okay. So, during your meeting with you him you never suggested to Mr. Nabors that if he cooperated with you and Lieutenant Plaxico, that it could result in a beneficial -- or result in beneficial treatment for his wife?

A No, sir.

Q And you agree with me his wife was the actual co-defendant in this case?

A Correct.

Q You testified that Mr. Nabors was not under the influence of any drugs or alcohol, correct?

A Correct.

Q And it's your testimony that he was not under the influence of any drugs or alcohol, correct?

A He didn't appear to be.

Q Okay. Didn't he tell you that he had been awake for about eight days?

A I don't recall him telling me that.

Q Lieutenant, is on this Advisement of Rights Form, did you put his initials there or did Mr. Nabors?

A Mr. Nabors.

Q Okay. Did you explain to him each right that's listed next to his initials before he signed his initials?

A Correct. I read the form to him.

Q And at no time, it's your testimony, that he did not request a lawyer?

A Correct.

Q Did he ask you any questions about getting a lawyer?

A No, sir.

Q Lieutenant, can you tell me what Lieutenant Plaxico was doing during the statement?

A Basically just listening.

Q Okay. Were there any recording devices involved?

A No, sir.

Q So, this statement wasn't recorded?

A No, sir.

Q And Lieutenant Plaxico was not recording everything?

A No, sir.

Q Was he taking any pictures?

A I don't recall him taking any pictures.

Q Okay. Do you recall him having a cell phone out?

A No, sir.

Q Do you recall him recording or taking any pictures with the cell phone?

A No.

Q Do you recall him showing his cell phone to Mr. Nabors?

A No.

MR. STALVEY: Thank you, sir, no further questions of this witness.

REDIRECT EXAMINATION

BY MR. BROWN:

Q Again, who was in the room with you while you were questioning Mr. Nabors?

A Myself, Mr. Nabors and Lieutenant Plaxico.

Q What was the purpose of Lieutenant Plaxico?

A He was the lead investigator in the case.

Q Lieutenant Wilkie, who, in fact, signed or initialed each of these responses after reading the Waiver of Rights?

A Mr. Benjamin Nabors.

Q Are any of those initials your initials?

A No, sir.

Q Whose signature's down at the bottom of that Waiver of Rights Form?

A Ben Nabors.

Q Is your signature down there?

A It is, witnessed the advisement form.

Q On the actual statement, who wrote that statement?

A I wrote it.

Q Whose signature at the bottom of that?

A Benjamin Nabors signed it, I witnessed it.

Q Are there any initials on that page?

A Benjamin Nabors.

Q What are those initials for?

A I got him to initial at the beginning and end and also towards the bottom where I made a error in writing and scratched out a letter and he initialed that as well.

Q So, he was able to read what you were writing?

A Correct.

Q And correct any mistake you might have made?

A Correct.

MR. BROWN: No further questions, Your Honor.

THE COURT: Anything else of this witness?

MR. STALVEY: Just one follow up, Judge.

RECROSS-EXAMINATION

BY MR. STALVEY:

Q Lieutenant, if you could, briefly describe to me the process of him giving you this statement. And the

question I'm asking you is, you were writing the statement, correct?

A Yes.

Q Was he just continuously telling you the words that are on this paper or did y'all take any breaks or try to clarify some things?

A He basically told me what to write. Of course, I would have to slow him down so I could keep up but I wrote word for word what he wanted me to put in his statement.

MR. STALVEY: Thank you, sir.

THE COURT: Okay, you can step down.

MR. BROWN: State calls Lieutenant Robert Plaxico.

ROBERT PLAXICO, after being duly sworn, testified as follows:

THE CLERK: Thank you, you can be seated.

DIRECT EXAMINATION

BY MR. BROWN:

Q Please state your name.

A Robert Plaxico.

Q And what's your rank or what's your profession?

A Lieutenant Laurens County Sheriff's Department in Criminal Investigations Division.

Q How long HAVE you been with Laurens County

Sheriff's Office?

A Seventeen years.

Q Do you have any previous law enforcement experience?

A I do.

Q What is that?

A It dates back to October 12th, 1975 is when I actually started with law enforcement in the City of Laurens.

Q How many different agencies have you worked for since that time to the present time?

A City of Laurens, Highway Patrol, Town of Cross Hill and Laurens County Sheriff's Department, be four.

Q Again, what are your present duties in Laurens County Sheriff's Office?

A I'm a investigator.

Q Are you familiar with Miranda warnings on a suspect's Constitutional rights?

A I am.

Q And have you on occasion advised a suspect of those rights during the course of working law enforcement?

A I have.

Q Were you employed in your present capacity on June 11th, 2009?

A I was.

Q And how did you become involved in the investigation of this case?

A The week that the June 11th of 2009, I was on call that week. Which means I have to handle any call that an investigator needs to be called on after 5:00 p.m. in the afternoon. And during that week I received a call on the June 10th of the case in question that night. And that's how I became involved in it, I was the investigator on call.

Q On June 11th, how did you -- how were your brought in the case?

A We were -- on June the 10th a BOLO was placed on Ms. Edwards vehicle. So on June 11th we received information from Anderson County that they had the vehicle stopped and they had people inside it.

Q After you arrived in Anderson, did you obtain a statement from the Defendant, Ben Nabors?

A We did.

Q What time was that statement taken?

A I don't remember the exact time. I'd have to look at the paper work to tell you. I'm saying somewhere probably close to lunch. But I don't remember.

Q Who was present during that questioning?

A Lieutenant Robert Wilkie and Mr. Nabors.

Q And you?

A And me.

Q Was Mr. Nabors under the influence of alcohol, drugs or drugs to the extent that would have impaired his ability to understand what is being asked of him?

A He didn't appear to be.

Q Did it appear that Mr. Nabors had any kind of physical or mental disability that would impair his ability to understand what was asked?

A No, sir.

Q Where was the questioned begun?

A At the Anderson County Detention Center like in a break room.

Q What did that break room look like?

A Kind of rectangle. It was a pretty good size room, had a lot of glass around it. Had a lot of tables in there with items on the table like salt and pepper and stuff like that.

Q How long was Mr. Nabors questioned during that time?

A I'd probably say 30 to 45 minutes.

Q Was Mr. Nabors denied access to the telephone, bathroom, food or water?

A No, sir.

Q And were any threats or promises made in exchange for the statement by either you or Mr. Wilkie?

A No, sir.

Q Was Mr. Nabors under arrest at that time?

A He was by the Anderson County Sheriff's Department.

Q Did Mr. Nabors, was he advised of the nature of the investigation?

A He was.

Q And was Mr. Nabors advised of his Constitutional rights pursuant to Miranda prior to any questioning?

A He was. He was.

Q And who advised him of those rights?

A Lieutenant Wilkie.

Q Was the advisement of warnings accomplished by any writing?

A It was.

MR. BROWN: May I approach, Your Honor?

BY MR. BROWN:

Q Detective Plaxico, I show you what's been marked for identification purposes as State's Exhibit No. 1, tell me what that is.

A That's the Advisement of Rights Form that we use at the Laurens County Sheriff's Department.

Q What is the date at the top of the Advisement of Rights?

A 6/11/09.

Q What's the time?

A 11:51 a.m.

Q What -- does that have the rights listed at the top?

A It does.

Q And what are those rights?

A It starts and we always read it but Before we or I ask you any questions you must understand your rights. You have the right to remain silent, anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we ask you any questions and to have him or her with you during questioning. If you have to no money to pay a lawyer, lawyer's fee, the Court will appoint one to represent you without cost if you wish. If you decide to answer questions now without a lawyer you will still have the right to stop answering at any time. You also have the right to stop answering questions at any time until you talk to a lawyer.

Q Now, after those rights -- who read those rights to Mr. Nabors?

A Lieutenant Wilkie.

Q After those rights were read to Mr. Nabors were there any other questions asked of him?

A Yes, sir. The next question that we ask is Do you understand each of these rights I have explained to

you? And then there's a yes box and no box. And Mr. Nabors put his initials in the yes box.

Q Did you witness Mr. Nabors do that?

A Correct, I did. Then we asked, Do you want a lawyer? Again, a yes box and a no box. And Mr. Nabors put his initials in the no box, which I witnessed him do that. It goes the last says, Do you want to answer questions now? Mr. Nabors initialed the yes box. And I witnessed him do that.

Q Is there any other?

A Yes, at the bottom it says, I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me. Right up under that Mr. Nabors signed it and I witnessed that and Robert Wilkie signed it and I witnessed that.

Q What time was that signed?

A That was at 11:53 a.m.

Q So you watch Mr. Nabors sign that?

A I did.

Q Now, Lieutenant Plaxico, Mr. Nabors appear to have any trouble understanding his rights?

A He did not.

Q Did it appear to you that he had the ability to understand English?

A Yes.

Q Did it appear as if his ability to understand was effected by any alcohol or drugs where he would not understand the questions that were asked?

A No, sir.

Q Did Mr. Nabors answers to the questions appear rational and responsive?

A They did.

Q Did you or Lieutenant Wilkie threaten or coerce Mr. Nabors in any fashion or offer him any promise or hope of reward?

A No, sir.

Q And how did Mr. Nabors respond when asked if he wanted an attorney before he spoke to you?

A He just stated he didn't. Then he signed off on the advisement that he didn't want one.

Q Mr. Nabors ever change his mind whether or not to give a statement?

A No, sir.

Q To the best of your knowledge was Mr. Nabors statement freely and voluntarily given?

A It was.

Q Was that statement reduced to writing?

A It was.

MR. BROWN: Approach, Your Honor?

BY MR. BROWN:

Q Let me show you what's been marked as State's Exhibit No. 2, take a look at that and tell me what that is?

A That is a written statement that Lieutenant Wilkie took from Benjamin Ray Nabors on 6/11/09 time starting with 11:54 a.m.

Q Who wrote that statement?

A Lieutenant Wilkie.

Q And was this done at the request of Mr. Nabors?

A It was.

Q How long -- what time was the statement completed?

A It's hard to say. I would stay we probably took about 30 or 45 minutes to do the interview and the statement.

Q Whose signature's down at the bottom of the statement?

A Ben Nabors signature is at the bottom of it and Lieutenant Wilkie's statement at the bottom of it. And my signature's at the bottom of it as a witness.

Q Are there any initials on the page?

A There are.

Q What are some of those initials?

A Well, we always get a suspect to initial at the start of the statement. And then if there's any mistakes we make, we get him to initial where the correction was made. And then we also get him to initial at the end of the statement so there can't be anything added. There are three initials on this. One at the beginning, one probably three quarters of the way through where a mistake was made and then at the end. Right after the end of statement and his initials.

Q Was the mistake in the body of the statement corrected?

A It was.

Q Did mr. Nabors initial that?

A He did.

Q Did you witness him initial that?

A I did.

MR. BROWN: No further questions, Your Honor.

CROSS-EXAMINATION

BY MR. STALVEY:

Q Lieutenant Plaxico, you were present for the entire statement as well as the Advisement of Rights, correct?

A I was.

Q And would you agree with me that -- well, let me ask you this way. When did you first meet with Mr. Nabors on June the 11th?

A I don't remember the time. It was sometime that morning.

Q Okay. Was -- well, you agree that the interrogation began with the reading of the Advisement of Rights with Mr. Nabors at 11:51, correct?

A Correct.

Q And if you could, tell me about how many minutes you spent with Mr. Nabors prior to 11:51 talking about the case?

A We didn't discuss the case at all with him prior to 11:51, we just introduced ourselves and told him what we were there for. And read him his rights.

Q Okay. So -- and you'll agree that this Advisement of Rights Form, as far as the timeframe is accurate, correct?

A It is.

Q So, it began at 11:51 and you said it lasted for 30 to 45 minutes?

A Not the Waiver of Rights.

Q Okay.

A That's just the Waiver of Rights. Now, the whole thing lasted that long but it's not timed at the

bottom of the statement when the statement was over.

Q Okay. Lieutenant, I understand. So, the Waiver of Rights, would you agree that it only took two minutes --

A I do.

Q To go through those?

A I do.

Q Did Mr. Nabors read this form?

A I don't think so. I think Lieutenant Wilkie read it to him.

Q Okay. And Lieutenant Plaxico, I noticed on this Advisement of Rights Form, there's a line on here for a witness, did you see that?

A I do.

Q What's the purpose of that?

A If I -- I could have signed it and I just didn't. I was there.

Q Okay. Can you give us an explanation?

A No, sir.

Q As to why?

A No, sir. Very seldom do we put a second witness on there.

Q So, why is the line there?

A It just a form and it's there. That's all I can tell you. Very seldom do we put a second witness name on

there.

Q And you don't have any opinion as to why you don't put a second witness to that?

A No, sir.

Q Would you agree with me that line is there to ensure if there are two witnesses to a statement, that both witnesses are, I guess, swearing to the accuracy of the statement?

A It's just there.

Q Sir?

A I said the line is there and we very seldom use it.

Q But you agree with me that could be a reason for that line?

A It could be.

Q And you chose not to wear to that, correct?

A I just chose not to sign.

Q And you don't have a reason for that?

A No, sir.

Q Lieutenant, during the Advisement of Rights, did Mr. Nabors at all mention that he wanted a lawyer?

A No, sir.

Q And did you at all talk to Mr. Nabors about how his cooperation with law enforcement may be beneficial to him as far as getting a statement from him?

A Not that I can remember. We just talked about the crime and we took his statement.

Q Well, when you talked about the crime, did you ever say to him something like, If you cooperate a Judge may go easy on you?

A No that I remember.

Q Did Lieutenant Wilkie ever say anything like that?

A Not that I remember.

Q Did you ever make any kind of suggestion or promise as to what a statement, what that might do to effect his case?

A No, sir.

Q As it played out. Did you talk to him about his wife's involvement in the incident?

A It seems -- yeah, I think we did.

Q And when you talked to him about his wife's involvement, did you ever mention to him that his cooperation would somehow have a beneficial effect on the way his wife was treated during the case?

A No, sir.

Q Did you ever promise him that if he cooperate and gave a truthful statement, that the Judge or somebody in the future, perhaps the Solicitor's Office, would go easy on his wife?

A No, sir.

Q Lieutenant, can you tell me, besides the Advisement of Rights that you went over with Mr. Nabors, that took two minutes. The actual statement, it's your testimony -- well, I guess, it is your testimony the entire process took 30 to 45 minutes?

A That's what I would guess it took.

Q Okay. So, you would agree with me that if your testimony that the Advisement of Rights Form took two minutes, then the rest of the process would have taken 28 to 43 minutes? Based on the math that we talked about.

A I guess somewhere in that neighborhood.

Q Okay. How long did you speak with Mr. Nabors before he -- or I'm sorry, before Mr. -- Lieutenant Wilkie put pen to paper on this statement?

A I don't really remember. We talked about what happened and kind of got the gist of things. Then we started putting pen to paper.

Q Okay. So, there was a period of time between the Advisement of Rights and pen to paper, correct?

A There was.

Q Okay. And can you tell the Court what your discussion was with Mr. Nabors during that period of time?

A We just discussed what had happened and asked him questions as to, you know, about Ms. Edwards and him

taking her vehicle and different things like that. Trying to, you know, trying to get the story so we can put it pen to paper.

Q Did you tell him that he had been identified by Ms. Edwards?

A I don't think so, no, sir.

Q Well, tell me what you told him about the investigation up to point during that conversation.

A We just told him that he had been accused of taking her vehicle and we know he had been stopped in her vehicle. That was basically, you know -- I hadn't actually talked to Ms. Edwards at that time.

Q All right, did you record this conversation?

A No, sir.

Q Did you have a cell phone?

A I did.

Q Were you taking pictures of Mr. Nabors during this conversation?

A I did.

Q And what purpose was that?

A We were going to download it and put it in a photo line-up to let her pick him out but we never did do that. We used another photo.

Q Does your cell phone, as you were taken his picture -- I'm sorry, let me back up. Did you explain to

him why you were taking his picture?

A No, sir.

Q During this?

A No, sir.

Q So you were just taking his picture and it's your understanding that he didn't have any idea why you were taking the pictures?

A Probably not. I didn't tell him.

Q Was he aware that you were taking his picture?

A He was. He was sitting right there.

Q Did he ever ask you, Why are you taking my picture?

A I don't think he did. He might have. But I don't remember.

Q Does your cell phone, at the time, did your cell phone, when you take a picture, have any kind of particular sound effect?

A Usually have the shutter sound.

Q It doesn't have any kind of sound like a gunshot or anything like that?

A No, sir.

Q How many pictures did you take of Mr. Nabors during the interrogation?

A I think just two. The first one was blurry so I took a better one.

Q Lieutenant, did you take pictures of Mr. Nabors during the Advisement of Rights portion of the interview?

A No, sir.

Q It was just during the statement?

A I think it was right at the end or maybe it could have been after we finished taking the statement.

MR. STALVEY: No further questions, Your Honor.

THE COURT: Anything else?

MR. BROWN: No, Your Honor.

THE COURT: Step down.

Any other witnesses?

MR. BROWN: Just for the in-car video. The stop. Detective Crawford, Anderson County Sheriff's Department.

THE COURT: Okay. I already viewed it. I viewed it during lunch.

MR. BROWN: Okay.

JAMIE CRAWFORD, after being duly sworn, testified as follows:

THE CLERK: Thank you, be seated.

DIRECT EXAMINATION

BY MR. BROWN:

Q State your name.

A My name is Jamie Crawford.

Q What's your profession?

A I'm a deputy sheriff employed with Anderson County Sheriff's Office.

Q How long have you been employed with Anderson County Sheriff's Office?

A I have been employed there since February 2005.

Q Do you have any previous law enforcement experience.

A I do. I worked at the Pickens County Sheriff's Office shortly after I got of the Army. I have 11 years experience in law enforcement all together. This is my 11th year.

Q What are your present duties?

A My current duties is I'm assigned to the -- it's called the CATCH Team. Which is an acronym for the Criminal Apprehension Through Community Health. What I'm particularly assigned to do is Interstate Criminal Enforcement. That entails working on our interstate that runs through our county which is I-85. We have 36 miles of it.

Q As you say part of your duties is to patrol the highway?

A Yes, sir.

Q Were you on duty the day of June 11th, 2009?

A I was.

Q And do you remember stopping Mr. Nabors who you

see in the courtroom today?

A I do.

Q And where were you when you first stopped Mr. Nabors?

A Where I stopped him or where I observed him?

Q Where did you observe him?

A I observed him about mile marker six Southbound on I-85.

Q And what car was he driving at that time?

A May I refer to my notes? My report?

Q What type of car was Mr. Nabors driving at that time?

A It was a gray in color Ford Escape with South Carolina vehicle license number 420 9BX.

Q Okay. And what did you when you first came in contact with this car?

A As I was patrolling I-85, the Ford Escape was directly behind a red color dump truck. What drew my attention to the car initially was all the police logos and stickers on the back of it. As I got beside the vehicle, I glanced into the vehicle and I saw Mr. Nabors driving the vehicle. He was bobbing his head like he was listening to a song. Whenever we made eye contact -- let me just back up just a second. He was driving with one arm, one hand, bobbing his head to the radio. Whenever he

looked over and seen me and I looked over and seen him, he just automatic went to a 10-2 position on the steering wheel. Due to my training and experience, the cleanliness of the car and the police logos, the way that he reacted upon my presence, led me to believe that something was amiss. So, I backed off behind the vehicle and ran the tag on the car.

Q When you ran the tag what came back?

A Dispatch told me that there was a hit through NCIC that the car was stolen through Laurens County.

Q What did you do then?

A I initiated -- I called -- I called the car stop in prior to initiating my blue lights. At this point we were getting close to the four mile marker. I let my partner know that I was behind a stolen vehicle. I went ahead and call the traffic stop in and let them know where we were going to be. I think as I was completing me calling the car stop in, we exited off the interstate on to exit four. That's where I initiated my blue lights. Mr. Nabors came to a complete stop at the stop sign. Indicated with his turn signal he was going to turn right, I believe. But then he went straight across Old Dobbins Bridge Road and he came to a complete stop.

Q After he came to a stop, what did you do then?

A I, over my public announce system, my PA system,

I advised all occupants, there were three occupants inside the car, to place their hands up in the air where I could see them. I advised Mr. Nabors to take the keys out of the ignition and throw them on top of the hood. I knew my partner was still a few miles away. He had just stopped a car at the 11 mile marker Northbound. So, I deployed my service weapon. And I trained it on the vehicle. There were Mr. Nabors, there's a female, front passenger and there's a black male, rear passenger. I approached if the driver's side. And once I got close enough to the driver's side I just kept my firearm trained on them to make sure they weren't going to make any type of sudden movements.

Q Did you instruct Mr. Nabors to get out of the car?

A Not at that time, I don't believe. I didn't want anybody out of the car because I was by myself and there was three of them. I do have a trained police K-9 that is trained to protect me. However, that's only two and like I said there were three of them. So, I was waiting for my partner to get there before we got anybody out of the car.

Q And where was your dog at that time?

A My dog was in the back of my car.

Q What time did you instruct Mr. Nabors to get out

of the car?

A At what time? Well, I don't know what time it was. On the video you see Deputy Mize, my partner, he pulls in front of the vehicle. And he walks up and I tell him to get Mr. Nabors out while I cover the other two occupants in the car with my gun, with my service weapon. He gets Mr. Nabors out and handcuffs him.

Q When Mr. Nabors got out of the car, did he relay any information to you?

A Prior to -- actually, whenever I walked up to the car, he had -- I think he had actually opened the door. If my memory serves me correctly. Let me refer to my report. Yes. Yes. Mr. Nabors, he did open the door when I came up to it. And he immediately started telling me that the car was stolen, that he had stolen the car. That, you know, he was glad I stopped him. And at some point I told him that I appreciated his honesty but I would much rather wait until I read him his rights.

Q At that point was his statement freely and voluntarily given?

A Yes, I wasn't expecting anything. I was just -- for my safety, because he had opened the door, I come a little closer to make sure -- so I could get a better view on him.

Q After securing the car and your partner

arriving, did you read Mr. Nabors and the rest of the occupants their Miranda rights?

A Yes. Once Mr. Nabors was removed out of the car, I removed the rear passenger and then my partner, I believe, removed the front seat passenger. And they were all brought back to the rear of the car. Of the -- Ms. Edwards, I believe her name is. Ms. Edwards car. In between her car and my car. And that's where I brought them back so my camera could document all three of them. At that point I advised all three of them of their Miranda rights. I asked each individual person if they understood their rights and each individual person orally stated that they did.

Q Okay. Go back. Did -- did it appear at this time was Mr. Nabors under the influence of any alcohol or drugs to the extent that it would impair his ability to understand what you were asking him?

A No.

Q Did it appear that -- appear that Mr. Nabors have any kind of physical or mental disability that would hamper his understanding of what was being asked of him?

A No.

Q You're still on the side of the road when you read him his rights?

A Right. Right. They were all detained until we

were waiting the confirmation. What happens is once we get behind a car and say run a tag and it comes back stolen, we stop the car, we detain the individuals inside. And we send what's called a ten minute hit through dispatch and they teletype from Anderson County to Laurens County. And to see if the car is still indeed entered as a active stolen vehicle. So, they were detained for that. And then when dispatched relayed back that the hit was confirmed. And that's when they said that it was involved in a carjacking.

Q You said you read him his rights, what did you -- what rights were read to him?

A I actually have it in my right front pocket. I've had this card since I started on the Interstate back in September 2005. I'll read it to you if you'd like me to.

You have the right to remain silent, anything you say can and will be used against you in a court of law. You have the right to talk to a lawyer and have him or her present with you while you're being questioned. If you cannot afford to hire a lawyer one with will appointed to represent you before any questioning if you wish. You can decide at any time to exercise these rights and not answer any questions or make any statements.

After saying all of that I would point to each

individual and ask them, Do why understand your rights?

Q Did Mr. Nabors demonstrate that he understood his rights?

A Yes, orally.

Q And while you're on this stop, were any threats or promises made for exchange of any statements?

A No.

Q Did you advise him the reason why he was being stopped at that time?

A No.

Q Mr. Nabors, did he appear -- did he have the ability to understand English?

A Yes. To be able to hear me over my PA system and understand what I was saying with a 100 pound German Shepherd behind my head directly, barking, I would say that he could understand very well what I was saying.

Q Did Mr. Nabors answers to your questions appear rational and responsive?

A Yes. Yes. The only thing he kept wanting was a cigarette. And he acted fine.

Q Did you, in fact, give him a cigarette?

A I give him a cigarette. It was rather warm that day, I offered him water. Anything to kind of, you know, it's not my job to hurt anybody, it's my job to take bad guys to jail, you know. And I just wanted to accommodate

him. Even though he was sitting there in handcuffs.

Q Did you have any concerns regarding his ability to understand what you were asking?

A No.

Q And did Mr. Nabors respond to any -- to you question as to whether he wanted an attorney present at the time?

A No, he did not.

Q Did he ever change his mind and ask -- did he ever change his mind about his waiver of his Miranda rights?

A No, he never did. He actually said that he was glad that I stopped him because if I wouldn't have he probably would have went on and done something even more stupid.

Q So, to the best of your knowledge his statement was freely and voluntarily given?

A Freely and voluntarily given.

Q Now, Deputy Crawford, you mentioned the -- and this was in-car video, you had video of the stop?

A That's correct. Bear in mind also, like I said, my German Shepherd is barking.

(WHEREUPON, State's Exhibit No. 3 was marked for identification only.)

MR. BROWN: May I approach, Your Honor?

BY MR. BROWN:

Q Deputy Crawford, do you recognize this?

A Do I recognize this? No, this is what you have dubbed to a DVD from the original copy that I gave you.

Q Did you witness the copying of that?

A I did.

Q Prior today?

A Yes.

Q And does this video capture the entire stop on June 11, 2009?

A It does.

Q Has there been any deletions made?

A No.

Q On this? So, it's a clear -- or it's a accurate representation or accurate recording of what took place that day?

A That is 100 percent what happened from the time my blue lights -- at the vehicle I was operating at the time, there was no prerecord setting. The only time my camera was activated was if I manually pushed record or hit think front strobe blue lights.

Q And Deputy Crawford, where's this tape stored after the initial stop?

A It was stored in my office. I have any own office. And I have a file cabinet that I have the only

key.

Q Anybody else have access to that?

A No one but me.

Q And when did you -- when did this tape leave your possession?

A Whenever you called me and asked me for it one day last week.

MR. BROWN: I move what's been previously marked as Exhibit No. 3 into evidence as the video tape, in-car camera?

THE COURT: All right, it's admitted.

(WHEREUPON, State's Exhibit No. 3 was admitted into evidence.)

BY MR. BROWN:

Q Detective Crawford, during the stop did you search the car?

A I did.

Q Did you find anything in the vehicle that was left by Mr. Nabors?

A There was a letter that was wrote by Mr. Nabors. My partner found a checkbook that Mr. Nabors admitted on tape saying that he had wrote a check -- well was going to write a check to for something but he lost his nerve and didn't do it. Because he figured that she had already canceled the account.

MR. STALVEY: Judge, we have no objection that that is, in fact, a copy of the letter.

THE COURT: All right, this is a letter from -- by whom to whom?

MR. BROWN: This -- I was going to get into that. But it's a letter from -- you want me to mark it?

THE COURT: Is this going to be additional statement that you're attempting to get in?

MR. BROWN: It is. Yes, Your Honor.

(WHEREUPON, State's Exhibit No. 4 was marked for identification only.)

BY MR. BROWN:

Q Deputy Crawford, I'm showing you what's been marked as for identification purposes as State's Exhibit No. 4, take a look at that and tell me what that is.

A This is a copy, a photo copy of the letter that was found in the vehicle during the search.

Q And who directed you to that letter?

A I'd have to watch my tape to recall. I want to say that Mr. Nabors said that he had wrote a letter to the sweet old lady that he had taken the car from.

Q But you, in fact, did find that letter in the car?

A Sure did.

Q Is that a true and accurate copy of the original statements you took out of the car?

A Sure is.

MR. BROWN: Your Honor, I submit State's Exhibit No. 4 into evidence.

THE COURT: It's admitted.

(WHEREUPON, State's Exhibit No. 4 was admitted into evidence.)

BY MR. BROWN:

Q Deputy Crawford, during this stop with Mr. Nabors, what did he say -- what statement did he voluntarily give you?

A Oh, gosh. He -- pre-Miranda, like I said, as I was waiting for my partner to get there -- let me get situated in this chair. As I was waiting for my partner to get there, he ever had opened the door, Mr. Nabors said that he had taken the car, he had stolen the car.

He said, you got me. He was saying that how he been up for seven days. Wigged is the exact word that he used. Wigged out.

I got -- if I can refer to my report. He stated that he had been on methamphetamine and he had been awake for about seven days. And that he just wigged out yesterday and stole the vehicle.

Q Toward the end of the traffic stop did he make

any other statements to you?

A He did. He -- oh, Lord, let me refer back to my report. I mean, I just watched the daggone tape, I just can't remember what all he said. He said so much. He -- while he was sitting on the ground -- he was sitting on the ground, his significant other was standing up. She was visibly upset. The other fella didn't have a clue what was going on. I don't want to sit her and guess what he said. I mean, the tape clearly -- you can clearly hear it on tape.

Q All right.

MR. BROWN: No further questions, Your Honor.

CROSS-EXAMINATION

BY MR. STALVEY:

Q Deputy, it's your testimony today that the initial admission by Mr. Nabors that the car was stolen, that was given to you while you had your service weapon pointed at Mr. Nabors, correct?

A While I had my service weapon pointed to all three of the people inside the car, yes.

Q And Mr. Nabors was one of those three people?

A Oh, absolutely. He was the driver.

Q And that was prior to any Miranda?

A That's right.

Q And Deputy, can you tell me exactly, after you

placed him under arrest, when did the search of the car begin?

A It was after they were all three were brought back behind the suspect vehicle in front of my car, they were Mirandized. And either me or my partner would go and search the car. We would kind of go overlap one another.

Q And what were you searched the car for?

A Evidence.

Q Were you searching it for drugs?

A Anything. Drugs, you know, we found a check, we found a note. Like I said, evidence.

Q Did -- who actually took Mr. Nabors from that traffic stop into custody?

A My partner did.

Q Okay. And was his vehicle equipped with a in-car camera?

A It was.

Q And are you aware of a recording of Mr. Nabors from the scene of the stop to the -- let me back up. Do you know where your partner took Mr. Nabors after he was arrested.

A My partner took Mr. Nabors nowhere. Our policy dictates that we cannot transport anybody in our K-9 cars. He was transported to the jail by Deputy Fraizer.

Q Okay. Who is Deputy Fraizer employed by?

A Well, he was currently employed by Anderson County Sheriff's Office. He was a member of our team. He has since left and now employed elsewhere.

Q Okay. And when you say your team, what team is that?

A It's called the CATCH Team. Which is a acronym for Criminal Apprehension Through Community Help.

Q And are all the vehicles that your team members have as part of being on the CATCH Team, are they all equipped with video cameras?

A Not all.

Q Okay. Was Deputy Fraizer's car equipped with a camera?

A I have no idea.

Q Are you aware of any recording of Mr. Nabors besides the roadside video that you, I guess, testified that this is an accurate copy of?

A No.

Q Okay. So you're not aware that -- I'm sorry, let me back up. There were three Anderson County officers that responded, correct?

A Well, there was myself first, my partner as the video will show.

Q And what's your partner's name?

A Craig Mize.

Q Miles?

A Mize, M-I-Z-E.

Q Okay.

A You will see me. A few minutes later my partner comes in front of the suspect vehicle. And during the tape you will see a couple of Oconee County units come by to check on us to see what we had. And to be honest with you, I haven't watched the tape in its entirety.

Q Deputy, so it was you, Mize, Fraizer and some other Oconee County?

A Fraizer got there after everything was said and done. We just needed a transport unit.

Q Okay. And you can't recall if his transport unit was equipped with a video camera?

A I cannot.

Q Is Fraizer on the CATCH Team?

A Fraizer was on the CATCH Team.

Q At the time of this incident.

A That's correct.

Q Do you know if the car that was recovered, that's apparently the victim's car, what happened with that vehicle? How -- let me be more specific. Where did that vehicle get taken from the side of the road that day?

A Let me refer to my report, please. Everready Towing responded and took us to the car. They are one of

the wreckers service that are on our rotation.

Q Was the vehicle ever inventoried by Anderson County?

A Inventoried? I would have to say so. I had done a -- because before the tow truck even takes it we have to do a tow sheet, so yes.

Q What's the procedure for Anderson County prior to doing tow sheet? What are you supposed to do before you do a tow sheet?

A You got to stop a car. You got to arrest somebody out of the car. Then you got to inventory the car to make sure there's nothing -- that's a very vague question. I don't -- could you be more specific?

Q What's the policy of the Anderson County Sheriff's Office for what do you have to do? Well, let me ask you this. Is there a policy of Anderson County Sheriff's Office to follow before writing a tow sheet on a vehicle?

A I mean, yeah. Well, no, I don't guess. Because, I mean, in order to write a tow sheet you have to stop a car or come upon an abandoned car. Either take the driver to jail or find that the abandoned car is blocking traffic. Once you make one of these decisions, then you have to do the tow sheet. Which is mandatory and which is in our policy. I do not have a copy of our policy.

However, I can go on the internet and get a copy of it. Conduct a tow sheet, get the registration, if possible. Do an inventory of the vehicle, make sure there's nothing valuable inside the vehicle. If there is anything valuable inside the vehicle we have to document it. If there's anything that the registered owner -- let's just hypothetically say that the registered owner went to jail, if there's anything that they would want to take, then we would put items removed from the vehicle block. You know, they want to take their Gucci sunglasses.

Q I understand. Deputy, did Mr. Nabors ask you to get this letter out of the vehicle?

A I have to watch the video. I can't remember. Like I said, he kept saying so much. The only thing I remember him saying is that one he wanted a cigarette. Which we provide him bunches of cigarettes. And he kept wanting his old lady to calm down. And I can't recall right off memory.

Q You testified that he also said he had been up for six days, is that correct?

A He said -- no, he said he had been up for -- let me refer back to my report. He stated he had been on methamphetamine and he has been awake for about seven days. And he just wigged out yesterday and stole the vehicle.

Q Okay. So, he did admit that he had been up for seven days?

A That's right.

Q That's right. Okay. And he said that he was under the influence of methamphetamine but did he appear impaired at all when you pulled him over?

A No.

Q If he would have you would have given him a ticket for driving under the influence, correct?

A I don't know. Probably not. Probably just stuck his butt in jail for the stolen car.

Q Okay. Well, Deputy, if you noticed someone under the influence of drugs, that's driving a vehicle.

A Right.

Q Is that not -- I mean, and they appeared impaired, in your normal routine, would you, I guess, investigate them for driving under the influence?

A I guess so. But I been doing this job, I guess, long enough to where, you know, if the man's got a handful of problems already, there ain't no since in throwing just a little more in there. I mean, he had enough problems on his hands as it is.

Q I understand. But did he -- did he appear impaired to you based on your conversation with him out there that day?

A No.

MR. STALVEY: Thank you, sir. No further questions.

MR. BROWN: No questions, Your Honor.

THE COURT: Okay, you may step down.

MR. BROWN: Your Honor, those are the statements that we intend to introduce as evidence in this trial.

THE COURT: All right, Mr. Stalvey.

MR. STALVEY: Thank you, Your Honor. First, I'll address the statement taken by Lieutenant Wilkie. In which Lieutenant Plaxico was also present. Judge, we dispute the voluntary nature of the statement, Your Honor. First, as far as the Advisement of Rights, Judge, if you'll and I'm somewhat relying on what is in the statement. Well, let me back up, Judge. As far as his Advisement of Rights, Your Honor, the testimony that been corroborated by both--

THE COURT: Well, let me ask you this before you start arguing that. Are you going to present any evidence?

MR. STALVEY: No, sir, Your Honor.

THE COURT: Okay. You talked to your client about his right to testify?

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MR. STALVEY: Yes, Your Honor.

THE COURT: And he's indicated to you that he does not wish to?

MR. STALVEY: He does not wish to testify for purposes of this hearing.

THE COURT: All right.

Is that true, Mr. Nabors?

MR. NABORS: Yes, sir, Your Honor.

THE COURT: You understand what the purpose of this hearing is, Mr. Stalvey's explained that to you?

MR. NABORS: Yes, sir.

THE COURT: And he's also explained to you that you have a right to present testimony or other evidence if you wish to?

MR. NABORS: Right.

THE COURT: Is that true?

MR. NABORS: Yes, sir.

THE COURT: And you made the decision not to testify in this hearing?

MR. NABORS: I mean, I'd like to leave it open. I might testify, I might not. I -- I don't want to tell you no then I end up asking to testify.

THE COURT: Well, this is the hearing, we're having it right now.

MR. NABORS: Right.

THE COURT: The State has presented the evidence they're going to present.

MR. NABORS: Okay.

THE COURT: Now, it's your turn to present evidence if you want to.

MR. NABORS: Your Honor, I'll pass on being a witness. Taking the stand.

THE COURT: Okay. So, you understand you have the right to if you want to?

MR. NABORS: Yes, sir.

THE COURT: And you made the choice not to?

MR. NABORS: Yes, sir.

THE COURT: Okay, thank you.

All right, Mr. Stalvey.

MR. STALVEY: Thank you, Your Honor. Judge, as far as the statement taken by Laurens County, Your Honor, it's -- first of all, the Advisement of Rights Form, it's our position that two minutes that both officers corroborated was the time they took to explain to him his Miranda rights, is not sufficient for him to properly understand what exactly rights he's giving up. Judge, there's also some inconsistent testimony as to how exactly they went over those rights.

Your Honor, at first, he said that -- I'm trying

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to -- Lieutenant Wilkie testified that Mr. Nabors never responded as to whether he wanted to read the form or not. Because Lieutenant Wilkie's testimony that he gave him an opportunity to read the form. However, when I asked him what was his response, Lieutenant Wilkie said, He didn't respond. So, it's our position that Mr. Nabors was not allowed sufficient opportunity to go over his rights. He wasn't allowed -- well we don't know if he was allowed to read them or not because he never gave a response as to whether he wanted to. That's from the officer's testimony.

Judge, as far as the actual statement, the interview that Lieutenant Plaxico testified to having, Judge, the statement given as you heard, there's some big time inconsistencies in how that interview went. Lieutenant Wilkie testified that there were no pictures taken, no recordings, no cell phones. And as was proffered to the Court by Lieutenant Plaxico, that wasn't the case. Lieutenant Plaxico testified that he was taking pictures. That he had his cell phone out, that he took more than one picture. That he had it pointed to Mr. Nabors. He was taking pictures not explaining to Mr. Nabors why he was taking those pictures. Mr. Nabors, and I

understand he hasn't testified, but expressed to me that this was going on. He didn't know what he was doing. And didn't understand exactly what was going on while he was giving the statement.

Judge, as I was saying the Advisement of Rights, that only lasted two minutes. It's our position the importance of these rights is for the Defendant to understand these rights and waive his rights to a lawyer, cannot sufficiently be gone over in two minutes. It's just not sufficient. And Judge, based on that it's our position that the statement given to Laurens County Sheriff's Office was not voluntary, that it should be excluded from this trial.

THE COURT: All right. You're referring to the written statement introduced as Exhibit No. 2?

MR. STALVEY: Yes, sir, Your Honor.

THE COURT: All right. What about any other statements?

MR. STALVEY: Judge, the letter that they recovered from the car, in Anderson, I mean, you know, don't even know if that's proper to be admitted or ruled upon in this hearing. It wasn't give to the police, it was a letter written to the victim. And it may be subject to another suppression hearing. They kind of got into it during the questioning. So,

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I mean, I just -- I don't know if we're here to decide the voluntariness of the letter that he wrote. I don't know if that's proper. But if that's before us--

THE COURT: Well, not here if it was done prior to any involvement with law enforcement. So, that's not an issue. But it's come up and they want to introduce it. So, if you're contesting its admission, you might as well address it while we're here.

MR. STALVEY: Judge--

THE COURT: Well, let's do that at the end. Let's go ahead and deal with statements right now.

MR. STALVEY: As far as the statements given to officers, the one thing that we would challenge is the initial statement that the car was stolen. Your Honor, he obviously had not been given his Miranda rights, he'd just been pulled over. He was detained and he had a gun pointed at him or pointed in his direction. The officer testified to that. We ask that that be excluded. As far as other statements we don't have a motion at this time.

THE COURT: Okay, Mr. Brown.

MR. BROWN: Your Honor, to address the statement given by Mr. Nabors to Lieutenant Wilkie and

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Lieutenant Plaxico, to argue that he did not understand his rights, to go back -- today I brought Lieutenant Wilkie Lieutenant Plaxico first in this hearing. But the fact that Mr. Nabors was given his rights out on the Interstate that day and on video, as we can fully see, he understood those rights at that time. This is actually just another just precautionary Mirandizing of Mr. Nabors. And as seen in the Advisement of Rights, he initialed -- he has his initial Advisement of rights, then he's asked to to respond in the yes or no box. And his initials are placed in those boxes and then signed at the bottom. We had two deputies that were there to witness that statement. And both stated on the record that he fully understood waiver of those rights and freely and voluntarily gave that statement.

It also shows on the statement that he knew exactly what was being written in that statement where he was able to tell Lieutenant Wilkie that he made a mistake in the body of the statement. And to show that he knew what was being written, they marked out the mistakes and he initialed above it. He showed that he knew exactly what he was signing off on while he was being questioned by Lieutenant Wilkie

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and Lieutenant Plaxico.

With regard to the cell phone, I wasn't there, I don't know if Lieutenant Wilkie saw Lieutenant Plaxico take the picture, I can't really -- that's the first time I actually really heard about the photos taken during the voluntarily statement. Now, moving to the initial traffic stop by Deputy Crawford in Anderson, the first statement that Mr. Nabors gives is when he's existing the car. At that time Deputy Crawford did not ask him questions. He did not initiate the -- draw out the statement at that time. That was freely and voluntarily given by Mr. Nabors. No response to the traffic stop. And for that to be kept out, Detective Crawford did not, I guess, try to draw that out of Mr. Nabors. Mr. Nabors freely and voluntarily gave that statement.

And then later on he was given his Miranda rights and continued to talk at that time. And telling them exactly where the letter was in the car. So, with regard to understanding his rights, he was given his rights, read his rights twice that day. One on video, then once later on at the Anderson County Sheriff's Office where there was two witnesses and Mr. Nabors' signature's all over those pages

showing that he understood those rights.

THE COURT: All right, any reply?

MR. STALVEY: No, sir, Your Honor.

THE COURT: Well, the purpose of this hearing, of course, is to determine whether or not any statement made by the Defendant should be admitted in the trial of the case based upon whether or not it was freely and voluntarily made. The burden is on the State to establish at this hearing the voluntariness by the greater weight or preponderance of the evidence. In contrast to proving it to the satisfaction of the jury beyond a reasonable doubt. So, the threshold issue for the admission of the statements is whether or not there's evidence tending to establish voluntariness by the greater weight of the evidence. In this case the testimony is that with respect to the first statement provided by the Defendant to law enforcement, that would be an oral statement given to or in the presence of Deputy Crawford at the time that he was stopped in Anderson County. On Interstate 85 I believe it was. It's clear that that is not a statement that was made in response to any question. It was simply a spontaneous utterance made by the Defendant upon being stopped by a law enforcement officer. It was

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not in response to any questions posed by Deputy Crawford. And therefore, those are not the subject of a voluntariness issue in my view simply because he's not being subject to questioning by law enforcement. It's simply a spontaneous utterance.

Subsequent oral statements made by the Defendant were made to Deputy Crawford but those were after he was taken into custody and after he was read or informed as to his Miranda rights by Deputy Crawford using a car, setting forth the Constitutional rights protected by the Miranda decision. He was advised of those rights. He did appear to understand those rights. There's certain no testimony and no evidence to indicate that he was coerced or threatened in any way or mistreated. I have viewed the video that was introduced into evidence and it's clear from the video that Mr. Nabors was not mistreated in any way, he was not tricked in any way, he was not abused in any way, he was not coerced in any way, he was not threatened in any way and he wasn't promised anything. He simply was advised of his rights and he was more than forthcoming and cooperative in making statements regarding his participation or commission of some type of criminal offenses.

So, he's been advised of his Miranda warnings on

that occasion. Then he was taken into custody, he was taken to the Anderson County jail where he was then subject to interrogation by officers from the Laurens County Sheriff's Department the following day. Or perhaps the same day but it was in Anderson County. And those statements that were reduced to writing made by the Defendant were subsequent to his being, again, advised as to his Miranda rights. And from the evidence presented, it does appear that they were properly given, that he did understand them, that he did give those rights up and cooperated in responding to questions asked of him by the Laurens County Sheriff's deputies.

He was not -- he does not appear he was under the influence. Or at least there's no evidence to establish it that he was under the influence of any type of an intoxicating substance. It does not appear from the evidence that he was threatened, coerced, pressured in any way or promised anything. And that the statements made by him to law enforcement, which were reduced to writing, were given freely and voluntarily. And therefore, I find all statements made by the Defendant to law enforcement were freely and voluntarily made. And therefore, they shall be admitted in the trial of the

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case.

All right, now, as far as the State's Exhibit No. 4, is it? A letter retrieved from the vehicle subsequent to Mr. Nabors arrest, you object to the admission of that letter, Mr. Stalvey?

MR. STALVEY: Judge, at this point, Judge, I'm not sure it's been properly established in court and we would appreciate the Court will correct us if we're wrong about this but if it's been properly established that this statement is admissible as -- as the Defendant's statement -- and the reason I ask the Court to correct me if I'm wrong is I can't remember if the officer testified that he admitted that this letter was actually his.

THE COURT: Let me see that Exhibit, please. Well, I mean, circumstantially it's been established. Now, if you want a proper foundation to be laid, they can obviously lay it. And if there's some issue about it, we can take testimony now if we need to. I mean, is he contesting that that's a letter that he wrote?

MR. STALVEY: Judge, I have to --

THE COURT: The reason I ask the question is what the State's evidence is is that a car was stopped that was reported to be stolen, driving the

vehicle was the Defendant in this case. And in the car is a letter addressed to the owner of the vehicle and the victim in these events and is signed by Ben Nabors. I don't know that anybody could have concocted that during the course of his driving around Laurens and Anderson County. But, you know, stranger things have happened in this world, I guess. So, if he contests the letter, in other words, he don't know where it came from, how it got in there, who it belong to or who prepared it, then they might need to lay some foundation. But it sounds like to me, from what I understand of it, the foundation might have already been established. But if you need some additional information, perhaps Mr. Brown can provide it.

MR. STALVEY: Judge, just before we, I guess, consent to it being enter into evidence, I'd have to -- we have to hear some testimony that Mr. Nabors admitted out there that that's his letter. Otherwise, the burden's being shifted to Mr. Nabors to admit that this letter is his or actually more accurately prove that it's not his letter.

THE COURT: Well, don't misunderstand me, I'm not suggesting that. I'm just inquiring of you if it's an issue, then it will be addressed. And

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they'll have to lay a proper foundation for its admission. All I'm saying is I'm not sure how much more of a foundation needs to be laid. As I have just explained. That's the reason I'm asking you. If there's some question about this letter, then you need to let me know what that question is. But in any event, just like any other piece of evidence, they're going to have to lay a foundation during the trial in order for any piece of evidence to be admitted.

MR. STALVEY: Judge, it would be our position that that foundation has not been laid at this point.

THE COURT: Okay. Well, they'll have to lay the foundation.

Don't reference anything that's not agreed upon to come in or has not been previously been ruled upon. In open statements or anything else. Wait until the foundation has been properly laid, okay?

MR. BROWN: Yes, Your Honor.

MR. STALVEY: Judge, based on the testimony that was received during the Jackson v. Denno hearing, we do have an additional motion.

THE COURT: Okay.

MR. STALVEY: Judge, as you heard, I think that Lieutenant Plaxico testified that he did take a

picture of Mr. Nabors during the interrogation. Actually, he took more than one picture. Those pictures haven't been provided to Mr. Nabors or me. They're not in the file. They're in the possession of the State. It appears there's a Brady violation here. Judge, we move at this time for a mistrial. Your Honor, Mr. Nabors has asserted a guilty but mentally ill defense. These pictures could be exculpatory as far as that issue. If I have pictures taken of Mr. Nabors during that interrogation, the day after he was stopped, I can provide them to our expert to possibly evaluate if there's any kind of indication from his review of the photos whether he was, you know, recovering from a hallucination, still experiencing some effect of the schizo-effective disorder that he had been discussed with. Judge, those photos hadn't been provided to me. And we don't feel it's proper to go forward without them. And we ask for a mistrial.

THE COURT: All right, well I'm going to deny your motion for a mistrial. Let me ask you this, have you looked at the photographs that were upon his arrest, the booking photos at the Anderson County jail? Have those been provided to your expert? Sir?

MR. STALVEY: I'm sorry, Your Honor?

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THE COURT: Have those been provided to your expert? Because they're closer in time to his arrest than these photos that were allegedly made by Lieutenant Plaxico.

MR. STALVEY: Judge, they have been provide to the expert. However. . .

THE COURT: They have or have not?

MR. STALVEY: They have.

THE COURT: The booking photos?

MR. STALVEY: Yes, sir, Your Honor.

THE COURT: Okay.

MR. STALVEY: So, I mean, what he's got -- I mean, I can't sit here and represent to the Court that he even considered those photos, he may have not even looked at them. But if they're additional photos that are in the possession of the State, I'm not saying that -- it's my understanding they weren't given to the Solicitor's Office but the police have those photos. I don't know -- I'm not a psychiatrist so I can't testify or offer any explanation to how those might help our case. So, I mean, we feel like maybe our expert could possibly use those. I mean, that would go to his defense. And we feel like those would be necessary in order to properly prepare for our defense in this case.

THE COURT: All right. Well, I'm having a hard time grasping the significance of that. But I did not address it earlier but I will now. Lieutenant Plaxico, I believe, testified that the purpose of the photos that he said he thought might have been taken at the end of the interview. So, there wasn't any discussion or testimony provided as to whether or not Lieutenant Wilkins -- is it Wilkins?

MR. BROWN: Wilkie.

THE COURT: Lieutenant Wilkie was even present at the time that that occurred. Lieutenant Plaxico said he didn't recall whether he was actually there or not. He did recall taking the photos. And the purpose was to use for a photographic line-up for the benefit of the convict in perhaps identifying the Defendant as the perpetrator. But it turned out they didn't need them because they had other photos that they used for the photo line-up as I understand it. Now, I can't imagine that those photographs are going to be enlightening for any expert to testify in this case.

But are those photos available, Mr. brown?

MR. BROWN: Like I said earlier, today's the first time I've known about these photos.

THE COURT: Well talk to Lieutenant Plaxico and

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see if they're available.

MR. BROWN: See if they're available or not.

MR. STALVEY: Judge, can we take a brief recess so Mr. Nabors could use the restroom?

THE COURT: Okay, we'll take five minutes.

(WHEREUPON, a short break was taken.)

THE COURT: All right, Mr. Brown, what have we learned about the photos?

MR. BROWN: What we learned is Lieutenant Plaxico stated that a time later, after the initial -- after these pictures were taken after the questioning of Mr. Nabors, they were on -- they were on another call somewhere -- he can explain.

THE COURT: Well, you just tell me.

MR. BROWN: Okay. Cut to the chase, the phone dropped out of the truck and broke. And so, the pictures weren't used. The phone's not around anymore. And the pictures aren't there anymore.

THE COURT: All right, so the phone was destroyed and the pictures are unavailable and cannot be recovered or retrieved?

MR. BROWN: That's right.

THE COURT: All right, Mr. Stalvey.

MR. STALVEY: Judge, I mean, we don't know what these pictures show. And I know the Court inquired

about the booking photos and that type of thing. However, Judge, I'm looking at one booking photo right now and it's from far away and he's got his eyes, you know, they're squinting. And I don't want to offer anything as far as expert -- an expert opinion, but, you know, I don't know if our doctor is going to come in and say, Well, it's a close-up photo I can see if his eyes were dilated or if they were bloodshot or, you know, if they was something about it. Or something about his appearance could have some possibly effect on the doctor's opinion of him.

Judge, the photos were taken at different times. I'm not in a position to offer that other than just to speculate that it could have some effect on his defense. Particularly, the guilty but mentally ill. And the photos have been destroyed. So, we don't have that opportunity. And we feel like it could be important to his case, it could have nothing to do with his case but we'll never know. Because of that he can't present the complete defense that he's constitutionally entitled to. So, Your Honor, we feel like a mistrial is appropriate. We just ask that you grant the motion.

THE COURT: Well, how is a mistrial going to benefit you? The pictures aren't available. You're

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not going to find the pictures.

MR. STALVEY: I don't know, Judge.

THE COURT: Okay.

MR. STALVEY: We just feel like they should have been made available. So, any other relief you feel is appropriate. To be honest with you, I can't think of any, you know.

THE COURT: Well, you want to make a motion to dismiss the case because they destroyed some potential evidence?

MR. STALVEY: Yes, sir, Your Honor.

THE COURT: Okay, that motion's denied, also.

The photographs as has been referred to earlier, were taken with the idea that they might be needed for a photographic line-up. It turns out they were not. So, Lieutenant Plaxico did not print them. I guess I'm correct, they were never printed. And they were of no benefit to him at that point. Because they already had another photograph to use for the purposes of a photographic line-up.

And as has been stated, and, Mr. Stalvey, if you need to testimony to establish the fact, we can take it. But Mr. Brown has talked to Mr. Plaxico and the statement is that he had the phone and that anything that was on the telephone has been destroyed because

the phone was dropped and broken and just doesn't exist anymore. That does not sound like to me that there was anything intentional, it was all inadvertent. Lieutenant Plaxico did not even know that he was destroying potential evidence because he thought he was taking the pictures for a line-up that he didn't need them for. So, it was just personal photos at that point. That had been subsequently destroyed and are not retrievable.

MR. STALVEY: Judge, just -- may it please the Court?

THE COURT: Yes.

MR. STALVEY: I think, I mean, just as far as the record, it will make us more comfortable if we get Lieutenant Plaxico --

THE COURT: All right, Mr. Brown, call Lieutenant Plaxico and ask him about the pictures on the phone.

MR. BROWN: Lieutenant Plaxico to the stand, please.

THE COURT: All right, Lieutenant Plaxico, you previously been placed under oath for the purposes of this trial so you're still under oath.

LIEUTENANT PLAXICO: Yes, sir.

REDIRECT EXAMINATION

BY MR. BROWN:

Q Lieutenant Plaxico, you stated that while you were -- after you Mirandized Mr. Nabors and while he was giving a voluntary statement, you took pictures of Mr. Nabors on a cell phone.

A I did.

Q And what was the purpose to taking those pictures on the cell phone?

A We were thinking to use them in a photo line-up.

Q Did you, in fact, use them in a photo line-up?

A We did not.

Q And how many pictures did you take on that cell phone?

A I took two.

Q After the questioning ended, what did you do with the cell phone?

A I placed it in my pocket and we left.

Q Do you have that cell phone today?

A I do not.

Q Why do you not have the cell today?

A I'm also the fire chief at the Joanna Fire Department, and Laurens County had a pretty tall tower over there at the Sheriff's Department that they gave to Joanna Fire Department. So, one Saturday I brought my 75 foot platform truck to the Sheriff's Office and myself and

Lieutenant Wilkie were up to the fully extended to 75 foot taking that tower down and I dropped it out of that tower and it hit the asphalt and busted in several pieces. And was thrown in the trash.

Q So, at that time the phone was destroyed?

A The whole phone was destroyed.

Q And since the phone was destroyed, the pictures are no longer accessible?

A No, sir, no.

MR. BROWN: No further questions, Your Honor.

THE COURT: Mr. Stalvey.

RECROSS-EXAMINATION

BY MR. STALVEY:

Q Lieutenant one question, it's your testimony today that the pictures are no longer accessible, correct?

A That is correct.

MR. STALVEY: Thank you, sir.

THE COURT: Okay. Step down.

All right, anything else?

MR. BROWN: Not from the State, Your Honor.

MR. STALVEY: Not from the Defendant, Your Honor.

THE COURT: Okay. Mr. Brown, who's your first witness going to be?

MR. BROWN: First witness is going to be

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Ms. Toni Edwards, the victim in the case. Followed by her son.

THE COURT: How long do you anticipate Ms. Edwards' testimony taking?

MR. BROWN: I would say at least 15 minutes. Twenty minutes. I mean, that would be my initial questions. It might take longer than that just based on. . .

THE COURT: Well, you don't anticipate it being lengthy?

MR. BROWN: Not real, real lengthy.

THE COURT: Okay.

MR. BROWN: But, Your Honor, I'm not sure how long Mr. Stalvey is going to be questioning her--

THE COURT: I know. I know. You can't predict that.

All right, ask the jury to come in. Ask Mr. Schulz, Burke Schulz, that's juror number 98, to take the Foreperson's seat.

THE BAILIFF: Your Honor, which one?

THE COURT: Let me make sure I got that down. Hold on. Yeah, Burke Schulz, he's the Foreperson.

MR. STALVEY: Judge, we're going to ask for the witnesses to be sequestered. I don't know if you want to do that before or after.

THE COURT: Any objections?

MR. BROWN: No objection, Your Honor.

THE COURT: All right, go ahead and sequester them. Ms. Edwards gets to stay.

(WHEREUPON, the jury came into open court at approximately 4:20 p.m.)

THE BAILIFF: All present, Your Honor.

THE COURT: Okay, thank you.

Good afternoon, ladies and gentlemen, I apologize for the delay in having you brought back in, but the matters I had to address took a little bit longer than I had anticipated. Which often happens. Nevertheless, we are ready now to begin with the trial of the case for which each of you has been selected.

And Mr. Schulz, I'm going to ask you to serve as the Foreperson of the jury. As the Foreperson you're going to have three specific duties that none of the other jurors will have. Number one, you will be asked to serve as a spokesperson for the jury. So, if during this trial something arises that needs to be brought to my attention, you or a fellow juror has some difficulty or problem or question, if you'll let me know, directly or through the Bailiff, if you're not in the courtroom, I'll address any issue or try

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to answer any question that you may have.

Secondly, you're going to be called upon to preside over jury deliberations when the time comes. That, of course, will not be until the end of the trial and after all the evidence has been received and I have instructed you on the law that's applicable in this case. But when the time does come for you to begin deliberations, it will be you who will preside over that process in the jury room. Simply to ensure that those deliberations are carried out in some orderly fashion.

And thirdly, you will be asked to actually write the verdict or the decision of the jury. You'll do that on verdict forms that I'll provide you at the trial's conclusion, on which you will indicate the jury's unanimous decision.

Now, the Foreperson has those specific duties that I just indicated. That does not however mean that he is anymore important that any of you other jurors. Because the decision of a jury is the unanimous consensus opinion of all 12 of you jurors. And therefore, each of you will have an equal say and equal vote in what the ultimate decisions in this case will be. Someone simply has to be delegated those responsibilities that I had just indicated and

I have delegated those to Mr. Schulz in appointing him as the Foreperson. But all of you jurors are equally important so far as the ultimate decision in the case are concerned. Because as I've stated, the verdicts have to be unanimous. All 12 of you must be in agreement.

Ms. Lyons and Ms. Young, each of you have been selected as alternate jurors. And the function of an alternate juror is to take the place of an original juror, if and when an original juror cannot continue to serve for some reason during the course of the trial. And so if one or more of these original 12 jurors are called away, one or both of you will be called upon to take that jurors place. In that event, you will become the 12th juror. And in that event, you would participate throughout the course of the trial, including the jury deliberations at the trial's conclusion.

If however, when the time does come for jury deliberations, if the original 12 are able to participate and the alternate juror's service ends, then you would not participate any further. Because the decision of the jury is that of 12 and no more than 12 are permitted to engage in that deliberation process. But it is important that each of you pay

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just as careful attention, as we ask of all the jurors in the case, because it does occur from time to time, for one reason or another, one or more of these original 12 jurors may be unable to continue. In that event one or both of you would be called upon to serve a the 12th juror. So, we do appreciate your participation as an alternate jurors, just as we appreciate the participation of each of the jurors who have been selected for the purpose of deciding the verdicts in this particular case.

You may swear the panel.

THE CLERK: Ladies and gentlemen, please stand and raise your right hands. If you accept the Oath that I'm about to administered, please respond by saying, I will.

(WHEREUPON, the jury was sworn.)

THE CLERK: Thank you.

THE COURT: Ladies and gentlemen, as you know, you have been selected as jurors in the case of The State vs. Benjamin Ray Nabors. As you also know, this is a criminal case. Criminal cases are based upon what are called indictments. Those indictments are those documents that I referred to and read from prior to your selection so that you would understand what the case is about and what the charges are they

have been brought against this Defendant. But in this case the Defendant has been charged with the crimes of conspiracy, car breaking and armed robbery. Those are allegations set forth in the indictments. The indictments are not evidence of anything. They're not proof of anything. They don't establish anything. They're simply the means by which any person who is accused of a crime is brought into this court and is formally put on notice as to what crime or crimes the State claims that they have committed.

The State has the burden of proving a Defendant's guilt beyond a reasonable doubt and they do that by the introduction of evidence. By way of testimony and otherwise. The indictments will be in the jury room at the trial's conclusion, but they are solely in the jury room to serve as the verdict forms, Mr. Foreman. So, while they'll be in there with, perhaps, other evidence introduced, the indictments themselves are not evidence. They're not to be considered as evidence and they do not establish anything. They simply will be there for purpose of serving as the verdict form.

But as to each of the charges, the Defendant has entered a plea of not guilty. And I as I believe I told you, a plea of not guilty places upon the State

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the burden of proving the allegations that are set forth in each indictment. The burden of proving each the essential elements of crime which are alleged against the Defendant. And therefore, the burden is upon the State to establish the Defendant's guilt to the satisfaction of you 12 jurors beyond a reasonable doubt before any verdict of guilty could be returned as to any of the separate indictments. And they are separate indictments.

The State alleges that they arise out of one event or course of events occurring back on June the 10th of 2009. But there are three separate and distinct offenses. Excuse me, three separate and distinct indictments that have separate elements that give rise to the offense. And so, you'll consider each of the separate charges based upon the evidence presented in the trial that relates to that particular charge and the law that's applicable that I will provide you. And therefore, when you go back to deliberate, and upon decided the facts and applying the law, your verdicts in this case might be the same as it relates to each of the indictments. Or the verdicts might be different. That, of course, will depend upon your determination of facts and then your application of the law as I will have provided

it to you when you go to arrive at your decision.

Now, every person accused of a crime is presumed to be innocent. And that presumption of innocence remains with any defendant as it does with this Defendant. From the time that he is placed under arrest and throughout the course of the criminal process, and even throughout the course of the actual trial in the case. That presumption of innocence will be with Mr. Nabors even at the time that you go back to begin with your deliberations at this trial's conclusion. That presumption of innocence will be with him in the jury room and it will be with him forever unless you 12 jurors determine that he's no longer entitled to the presumption of innocence as it relates to a particular charge. In other words, after you carefully considered all the evidence in the case and upon considering that evidence you have decided what you believe to be the true facts as they relate to that particular charge and upon deciding those facts you apply the law that I will have provided you. If you 12 jurors unanimously determine that his guilt has been proven beyond a reasonable doubt as it relates to a particular indictment, then he's no longer entitled to that presumption of innocence as it relates to that particular charge.

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But it's only if, unless and until you are satisfied of his guilt beyond a reasonable doubt that the presumption of innocence would no longer be applicable as it relates to a particular charge.

Now, the way the trial will proceed is that in a moment the lawyers are going to address you in what we call opening statements. There are two occasions in a trial of a case where lawyers are permitted to address the jury. And that is at the beginning of the trial before any evidence has been introduced. And then again at the conclusion of the trial after all of the evidence has been received. Please keep in mind, however, that the lawyers statements are not evidence. You will not rely upon lawyers statements as being any evidence upon which you will base your decision. And that's because the lawyers aren't witnesses to anything. They don't know anything about this case of their own personal knowledge or experience. Like witnesses will be testifying to. The lawyers aren't going to take the witness stand, they're not going to testify under oath, they're not going to be subjected to direct and cross-examination. Like witnesses will be.

So, what they tell you in their statements is not to be considered by you as any evidence upon

which you will base a decision. But you should listen to what the lawyers have to say because those statements do serve a purpose. The opening statements serve to provide you with a basic understanding as to what this case is about from both the perspective of the State and Defense. So, that you will have some context in which to place the evidence that we will be receiving shortly thereafter. The lawyers are permitted again to address request in what we call closing statements. And those occur after all the evidence has been received. Again, those statements are not evidence. But you should listen to what they have to say because it does afford them an opportunity to discuss with you the evidence that you have seen and heard during the course of the trial. And through that discussion, each will have an opportunity to try to persuade you or convince you that that evidence does or does not support a particular decision. And it's in between the opening and closing statements of the lawyer who would actually receive the evidence upon which you will base your decision.

As I told you, State has the burden of proof. They brought the accusation, they brought the charge against someone else. And therefore, because they

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have made the accusation, they have the burden of proving it. And they have the burden of proving that fact and the Defendant's guilt beyond a reasonable doubt. And so, they're obligated to present evidence and they will go first.

A Defendant in a criminal trial is never obligated to prove anything. A Defendant is always presumed to be innocent, as I told you. A Defendant doesn't have to prove that he or she is not guilty or prove that he or she is innocent because in some cases that might not even be possible. Therefore, a Defendant does not have to take the stand and testify during the course of a criminal trial. A Defendant does not have to call any witness or produce any evidence. And if a Defendant does not present any evidence, that's not a circumstance that the jury may consider in any way whatsoever, during your deliberations or in your determination as to whether or not the Defendant's guilt has been proven beyond a reasonable doubt. You can't allow it to weigh in the slightest degree against the Defendant. But a Defendant is afforded an opportunity to testify or present evidence should he or she wish to do so.

So, after all the evidence has been received and you here the financial summations of the lawyers, I

will then instruct you fully on the law as it relates to this case. In other words, I'm going to instruct you fully on the law as it relates to the criminal law, in general, and as it relates to these specific indictments, particularly. And after you receive that legal instruction, you'll go back into the jury room and you will begin with your deliberations. And you're simply going to be called upon, through the exercise of good judgment and common sense. Conscientiously applied to the testimony and the evidence in this case. To decide the fact, apply the law and I arrive at a fair and just decision. Whatever that decision might be.

So, all we're going to ask for you to do is pay careful attention throughout the course of the trial. Now, I understand as human beings we sometimes tend to pay more close attention to the first thing that we see or hear or perhaps the last thing that we see or hear. And as the trial progresses and witnesses are being called and evidence is being presented and sometimes we have a tendency to get distracted or lose interest, perhaps. But you've been selected for a very special purpose. And in this case, it's your obligation and your duty to arrive at a fair and just decision. So, you can't act as though you might if

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you were at home watching television or something, you've got to pay attention from the beginning of the trial until the end of the trial. You've got to give every witness the same degree of attention as they testify.

Now, that, of course, doesn't mean that you're going to give every witness the same degree of weight to their testimony. And that's a prerogative that you have. You will decide what weight, value and effect to give to any particular witness' testimony or even portions of testimony. You have to decide the facts and you do that based upon your evaluation of all the evidence presented during the trial. But you have to give every witness the same degree of attention as they testify, so that at the trial's conclusion, when you go back to begin your deliberations, you will be in a proper position to be able to fairly assess each witnesses credibility, believability and reliability after considering not just that witness' testimony but in light of all the testimony and all of the evidence received during the trial.

And, of course, it's also important that you keep an opened mind throughout the course of the trial. That just means you are not to begin making

up your minds or formulating your opinions as to what you think the ultimate decisions in the case ought to be, until all of the evidence has been received, until I've instructed you on the law and until you been asked to begin with your deliberations in the case. That is the process that is designed for you 12 jurors to arrive at a fair and just decision in the case. So, I do want to thank you in advance for participation. As well as for your careful attention. I would ask that you please give the lawyers your attention now as they give you their opening statements.

Mr. Brown.

OPENING STATEMENT

MR. BROWN: May it please the Court?

THE COURT: Yes, sir.

MR. BROWN: Counsel.

Madam Clerk.

Members of the jury, I just want to introduce myself again. My name is Yates Brown, am an a Assistance Solicitor here in the Eighth Circuit. Born and raised here in Laurens County. Went away for college and law school and now I'm back in this capacity as a prosecutor. At the table sitting next to me is Deputy Solicitor Jack Hammond. Sitting here

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in the audience here is Ms. Toni Edwards, the victim in the case.

Now, there's an old saying that no good deed goes unpunished. That's what this case is about today. On June 10th, 2009, Ms. Edwards was grocery shopping, late at night, right down here at the Food Lion. Right as you come in the courthouse, right off Hillcrest Drive is Food Lion right down there. She was there that night grocery shopping. She gets off work mid-day, mid-afternoon and so she shops sometimes at night. Ms. Edwards lives in Gray Court, South Carolina, which is in Laurens County.

As she was leaving Food Lion, she was approached by two people. One of them which is sitting over here, Ben Nabors, the Defendant in this case. And as she was coming out to her car, she was approached by them and given a sob story. Why they needed a ride back to Gray Court. She just happened to be driving back to Gray Court that night where she lives. She fell for that sob story, she tried to do a good deed. Invited them into her car to give them a ride like they asked for.

Now, as they got in the car, Ms. Edwards was the driver. Co-Defendant Mr. Nabors, his significant other was in the front seat. Ben Nabors is in the

back seat, behind her. As they drove out the Food Lion, which is right down there, turned on to Hillcrest Drive, which is the road that runs right in front of this courthouse and came down to the traffic stop light which then turns right onto to Highway 14. Which takes you to Gray court. They took that route and they drove to Gray Court. And during that time they had small talk and she -- she thinks she's just going to drop them off as they enter the town of Gray Court. Right there where it says, Established in 18 -- I can't remember the date. But right there at the beginning of Gray Court.

Instead of stopping there, they ask her to take a left onto Georgia Road. Go across Georgia Road, there's a railroad track. Go across the railroad track, go on down the road. At that point, Mr. Nabors asked Ms. Edwards to turn right onto Speedway Drive. At this time it's getting off of what she originally agreed to to drop them off at Gray Court. Starting to go down some dark roads, no traffic, no lights lighting up the area. Remember it's nighttime. Left at 10:00 o'clock.

Turn right on Speedway Drive. Speedway Drive is paved part of the way down the road, then it becomes a gravel road. At that time Mr. Nabors was telling

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her exactly what road he's [verbatim] on and he [verbatim] slowed down at the gravel road. Once you come to the down bottom of the hill there's a wood bridge that's got a hump on it. And you slow down enough where you don't mess your car up. As they get closer to that bridge, she slows down. At that time, Mr. Nabors comes up from his back seat, put his arm around her, had the knife to her throat. Tells her that he has a knife to her throat. Ms. Edwards believes he has this knife to her throat. She's got her purse in the car, she's got her groceries in the car. And also, in the front seat, remember, is the Co-Defendant in this case.

At that time, he tells her to stop the car, get out, you'll get your car 30 miles down the road at some point. Get out of the car and I won't hurt you.

All the while, he's got a knife to her throat. She gets out of the car, he comes to the front seat and goes out the driver's side door as well. This is a dark road, graveled road, wooden bridge, Gray Court. Ten o'clock at night, it's dark out there. She's left on this road. Mr. Nabors hops back in the car with his Co-Defendant, and they take her 2008 Ford Escape. She's left on the side of the road. But luckily during this whole time, she had her

phone, her cell on her hip. Left her purse in the car. Left everything else she bought from the grocery store, right down here at Food Lion, in the car. And she's left on the road.

So, Ms. Nabors -- Ms. Edwards gets the phone, she's trying to dial 911. Can't press the buttons. She then speed dials her son. Who is an off-duty deputy for Laurens County Sheriff's Office, Jamie Edwards. She explains what happened, she tells him where she believes she is, he on his way to come pick her up. After that call, she gets off the phone with him, she calls 911. Talks to a operator. She tells them where she is. Well she tries to explain where she is so they can come locate her. She tells her license plate number, what type of car she's got. Can tell exactly what happened.

She's later found back up the road. She had walked about a half mile back up the road from where she was originally put out of the car. At that point her son and Deputy Tucker find her there. At that point Laurens County Sheriff's Office has a Be On The Lookout for the car that was just taken from her.

The next day the calls is issued -- or a traffic stop a issued in Anderson. An Anderson County deputy was driving, patrolling on Interstate 85. For

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whatever reason he thought the car looked suspicious, thought people in the car looked kind of suspicious and he ran the license plate. Happened to come up stolen out of Laurens County. We follow behind them, get off the Interstate, he issues his blue lights, they cross over the Interstate and stop there. And that where Anderson County deputy makes the arrest.

Now, that's just the facts in a nutshell. And more of it will come out later as the trial progresses. But you already heard the Judge explain that it's my burden, as a representative of the State, to prove beyond a reasonable doubt that Ben Nabors is guilty of car jacking, conspiracy, and armed robbery. And proof beyond a reasonable doubt is the -- proof beyond a reasonable doubt is the proof that leaves you firmly convinced that the Defendant is guilty. Mr. Nabors.

Now, felony of car jacking, a person is guilty of car jacking when he takes or attempts to take a motor vehicle from another person by force or by intimidation while the person is operating a vehicle or while the person is in a vehicle. It's car jacking. Robbery, attempted robbery, is robbery while armed with a deadly weapon or alleging either by action or words, that he's armed with this weapon

or using representation of a deadly weapon or any object, which a person during the commission of this act reasonably believes or believed to be a weapon. And conspiracy. A combination between two or more persons for the purpose of accomplishing some type of object, some type of crime. Now, I ask you to pay careful attention during this trial, listen to all the facts, listen to all the witnesses in this case. And then I'll be back up at the end of the trial to ask you to render a guilty plea verdict. Thank you.

THE COURT: Mr. Stalvey.

MR. STALVEY: Thank you, Your Honor, may it please the Court?

THE COURT: Yes, sir.

OPENING STATEMENT

MR. STALVEY: Ladies and gentlemen, things aren't always as they seem. Things aren't always as they seem. And as you'll see in this case, things aren't always as they appear to be. Ladies and gentlemen, my client is Ben Nabors, he is 34 years old. He grew up in Gray Court here in Laurens County. They're two things about Ben that we're going to go ahead and tell you. He's pretty much been in trouble all his life. The other thing is after he gets in trouble and has gone to jail and

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been to the Department of Corrections, one consistent thing about Ben is that every time he's been in trouble, he's gone to see somebody in mental health. You see, ladies and gentlemen, things aren't always as they seem. And Ben Nabors, on the day of this incident, did not perceive the events as were just told to you by the government.

Ladies and gentlemen, as you'll understand and learn during this trial, Ben Nabors suffers from something called schizo-effective disorder. And one symptom of schizo-effective disorder is hallucinations. He thinks things are going on that in reality are not. So, things aren't always as they seem. And for Mr. Nabors, on that day, what you've heard, was not going through his mind. And ladies and gentlemen, I know some people have an attitude about mental health issues where it's normal to just brush those aside. But in this case, in this proceeding, in this trial, you all have a duty to put aside your feelings, any kind of preconceive notions you have about mental health. And we're going to learn a lot during this trial, not only from witnesses that the that State presents, but witnesses that are going to be presented by me and Mr. Nabors.

You see, ladies and gentlemen, on that day,

Mr. Nabors and his wife, did go to the Food Lion. They did ask Ms. Edwards for a ride. Ms. Edwards gave them a ride. And I agree with the Government, she did a good deed that day. And I'll tell you right now, she did not deserve what happened to her that day. However, things that day from Mr. Nabors perspective, are not how they seem. Because when Mr. Nabors was riding in that car and he was in the back seat, he suffered from one of these hallucinations. Which as I told you, is a symptom of schizo-effective disorder, which he has been diagnosed by a medical doctor to suffer from.

And ladies and gentlemen, I emphasize the word suffer. He suffers from this disease. And it is fair what happened to Ms. Edwards because he suffers from this disease? Absolutely not. Absolutely not. She was doing a good deed that day. She didn't deserve what happened to her. However, Mr. Nabors did not perceive things as they were actually happening in reality. See, Mr. Nabors, had an hallucination. He believed for some reason that I don't understand, that you will not understand, that no one will understand, for some reason he perceived the fact they had a conversation in the car, Ms. Edwards, they talked about her son, who's in law

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enforcement. And something triggered in Mr. Nabors mind that Ms. Edwards was after him. She was out to get him. At that point, he stole the car from her.

Now, something very important. I'm going to point out to y'all, is that at no time did Mr. Nabors ever have a weapon. Did he force her out of the car? Yes. Did he steal her car? Yes. But at no time did he have a weapon. Or did he represent that he had a weapon. You see, things aren't always as they seem. Ms. Edwards, and everybody can understand this, can appreciate this, was going through an extremely traumatic experience. And things weren't always as they seemed to her. Now, she told police that he put a knife to her throat. However, as you'll see during this trial, there's no physical evidence, whatsoever, that suggests Mr. Nabors had a knife. There's no corroborating evidence, whatsoever, that he had a knife. There's no evidence, besides what she says, that he had a knife. No weapon was found.

And ladies and gentlemen, we won't even know if they looked for a weapon out there. Because not only is there no physical evidence to corroborate the fact that he had a knife, the investigation that may have uncovered this was incomplete. No knife was ever found. So, what you got to make your mind up about

is, does the evidence that he had a knife make all of you feel comfortable enough to convict this man? And we'll get into reasonable doubt at the conclusion of the trial. However, I submit to you right now, the evidence won't rise to that level.

Ladies and gentlemen, things aren't always as they seem from your perspective as jurors. See, you may be standing here or sitting here wondering, is my decision at the conclusion of this case going to make a difference on whether Mr. Nabors goes free. Well it won't. Because he's not going to go free. He's going to the Department of Corrections. No matter what your decision is today. He's not going to be out on the street. He's going to the Department of Corrections for a specific period of time. See, he's admitted to a robbery. Not armed, but a robbery. He's admitting to stealing Ms. Edwards car. And I'll tell you right now, he wishes that that had never happened. But no decision that y'all make at the conclusion of this case is going to result in him walking out the front door of this courthouse. He's going out the backdoor, he's going to the Department of Corrections and he will not be walking among us.

So, ladies and gentlemen, I ask that you consider all the evidence that's presented to you. I

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ask you to listen to the witnesses. I ask you to review every piece of evidence that the State puts in, that we put. And at the conclusion of this case, you'll see things aren't always as they seem. And if that's your opinion, at the end, you must come back with a verdict of not guilty. Your verdict will be either guilty but mentally ill. And then you got to make a decision on whether it's an armed robbery. And we're going to ask the Judge to charge you with the lesser included offense of common law robbery. So, those are decisions that you will have to make. And at the conclusion of this case, you will have hesitation and you will not be convinced beyond a reasonable doubt that things are as the Government thinks that they seem. Thank you.

THE COURT: Ladies and gentlemen, because of the hour, we're going to recess for the day, we'll resume in the morning beginning at 9:30. At 9:30 in the morning. Let me caution you, as I believe I addressed earlier but I'll provide you of it. During overnight recess you're to have no discussions about this case with any person whatsoever, in any fashion whatsoever. You're also not to allow yourself to be exposed to any type of media coverage that might relate to the case. Where it be television, radio or

newspaper. And you're not to conduct any research or do your own investigation into any issue that might arise during the course of the trial. As I stated, you have to base your decision upon what you see and hear during the trial. You can't be influenced by any outside or extraneous information. So, no discussions, no media exposure, no research, no investigation. Do have a good evening and please report directly to your jury room at 9:30 in the morning. 9:30 in the morning. Have a good evening.

(WHEREUPON, the jury left open court and was excused for the day at approximately 4:55 p.m.)

THE COURT: All right, any other matters to address before we recess?

MR. BROWN: Not from the State, Your Honor.

MR. STALVEY: None from the Defense, Your Honor.

THE COURT: All right, court's in recess until 9:30 in the morning.

MR. BROWN: Thank you, Your Honor.

(WHEREUPON, the proceedings were concluded for the day to be reconvened on October 19, 2010.)

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October 19, 2010

THE COURT: Mr. Stalvey, I understand your client has had a change in his decision?

MR. STALVEY: Yes, sir, Your Honor.

THE COURT: And what does Mr. Nabors wish to do?

MR. STALVEY: Plead guilty, Judge.

THE COURT: Is that true, Mr. Nabors?

MR. NABORS: Yes, sir, it is. I'd like to address the Court before you finish though.

THE COURT: All right, you may.

I have been provided with a copy of a report from the Department of Mental Health with reference to an evaluation conducted pursuant to Court Order back in July and August of 2010. The evaluation was conducted and a report was provided or issued by Jeffery Musik, Ph.D, Chief Psychologist with the Department of Mental Health.

Any objection to this report being made a part of the record, Mr. Stalvey?

MR. STALVEY: No objection, Your Honor.

THE COURT: All right, I've reviewed the report. Based upon the report Mr. Nabors is competent to stand trial. He is criminally responsible for acts occurring on or about June 10th of 2009. And he does not suffer from any type of mental illness disease or

defect which would have prevented him from preforming his conduct to the requirements of the law. And therefore, he is competent, he is not mentally ill in accordance with the guilty but mentally ill statute. And he was able to distinguish moral and legal right from moral and legal wrong and therefore, criminally responsible.

EXAMINATION

BY THE COURT:

Q All right now, Mr. Nabors, you've indicated that you wish to enter your pleas of guilty to two of the indictments. Those indictments being the indictments for armed robbery and for carjacking. Is that correct?

A Yes, sir, it is.

Q And have you had plenty of time to talk to with Mr. Stalvey about your decision to plead guilty?

A Yes, sir, I have.

Q Did he go over each of these indictments with you and explain to you what the State claims you did?

A Yes, sir, he did.

Q And has he explained to you what the State would have to prove in court before you could be found guilty of armed robbery?

A Right.

Q Of carjacking?

A Yes, sir.

Q And did you explain to him everything you know about those allegations set forth in the indictment?

A Yes, sir, I did.

Q And did you and he discuss whether or not you have any legal or factual defense to either of those charges?

A Yes, he did.

Q Do you know of any defense that you have to either charge?

A I don't know, I'm just rolling with the flow, Your Honor. I don't know nothing about the law. I'm ignorant when it comes to the law.

Q Well I understand. But what I'm asking you is, can you think of any reason or do you know of any reason yourself or after discussions with Mr. Stalvey, why you should not be found guilty of carjacking?

A No. I mean, no.

Q Do you know of any reason why you should not be found guilty of armed robbery?

A No, sir.

Q You understand because you have participated in the jury selection process, that you have a right for this case to continue and to have that jury that you helped select, decide the verdicts in your cases?

A Then you -- if I'm found guilty it's left up to your discretion to sentence me?

Q That's true. Has Mr. Stalvey explained to you the Constitutional rights that you give up when you decide to plead guilty to a criminal charge?

A Yes, sir.

Q You understand you have the right to remain silent?

A Yes, sir.

Q And by that I mean, that nobody can make you testify. Nobody can require that you make a statement that relates to these charges, no one can require that you answer any questions that relate to these charges. In other words, you never have to provide evidence of your own guilt. And therefore, you don't have to say anything that might tend to establish your own guilt. You have an absolute right to remain silent and to require the State to come into court with sufficient evidence to establish your guilt to the satisfaction of those 12 jurors beyond a reasonable doubt. And you never have to help the State in their efforts to prove your guilt by making statements or answering questions that might tend to prove your own guilt.

However, when you make a decision to plead guilty, you have to give up those rights, you see.

Because I've got to ask you questions. The purpose of me asking these questions is for me to determine whether or not your decision to plead guilty is freely and voluntarily made and that you understand the consequences of that decision.

A Yes, sir.

Q So do you understand your right to remain silent?

A Yes, sir, Your Honor.

Q And do you wish to give that right up in order to plead guilty?

A Yes, sir, I do.

Q You also understand and has Mr. Stalvey explained to you that you have the right to confront any witness that would offer evidence against you. In other words, you got a right to require the State to bring each of their witnesses into court, those witnesses would have to take the witness stand, they have to testify under oath in your presence, you could see who they are, you could hear what they have to say, your lawyer could examine those witnesses on their testimony in order to test the credibility and the reliability of the witness and their information.

Now, when you plead guilty, the witnesses aren't required to testify. And they are in court because

we selected a jury in the case and they may address the Court. But they're not going to be placed under oath and you're not going to get to cross-examine them. But you have an absolute right to confront the witnesses if you wish to. But when you plead guilty you have to give that right up. Do you understand your right to confront each of the State's witnesses?

A Yes, sir.

Q And understanding that right do you wish to give it up in order to plead guilty?

A Yes, sir.

Q And, of course, you also have a right to have a jury trial. And for a jury of 12 people to determine whether or not you are guilty of any crime, the State claims you committed. And you have participated in that selection process. Twelve jurors have been chosen. They are back in the jury room now awaiting our either resuming the trial or bringing them back to tell them their service is no longer needed. But you have an absolute right to have a jury decide the verdict in your case. And before that jury could find you guilty of any crime the State claims you committed, all 12 jurors would have to be convinced of your guilt beyond a reasonable doubt. And the burden is on the State the convince those jurors of that fact. The burden is not upon you to prove that

you're not guilty, the burden is on the State to prove that you are guilty.

And so you can have your jury trial and have the jury make the decision but you still don't have to testify. You still don't have to make any statement, you still don't have to answer any questions. You can call witnesses if you want to and you can testify if you want to. But nobody can require it. Nobody can make you. Do you understand your right to continue with this jury trial?

A Yes, sir, I do.

Q Do you understand that if you plead guilty, the jury is not going to make a decision in your case?

A Yes, sir.

Q Do you wish to give up your right to have the jury decide the verdicts in these cases?

A Yes, sir.

Q Now, in Indictment 2009-1276, that indictment charges you with carjacking. The State alleges in that indictment that you did on or about June 10th, 2009, willfully and unlawfully take or attempt to take a motor vehicle from another person by force and violence or by intimidation while that person was operating a motor vehicle. Or while that person was in a vehicle. And they specifically allege that you did by force and violence

take a 2008 silver Ford Escape that was being operated by Toni Edwards in violation of this statute. Did you understand that's what you were charged with?

A Yes, sir, Your Honor.

Q And do you understand what the State would have to prove before you could be found guilty of that offense?

A Yes, sir, Your Honor.

Q Are you pleading guilty to that Indictment because you did commit the acts that are alleged in this Indictment?

A Yes, sir, I did.

Q And you understand that if I accept your plea of guilty you could receive a sentence of up to 20 years in jail?

A Yes, sir.

Q Do you understand that carjacking is also classified in the law as a violent offense?

A Yes, sir.

Q Do you understand the significance of that designation?

A Yes, sir.

Q Mr. Stalvey's explained it to you?

A Yeah. Without injury, carjacking without injury?

Q Well, they're not alleging any injury in the

indictment, they're just alleging the act of carjacking which is taking a vehicle that was occupied or being driven by another person. And that you committed those acts by the use -- or accomplished those acts by the use of force or intimidation or violence.

A Yes, sir.

Q Okay. And you understand you could receive 20 years? And you understand it's classified as a violent offense?

A Yes, sir.

Q Do you also understand that it's classified as a no parole offense?

A Yes, sir.

Q Mr. Stalvey explained that to you?

A Yes, sir.

Q Indictment 2009-1387 is the indictment that charges you with the crime of armed robbery. And the State alleges that on or about June 10th of 2009, you did willfully and unlawfully and while armed with a deadly weapon or while alleging either by actions or words that you were armed while using a representation of a deadly weapon or some object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. And that you did take, steal and carry away from the person and presence of Toni Edwards by the

use of force and violence or intimidation personal property that belonged to her. That being described as a pocketbook. And that you took that property and intended to convert it to your own use to the exclusion of her rights to it. Now those facts, those acts, constitute armed robbery. You understand the charge?

A Yes, sir, Your Honor.

Q Are you pleading guilty to that indictment because you did commit the acts as they are alleged in it?

A Yes, sir, Your Honor.

Q And you understand that if I accept your plea of guilty that you could receive a sentence of up to 30 years in jail?

A Yes, sir, Your Honor.

Q Do you understand that it requires a mandatory minimum sentence of not less than 10 years in jail?

A Yes, sir, Your Honor.

Q Do you understand that armed robbery is also classified as a violent offense?

A Yes, sir, Your Honor.

Q And Mr. Stalvey explained to you the significance of that designation?

A Yes he has, Your Honor.

Q And you also understand that armed robbery is also classified as a most serious offense?

A Yes, sir.

Q Do you understand the significance of that designation?

A Yes, sir.

Q Have you ever before today been convicted of a crime classified as a most serious offense?

A No, sir.

THE COURT: Is that true, Mr. Brown?

MR. BROWN: That's true, Your Honor. He pled guilty to common law robbery.

THE COURT: That's not a most serious offense. Is it classified as serious, common law robbery?

MR. BROWN: No, sir, Your Honor.

THE COURT: No. He has no serious or most serious convictions?

MR. BROWN: No, Your Honor. These are the certified copies on his convictions.

THE COURT: The common law robbery was a reduction from armed robbery?

MR. BROWN: That's correct, Your Honor.

BY THE COURT:

Q All right, well, Mr. Nabors, do you understand that if I accept your plea of guilty today to the crime of armed robbery, you will have a conviction for a most serious offense? And in the future, if you are convicted

of another most serious offense, you'll have to be sentenced to a term of imprisonment for the balance of your natural life. Do you understand?

A Third strike, yes, sir.

Q Well it would actually be two strikes. Two most serious offenses. If you have a combination of three serious and most serious offenses, the State may seek a life sentence.

A Yes, sir.

Q If you have two convictions for most serious offenses, there's no discretion, you have to be sentenced to life without parole. Do you understand that?

A Yes, sir, Your Honor.

Q Okay. Understanding that you still want to go forward and plead guilty as you've indicated?

A Yes, sir, I do.

Q You are 34 years old?

A Yes, sir.

Q And how far did you go in school?

A About 10th grade, I got my GED in prison.

Q And are you married?

A No, sir.

Q Do you have any children?

A No, sir.

Q What kind of work have you done?

A I'm a show man, I travel around with the carnival, with big carnival shows, I'm a foreman.

Q Okay. And you're incarcerated today? You're in jail today?

A Yes, sir.

Q How long have you been in jail?

A Sixteen months.

Q Sixteen months?

A Yes, sir.

Q And are you today under the influence of any type of drug or alcohol?

A Just what they give me for my nerves and stuff.

Q And what type of medication are you receiving?

A I'm receiving 100 milligrams of Prozac every day, 15 milligrams of Oratane each day and 5 milligrams of Haldol followed with injection shots every three weeks. I just recently took a shot yesterday or day before yesterday for three weeks. I'll be good on that medicine.

Q Who's prescribing those medications for you?

A Dr. Martin.

Q All right. And the purpose of those medications is to enhance your ability to comprehend your surroundings and make decisions for yourself?

A Yes, sir.

Q And do those medications, in fact, assist you

today in making the decisions you're making today?

A Yes, sir, Your Honor.

Q Have you ever been treated for any type of substance abuse or addiction?

A Yes, sir.

Q And when were you treated and for what?

A I think I was about 12 or 13 years old, Your Honor. I was treated out of state at a place called Cedar Springs in Charlotte, North Carolina. My daddy's insurance paid for me to go through it. And that's the only treatment I've ever had. It wasn't but 30 days. Thirty days I was magically cured. They let me go back, the insurance run out. So they said I was magically cured.

Q Well that was when you were 12 or 13?

A Yes, sir.

Q And you're 34 today?

A Yes, sir.

Q And do you suffer from any addiction today or the effects of such?

A No, sir. I just know I want to get this over with so Ms. Edwards ain't got to keep standing over there and getting put through more of it. I'm very shameful for what I have done to her. And I know what I done was wrong. She was just trying to be a good citizen. And I

just flipped out. And that's no excuse. I was on drugs too, that's not excuse, I already know that.

Q All right, let me ask you this, have you ever been treated for any type of mental illness or emotional disturbance?

A Yes, sir.

Q When and by whom?

A I been treated by SCDC for bipolar and I can't pronounce it's psychic -- psychotropic. I can't pronounce it. Pathological psychic, something like that. I'm lost, I mean, I'm blank. Sorry about that.

Q That's okay. Well, you've had some mental illness in the past or suffered from some type of mental condition. And these medications that you're taking are supposed to compensate for that?

A Yes, sir.

Q And do you believe that they are?

A I believe so, yes, sir.

Q So you understand fully what you're doing here today?

A Yes, sir.

Q Do you need to discuss it any further with your lawyer?

A No, sir.

Q And you have any questions you need to ask me

about your decision to plead guilty today?

A No questions. I just want to, you know, like I said, say a few words before you sentence me.

Q I'm going to provide you that opportunity, that will be at the end, okay?

A Yes, sir.

Q All right. Now, I'm going to ask the Solicitor to tell me about the facts that relate to your case. Listen to what he tells me because when he's through I'm going to ask you if you agree with his recitation of those facts, okay?

A Yes, sir, Your Honor.

Q So pay attention.

THE COURT: Yes, sir, Mr. Brown.

MR. BROWN: Thank you, Your Honor, may it please the Court. On June 10th of 2009, Ms. Toni Edwards, the victim in this case, was grocery shopping at the Food Lion here in Laurens. As she was leaving the grocery store she was approached by Mr. Nabors and his girlfriend, Ms. Hughes. They asked her for a ride. She graciously let them get in the car with her, take them to Gray Court, which is in Laurens County.

After they drove to Gray Court they asked her to turn left onto Georgia road. Then Mr. Nabors asked

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her to turn right on Speedway Drive. And at the bottom of the hill, she came to a stop and at the point Mr. Nabors came from the back seat, put his arms around her and placed what he told her was a knife to her throat. And what she reasonably believed to be a knife to her throat. At that point he told her to get out of the car, forced her out of the car. And once she was out of the car, told her to not turn around and that she would find her car 30 miles up the road. At that point he jumped back in the car with Ms. Hughes and they left Ms. Edwards on the side of the road of Speedway Drive.

Ms. Edwards was able to -- luckily she had her cell phone attached to her hip. She was able to dial her son and also dial 911. 911 was able to put a be on the lookout for her 2008 Ford Escape. The next day Anderson County Sheriff's Office Deputy stopped the 2008 Ford Escape driving on Interstate 85. At that point he stopped the car on, I believe, exit 4. And at that time was able to apprehend Mr. Nabors and Ms. Hughes at that time.

Mr. Nabors has given voluntary statements at the time of the traffic stop and also Laurens County deputies regarding this case. And at the appropriate time I believe Ms. Edwards would like to say a few

words and also Deputy Crawford with the Anderson County Sheriff's Department.

BY THE COURT:

Q All right, Mr. Nabors, you heard what the Solicitor told me about the facts that relate to your cases. Do you agree what he has told me is correct --

A Yes, sir.

Q Or do you disagree with it?

A I agree with it.

Q All right. You still want me to accept your pleads of guilty?

A Yes, sir, I do.

THE COURT: All right, I'll accept your pleas and hear from you and Mr. Stalvey. Then I'll hear from Ms. Edwards.

MR. STALVEY: Thank you, Your Honor, may it please the Court. Judge, Mr. Nabors is 34 years old. You asked about mental health treatment that he's received in the past. I've reviewed his South Carolina Department of Corrections medical records and he has be diagnosed with depression, bipolar disorder, anti-social personality disorder. Judge, he's suffered from mental illness basically since he was a young child and that's reflected in those reports.

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Your Honor, I'm just offering that in mitigation. It in no way excuses what happened to Ms. Edwards that night. And during my time with Ben, he's been forthright in his remorse for what happened. And, Judge, his attitude that you saw on the video that Deputy Crawford provided that happened out in Anderson, I mean, that happened the day after. And he was certainly -- well obviously remorseful. And feels terrible about what he did.

Judge, he's accepting responsibility. As he told you just a minute ago, he doesn't want to put Ms. Edwards through anymore pain or grief. Which if she was to testify today we certainly think that would happen. Your Honor, we just ask that you recognize the fact that he is accepting responsibility for his actions. His mother is here, Ms. Nabors, Mary Nabors, she's in the back on the front row on the right-hand side. I believe some of his other family members are here with him today.

Your Honor, finally I'll just say that Mr. Nabors, without receiving the proper mental health treatment, that's the person that did these terrible things to Ms. Edwards that night. But when he's receiving his treatment and when he's properly medicated, Your Honor, he can be a good -- I mean, he

is a good person. I've spent a lot of time with him this past year and I just ask that you recognize that, I guess, in fashioning a sentence for him.

THE COURT: All right, let me ask you this, Mr. Stalvey. I know that at the outset of this trial that you had indicated that your intent to attempt to offer or present some type of mental health condition defense, whether it be insanity or inability to conform. I know that you have consulted with a psychiatrist regarding Mr. Nabors mental condition. It is fair to say that as of this time, that you do not have evidence that you could present before the jury or the Court that would establish by the greater weight of the evidence that Mr. Nabors did not know moral and legal right from moral or legal wrong at the time of these events? And that he was not incapable of conforming his conduct to the requirements of the law at the time that this event occurred?

MR. STALVEY: Judge, we could offer no testimony that at the time of this event, Mr. Nabors was unable to conform his -- conform his behavior or -- we can't provide any testimony that would support the statutory requirements.

THE COURT: So you don't feel there is a

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legitimate insanity defense, nor do you feel there's a legitimate guilty but mentally ill fact to be established under the requirements of the statute?

MR. STALVEY: Judge, under the requirements of the statute, no, sir, Your Honor.

THE COURT: Okay. All right.

Mr. Nabors, what would you like to tell me?

MR. NABORS: I'd like to address Ms. Edwards and the Court but Ms. Edwards especially.

Thank you for being so kind to us and giving us a ride. I promise I did not mean to do what I did. I know that sorries don't make up for nothing. Sorries don't count, you know. But hopefully I can pray that you'll forgive me for what I done one day. You did not deserve that in no way. In no way, no how did you deserve getting your car took and me driving off in it. Whether I was on drugs or not. You were just doing a good deed, a good samaritan. And I promise I didn't mean to traumatize you or anything like that there. I didn't even know who you was until I got to reading your Bible note. I seen you went to the same church my Granny goes to. And I remember you -- I started thinking, I remember you back when I went to church out there a Warrior Creek. And I just want you to put this behind you and move

on with your life and don't let it have anymore effect on you than it already has.

THE COURT: All right, what would you like to tell me?

MR. NABORS: I'd like to tell you that my whole life I've been addicted to drugs, doing drugs. I've only received treatment one time for the drugs and the mental illness. To be straight up and honest with you on the level, Your Honor, what I believe is is I believe drugs fried my brain. I did so much dope that I believe my brain is what they called fried. It's kind of crispy. You know, it's just fried and crispy. It's just -- I didn't -- I'm searching for a word here. I didn't mean to do what I did but I did it so how could I not want to do it? I don't know that. But what I do know is that that's a good woman. And she was kind enough to give us a ride and she didn't deserve what she received in return for that. And I ask if, Your Honor, would just like to take that into consideration.

I also helped her relocate her pocketbook. I throwed (sic) it out the window and I talked to one of her sons, Chad or -- Jimmy, excuse me, James, and was able to retrieve her pocketbook that had important pictures of her in there. That's what her

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son said. I'm glad she got that back.

And there ain't really a whole lot I can say, Your Honor. I mean, my record speaks for itself. I've been in jail since I was 17 years old. And, I guess, I'm going to go back for a good while longer. I deserve whatever you give me.

THE COURT: Okay.

All right, now I'll hear from Ms. Edwards if she'd like to speak.

MS. EDWARDS: I'm Toni Edwards. Sixteen months ago my life was turned upside down. I thought I was doing a good deed for somebody. I felt sorry for them. Times were hard. He just carried on a conversation thanking me, acting so normal and everything, I never expected anything else to happen. I was just trying to be good for somebody and then they did this to me. They knew what they were doing. The whole time. When they put the knife to my neck, made me get out the car and leave me out there where I didn't even know where I was at, dark, no houses, no lights and just leave me, steal from me. I begged them and begged them not to do it and he still did it. I'm afraid to go out to places at night. I don't trust anybody. It's not right that my life was turned upside down because I tried to do a favor for

somebody.

THE COURT: All right, thank you, ma'am.

MR. BROWN: Now the Anderson officer would also like to comment.

THE COURT: Okay.

THE OFFICER: May it please the Court, my name is Jamie Crawford, I'm employed by the Anderson County's Sheriff's Office. And I just want to say, I think I woke up on the morning of, make sure the date's right, July 11th -- June the 11th with one -- with one goal. And that was goal was God wanted me to be on the Interstate, wanted me to stop this young man right here. I take personal pleasure in putting bad people in jail. I love it. That's my job. What this young man did, I was unaware of at the time. After finding out more about the case, it just appalls me that -- that this kind of criminal history that we have with this young man here, Mr. Nabors, that he was out on the street to do this again, victimize somebody again. And I hope that you will take into consideration like what he said, his criminal history, his prior acts and get him off the streets so he won't be a menace to society anymore. Because I believe that that's what he is. That's all I have to say.

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THE COURT: Okay, thank you.

Anyone else?

MR. WILKSHIRE: Your Honor, this is Tracy Richards, she's with Victim Advocate of the Solicitor's Office. Tracy has been in law enforcement victim advocate for some time, knows the family well and she would like to speak on behalf of them.

THE COURT: Okay.

MS. RICHARDS: Your Honor, Tracy Richards. I have worked with Ms. Edwards since this event took place. I actually, approached her one evening after it occurred in Wal-Mart and had to take note that I had to come around out of my way to get her attention. Because she is terrified. She lives alone. She takes care of her mother after she works. Which keeps her out on night, such as the night that this took place. And she has to be very cautious. And she shouldn't have to be. She grew up and she has lived through a time where we could come and go and leave her doors unlocked and she can't. She lives around her family and she can't. She can't do that because of the fear that was instilled in her within 30 minutes of riding from Laurens City to the town of Gray Court.

We have been in this courtroom. She has to take time off work, time from caring for her mother, time away from her family to play a game with Mr. Nabors, in and out of the courtroom. And we get here and nothing's done. And we get here and he's fired an attorney. And it traumatizes her everyday that she has she has to go to bed and wonder whether or not she's going to get a call. And she told me the other week that when she thinks about this, when she actually sits down and it comes to her mind and instills her to the point where she is deathly afraid, she gets a phone call from Mr. Brown or Mr. Wilkshire or myself and something happens in court. And she's scared for her phone to ring. And this lady, who tried her best to do something good, has had her life changed. And it will never be the same. She would like for Mr. Nabors to be incarcerated until she is on her death bed and she has no fear whatsoever of this young man approaching her or her family. Because she deserves peace. She's lived through the last 16 months in fear and she would like to live the rest of her life in peace.

MR. WILKSHIRE: Thank you, Your Honor.

MR. STALVEY: Judge, may I briefly address something that was just mentioned?

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THE COURT: Okay.

MR. STALVEY: Your Honor, she mentioned that he's fired lawyers and they come to court. That is true, Your Honor. But I don't think it fairly reflects the fact that when I took Mr. Nabors case, I know that his other attorneys did the best they could from him but there were things that Mr. Nabors wanted done in his case that had not been done. I think we've done all those things up to this point. And all I offer it for is just, I guess, show you that he wasn't trying to cause her any additional burden. He just didn't feel like the attorneys that were representing him prior to me, had provided all the information to him and had done everything that he wanted them to do.

THE COURT: Okay.

MR. NABORS: Your Honor, may I speak one brief second?

THE COURT: Okay.

MR. NABORS: I do drugs and all that, it's no excuse, but I want to say that drugs for me and my family, it's done tore us apart. My poor Mother is back there crying right now. I wasn't raised as a heathen to do these things that I did. I got on cocaine and all of that and I was a totally different

person. It don't excuse the fact of what I done, not at all. I don't know what else to say. I'm sorry. And I know sorry ain't going to cut it. But the drugs, the drugs have fried my brain. I had trouble thinking all the time. Trying to articulate my words correctly. And I just feel like if, His Honor, if this Court would have mercy on me, I did not physically harm Ms. Edwards, though I could have. I think God was looking out for her and God was looking out for me too that night and that next day.

I'm glad I got stopped by the policeman over here. I'm glad I got stopped before I could have went on and done more damage. Possibly hurt somebody or kill somebody. I'm glad. It was like a relief lifted off me, like a big ole rock. Because I felt so relieved. I got pulled over and it was all done. Because I done had time to sober up off the stuff I was on. And I knowed (sic) I had messed up big time. And I knowed it was going to effect the rest of my life big time. What life I have left to live. That's all, Your Honor.

THE COURT: Okay. Thank you.

SENTENCING

All right, on Indictment 2009-1387, that's the indictment for armed robbery, where you have pled

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guilty, sentence of the Court is that you, Benjamin Ray Nabors, be confined to the South Carolina Department of Corrections for a period of 25 years. I'm recommending the Alcohol Treatment or Addictions Treatment Unit while you're incarcerated. Indictment 2009-1276, indictment for carjacking, the sentence of the Court is you be confined to the South Carolina Department of Corrections for a period of 20 years. That sentence is consecutive to that sentence imposed on 1387 but suspended during probation for five years. Condition upon no contact with any family member of the victim, substance abuse counseling, random drug and alcohol testing.

PROBATION AGENT: Your Honor, let me, just for the Court's information, Mr. Nabors has been under supervision five times previously. And all five times have ended up in a revocation.

MR. NABORS: Well I'm mentally ill. I can't follow instructions.

THE COURT: Well let me finish. This might end up in a revocation too but it will be 25 years from now.

PROBATION AGENT: Yes, sir.

MR. BROWN: Thank you, Your Honor.

MR. STALVEY: Thank you, Your Honor.

(WHEREUPON, Court's Exhibit No. 1 was marked for identification and received into evidence.)

(WHEREUPON, the jury came into open court at approximately 11:45 a.m.)

THE COURT: All right, good morning, ladies and gentlemen of the jury, I apologize for the delay in having you brought back but there was good reason for it. During the course of a trial a Defendant may alter his decision. About whether he wants to go forward with the trial or plead guilty to the charges. In this case, the Defendant has withdrawn his plea of not guilty and entered a plea guilty to the charges. And there's a process that I must go through in order to ensure that the Defendant understands fully what he's doing and that nobody's forced him into it and that he understands the consequences of that decision. And in this case it just took a little bit longer that I had anticipated. But it's now been concluded has now been concluded, so that will also conclude your service for the purpose of this trial.

So, I do want to thank you for your patience and your understanding in that respect. You are going to be excused for the balance of today. You will be asked to report back in the morning at 9:30 to the

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courtroom. Perhaps you will be called upon to serve again in another case. Okay. So have a good afternoon, thank you for your participation, we'll see you at 9:30 in the morning. 9:30 in the morning.

(WHEREUPON, the jury left open court at approximately 11:47 a.m.)

(WHEREUPON, the proceedings were concluded.)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth 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 Laurens County, South Carolina, on the 18th & 19th day of October, 2010.

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

July 7, 2014

April P. Herron

APRIL P. HERRON Court Reporter

STATE OF SOUTH CAROLINA

County of LAURENS

In the Court of Common Pleas

2011 -CP30- 308

233844
BENJAMIN RAY NABORS
Full name and prison number (if any) of Applicant,

vs.

STATE OF SOUTH CAROLINA
Name of Respondent.

COUNTY OF LAURENS

APPLICATION FOR

POST-CONVICTION RELIEF

A TRUE COPY OF ORIGINAL
Lynn W. Lancaster
Lynn W. Lancaster
Laurens County CCCP & GS

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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention McCormick prison 386 Redemption Way, McCormick, S.C. 29899

2. Name and location of Court which imposed sentence LAURENS County court house, Laurens, S.C.

3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
   (a) Carjacking 096530-1387
   (b) Armed Robery, 096530-1276
   (c) _____

4. The date upon which sentence was imposed and the terms of the sentence:
   (a) October 19, 2010, 25 yrs. Carjacking
   (b) October 19 2010 20 Suspended to 5 yrs
   (c) of probation

5. Check whether a finding of guilty was made

(a) after a plea of guilty Carjacking, Armed robbery ✓

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

NO Instructed court appointed counsel to do so

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

i. N-A

ii. N-A

iii. N-A

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

i. N-A

ii. N-A

iii. N-A

(c) the date of each such result:

i. N-A

ii. N-A

iii. N-A

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

i. N-A

ii. N-A

iii. N-A

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

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

(a) I have a long history of mental illness

(b) and was not allowed to plea Guilty but

(c) mentally ill, was abused by courts.

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) Long history of illness. Earlier incident

(b) on day in question was evidence of mental

(c) illness at that time

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law? NO

(b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO

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

NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

_____

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

i. N-A

ii. N-A

iii. N-A

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

i. N-A

ii. N-A

iii. N-A

15. If any ground set forth in (9) 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) _____

(b) _____

(c) _____

16. 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? _____

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

i. ALEX R. STALVEY SC Bar Number 71739

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Through out all proceedings. pretrial

ii. impanelling of Jury, plea.

iii. _____

18. State clearly the relief you seek in filing this application.

That my conviction be labled as guilty but mentally ill, with time Cut

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

No

STATE OF SOUTH CAROLINA

County of Laurens County

VERIFICATION

I, Benjamin Nabors, 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.

✓ Benjamin Nabors

SWORN to and subscribed before me this 21 day of March, 19 2011

Joyce L Young (L.S.)
Notary Public

My Commission Expires: 8 28 2011

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Benjamin Nabors, 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.

✓ Benjamin Nabors
Applicant

SWORN or affirmed to and subscribed before me this 21 day of March 2011

Joyce L Young
Notary Public

My Commission Expires 8 28 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	EIGHTH JUDICIAL CIRCUIT
COUNTY OF LAURENS	)	
	)	
	)	2011-CP-30-0308
	)	
Benjamin Ray Nabors, #233844,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed March 30, 2011, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Laurens County. The Applicant was indicted at the October 2009 term of the Laurens County Grand Jury for Carjacking (2009-GS-30-1276), and Armed Robbery (2009-GS-30-1387). He was represented by Alex Stalvey, Esquire. On October 18, 2010, the Applicant pled guilty as indicted to both charges. The Honorable J. Derham Cole sentenced the Applicant to incarceration for a period of twenty-five (25) years for armed robbery, and twenty (20) years suspended with five (5) years probation to run consecutively. He did not appeal his convictions or sentences.

Attached herewith and incorporated herein by reference are the records of the Laurens County Clerk of Court regarding the subject convictions, the Applicant's records from the Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "I have a long history of mental illness and was not allowed to plea guilty but mentally ill, was abused by guards"

   a) "Long history of illness, earlier incident on day in question was evidence of mental illness at that time"

III.

Respondent interprets the Applicant's claim to be an allegation of ineffective assistance of counsel. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, 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, 334 S.E.2d 813.

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. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 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.

With respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). To the extent the Applicant makes allegations concerning his mental capacity, he bears the burden of proof of showing counsel was somehow deficient in addressing this matter. See Jeter v. State, 308 S.C. 230, 417 S.E.2d 594 (1992). To show prejudice under the second prong of Strickland, the Applicant must demonstrate a "reasonable probability" that he was either insane at the time the crime was committed, or that he was incompetent at the time of the plea. Id. at 233, 417 S.E.2d at 596.

Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea, his competency at the time of the plea, and his sanity at the time the offenses were committed.[1] However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise questions of fact that are not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on these allegations. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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

---

[1] The Applicant's mental capacity was addressed on the record at the plea hearing by the trial court. Pursuant to court order, the Applicant was evaluated in July and August of 2010 by the Department of Mental Health. (Tr. 3). As a result of these evaluations, a report was issued finding the Applicant competent to stand trial, and criminally responsible at the time the offenses were committed. (Tr. 3-4). The trial court then found the Applicant competent and not mentally ill in accordance with the guilty but mentally ill statute.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

HARRISON D. BRANT
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT

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

August 18, 2011.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LAURENS	)	
	)	
	)	2011-CP-30-0308
	)	
BENJAMIN R. NABORS,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Hervery B.O. Young, Esquire
Post Office Box 725
Clinton, SC 29325

DATED this 25th day of August, 2011.

Chandra E. Young, Legal Assistant
For Respondent

State of South Carolina)) County of Laurens)	In the Court of Common Pleas Eighth Judicial Circuit 2011-CP-30-0308
Benjamin R. Nabors, Applicant, vs. State of South Carolina, Respondent,	Transcript of Record

June 5, 2012
Newberry, South Carolina

B E F O R E:

The Honorable Thomas A. Russo, Judge

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

Caroline M.W. Horlbeck, Esquire
Attorney for Applicant

J. Rutledge Johnson, Esquire
Attorney for Respondent

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

I N D E X

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E X H I B I T S

No.	Description	Page No.

No Exhibits Introduced.

TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 2:04 p.m.)

THE COURT: All right, Mr. Johnson. What's our next case?

MR. JOHNSON: It's Benjamin Nabors.

THE COURT: All right. Were y'all able to talk about that ---

MR. JOHNSON: Yes, sir ---

THE COURT: --- issue?

MR. JOHNSON: --- we've talked about it. And just to put on the record: This is *Benjamin Nabors v. South Carolina*, Case No. 2011-CP-30-0308. He's represented here today by Ms. Caroline Horlbeck, who has a matter before the Court, Your Honor.

THE COURT: All right.

MS. HORLBECK: And, Judge ---

THE COURT: Ms. Horlbeck?

MS. HORLBECK: --- at this -- at this time I would ask the Court to continue this matter. And let me explain a little bit about why I'm asking for a continuance. I met with my client, Mr. Nabors, on two occasions to discuss this case. And he explained to me that he had -- that there had not been an independent evaluation by an expert of his own choosing. And when I arrived today, I spoke with his counsel and found out that there had been an

evaluation, at least of the records by the treating physician at the Greenville County Detention Center.

Judge, it -- it's my understanding that that psychiatrist at the detention center, whose name is Dr. Martin, would testify that the volume of -- of drugs and other substances that my client's taken during his life could've caused some permanent damage and permanent mental illness. Obviously, that is testimony that I'm interested in, since -- since we bear the burden in this case. I would ask for a continuance to -- to get that witness here to testify at the next term of court.

This is the first time this matter has been scheduled. And it's my understanding -- I don't know that the attorney general's office necessarily objects. But I just feel -- I think at this point they feel like they can't necessarily make the decision to consent.

THE COURT: All right.

MR. JOHNSON: Yes, Your Honor. She is correct. We -- not going to consent. This -- you know, we've prepared the case and we have our witnesses here. But we would leave it to your discretion.

THE COURT: All right. Ms. Horlbeck, who -- who is it that you need to -- to -- to have present that ---

MS. HORLBECK: It's Dr. Martin with -- he's a psychiatrist at the Greenville County Detention Center.

And that is the detention center where Mr. Nabors, my client, was incarcerated prior to this case coming to Court. And it's also -- Dr. Martin is also the expert that counsel had retained to do a number of things to review the -- my client's records -- mental records and also detention records -- to review, I believe, some of the evidence in the case and -- and render an opinion.

And, Judge, it's my understanding, just from talking to counsel today, that Dr. Martin would've testified in accordance with *State v. Hartfield* that my client has a history -- a -- extended history of drug abuse and that -- that the volume of drugs that he took during his life may have caused some permanent damage and -- and mental illness. And that is -- that is who I want to try to get to Court today.

Judge, he still works at the detention center, so he's going to be easy to find.

THE COURT: You said this was done -- this evaluation was done prior to his entering this plea?

MS. HORLBECK: Yes, sir.

THE COURT: Well, how -- if the opinion of that -- if the opinion of that evaluation was that he was not mentally competent, how did they go forward with the plea?

MS. HORLBECK: The state -- the state had an expert. And he -- Mr. -- Mr. Nabors was evaluated by the state

mental health department. And their opinion was that he was -- he did have capacity to stand trial and also that he was criminally responsible for the -- for his conduct on the incident date.

My understanding is that counsel petitioned the Court for funding to get the -- an expert of their own choosing. And that expert is who I'm trying to get today.

Judge, my client never told me -- I asked him point-blank, "Were you ever evaluated?" And -- and he said, "No."

I asked him several times. I've spoken to his mother. She didn't know he was ever evaluated by Dr. Martin.

My client states that he didn't understand that that was an evaluation. I don't think he thought it was an evaluation at all. And in looking at the invoice, I don't think that Dr. Martin sat down and did a -- an evaluation, other than what he normally does, with -- with patients at the law enforcement center.

My understanding is that Dr. Martin looked at the mental health records and, based on his treatment of Mr. Nabors at the detention center and his review of the mental health records and his review of some of the evidence in this case, this is the opinion that he -- that he rendered. And that is the -- what defense counsel would've presented that day.

My client's position is that he didn't understand that that was a defense; that -- that counsel didn't tell him that that was a defense. And, Judge, in -- in order to support our -- in order to meet our burden, I -- I've got to have the witness here at the -- at the trial.

THE COURT: And I apologize. But let me -- let me make sure I understand what's going on. So at the time the state -- the state's doctor said that he was, in fact, competent?

MS. HORLBECK: Yes, sir.

THE COURT: The independent doctor who was hired by the defense stated that he was not?

MS. HORLBECK: Judge, and that's what I'm not quite clear on, which is why I'd like the chance to at least speak to this doctor. My understanding is that that doctor -- and it -- it's in accordance with *State v. Hartfield*. And it -- it says that the -- "Hartfield presented evidence that his use of drugs had caused permanent and irreversible brain damage, which manifested itself in a mental illness. Therefore, he was entitled to present the defense of insanity or to attempt to obtain a verdict of guilty but mentally ill."

And I believe that is the defense that -- that counsel was pursuing that day, had they proceeded with the trial. My client's position is he's under -- he didn't understand

that defense. And in order to pursue that avenue, I would need the witness here. Does that -- does that answer the Court's question?

THE COURT: It -- it ---

MS. HORLBECK: Maybe not.

THE COURT: --- does. I -- I was just -- I'm just curious, with that -- with that finding, how they were able to do a guilty plea.

MR. JOHNSON: Your Honor, may we approach with counsel as ---

THE COURT: Yeah.

MR. JOHNSON: Thank you.

(Whereupon, a bench conference was held among the Court, counsel for both parties, and Mr. Alex Stalvey.)

THE COURT: Ms. Horlbeck, I -- I'm going to grant your motion to give you the opportunity to get Dr. -- is it Matthews or ---

MS. HORLBECK: Martin.

THE COURT: --- Martin -- Dr. ---

MS. HORLBECK: Martin.

THE COURT: --- Martin -- to confer with Dr. Martin and to -- well, I guess it -- it -- it goes not necessarily -- I -- there may be a lot of other issues besides that, but at least give you the opportunity to sit down and talk with Dr. Martin to see if, in fact, he would be helpful to

Mr. Nabors' position. If -- if -- if so, then we can reschedule it for the next term. If not, it -- it may be you need to talk with Mr. Nabors about whether or not to proceed. But ---

MS. HORLBECK: Yes, sir.

THE COURT: --- but I think you -- your -- I think he is entitled to that opportunity.

MR. JOHNSON: If I can just put on the record, Your Honor, that I do plan on calling this in the November term.

THE COURT: Yeah. And -- and please, if you would, Ms. Horlbeck, make Dr. Martin aware that -- that this case is going to be coming up the week after Thanksgiving, I think ---

MR. JOHNSON: Yes, sir.

THE COURT: --- you say?

MR. JOHNSON: I think it's the 26th.

THE COURT: Be the week ---

MR. JOHNSON: Week ---

THE COURT: --- after Thanksgiving and ---

MS. HORLBECK: Yes, sir.

THE COURT: --- might want to get in touch with him now to determine his ---

MS. HORLBECK: His ---

THE COURT: --- schedule.

MS. HORLBECK: Yes, sir. I will.

THE COURT: All right.

MR. JOHNSON: And also, we'd request a copy of his findings ---

MS. HORLBECK: All right.

MR. JOHNSON: --- Mr. Martin's findings.

THE COURT: Yeah. All right.

MR. JOHNSON: All right. Thank you, Your Honor.

THE COURT: All right. Thank y'all very much.

(Whereupon, the proceeding was concluded at 2:15 p.m.)

--- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT, OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE EXCERPT OF TRANSCRIPT OF RECORD IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR LAURENS COUNTY, SOUTH CAROLINA, ON THE 5TH DAY OF JUNE, 2012.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

FEBRUARY 26, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LAURENS

BENJAMIN NABORS,	)	
	)	
APPLICANT,	)	2011-CP-30-00308
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT.	)	
	)	

NOVEMBER 14, 2012
LAURENS, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR.

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

ATTORNEY FOR APPLICANT:

CAROLINA HORLBECK, ESQUIRE

ATTORNEY FOR RESPONDENT:

RUTLEDGE JOHNSON
ASSISTANT ATTORNEY GENERAL

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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THE COURT: Okay. If we may, we'll go ahead and go on the record on the matter of Ben Nabors versus the State of South Carolina. And this is file number 11-CP-30-308. And this is a PCR matter.

Mr. Nabors is present with his appointed counsel, Ms. Horlbeck. The Attorney General is present. I'll be happy to hear from you at this point in time.

MR. JOHNSON: Yes, sir, Your Honor. Rutledge Johnson. I represent the Attorney General's Office.

Just a little bit of background information on this case. Mr. Nabors was originally appointed Ms. Elizabeth Wiygul. She happened to represent one of his co-defendants in his guilty plea and, therefore, was a conflict. Ms. Horlbeck was thereafter appointed.

This case was continued in June. And now, I believe, he is here on his motion to relieve Ms. Horlbeck as counsel. I'll ---

THE COURT: All right.

MR. JOHNSON: --- turn it over to Ms. Horlbeck, Your Honor.

THE COURT: All right. Ms. Horlbeck, I know that this matter, I think, had been docketed for the December term of common pleas non-jury ---

MS. HORLBECK: No, sir.

THE COURT: --- or this was ---

MR. JOHNSON: Scheduled for November 27th at 9:30.

THE COURT: Oh, I'm sorry, November. Okay.

MS. HORLBECK: That's correct.

THE COURT: Close to December. What's your position?

MS. HORLBECK: Judge, just two things. I think that -- Mr. Nabors has not raised this in any letters, at least not in the letters to me. However, I do think it's important, just given his unhappiness with my representation, I think it's important to put on the record that Ms. Wiygul did represent the co-defendant. And at the time she was representing the co-defendant she and I were actually working for the same law firm.

Now, I don't -- I have not talked to her about her representation. I have not discussed the case with her at all. And I have not looked at her old file, but I do think that the Court needs to be aware of that given Mr. Nabors' unhappiness with my representation.

The other thing, Judge, that I would bring to the Court's attention is that I've been given a letter that Mr. Nabors mailed to the AG's Office. I don't know if the Court wants it marked as a Court's exhibit or if you'd like me just to hand it up. Mr. -- the -- Rutledge -- Mr. -- I don't ---

THE COURT: Johnson.

MS. HORLBECK: --- want to call you Rutledge, but

anyway, Mr. Johnson has a copy of it already, Judge. He's seen it. So I'm happy to proceed however you'd like, but I do think the Court needs to be aware of it. I'll direct your attention to page 4.

MR. JOHNSON: And just for the record, Your Honor, and this is as to Mr. Nabors, I know that you have been writing our office. And as you are a represented party, I have an oath not to respond. And so every letter I get I have sent to counsel. And then I have filed it in my file. But just for Mr. Nabors' information, I cannot respond to his letters, I can only send it to counsel.

(Pause)

THE COURT: All right. I've had a chance to review the letters. And just so that the record is clear, Mr. Nabors has also written my office on numerous occasions with general complaints. He has also written the Laurens Clerk of Court here with numerous complaints and requesting filings and things of that nature.

The matters that he has sent to me, I have directed to his court appointed attorney because, obviously, I'm in somewhat of a similar situation as the Attorney General. It's not proper for me necessarily to respond directly to him when he has appointed counsel. And in an effort to avoid any sort of *ex parte* conflicts or *ex parte* communications, rather, that's the tact that I have taken.

But I have had a chance to review the letter that apparently Mr. Nabors sent. And it was forwarded to Ms. Horlbeck by Mr. Johnson sometime around November the 7th.

MS. HORLBECK: Yes, sir. Judge, I've had discussions with Mr. Nabors about the proceeding at the end of November. And I've assured him that I will subpoena whatever witnesses that he wants me to subpoena.

However, I do think that the nature of that letter does cross the line. And I think the Court is well aware, I have pretty thick skin when it comes to representing just about anybody. And I'm happy to proceed however the Court wants to proceed. I am troubled by the nature -- by the allegations in that letter.

And at this point I would join in Mr. Nabors' motion to have me relieved. And he may -- he may have a few comments that he'd like to address to the Court, Judge.

THE COURT: All right.

MR. NABORS: Yes, I would, Your Honor.

THE COURT: I'm happy to hear from you, Mr. Nabors.

MR. NABORS: First of all, I'm sorry for bothering everybody and writing so much, but I didn't even know these things they call constitutional rights, certain constitutional rights. I mean, I wasn't even aware of them at the time that the Laurens County Narcotics Office was forcing me to go into crack houses and meth labs. And

that's how I ended up with these charges.

And that was my whole defense I wanted Alex Stalvey, Bill Mayer, Chip Howe, Mike Turner, Jr. and others to represent me on. And a couple of them point blank told me, they said, no. They said, look, they said, your victim's an ex-police officer, her son's a police officer. As a matter of fact, he was the one that arrested me hours before I stole his mama's car while I was exposed to them chemicals.

I asked for help. I got a history of being treated with mental illnesses, but I don't believe there's really nothing wrong with me. But they say that the people at the law library's pointed out, they said, you diagnosed as a schizophrenic anyhow, the cops should have never ever made you go into crack houses and meth labs and made undercover buys. They made me wear cameras and all that.

And I was hallucinating. I was exposed to toxic chemicals at the meth lab. And then they tried to cover it up and say that they wasn't no meth lab at 836 Hellams (phonetics) Road, that I made all that up, but yet a couple of months later the same narcotics officer that made me go there, Narcotics Officer Moody, he goes back to the meth lab a couple of months later at [redacted] Road and he busts a meth lab while it's actively spewing out toxic smoke.

And he had to rescue two people out of the place where I got exposed at. One was a paraplegic and was about to

die. He had to drag him out of the chemical, two of them.

THE COURT: Mr. Nabors, I don't mean to interrupt you, but we're -- what we're here today on is a very, very limited question. And that is whether Ms. Horlbeck will continue to represent you on this particular case. And what you're talking to me now about goes more to the merits of your application for PCR.

So let me ask you, apparently you've had some issues or some difficulties with Ms. Horlbeck in your mind. Is that what I'm hearing?

MR. NABORS: Yes, sir. Yes, sir.

THE COURT: Okay.

MR. NABORS: I believe -- I believe that the -- really -- she's really trying to keep me -- and she's part of the cover-up with Laurens County and the State just because I'm a couple of times loser being in and out of prison and mental health institutions my whole life, they want -- they want to keep me locked up because I ain't got no money like no rich person to get John Gott (phonetics) or whoever to represent me.

So they like, well, he's a piece of shit, white trash, drug addict, whatever, let's just keep him in jail. Never mind the fact that they say I had my constitutional rights violated, that nobody would appoint me an investigator. I've asked her numerous times for an investigator. She told

me that she ain't going to do certain things for me.

I said -- was the same problem I had with Alex Stalvey is I wanted him to hire an investigator. I got proof that I tried to get him to hire me an investigator. All my lawyers, they refused it. And, I think, one judge did give him money to hire me one, but then he didn't hire me one. And I can't go out of prison. I can't go out of jail to get this stuff, Your Honor.

THE COURT: I understand. We're going to be dealing -- we're going to be discussing a few things here in the next five minutes, okay, Mr. Nabors?

MR. NABORS: Will I be able to have a copy of this record, sir? Please, sir? I'm poor. I'm indigent. Mr. Addy?

THE COURT: Mr. Nabors, let me tell you, first thing that I want to tell you is that I've got no problem based upon Ms. Horlbeck's representations to me and having read the letter that has been handed up, which I will make it a part of the record in this case, I am going to allow her to be relieved in this particular case. And we will be giving you another attorney.

MR. NABORS: You won't give me a real estate lawyer, will you, Judge Addy?

THE COURT: Mr. Nabors, I can't -- it will be the next person on the list. It'll be the next person on the list.

And that's what -- I'm glad you said that because that's a nice segue into what I was going to tell you here. Understand, Mr. Nabors, I realize that you are indigent. I realize that this case is extremely important to you.

MR. NABORS: Yes, it is, Your Honor.

THE COURT: And I don't blame you for feeling that way, but here's the problem. When you have a lawyer representing you, you need to let that lawyer do the leg work on this, okay?

MR. NABORS: I'm trying.

THE COURT: Hear me out. Hear me out. The way you're going about this is simply not productive. It's not useful for you to continue to send reams and reams of paper, and quite honestly, it's a waste of your time and whatever money is in your Cooper Account for ---

MR. NABORS: None.

THE COURT: --- you to continue to mail stuff to the Clerk of Court and ask her to file it and make copies. So I'm telling her not to do that anymore, okay?

You're going to have a lawyer. I'm going to appoint the next lawyer on the list. And I'm not sure who that is. We may be able to find that out before you leave today, I don't know. But that lawyer will then be responsible for representing you.

And that lawyer, he or she, will contact you and will

discuss this case with you. The lawyer is responsible for tactical decisions on this case as far as who the key witnesses are. You communicate those to him.

It'll be his responsibility to determine if those people need to be subpoenaed because I know in one of the documents you sent me, you sent me about a list of eighty or ninety names of people who needed to be subpoenaed. And I have a hard time believing in all candor that all ninety individuals needed to be placed under subpoena, Mr. Nabors, all right? That's something you need to discuss with your lawyer because if you continue to communicate with the Clerk's Office and with my office like this, sooner or later you're going to divulge information that's best left divulged only to your attorney. Do you understand what I'm telling you?

MR. NABORS: Your Honor, I'm sorry I made you mad at me.

THE COURT: No, I'm not mad. I don't get ---

MR. NABORS: And I'm ---

THE COURT: --- mad, Mr. Nabors.

MR. NABORS: --- sorry I made Ms. Lancaster mad at me.

THE COURT: Ms. Lancaster isn't mad either. We've got pretty thick skins. We're fine.

MR. NABORS: She's helped me a lot. And -- but I just want somebody to understand that they made me go into that

methamphetamine lab. And I don't know nothing about the law. I didn't know anything about a disabled person's -- something about a disable person's got special rights and all that there. And they -- they was basically forcing me to do these things.

THE COURT: And, Mr. Nabors, because you don't know about the law, that's why you're going to need to trust your next lawyer, which leads me into my next point, okay? This is the last lawyer you get. This is the last lawyer you get. Whoever the next one appointed is, that's the last lawyer that you're going to receive.

If you're unable to work with them, if you're suspicious about them, I'm sorry. There are ways that you can waive your right to an attorney on a PCR action. You understand that?

MR. NABORS: (Affirmative nod).

THE COURT: So your job is the next lawyer you get, that's the one you've got to work with. You understand me?

MR. NABORS: I'm going to try my best, Your Honor.

THE COURT: All right. Very good. Very good.

MR. NABORS: Can I -- can I please have you help me get a copy of the record from the continuance in June?

THE COURT: I am ---

MR. NABORS: And this record here? I can't afford a hundred and something dollars for a couple of pages of paper

for ---

THE COURT: All right, Mr. Nabors, ---

MR. NABORS: --- a court reporter.

THE COURT: --- if your lawyer -- when you get your lawyer, and if he feels like it's necessary to request that record, because we're talking about just a continuance, I believe, back in June. Is that right, Mr. Johnson? Is that all we've dealt with?

MR. JOHNSON: Yes, sir.

THE COURT: I'm not even -- I'm not even sure there was much put on the record back then.

MR. JOHNSON: It was put on the record in front of Judge Russo.

THE COURT: I'm sorry?

MR. JOHNSON: It was in front of Judge Russo.

THE COURT: In front of Judge Russo? Was there any record -- transcript made of it or was it just a consent?

MR. JOHNSON: No, sir.

MR. NABORS: Yes, there was. I got -- the lady, Maryann Nevers, she made a transcript of it. I got paper in my ---

THE COURT: All right.

MR. NABORS: --- my legal work with me today. She told me that it's thirty-two, fifty. And she estimated that it would be ten pages.

THE COURT: All right. Talk to your new -- talk to your new attorney about that. Talk to your new attorney about that. If he feels that it's necessary for you to obtain that record, I'm sure that he will be more than happy to request the funds to do it, okay? But that's his decision. Now, Mr. Nabors, you understand where we stand here on this?

MR. NABORS: I think so.

THE COURT: Okay. It's not doing you any good to continue to write the Clerk of Court. It's not doing you any good to continue to write me. And you've got a responsibility to cooperate with your lawyer.

MR. NABORS: So the only person I got to defend me in all this whole world is a lawyer that's not getting paid really no money to represent me and is just going to treat me like a free lunch, like, you know, just a regular crack-head, which is what I am?

THE COURT: Well, Mr. Nabors, I can't speak to that. I am sure whoever is appointed to represent you will represent you regardless of how much they are getting paid. It's my experience the people in the -- the people who are appointed on these cases are exceptional attorneys. And I'm quite certain that they will do you a very, very, very good job if you work with them, okay? If you work with them. And that's the key thing.

MR. JOHNSON: Your Honor.

THE COURT: Yes, sir.

MR. JOHNSON: Just for the record, Ms. Horlbeck actually has been working on his behalf. We ---

THE COURT: I know.

MR. JOHNSON: --- have had communication, just for the record. Second of all, if you would also include me in that Mr. Nabors doesn't write my office anymore because I can't respond.

THE COURT: All right.

MR. JOHNSON: Are you granting a continuance ---

THE COURT: I will be granting a continuance because I don't see how it's going to be possible for that lawyer to get up to speed in three weeks or two weeks. So this ---

MR. NABORS: I'll represent myself ---

MR. JOHNSON: Just to put on the record, Mr. Nabors, this will be called the week of March the 11th. And this is going forward.

MR. NABORS: I'm ready to go forward right now. I'll represent myself right now. Right now, today, right this second, I will ---

MR. JOHNSON: That's in your ---

MR. NABORS: --- represent myself.

MR. JOHNSON: --- discretion, Your Honor.

THE COURT: Mr. ---

MR. NABORS: I'm ready. I'm ready. I got everything here, all the proof, all the documentation to prove everything. I've written you and everybody else. I even wrote President Obama and told him about it.

THE COURT: Well, he's been busy lately. Mr. Nabors, let me ask you this. How far did you get in school?

MR. NABORS: I dropped out in the ninth grade.

THE COURT: Can you read and can you write?

MR. NABORS: I can read and write very well, Your Honor.

THE COURT: Okay. You said that you had -- you were alleging in many of the letters that you sent to me that you're suffering from a mental illness, which is caused by substance abuse, is that correct?

MR. NABORS: They said something like that. I'm not -- I don't -- I really don't think there's nothing wrong with me at all. I just think that they just like to pump me full of these drugs. That day that I got tricked into pleading guilty, they had me so pumped full of Haldol and stuff, I didn't even know what I was doing.

I was second day of trial, and I wanted a jury trial. And this man said, look, he's going to give you life if you don't go out there and plead guilty. I didn't know nothing about them sentences not carrying life. I took his -- his advice, Judge Addy.

THE COURT: All right. Mr. Nabors, let me ask you, have you ever been involved in a trial of any case?

MR. NABORS: No, sir.

MR. JOHNSON: Your Honor, may we put him under oath?

THE COURT: That's a good point. Mr. Nabors, I realize you're shackled. You swear or affirm the testimony you're about to give is the truth?

MR. NABORS: I swear to God, hope to die.

THE COURT: All right. Mr. Nabors, all the answers that you've given me previously, they're truthful?

MR. NABORS: Yes, sir, as far as I know, one hundred percent, they are.

THE COURT: All right. You've never been involved in a trial?

MR. NABORS: No, sir, I ain't.

THE COURT: And you made it to the ninth grade, but you can read and you can write?

MR. NABORS: They had me in special education all through school, but I can read real good. I learned to read in prison.

THE COURT: All right. Do you know what your IQ is by any chance, Mr. Nabors?

MR. NABORS: No, sir, I don't.

THE COURT: Have you ever been treated for any mental illness or any substance abuse?

MR. NABORS: Well, ever since I was like seven or eight years old, something like that, I got medical records. It goes at least all the way back to when I was fourteen or thirteen.

THE COURT: All right. Do you remember what the diagnosis or what the doctors said ---

MR. NABORS: They keep -- they keep saying schizophrenia. And it runs in my family, they said. But I've read things about schizophrenia, and I don't agree with that. I think -- I think what I suffer from is just drug -- I like drugs. I like to get high. I don't feel right unless I'm high.

And I like to drink. And I think maybe I only had drinking and alcohol problems. And maybe I need to get some help like the twelve step group or something to address them issues. I don't want to drink no more. I mean, I've been doing pretty good. I haven't really had nothing to do as far as drugs since I've been locked up. A little bit here and there, but not very much.

THE COURT: All right.

MR. NABORS: I've been doing pretty good. On the alcohol, I ain't had nothing.

THE COURT: Well, Mr. Nabors, you understand that if you were to proceed to trial you'd have to obey the same rules of evidence as any lawyer, a lawyer who's been to law

school for three years and practiced for a number of years. You understand that, sir?

MR. NABORS: Can I have like books and stuff with me to help me out?

THE COURT: Well, I don't know logistically how that would work out because if we're talking about an actual hearing, understand, Mr. Nabors, I don't know what the issues are that would be raised in the application. What I'm telling you is I think you'd be better served to have a lawyer representing you.

MR. NABORS: You -- you really care about me getting justice served, Your Honor?

THE COURT: Mr. Nabors, I care about everybody who comes in here getting justice. And I would tell you that my experience is simply this, that if somebody comes into court and they're representing themselves, more often than not they're on the losing side just because they're a fish out of water, just because they don't know what they're doing. And that's about nine times out of ten at the ---

MR. NABORS: I'm gonna go with ---

THE COURT: --- very least.

MR. NABORS: --- whatever what you say, Judge Addy. What you think's the best. Just please don't let them give me somebody that's going to just sell me out like everybody else has.

THE COURT: I'm confident that's not going to be the case, Mr. Nabors. Mr. Nabors, I'm going to appoint you an attorney to represent you on this case. And we're going to move forward. It will be continued past the November term. It will be placed on the docket in March. You understand you only get one PCR, Mr. Nabors. And so I think it's best that you have a lawyer representing you.

I believe that in all candor Ms. Horlbeck would have done you an excellent job, but it's clear to me, especially in light of the correspondence that I've recently seen, that it's best for all concerned that perhaps we locate you another attorney. I think that the relationship has broken down to the point where it's not capable of being rehabilitated. So ---

MR. NABORS: I think she was out to get me to start with.

THE COURT: Well, I must disagree with you on that point. I've known her for a number of years. And -- but that's going to be water under the bridge since we're going to get you a new lawyer.

MR. NABORS: (Affirmative nod).

THE COURT: That'll be the order. It'll be placed on the docket for May or March. March?

MR. JOHNSON: 11th.

THE COURT: 11th. Am I doing that?

MR. JOHNSON: It's Judge Newman.

THE COURT: Oh, okay. Very good. All righty. Mr. Nabors, pleasure to make your acquaintance. That'll be the order. Mr. Thomas, if you will prepare such. Very good. Thank you.

MR. JOHNSON: Thank you, Your Honor.

(Whereupon Court's exhibit 1 was marked)

(Hearing Ended at 10:26 am)

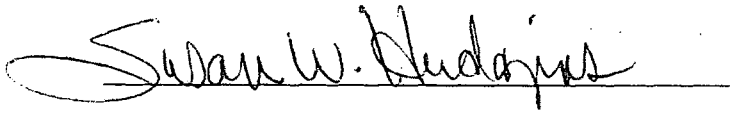
(End of Requested Transcript of Record)

Certificate of Reporter

I, The undersigned, Susan W. Hudgins, Official Court Reporter for the Eighth 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/hearing of the captioned case, relative to appeal, in the Circuit Court for Laurens County, South Carolina, on the 14th day of November 2012.

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

November 30, 2012



Circuit Court Reporter

State of South Carolina)
)
County of Laurens)

In the Court of Common Pleas
Eighth Judicial Circuit
2011-CP-30-0308

Benjamin R. Nabors,

Applicant,

vs.

State of South Carolina,

Respondent,

Transcript of Record

March 13, 2013
Greenwood, South Carolina

B E F O R E:

The Honorable Clifton B. Newman, Judge

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

Rodney Richey, Esquire
Attorney for Applicant

J. Rutledge Johnson, Esquire
Attorney for Respondent

(Note: Mr. Richey was relieved as counsel during hearing; applicant subsequently appeared pro se.)

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

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TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 9:47 a.m.)

MR. JOHNSON: May it please the Court, Your Honor?

THE COURT: Yes.

MR. JOHNSON: This is the case of *Benjamin Nabors v. State of South Carolina*. It's Case No. 20112-CP-30-0308. Mr. Nabors was indicted at the October 2009 term of the Laurens County Grand Jury for carjacking and armed robbery. On October 18th, 2010, he pled guilty as indicted to both charges before the Honorable J. Derham Cole. Pursuant to a straight-up plea, he was sentenced to 25 years for the armed robbery and 20 years consecutive for the carjacking. That is suspended upon five years' probation.

There was no direct appeal filed. However, he filed a timely PCR application on March 30th, 2011. The state filed its return on August 25th, 2011. And he is represented here today by Mr. Rodney Richey.

THE COURT: All right. Mr. Richey?

MR. RICHEY: Your Honor, I'm going to give you a little background. Mr. Nabors here -- I was appointed to represent him on this matter. He has expressed to me -- I -- he's written me letters and said -- he expressed to me that he don't want me to represent him. And I'll tell the Court some background and -- and I'm going to do this in a way not to prejudice this case. I'll just say it that way.

There was a -- there was a series of witnesses that he has asked me to contact and call as witnesses. I have investigated those witnesses. I did a -- a complete letter to him about what these witnesses' testimony would be and -- and ---

THE APPLICANT: When'd you ---

MR. RICHEY: --- how ---

THE APPLICANT: --- do that?

MR. RICHEY: --- and how relevant that they -- how relevant that they would be. He's asked me also to have a -- to have a psychiatrist here today for an insanity defense.

THE APPLICANT: Your Honor ---

MR. RICHEY: He won't ---

THE APPLICANT: --- Your Honor ---

MR. RICHEY: --- he won't ---

THE APPLICANT: --- Your Honor -- Your Honor ---

MR. RICHEY: --- he won't ---

THE APPLICANT: --- may I please say something? And I'm not trying to interrupt him, but he's sitting here, telling bald-faced lies.

MR. RICHEY: Okay.

THE APPLICANT: I swear.

MR. RICHEY: He ---

THE APPLICANT: The man ain't sent me nothing. I

ain't even got my discovery yet. It's 4 1/2 years, Mr. Newman -- Court -- sir. I ain't even got my discovery yet. I'm not ready. And -- and as long as the lawyers keep not getting the few things I'm asking for -- I'm not asking him for what he's trying to say I owe -- all these witnesses. I don't want no more than seven or eight witnesses that can give background, a little bit different information each, about my -- about my mental health and stuff.

And I'm innocent. He's saying I told him I was guilty of the crime. I'm not guilty. I was innocent. I was temporarily insane. I -- I suffer from schizophrenia, they say, and I've got all my documentation from that going all the way back as far as '96 right there.

And it -- I didn't get no *Blair* hearings. I was highly medicated. I was incompetent to even enter that guilty plea. I was wanting to go to trial bad. I -- I had a jury picked, and he kept coming up to me the next morning. Alex Stalvey come up and he said, "Look, if you do not take this guilty plea -- stop the trial and take a guilty plea," he said that ---

THE COURT: All right.

THE APPLICANT: --- "you'll really" ---

THE COURT: Mr. Nabors ---

THE APPLICANT: --- "get a life sentence."

THE COURT: Mr. Nabors, you're not under oath. And

THE APPLICANT: Place me ---

THE COURT: --- I only ---

THE APPLICANT: --- under oath.

THE COURT: --- I only hear from defendants when they're under oath. I'll -- you wait your turn. Go ahead, Mr. Richey.

MR. RICHEY: Your Honor -- and -- and then -- and as Mr. Nabors expressed some of the things about the insanity defense and all that, I investigated that and -- and I reviewed prior counsel's file, along with the -- the report from the Department of Mental Health. I will say to the Court that I would have to request, I would say, a minimum of $5,000 to get this doctor here to get him -- to get his testimony.

Unfortunately, lawyers operate under some ethical restraints. And -- and -- and -- and that's where we're at, Your Honor. So -- so he wants me relieved. He claims he's filed this lawsuit against me. I don't know what -- I haven't been served with it. I'm assuming he's filed it. He ---

THE APPLICANT: I have.

MR. RICHEY: --- he -- and so to that degree -- and I will say that I don't know if I could give him all the stuff and do what he want ethically. And -- and that's

been a -- a problem here. So ---

THE COURT: All right.

MR. RICHEY: --- but I'll ---

THE COURT: Let me ---

MR. RICHEY: --- leave it to the Court's discretion.

THE COURT: All right. Let me hear from the state. Then we'll circle back around.

MR. JOHNSON: And just a -- a little bit more background: We had a hearing in November when this case -- case was scheduled to relieve prior counsel. Prior counsel was relieved. And I have provided a transcript to Mr. Richey to give you a copy, Mr. Nabors, where Judge Addy states that he will appoint one more attorney, but that's it; after that Mr. Nabors will be pro se.

This is his fourth PCR attorney, Your Honor. He has not been able to get along with other PCR attorneys.

Judge Addy also -- or -- ordered him to stop writing me, as I expressed on the record, I cannot ethically respond to his letters as I am not his counsel. All I can do is give Mr. Richey, who is his counsel, a copy. I have been doing that. He has continued to write me, asking for a transcript. I, you know, cannot ethically respond to Mr. Nabors.

But I would ask this -- this case go forward; or, if Mr. Richey gets relieved, he go pro se. He has had his

shot to present his case. And, Your Honor, we ask that this case go forward. It's been continued three or four times.

THE COURT: What about the issue of -- if -- if -- if he is claiming in his PCR that he is -- is incompetent, can you -- what -- can you do a PCR hearing without a determination being made that he is competent to proceed at the PCR hearing?

MR. JOHNSON: Your Honor, that actually is a case that states that because this is more, I think, fact-intensive, that he does not need to be competent as -- at a PCR hearing because the lawyer's doing most of the work. There's also -- based on the report you'll see in the transcript -- based on the report from the Department of Mental Health, he was competent to stand trial.

He also waived -- our position, he waived the insanity defense.

THE APPLICANT: I did not waive nothing.

MR. JOHNSON: He ---

THE APPLICANT: I don't -- I don't recall -- that's y'all's favorite word, recall. And I don't ---

THE COURT: All right. Mr. ---

THE APPLICANT: Yes, sir.

THE COURT: --- Nabors ---

THE APPLICANT: I'm sorry.

THE COURT: --- we're going to -- Mr. -- Mr. Nabors ---

THE APPLICANT: I'm sorry, Judge. I'm sorry.

THE COURT: No. I don't want you to be sorry. But if you interrupt the lawyer, I'm going to put you out of the courtroom.

THE APPLICANT: All right, Judge. I'm sorry.

THE COURT: You'll be out of here.

THE APPLICANT: All right, Judge. I apologize.

THE COURT: So I don't need you to apologize or to be sorry. I need you to be quiet ---

THE APPLICANT: Yes, sir.

THE COURT: --- until it's your turn.

THE APPLICANT: Yes, sir.

THE COURT: All right. Go ahead, sir.

MR. JOHNSON: Our -- also, our position is that the guilty-plea transcript speaks for itself in that he admits that he was on medication; he was addicted, but now he's not. He was competent; he understood what was going on at the guilty-plea hearing. He admitted his guilt. And the medications he was on was to help him understand what was going on and that he is -- the evidence will show that he has failed to prove that he was mentally incompetent at his guilty plea.

THE COURT: All right. And Judge Cole addressed the

issue at the guilty-plea hearing.

MR. JOHNSON: Yes, Your Honor.

THE COURT: All right. All right. We're going to put Mr. Nabors under oath, if you'll stand ---

THE APPLICANT: Yes, sir.

THE COURT: --- to be sworn.

BENJAMIN NABORS, having been first duly sworn, testified and stated as follows:

THE COURT: All right. Mr. Nabors, do you want Mr. Richey to represent you, or do you want to represent yourself?

THE APPLICANT: Well, I -- I'll have to say, if he represent me, all's I wanted him to do was to do a few things. And I -- I -- I can't do nothing without having certain things to prove my -- my understanding is I got to prove to this Court ---

THE COURT: Well ---

THE APPLICANT: --- by a preponderance of evidence. And I know, if he would get -- there's a few more things ---

THE COURT: Well ---

THE APPLICANT: --- that I need ---

THE COURT: No. Do ---

THE APPLICANT: --- that would be no problem.

THE COURT: No. Do you want him to represent you here

today, or do you want to represent yourself?

THE APPLICANT: Okay. I've not got my witnesses here. He ain't got my witnesses.

THE COURT: No.

THE APPLICANT: How can I ---

THE COURT: Well ---

THE APPLICANT: --- go forward with the hearing when -- I've been ---

THE COURT: Do you ---

THE APPLICANT: --- I've got paperwork to show you, Judge.

THE COURT: Do you want him to represent you, or do you want to represent yourself?

THE APPLICANT: I'll represent myself.

THE COURT: All right. So understand, if you represent yourself, I'm going to cut Mr. Richey loose. He'll be able to go back to his office. Is that Greenville still?

MR. RICHEY: Yes, sir.

THE COURT: He'll be able to go back to Greenville. You're on your own.

THE APPLICANT: I -- I -- only thing I want from him or Alex Stalvey over there is my transcript -- my discovery. It's been four years, and I have not got my discovery yet. Everything I got right here is I got ---

THE COURT: Well, you have a whole lot of papers there ---

THE APPLICANT: Yeah.

THE COURT: --- I see.

THE APPLICANT: But -- but I just only got a few things that would ---

THE COURT: Oh, you got a whole lot of things there. You got three stack -- four stacks of papers.

THE APPLICANT: Yes, sir. I'm trying to get out of prison on -- on these charges. I'm not -- I'm not ---

THE COURT: All right.

THE APPLICANT: --- guilty.

THE COURT: What ---

THE APPLICANT: I'm innocent.

THE COURT: --- what other -- what other papers that you want from Mr. Richey?

THE APPLICANT: Well, I want my -- I want whatever he got from Alex Stalvey. I -- I contacted Alex Stalvey and asked for a -- a -- a discovery also. I ain't got none of that.

THE COURT: All right. What ---

THE APPLICANT: He ---

THE COURT: --- else -- what else do you have that you can give him, Mr. ---

MR. RICHEY: Judge, I've mailed the discovery I have

to him. I mailed it ---

THE APPLICANT: I'm in Broad River now.

MR. RICHEY: Okay. I've mailed the ---

THE APPLICANT: He mailed ---

MR. RICHEY: --- to ---

THE APPLICANT: --- it to Lee County.

MR. RICHEY: No. Judge, I mailed the discovery to him. I got a response from him saying that this isn't all the stuff.

THE COURT: All right.

MR. RICHEY: So I -- everything I -- and ---

THE APPLICANT: What ---

MR. RICHEY: --- in fact, Your Honor, I went to the prison, okay? I went to the prison and visited him at the prison when ---

THE COURT: All right. Do you have -- you have nothing else in your file that you can give him?

MR. RICHEY: No, sir. I've given him ---

THE COURT: All right.

MR. RICHEY: --- everything.

THE COURT: All right.

MR. RICHEY: I've mailed everything ---

THE COURT: And are ---

MR. RICHEY: --- to him.

THE COURT: --- you satisfied with the Court letting

you go and letting him be on his own?

MR. RICHEY: Thank you, Your Honor.

THE COURT: All right. Very good. So I'm going to relieve Mr. Richey. Mr. Nabors, you represent yourself.

THE APPLICANT: Where's my -- my transcript you just had to give to you? See? That's ---

MR. RICHEY: Judge ---

THE APPLICANT: --- what I'm talking about.

MR. RICHEY: Judge, I only -- the record -- I -- I am giving him a transcript. I just ---

THE APPLICANT: He never give me one. He sent it to Lee County. And -- and they -- they don't know what you're talking about. I ain't got it.

MR. RICHEY: I just received this transcript ---

THE APPLICANT: I just ---

MR. RICHEY: --- from the ---

THE APPLICANT: --- transfer last week. And where did you send it to? You sent it to Lee County.

MR. RICHEY: I just received this transcript from the attorney general of the preceding hearing. And I'm -- I was going to mail it to him to make sure I have record that I sent it to him. But as long as the ---

THE COURT: All right.

MR. RICHEY: --- reflects that ---

THE COURT: We'll make a copy -- have -- how many

pages is it?

(Whereupon, Mr. Richey and Mr. Johnson conferred.)

THE COURT: It's not too big. We'll copy it now and he can have it.

And if Mr. Richey wants to read it, he can put him back and move to the next case and then let him read it for half an hour, 45 minutes, or whatever, and then we can move to the next case.

MR. JOHNSON: All right.

THE COURT: Thank you, Mr. Richey.

MR. RICHEY: Thank you, Your Honor.

THE COURT: Yes, sir.

(Off the record from 9:57 a.m. until 9:59 a.m.)

THE COURT: All right. Again, and, Mr. Johnson, what's being given to Mr. Nabors is a transcript ---

MR. JOHNSON: --- of the November hearing ---

THE COURT: --- and which -- which was continued?

MR. JOHNSON: Yes, sir.

THE COURT: All right. So ---

MR. JOHNSON: In -- in which prior counsel was relieved.

THE COURT: And -- and how many pages is that?

MR. JOHNSON: Twenty pages.

THE COURT: All right. So ---

MR. JOHNSON: Would you like a copy of it?

THE COURT: All right. So it shouldn't take that long for him to review that. But we're going to have him go back in the -- in the back and -- where he can have a chance to read over that last paper and anything else he wants to read over. We'll move to the next case.

MR. JOHNSON: Would Your Honor like a copy of this as well?

THE COURT: Yes, sir.

MR. JOHNSON: All right.

THE COURT: I'll -- we'll take a look at it.

(Whereupon, the proceedings were adjourned at 10:00 a.m. and resumed at 10:24 a.m.)

THE COURT: All right. You ready to proceed, Mr. Nabors?

THE APPLICANT: Sir?

THE COURT: Are you ready to proceed?

THE APPLICANT: Yes, sir.

THE COURT: All right. You may proceed.

THE APPLICANT: It's on me first?

THE COURT: Yes, sir.

THE APPLICANT: Okay. Your Honor, I'd like to try to get everything clear. It's hard for me to think. You put things into words sometimes. But I'm going to try to do this without making nobody ill at me.

I feel that Mr. Stalvey over here wasn't effective.

He didn't do hardly no -- that I know of -- no pretrial investigation. I had all kind of witnesses that, if -- if they would've been subpoenaed, at least ten of them would've got up here and verified everything I'm going to say.

And I'm going to go ahead and knock that out of the way, Your Honor. What -- what -- what -- what -- what started all this was my mother and father's TV got stolen. It got smoked up in crack. So me and my wife, we out in New York, working. And they -- they call us in there, because I was a suspect in it. I turned myself in to Lt. Mareno Foggie at Laurens County Sheriff's Department.

And I -- I came in. Me and my wife came in. And he said, "Mr. Nabors," he says, "you got a long record."

THE COURT: All right.

THE APPLICANT: And he ---

THE COURT: Mr. -- Mr. Nabors, if you're going to testify ---

THE APPLICANT: Right.

THE COURT: --- then you need to be put under oath.

THE APPLICANT: Okay. Well, yes, sir.

THE COURT: All right. If you'll swear him, please.

BENJAMIN NABORS, having been first duly sworn, testified and stated as follows:

THE COURT: All right. Go ahead here.

THE APPLICANT: When this -- when this charge happened, when my parents' stuff got stolen when they was down at the beach for vacation, I was a suspect in it also. So my mother give the investigator, Mareno Foggie, my number. And she called -- he called me up in New York, wanting to know if I could come down there and -- and talk to him about this.

And I quit my job, and we hitchhiked all the way back to Laurens. And I -- I went to his office and talked to him. And he told me -- he said -- he said, "You -- you got a lot of criminal record history, and this grand larceny," he said, "that might be what's going put you over the top."

And long story short, he introduced me to the narcotics officers of Laurens County Sheriff's Department. They -- they put wires on me; put cameras on me; sent me into crack houses to buy dope and meth labs to -- to check out what was going on at the meth labs. And I felt that I had to do that to prevent from going back to prison.

On the day that these -- that the carjacking occurred, on 6/10/09, Your Honor, I was at a meth lab, 836 Hellams Road, Gray Court, South Carolina, working for Investigator Sgt. Moody of the narcotics department. While I was at the meth lab, it blowed up. And I got super exposed to a lot of toxic chemicals. Now, I ain't going to -- I -- I do -- I -- I did smoke dope too. I ain't going lie about that.

But a thing about being -- doing things for the police, if you been a crackhead your whole life and you go up in the crack house and buy a hundred dollars worth of crack and you ain't smoking none of it, them boys is going think something's wrong. They going want you to get naked. And when they see that little camera and that little microphone, they going kill me.

I was under a -- a -- a lot of tremendous stress. And the day this incident happened, I was at the meth lab, 6/10/09. And the lab blowed up. I got exposed. I -- so I started hallucinating. I -- I hallucinate sometimes.

And I -- I run through a neighbor's house, a Mr. Stan Smith, and beat on the door. He opened it up, and I pushed by him and tried to hide behind his furniture. That's how messed up I was. I -- it was shooting -- people shooting at me and everything.

The -- the law -- the 911 was called. I called, asking for help. Ironically, the person that came -- the first responders to the -- to the 911 call at the meth lab was Ms. Tonja Edwards' son, Jimmy Edwards. And Ms. Edwards picked us up.

I had a warrant on me. I'm getting ahead of myself. I had a warrant on me that they put back in the computer because they -- they say that I hadn't did nothing for them for several weeks. And I hadn't.

And they said, "Well, if you ain't going continue to help us out, we're going go ahead and just put this warrant on the NCIC" -- I think that's what it's called -- "and you can go ahead and, you know, you do your little time, whatever they're going give you."

So that evening my wife, she -- she -- she's, like, a prostitute. And we in Laurens -- I mean, Gray Court. And this guy comes up and he -- he solicits her, and she goes off with him.

Well, about 20 minutes later, before she gets back, Sgt. Moody pulled in -- seen me out there and pulled in. I seen Capt. Boyce the same day, but Capt. Boyce didn't say nothing to me.

Moody pulled up and called me over to his car, a black Dodge Charger, unmarked. And he called me over to the car. And he -- he said, "Mr. Nabors," he says, "you back in the computer as of now," he says. "When they see you, they going pick up up."

I said, "Man, I -- I -- I've tried. I done everything you wanted me to do. What else you want me to do?"

He says, "I want that meth lab, and that's what I want." He says, "I want them two -- that meth lab."

So another long story short, I ended up going to the meth lab that day, 6/10/09. And I was at that meth lab when all this stuff started. So 911 was called and -- 911

was called.

And Jimmy -- Jimmy Lee Edwards, her son, and a couple other deputies responded also, Your Honor. I talked to one of them, Deputy Rhodes, and -- and informed him that I was there acting as a confidential informant for the narcotics department, Stephane Williams. So he called Stephane on a cell phone as we en route to the county jail.

And when I got down to the county jail, I was still hallucinating real bad. And I asked a couple officers could I get some help. Rhodes -- he took me in; told him I was hallucinating. Somehow I -- I don't think I've ever had no bond -- bond -- P.R. bond in my whole life. But for some reason that day, I wasn't in that holding cell a little over a hour, I think, hallucinating. And they come and got me out of the holding cell.

Mareno talked to me. He said, "You need to go on back and find out what's at that lab, where -- where they put all the stuff when we got down there last night -- or early this morning." So he said, "I'm letting you go."

I didn't get no help. I had breathing problems. I was still hallucinating when they let me go. That's kind of like arresting a drunk driver, I reckon, and he's done hit and killed somebody and you -- y'all lock him up and arrest him; an hour later he's still drunk; you give him the car -- a -- another car to go do the same thing.

I felt like that's what was in my case. I was being forced as a mentally ill person, diagnosed -- I got 25 years of paperwork right here and several psychiatrists. That schizophrenia thing, I don't really understand schizophrenia. I -- I read on it.

But as far as comprehending it, I can't say -- I don't know. I'm not a doctor. I -- I don't -- I don't know nothing about psychology. But some of the things that I read in it sounds, you know, kind of right about the paranoia part and -- and the -- the hearing things every now and then. I mean, I -- I'm -- I'm -- I suffer from that.

But I'm not crazy. And I ain't -- I wasn't never trying to play crazy to begin with, Your Honor. All's I was wanting to do was have a independent evaluation before I did the Department of Mental Health's evaluation. And I had an investigator, Glenn Bradley out of Lexington -- God rest his soul; he passed away about a year ago. He was going to investigate my case and -- and get all this information about these narcotic cops making me do what they did, which led up to my charges.

So I -- I got to go back. I'm sorry, Your Honor. I'm nervous. Let me go back.

So I -- they left -- I left the county jail. They told me to go back to the lab, so I'm walking. I ended up

at the Food Lion parking lot a hour or so later. And I'm out there asking people for rides also -- me and my wife are. And this nice woman come up to us. She looked like a angel with just a halo over her head.

She says, "Where y'all trying to get to, son?"

I said, "Ma'am, we're trying to get to Gray Court." And that's where I live at, and that's where the meth lab was.

So, Your Honor, she said, "I'll be glad to give y'all a ride." So she said, "You get in the back; move the groceries over; and -- and your wife can sit up here."

And I did mention something to her about her having a miscarriage, because she's done had four or five miscarriages. And it -- that wasn't no lie, because Tonja Edwards said something -- she felt like I -- I -- we -- we -- we was using that to get access to -- to -- to victimize her or something. That wasn't nothing premeditated -- I think that's the word for it -- or intent or anything to do that crime.

I was in her car. We was almost all the way home. Her and my wife's up there, chatting -- chatting along. And she's talking -- I -- I hear her start talking about, "Yeah. Both my sons are police officers," this and that. And she had, like, a little bulge right here in here on -- in her -- on -- on her waist up under shirt. And she kept

playing with it.

And I'm thinking it's a gun too. I -- I didn't -- I -- I -- when I get paranoid sometimes, I thinking people shooting at me, got guns, and stuff. So I reached up and grabbed her and told her to stop her car, please; get out. I did not have no knife. She exited the vehicle.

When she exit the vehicle, she -- she -- right as I was getting in the door, she said, "Can I have my -- can I at least have my pocketbook back?"

And I said, "No, ma'am, you can't." I said, "You liable to have a gun in there too."

So the next day I was pulled over. That's what started all this. But the whole time I had -- the -- these -- these -- these -- this incident had started on -- on 6/10. And 6/11/09 I have been trying to get somebody to get this information about these narcotic cops making me be a -- be a -- a -- be -- be their undercover agent.

I mean, they was letting me drive cars. I ain't even got a license. They was letting me drive cars. They was putting me up in motel rooms. They knowed I was keeping some of the dope back that I was getting for them. And they would give me money every time I wanted to come down there. They -- they -- see, they put us up in motel rooms and everything.

And I swear to God, I felt like I was under a

obligation that that woman had a gun. But if you look back at it 20/20, I should've never been released from jail that day, hallucinating hours after they arrested me. I -- I caused a major episode.

I think they sent every police officer in Laurens County out there. There were so many cops running around with -- with -- with kalvar [sic] vests and them machine gun rifles and -- and -- and things. The Fox Carolina news was -- was -- showed up. The whole time I'm in the back of the police car, Your Honor. I'm still hallucinating.

And Mr. Deputy Rhodes, he -- he comes up. He says, "Your wife's fine. There ain't nothing wrong with her. She ain't fine -- she's fine."

I said, "Well" -- he says, "But I'm going have to take you to jail because you got a grand-larceny warrant put in the computer here recently."

So I'm, like, "Okay."

So when he drove down there -- and I -- and I checked on Jennifer. That's my wife -- was my wife. And she verified that she was okay. And I told her I -- I guess I was going have to go to jail.

So he took me on the detention center. And as we're going to the detention center, I told Deputy Rhodes about me being a undercover agent and that's what I was there for when all this happened. I -- and I got exposed to them

chemicals.

So Deputy Rhodes said, "Well, I -- I might be able to help you out." He called Stephane Williams of the Laurens County Sheriff's Department on his cell phone but got voice mail. So he got me down to the detention center. He told the people at the detention center that I was a -- had a -- you know, mental issues. I was hallucinating. But he told them I think I was having mental issues.

So they put me in a holding cell up there. They didn't strip me out or nothing. They put me in a holding cell.

And about a hour or so later, Mareno Foggie come and had me pulled out of -- pulled out of the holding cell. And he says, "Look," he says -- he says, "I got it worked out. We got it worked out with a judge. You're going get a P.R. bond." He said, "What we want you to do is go find out what -- what's going on with that lab."

See, at the time I called 911 and the time the Laurens County Sheriff's Department finally mobilized with the -- getting their vests and -- and armor on, them people done had 35 minutes to flee through the woods. And they did. They took a lot of stuff with them.

But what the officers didn't find that I later learned was there was about two pounds of meth up under the camper. When they seen all them bubblegum lights flashing up there

at that neighbor's house next to them and -- where we had gotten into his home -- I mean, I got -- I feel like I got issues. I mean, I really -- I really feel like I got issues.

The whole thing I wanted to do was put forth an insanity or a temporary insanity defense or -- or brain damage. I mean, I've had doctors tell me that I might have problems with brain damage. And I've had several psychiatrists diagnose me as -- as a -- as a paranoid schizophrenic. And I don't feel -- what I done -- I stoled her car -- I don't feel that was right in -- in no way -- no way. I'm -- I'm very remorseful for that.

But the person who did that and the person you see in here ain't today ain't the same person. I was hallucinating. And the only reason I was hallucinating was because of the sheriff's department sending me to that meth lab.

And when it blowed up, I want to give -- just give you some papers, if you -- if you don't mind. It's the incident reports. This is the incident report from that 911 call. And I had all this stuff in order. And down at the bus station this morning, they kind of messed it up a little bit.

I apologize for taking -- taking up so much of the Court's time. I know y'all got bigger fries -- fish to fry

than me. But I just -- I want to get this stuff on issue.

Here -- here at the top is the warrant from that -- what happened when -- when I was at the -- this residence, working for the Laurens County Sheriff's Department. That was the -- the incident report. I finally got a -- ahold of it after writing request and request to the sheriff's department under the Freedom of Information Act. Ms. Crystal Bailey of the sheriff's department, clerk of -- clerk -- records clerk, finally sent me some copies of -- of -- of what you see in there.

Okay. So by now since I stole this woman's car, the people that was doing things for, the law enforcement community, they didn't want to have nothing to do with me no more. They -- they said I crossed an invisible line when I stole that woman's car.

And -- and on top of that, it was -- it was their fellow officer's mama's car. And that just made it worse. That was like putting salt in a open wound.

And ever since I been trying to -- trying to get on record to prove that -- that they had me doing all this stuff and it contribute greatly to -- to me getting -- me getting -- getting these charges. And, Your Honor, I got a incident report also. They said that -- that -- they tried to say that there wasn't no meth lab found, but yet Investigator Moody went back about three months later and

cleaned his house. They was down there cooking dope when he pulled up.

And what was it doing -- what was the meth lab doing when he pulled up? The same thing it did to me when I was down there: It was burning. It was blowing up. And he said everybody that was down there around that camper when -- when -- when Moody and them went down there to investigate this, he said everybody was spun slam out. And "spun out" is -- is just a term meaning you're gone; your mind's shot out because of the dope.

And that's the way my mind was. It wasn't voluntary intoxication that I was -- I tried to put a defense for. One of the lawyers that I had to -- to represent me kept thinking, for some reason, that I was trying to put forth a -- a -- an intoxication defense or whatever you call it. That's not true.

The defense I wanted to put forth was I wasn't in my right state of mind. I was insane when this happened. Okay.

So I'm going dig these reports out, Judge, and I -- I just want one fair bite at the apple. And ain't -- it won't take me long. I'm not going read all this -- read all this into the record. But I think it is pertinent that you do see some of this stuff.

And I -- as far as Mr. Richey, he never sent me no

discovery. If he sent something, it went to Lee County. It's been four years. I have not even got any discovery.

I asked Mr. Stalvey for the discovery after I got sentenced. And he was supposed to come back to the holding cell and talk to me, because I was wanting to do a -- a -- I didn't know what the words for it them was -- it -- it's called -- I found out later on it's called a -- a -- a "motion to reconsideration."

But what he did, he never came back there to talk to me. They -- the jailers told me that he busted loose out of the courtroom as soon as I went back to -- behind the judge's chambers back to the holding cell. And I haven't heard nothing from him since today until -- until today, I -- I don't believe. I might have called him once or twice. I -- I know I wrote him a letter a -- a -- a week or so ago, asking him to please, when he comes to this hearing, bring me my complete case file. Because Mr. Richey and nobody else seemed to want to do it.

As far as the witnesses I wanted called, the -- it -- it -- it's less than 12 witnesses I wanted to testify for me. And -- and there's less than -- there's less than two guilty-plea transcripts that I want. And I can maybe even pay for the guilty-plea transcripts if -- if someone would help me out to do that.

But all of it's related. Every bit of the things I'm

trying to put together for them is -- it -- it's a jigsaw puzzle. And it -- and it forms a picture of what happened on 6/10/09 and what took place prior to 6/10/09.

And what took place after, I done got charged and bringing to the Laurens County Jail. I was struck by the victim's son. Done -- he wanted to know where I throwed his dead daddy at, because she -- he was in her -- in his mama's pocketbook. And he said that she passed away with cancer or something like -- the year before.

And -- and I'm, like, "Man, yeah. I -- I tell you where the pocketbook is." I said, "I -- I got the money out of it. I did go through your mama's pocketbook, and I think there was $40 in it." I said, "I did get that out." I said, "But I was more worried about her having a gun. It wasn't a robbery. And I -- I durn sure didn't have no knife."

And everything's tied together, Your Honor. Every -- everything -- it's tied together. And I'm a very -- probably a very poor excuse of a -- a person to represent himself, because this is all overwhelming. It always has been to me. That's pretty much why I leave things in -- in the lawyers' hands. But here lately it's like it's not been going very good. When I leave it in their hands, it's been going worse.

I wanted a *Blair* hearing to contest the Department of

Mental Health's evaluation. I've got evidence with me here today that will prove beyond a shadow of a doubt that half of the information that was cited as used as resources to form the Department of Mental Health's diagnosis and my criminal responsibility and my -- my -- what you call it -- competency to stand trial.

There were so many things that I wanted to do. I had -- I had a psychiatrist in Greenville that Mr. Stalvey, I believe, paid a thousand dollars nearly to him that I didn't even know he was in the courtroom that would've testified that day that I might've had brain damage and that I was definitely a schizophrenic. He was going tell the judge that, is what I understood. Because that's what he diagnosed me as too.

I had three or four other psychiatrist and psychologists within the state that they would've come and testified for me also. And they wouldn't have charged no $5,000 for it. I could've probably got at least one more of them for less than -- less than -- less than 500.

Because this one here is -- is kind of -- kind of more my friend than a psychiatrist. He -- he -- he worked with me when I was young. And I -- I kind of formed a -- a bond with him.

And he said, "Mr. Nabors," he said, "if you would just get your lawyer to contact me and -- and make it official,"

he says, "I will be glad to get up there and tell -- tell the jury or the judge or whoever that you have suffered from mental health illness and possible brain damage your whole life."

And that totally comprehends -- that totally -- it puts contrary to the Department of Mental Health's records -- exam and their findings. And I don't understand how I can go down there and talk to somebody like that for a hour or two hours and they automatically say I'm fine; that I'm -- that there's nothing wrong with me. And I don't believe nobody's that good that can talk to somebody for a couple hours and have figured -- figured everything out that goes on in their head. I -- I just disagree with that. I -- I don't believe that's theoretically possible, not on just maybe a hour and a half to two hours of conversation. I really don't.

And it's -- it's pretty crazy, Your Honor. I'll tell you. It -- here it is right here. Yeah. It's -- it's crazy. I mean, I didn't -- I didn't have no knife. I don't see where the armed robbery come in at. I think what it was, was she might've thought I had something. I never told her I had no knife. I never said I had no knife.

All's I asked her to do was get out of the car, not to shoot me, and to please start walking away and I would leave her car 25 or 30 miles down the road. I was just

wanting to get out of the area, because I felt that all these cops were out to get me now. You know, I done found out about her son and -- and all that stuff.

And investigator -- when they arrested us in -- in Anderson on Fair Play -- it's at Exit 1 -- going toward Georgia in -- in her car, the stolen car, I got pulled over. I surrendered and went -- went to jail. And I wasn't in Anderson County Jail maybe about 15/20 minutes after -- after -- after getting booked. And guess who shows up? Investigator Plaxico and Investigator -- his -- his partner -- Wilkie.

They show up, pull me out of the holding cell, and ask me to -- do I -- do I want to give a statement. I said, "No. I don't want a statement." I said, "I want a lawyer, is what I want." I said, "I -- I'm -- I'm hallucinating still." I said, "I ain't had no sleep in several days." I said, "I'm not thinking right, and I don't want to say nothing that would hurt me or -- or anything else like that." I said, "Just let me get me a lawyer."

And they was, like -- Plaxico was, like, "Well, Mr. Nabors, you know, that -- your victim is a friend of my mom -- actually, several friends of other people's moms in -- in law enforcement."

And it was a high-profile case. I was wanting a change of venue. I was getting threats in the county jail.

I got attacked last week at Lee. And I'm pretty sure it was a hit put on me down there. I had 47 staples put in me.

I've had to go from one institution to the other because this is following me. What I did with these police is following me. I don't know if it's the victim's family, her sons, that are contacting these people and -- and getting me -- trying to kill me to jump on me and stuff or what.

But I am innocent of the armed robbery. And as far as the carjacking goes, I -- I did take her car. And I know that's called "carjacking." What you call "mitigating" or whatever evidence -- circumstances is that I was hallucinating when I did steal her car. I should've never been released from jail while hallucinating and having mental health problems. I mean, that's just like giving a little kid -- a little -- a little 3-year-old a loaded pistol with the handle pulled back on it. Something bad's going happen.

I mean, I'm -- I'm finding stuff, Your Honor. I swear, man. This -- all right. Here we go. I got it right here. God.

Here's one. I got -- I got a whole stack of these. But this -- this -- I think this goes back to '01 or '05. And if you'll read the first one, that's Dr. Herron --

Herron. He -- he lives and works out of St. Julian Place up here in Columbia -- or down there in Columbia.

And like I said, I got about 3 1/2 to 4 inches of nothing but mental health -- mental health diagnosises [sic] for schizophrenia, mental health diagnosises for anxiety and panic attacks, and mental diagnosis for the paranoia, and a diagnosis for what they call "cormidity" (phonetic) -- "cormobity" (phonetic), whatever that is, when you got more than one illness. And it's my understanding alcohol addiction and substance abuse addiction is recognized by the United States government as a brain disease itself.

I mean, I've not been really right my whole life. I mean, I've done things that I'm not proud of. But I ain't never -- I ain't never robbed nobody, shot them. I ain't never -- I don't mess with no little kids. And I'm not no rapist or nothing.

I'm a junkie. I'm a mentally ill junkie. And that's nothing to be proud of. But I go out of my way to not hurt nobody. And the only reason I took her car that night was because I thought she had a gun and she was going shoot me. I just had a hour or so before wigged out and thinking that same thing happening at the meth lab.

But no. They want to let me out. And they want to instruct me to go back. But then when I -- when I -- when

-- when his mama picks me up and -- and offers me a ride, then I end up stealing her car, it's a -- all gloves off, every man for hisself.

As far as I know, they're not admitted to me wearing wires. I -- they sent me in over 20 different probably crack houses and meth labs in Laurens County, buying crack, buying meth. The whole time I'm scared to death because I got this wire on me, this camera on me, filming these people. These people would kill me if I got caught doing this.

I felt like I got betrayed by Laurens County Sheriff's Department. In -- I -- I felt like I -- I found a case -- what -- what they's called "public authority." And I believe that's exactly -- fits the description of what I was doing for Laurens County Sheriff's Department -- is I was acting under public authority or authorization.

In my mind -- in my mind I had access and I had -- in my mind I had -- had to do what they wanted me to do. I didn't want to go back to prison. I didn't want to get raped no more. I've been raped in prison several times. And it -- and it's not a fun feeling, I can tell you. And it's not very fun at all.

And they played me off in that. Because they already knowed that I had been raped in a prison before. And they played that to their advantage, talking about, "Well, if

you don't do this, you don't do that, then you going go back to prison, Mr. Nabors, and then see how you find your old boyfriend down there when you go back to prison."

I mean, come on, man. I mean, I know I'm a -- and by law I got a criminal record and -- and -- and -- and I'm -- and I ain't all the way right. I never said I wasn't incompetent at the time of the crime. I was insane at the time of the crime.

I was so messed up. I mean, I'm seeing things, hearing things. My mind's racing a hundred miles an hour. And here I am, wearing wires and cameras, and going into known drug areas, making purchases. And while I'm in there, yeah, I'm smoking too. I can't go in there and buy dope at these people's traps without also doing some dope there in front of them, because they know I'm a junkie. They know I'm a crackhead.

And if I go in there and I -- I spend a hundred dollars and they give me X amount of crack and set it on the table and -- and -- and I'm -- I'm still sitting there and I ain't making no effort to put none of it -- and -- and -- and smoke it, then they going automatically think, What's -- why ain't -- why ain't he -- why ain't he smoking so all of a sudden. The man's got a big pile of crack here. And he's one of the worst crackheads around here. He ain't smoking none.

So yeah. I did do drugs when I was on these operations. And like I said, I also drove a car. They had me driving cars. I ain't -- I ain't got no license. I lost my license when I was 15 years old, right after I got one. I ain't had no license. I ain't had no insurance, and I was high as heck every time they put me in that little car then send me to go buy this dope with. It -- it was crazy.

And that's all I wanted was -- I wanted a jury trial. The jury trial got started. The second day -- like I said, the second day Mr. Stalvey come back there and -- and -- and I felt like he coherced [sic] me into -- to pleading guilty. I did not want to plead guilty. You will find nothing in none of this paperwork that I filed with the clerk of court or anything that I said -- my -- my -- my -- my people or anything. They will all verify that I wanted a -- a jury trial because I feel in my heart that a jury made up of 12 women and men -- a jury would've probably ruled in my favor because the Laurens County Sheriff's Department was making a mentally ill, drug -- drug-addicted, alcoholic man go all over these places in -- in a car with no insurance, no license, and wearing cameras and stuff and buying dope from people and doing dope. I don't think a jury would've had no sympathy for the Laurens County Sheriff's Department after they heard that.

I mean, I really don't. I think -- I -- that's all I been trying to do, is just this acknowledged and get this on record. And I wanted that jury trial. I believe I -- even -- even though I -- I -- I -- I -- I wasn't sure what kind of jury it was -- I ain't never been through a proceedings. I know that Mr. Stalvey didn't object to none of the jury that's been selected. I think it was a -- probably a grand total of about 15 minutes -- 20 minutes and the jury was empaneled.

Also, Mr. Stalvey jumped up and -- and hollered he wanted a mistrial -- motion for a mistrial. I been trying to get the paper -- the transcripts on the beginning of the trial, opening statements and all that, to find out why he jump up and hollered mistrial. He sure enough did. It's on record. I just ain't got it.

Because the -- the -- the court reporter wants $25 to send it to her, and I can't even -- I can't even come up with enough money to buy me a soda. I'm there in prison, Your Honor, much less $25 to -- to buy something I need to get to -- to -- to help prove by preponderance of the evidence what I'm saying.

I'm not making this up. I'm -- I'm -- I'm not in fantasy land. I mean, this is reality. This is what happened.

And -- and Mr. -- as far as Mr. Richey is concerned,

he -- he wouldn't do what I asking him to do. All's I wanted him to do was get a couple of transcript ---

MR. JOHNSON: Objection, Your Honor. Any that Mr. Richey did is irrelevant. This is here about Mr. Stalvey and his ineffective assistance of counsel.

THE APPLICANT: Okay.

THE COURT: Yeah. The PCR is against Mr. Stalvey.

THE APPLICANT: Excuse me?

THE COURT: Your PCR application is against Mr. Stalvey, not ---

THE APPLICANT: Yes.

THE COURT: --- Mr. Richey.

THE APPLICANT: Not -- yes, sir.

THE COURT: Right.

THE APPLICANT: I -- like I said, I was on -- also, I was on -- I had about eight different psychotropic drugs the time I finally did -- the jury trial had started. I was on -- I was on so much medications. I was on Haldol, Cogentin, Oritanes (phonetic). I was on 100 milligrams of Prozac. And I found out later on that the -- the manufacturer, Eli Whitley [sic] or whatever its name is that -- that manufactures Prozac, they said do not, on no circumstances, give no more than 60 or 70 milligrams of Prozac to a person. They had me on 100 milligrams of that every day. It was making me -- it was making my -- my

schizophrenia worse, is what one of the doctors told me down at Lieber, Dr. -- Dr. Sinato down at Lieber.

He said he was testify for me. He said all's I had to do was get somebody -- my lawyer to subpoena him. He said, "I'd" -- he said, "I'd come and testify that I treated you as a psychiatric patient and that I diagnosed you with schizophrenia and alcohol and drug addiction." He says -- he says, "I'll be happy to."

And that's the whole point. All these people I been wanting to get, they're happy to. But they -- they work 9-to-5 jobs. In order to for them to take a day to come to my hearing, they'll have to have something in writing, which would -- would be a subpoena, to get them out of work that day. You know how bad the economy is. People can't miss no work, you know, and it -- it ain't -- the boss man ain't going want to just let you go when you ain't got no reason to go -- go somewhere.

They was going be kind enough to lose a little bit of money -- of their money, personal money, to come testify at my trial -- and at this PCR hearing. I wanted them at my PCR hearing.

I mean, I'm -- I'm not perfect. I mean, I didn't come in here expecting -- expecting you to -- to give me relief, necessarily. But all's I wanted to ask for you was to please let me get this on record. And maybe at the next

level, if it goes that far, I'll be able to -- I won't have to do no -- what they call them -- 59(e)'s, because they -- they ain't no way I'm going be able to do nothing like that. I don't know how to do no 59(e)'s.

And the motions I've tried drawing up over -- over these last few years, I mean, you see what they look like. They look like chicken scratch. And I got -- I don't -- I -- I -- I ain't literate when it comes to the law.

I -- I'm barely literate when it comes to -- to -- to reading and -- and -- and -- and other simple stuff. I got -- I've had a learning disability my whole life. I been in and out of special-ed classes ever since the third grade/second grade. And I been on Ritalin and a -- a -- Albuterol. I been on Ritalin and Adderall for ADHD nearly my whole life.

But when this -- when this took place, when I was at the meth lab and this took place that day and I -- and I took Mrs. Edwards' car from her, I wasn't even on no medications. Only medications I was on at that time was crack cocaine and methamphetamine and -- especially all the meth that I breathed in up there. I -- I -- if -- like Mr. Stalvey said -- I read the transcript -- he -- he -- he told Judge Cole -- he said he feel -- he felt like Mr. Nabors ain't the person that -- that done these things to Ms. Edwards. "We're not seeing that person that day." And

that was the truth.

I felt he -- he -- he hit that right on the head. And -- and that was -- that's the truth. Medications do help me. And -- but my problem is, every time I get out, they give me a referral to go to -- to mental health. I live way out in the boondocks. I ain't -- it's hard -- it'd be hard as heck to get all the way down to Clinton to get -- to get help.

I mean, I ain't got no license; I ain't got no car. And my mama and daddy, they work jobs too. They -- they can't be running me all over the country and the county to go to a mental health to get drugs and shots, the stuff that I need to keep me -- my schizophrenia in control.

I got these other two incident reports right here. And it -- it -- it will show everything. I'm just so nervous, man. I swear, I'm -- I'm nervous. And I hope y'all forgive me for making a mockery of myself. I'm not trying to make a mockery of the Court or disrespect the Court in any way. I swear I'm not.

I'm the fool here right now. I understand that. But I didn't know what else to do. So I -- I -- I'm the -- I eglected [sic] to represent myself. And I'm struggling with this hearing. I'm trying to hand you up a couple more things that will verify what I'm saying.

This is just unreal, man -- unreal.

Okay. They said there wasn't no meth lab there, that I was making all that up when the -- when the -- when the you know what hit the fan and I stole that woman's car, they -- when they throwed me out in the cold and -- and -- and denied me, that I didn't exist. Sgt. Moody, as you'll read on that -- on that -- on that incident report, along with Sgt. Matthew Veal, who was also a sheriff's deputy that responded earlier that day with Mr. Edwards and arrested me, now -- now they're -- they're in narcotics. And they go to that same place, the same lab that I was at, 86 -- 8 -- 836 Hellams Road, Gray Court, South Carolina 29645. They went there and while there, they discovered that the meth -- they was cooking meth. And toxic chemicals -- they even got exposed to some of them theirself too.

And a -- a -- a methamphetamine lab is a very dangerous place to be around, especially when you got the people that think they're scientists and they're not. They in there mixing all these ingredients up. And they've been up four or five/six days or weeks in a time, and -- and they do one little ingredient wrong and -- and you get a violent explosion. And that explosion ain't nothing but pure meth smoke.

I -- my -- yes, sir. And it -- the warrant that was issued -- and -- and this is something else funny too I

wanted to bring to the -- to the -- to Your Honor's attention, is I -- I had a -- I've had a hard, terrible time getting cooperation from Laurens County Sheriff's Department. I have wrote and wrote. I wrote Mr. Peace. And I guess it's that ethical thing y'all keep talking about that I really don't understand nothing about it, this ethical stuff.

So I -- I guess every time -- the way Judge Addy -- I guess -- I did understand it, kind of, way he explained it is I'm supposed to go through my court-appointed lawyer when communicating with the Court. But to me that's impossible to do when the man that's representing me or the woman who's representing me refuses to do the few things -- the few simple things that I wanted her to do or him to do, things that I know for a fact -- in my heart and in my mind, what's left of it -- is it will prove by a preponderance of the evidence that all my issues are legitimate.

I got a ineffective-assistance-counsel issue. I got a prosecual-misconduct [sic] issue. I got an investigative-misconduct issue. I got newly discovered evidence.

And I got a -- I was denied a *Blair* hearing. I should've been given a *Blair* hearing. And I didn't know nothing about a *Blair* hearing until I then got my time and got down the road and started -- these -- these jailhouse

lawyers started trying to show me some things.

And I still don't understand nor knew the stuff. But I do understand what it means to prove it by a preponderance of the evidence. I want to come with a whole truckload of stuff that's just out there -- give to you -- if it will prove my -- my cases, my issues. And -- and there's no doubt in my mind, a few simple things or collecting a few simple witnesses who are collected, that you might would grant me relief; you might not. But maybe on later down the road at another -- at another court level, it's possible that I could get the relief I'm seeking.

I'm not a young man. I read through the transcript. And these people were comparing me to a young man. I'm 38 years old, going on 40. And I ain't got 45 years of my life left in me. I got a 25-year sentence for the armed robbery. And I got a -- a 20-year suspended to 5, run consecutive for the carjacking.

I've never been able to successfully complete either -- either probation or parole. I have never -- because I'm paranoid. I feel like every time I try to go up in that building, them people's got the power to arrest me. So I stay as far away from them people as I can.

And -- and I -- it just gets worse and worse. And -- and I -- I end up violating. And I get sent back to

prison. And it's -- it's like a revolving door. It's the same thing over and over and over. My whole life I've been in and out of these courtrooms. And I haven't so much as made one person bleed a drop of blood my whole life.

I mean, I could understand giving somebody 25 years if -- if -- if somebody was physically hurt. I mean, I know there's a -- such thing as emotionally hurt. I think we've all probably been emotional hurt ourselves at some point in time.

And I'm sure Mrs. Edwards -- that was a traumatic experience for her. Yes, it was. I mean, I'm -- it would've been a traumatic experience for me if I picked somebody up to give them a ride and they reached up and told me to stop the car, not to shoot them. I'd think by then I had a psychopath in my vehicle. And I probably would've got out and let them drive off with it and have my wallet, too, if he wanted it.

But I did not -- I -- that wasn't premeditated. I didn't -- I didn't get that woman's car and it's, like, Okay. This is what we going do. We going rob this woman. It wasn't nothing like that. It wasn't nothing like that.

The -- the -- the -- making -- making references to the -- to the Department of Mental Health evaluation, I got issues with that. The first issue with the Department of Mental Health exam is I didn't want to go take the exam.

They took me down there two times, back to back, basically forcing me to go down there with threats of gas and stun guns if I didn't go down there.

So the third time I went down there, I talked to them a little bit. And -- and I mean a little bit. So what -- what the psychiatrist or -- or the psychologist -- his -- in his report, he said: "At this time a diagnosis of malingering is -- is given." And that's just -- that's just totally untrue there. Because, I mean, I -- I'm not faking nothing.

I mean, I'm not trying to act crazy, because I -- I ain't crazy. I know I'm not crazy. And I'm not trying to act like I'm crazy.

I got -- I got enough sense in my head, I think, to -- to -- to know that my constitutional rights, my civil rights, and my due processes rights, they've been trampled on. They been trampled on by the Eight Circuit Solicitor's Office. They been trampled upon by the Laurens County Sheriff's Department. And they've been trampled upon by the Laurens County Detention Center.

You don't let somebody go and they're in a bad mental state. I mean, I would think -- I ain't found a case yet, but -- like I said, I'm no -- no lawyer. I -- I don't know, really, how to use these law books and stuff. But I'm trying and -- I'm trying. And I -- and I -- that's why

I come over that public-authority defense, because that's what -- the whole thing is I was acting under public authority.

I believe it's only been recognized in -- in the federal courts. And I know we're not in the federal court. But there might -- may be instances of where authorization or public authority was also a -- used in state courts. I don't know.

Like I said, but I -- I -- I -- I -- I -- I wrote all my lawyers and give them the copy out of the law book about the -- what I was just discussing. And I ain't heard nothing back from them. It's always -- it's always: "You pled guilty. Let's get realistic, Mr. Nabors. You pled guilty. You -- you -- people rarely get relief at the PCR level who pled guilty."

Well, the reason I pled guilty was -- is because I was under the impression if I did not plead guilty and when I went out there back in the courtroom and that jury found me guilty, that Judge Cole -- somebody told me he was a hanging judge. And he said, "Mr. Cole will give you a life sentence on that two-strike law," is what I understood.

Now, after I go out there and take this time, I got my mama right behind me -- and my grandpa is back there -- she's bawling her eyes out. I can't concentrate. I ain't even listening to half the stuff the judge is asking me.

I'm just, "Yes, sir. Yes, sir." And I'm blanking out. I feel like my mind was frying. It bubbles sometimes. You can actually feel it, like, bubbling inside your head.

And that's on the transcript. I tried to tell him about the medications I was on. I couldn't even think of all the medications I was on. I was on -- I know I -- for a fact I had over eight different psychotropic medications in my system.

And Mr. Stalvey said that, you know -- he pointed out that -- that obviously when I am medicated, I'm a better person. And that's true. But you can't be so medicated at something like a -- a court hearing or procedure like that and be overmedicated and expect to -- expect to understand what's going on. I mean, I didn't.

The judge asked me all these questions about my rights and all that. I didn't even know what my rights were. The only right I've ever heard in my whole life was the freedom of speech. I don't know nothing about no due process rights. I'm -- I'm ignorant of the law -- and other things too.

I don't know nothing about this. And -- and I'm trying to get lawyer after lawyer after lawyer just to do a simple things -- simple few things for me, let me get my witnesses subpoenaed. My witnesses primarily are the one -- one to -- go -- what's going prove by the ponderance

[sic] of the evidence that the Department of Mental Health report should have been adversarially tested. And that's what I wanted.

But I didn't know the word for it. I didn't know *Blair* hearing. But I seen on Judge -- Judge Hill's order -- his order for a 40 hearing, he's got it -- a *M'naghten* -- I can't pronounce that right. He's got *State v.* -- *State v. Blair.* And he's got it in another one -- *M'naghten* test.

If -- if you'll read that -- if you'll read that, which I didn't get this till after I got sentenced -- if you'll read that, he's saying that a -- a defendant has a right to challenge the Department of Mental Health's evaluation. And good God, there was a -- a psychiatrist outside the courtroom right that would've gladly come in and -- and told them that, you know, yeah; I was schizophrenic; yeah, I'm -- I'm a drug addict; probably got brain damage.

I didn't know none of that stuff. All's I know is my mama was behind me, and she was crying like a baby. And I know that Ms. Edwards had stepped over. It looked like she was about to cry.

And I didn't -- swear to God, I didn't want to keep putting her through coming back -- back and forth to court and -- and -- and -- and -- and keep firing these lawyers

repeatedly. I just want them to do what I asked. And what I'm asking is not nothing unethical. It's not nothing unreasonable, as far as I know. I just wanted a few witnesses subpoenaed.

I wanted some medical records about my mental health on the street that needs to be subpoenaed from North Carolina while I was up there in rehab in North Carolina when I was a adolescent. I been smoking reefer, drinking alcohol, sniffing cocaine, smoking cracking, doing meth, popping pills. I been doing all that since I was about 7 years old. And I'm a addict. I'm a drunk. And according to -- to these psychiatrists and psychologists -- most of them, anyhow -- is I got some serious issues, the schizophrenia thing.

Some of the things, you know, I -- I read in it -- and when I can concentrate -- where you feel like you're paranoid all the time. You know, I do feel that all the time if -- if I ain't on my medications. I get to feeling -- I get to feeling like everybody's out to get me.

And -- and -- and I just -- all's I wanted -- everybody said, "Mr. Nabors, you got to get your fair last bite at the apple." And I'm thinking a apple, a fair bite.

I said, "Where am I going get a apple from and get a fair bite at?" I said, "My -- my -- my victim is a -- a ex-police officer whose sons and family" -- other family

members -- probably, God knows -- is also in the police -- law enforcement industry in -- in Laurens County or -- or close. And I -- I never expected who -- to -- to live to be this long here today.

I asked a -- you know, I could've easily been killed for -- for -- for -- for doing what I done to that good woman. You know, I didn't hurt her, as far as physical. But I guess I could've given her a -- a -- a gosh-durn heart attack. I mean, you know, anything could've happened.

But it -- like I said, I -- it wasn't -- it wasn't what y'all call "premeditated." It -- it was -- it just -- it happened. And as far as making her turn down that road, I didn't make her turn down nowhere. That's -- that's where we always go to my house. My mama and daddy travel the same way. It's called "Speedway Drive."

When you coming off Georgia Road, you take Speedway Drive. And Speedway Drive runs slam into Hellams Road. And you take a right at -- at the -- at Hellams Road right there. And you go about a block up the road, and there's my house. And that's where we was headed before I went back to the meth lab.

But when I got her car -- when I'm driving off with her car, my wife's screaming at me. I'm trying to find out where -- where the gun's at. I'm -- I'm looking around and

-- and -- and trying to drive and look in her pocketbook for the gun. That's just crazy.

But I -- I -- I didn't mean -- in -- in the transcript, I -- I'm sure a lot of people didn't mean to kill people. I'm sure a lot of people didn't mean to blow people up. You know, they just did it.

But I -- I'm not trying to -- trying to -- trying to, you know, wiggle -- wiggle off the hook. As far as not accepting responsibility, I know that it was this body that made her stop her car. But as far as the mind that operates this body, that wasn't me that night.

I've robbed people in the past; been convicted for -- for strong-arm robbery and something like -- or stealing a pocketbook or something when I was younger. I have done that. And I know that a criminal record reflects badly on -- on a defendant, especially when he's got a -- a armed robbery charge and -- and another carjacking charge.

And I've never hurt nobody. And I cooperated. And I was assaulted. I was threatened.

They -- they ordered me to have a -- a handwriting test on September 23rd or 21st. It's in this pile somewhere. And I wrote the clerk of court, Ms. -- Ms. Watson. I wrote the clerk of court for Laurens and asked her to please send me -- send me some of them -- some of them things I needed to -- to show the Court, the proof

about -- about the charges and stuff -- the -- the -- I mean, the -- the warrants. I wanted to see the -- the -- the -- the older judge, Griffin [sic] -- I think it was Judge Griffin that he went in front of. Whoever it was, Alex Stalvey and the -- and the -- and -- and -- and Yates Brown got together with judge, and -- and they ordered -- ordered -- I'm blanking out again, man. I just want to get everything on record.

Incident reports -- my -- my -- what started it was a -- was a -- was a TV and a VCR and a -- a -- a -- a TV and two -- a TV and two DVD players is what started this whole mess. And -- and some cops -- police officers coherceding [sic] me and intimidating me into being a undercover narcotic agent. Not only could I have got myself killed acting like that, I could've got my family killed, simply because that's my family.

And I know how -- I know how some of these gangbangers and stuff work. And I also know how the Mob works and all that. Everybody's on board. This day and age, it used to be the kids and -- and the family didn't come on board. But every -- everybody's free game now. And that's the way they operating out there.

And I -- I would never have let them put wires on me and make me go in these crack houses and meth labs and get exposed to this and -- and all that if -- if I'd have

knowed -- knowed better. I didn't know better. I didn't know it -- I -- I -- they -- they was -- basically, what I understand now is they was taking advantage of a mentally ill person: me. I got a documented history of mental illness.

Judge Cole, he -- it -- Mr. Stalvey never said nothing to Judge Cole about me being diagnosed from Dr. Martin as schizophrenic, impulse-control disorder, and anxiety and panic and a couple other things. And I didn't know he was out there to come in and would've testified.

I mean, it's like I come up there. I said a few things. I apologized profusely to Ms. Edwards about her car, about you -- you know, putting her through the wringer like that. I tried to explain to her that I didn't do that on purpose. I -- I didn't -- it wasn't premeditated. I just -- I really seriously thought she had a gun.

And I believe, if I could've went on my trial, I believe that -- you know, if -- at -- at best, I -- I -- I -- it would've turned out better than what I got. From what I understand, carjacking and -- and armed robbery combined don't carry but 50 years. I got 45 years.

And everybody keeps saying, "Oh, Mr. Nabors, you ain't got 45 years. You got 25 years. Then you got 20 suspended -- it's not going work that way, because Nabors can't do no parole, no probation. Nabors is going violate. So Nabors

will have to come back and do that 20."

So that adds up to 45 years for stealing a car that a pocketbook got left inside of in the excitement of the incident or whatever. When she got out, she left the pocketbook in her car. And I got in the car, and I took off.

THE COURT: Mr. Nabors, these papers that you've handed up, do you want them to be a -- made a part of the record and left with the court reporter, or you want me to take a look at them and give them back to you?

THE APPLICANT: I want -- I want to make them a -- I want to make them all a part of the record. Because, I mean, it's -- I'm understanding this is my last -- last chance ---

THE COURT: All right.

THE APPLICANT: --- the bite at the apple ---

THE COURT: All right.

THE APPLICANT: --- is it not?

THE COURT: Understanding that they're made part of the record, you won't get them back. They go with the court reporter.

THE APPLICANT: Judge, I mean, that's right. I got more copies. I made these copies for y'all if y'all would take them.

THE COURT: All right. All right. Well, they'll be

made part of the record. Mr. Johnson, if you want to review them, you have a right to.

THE APPLICANT: Yes. As -- as far as the Department of Mental Health evaluation, it was unreliable information. They -- they -- the woman who did the psychiatric workup, Ms. Cassandra Simms down at the DMH, William S. Hall, wherever it is in Columbia they took me to for that test, I mean, they can all verify that.

I mean, I just got -- I got pro se motions I wrote to the -- to the -- to the clerk of court, informing -- and -- and I sent these to -- I sent these to Mr. Cade Gibson. I sent them to -- I sent them to the clerk of court. I sent them to the -- heck, I even sent one to Obama about a month ago.

Right here -- can -- can I read this, Your Honor?

THE COURT: Yes, sir.

THE APPLICANT: It's just three -- it's three pages. I'm going to enter it in -- in -- into evidence.

THE COURT: All right.

THE APPLICANT: (As read): Dear sir -- and I addressed this to Assistant Solicitor Cade Gibson. I said: "Dear sir, as you are aware of, I intend on entering an insanity and/or guilty-but-mentally-ill at the time of the crime as had been set down by Rule 5(f), SCRCP. I need access to a law library so that I may prepare for my

defense concerning my charges. My court-appointed lawyer has filed motion and has given your office notice that he has relieved himself as my attorney of record. The Laurens County Jail refuses me the use of a well-stocked and up-to-date law library.

I mean, they ain't got one, so they really can't let me use it if they ain't got it. But I do not want the use of outdated, torn, or obsolete law books. I want access to what any attorney would deem both appropriate and acceptable in regards to law tombs [sic].

Sir, I know I'm not a lawyer. I know that a person who has himself for a -- a lawyer has a fool for his client. I know dictum of such.

But what I am expected to do? What am I expected to do? You know I'm not being given the representation I deserve. You know, too -- also, that I was released from police custody while it was very apparent that I should not have been put back into the public sphere at that time.

You know that I was being used by the narc unit as a C.I. I was being allowed to keep and do some of the drugs I was being instructed to purchase as a C.I. I was also being allowed an expense account. I was being allowed to run all over Laurens County in a car owned by the narc unit. And they knew I didn't have no license, etc., and that I was constantly under the influence of drugs while

driving their car.

I have made all of these public knowledge in the event something befalls me. The truth will still be exposed.

And this is what I wrote about my wife. I said: My wife is innocent. And I believe if -- if -- if -- I -- my -- jury -- my wife is innocent. And I believe a jury -- any jury will find in her favor. I'm tired of her rights being violated by the judicial circuit's officers of the law.

Right, right, right -- we still have rights. And right is right, and wrong is wrong. To keep somebody in jail for any length of time when it's obvious that that person's innocence is in question and that their constitutional rights are being infringed upon -- myself -- my wife is innocent. And I am, too, to a certain degree. I never said I was totally innocent. But to a certain degree, I am.

Whether or not your office is prepared to admit that fact or not, you do not release a drunk driver upon arrest and allow him or her to get behind the -- the wheel of their car and go on down the road to kill somebody else. The reason they -- they released me, Your Honor, is because they wanted me to go back to that meth lab.

So I guess I was still acting under public authority. As far as me not going to them, what -- what Sgt. Moody was

upset about when he seen me at Ropers that day, my wife was out there with somebody else. He was upset because I hadn't been returning their calls. They was wanting me to go do -- do some more buys. And I done got to the point where I -- I -- I was very paranoid. I felt like people were talking about me; that they done figured out that I was a narc.

And -- and I just -- some -- sometimes I didn't even come out of the house. And -- and -- and that's why I was ducking and dodging Sgt. Moody of the narcotics division. I was ducking and dodging Paul Page of -- of the -- of the Laurens County Sheriff's Department's narcotics division. And I was ducking and dodging Brian K. Bridges, the lieutenant over the narcotics-division unit here in Laurens County.

I mean, I didn't want to participate no more. I felt like I had done obligated that warrant for that grand larceny, because my uncle ended up pleading guilty to it. And he took the time for it. But yet they was still -- unbeknownst to me, still using that against me.

But when I get the kidnaping, the carjacking, and the armed robbery, the state is -- is nice enough to go ahead and -- to go ahead and dismiss the grand larceny. I guess so. They -- they already had their man.

I was also being offered 12 years. At the time I

understand that. I mean, I might would've accepted 12. I might not have would've. I -- I -- I probably -- in all actuality, probably wouldn't have wanted to accept 12. I was still wanting the jury trial.

But still, that was lost in communication somehow between lawyers. Between me getting -- getting Mike Turner, Jr., Esquire, relieved as counsel and, I think, Judge Hugh [sic] appointed Alex Stalvey to be my counsel of record, it must've got lost. Either it got lost or I didn't fully understand the -- the -- the implication of what they was offering me, compared to what I could've got.

I mean, just because I sit here and say "Yes, sir," "No, sir," "No, ma'am," Yes, ma'am," all that don't mean I'm -- I'm comprehending. I'm -- most of the part, I'm just doing it out of respect. That's the way I was raised: to say "Yes, ma'am," and "No, ma'am."

Looking at me with all these tattoos, I'm sure most of you probably think, Well, you know, that's crazy. But that's just the way I was raised. I mean, I might've been raised around drugs my whole life and -- and alcohol and stuff my whole life. But I still -- I still got a conscience.

And what I did, taking her car, I felt very bad about. But -- and -- and -- always the but -- but I wouldn't have never done it if they hadn't have been -- hadn't -- hadn't

sent me there that -- to that meth lab where I got exposed and that stuff sent my schizophrenia -- what the doctor says -- is -- into overdrive, like a walking time bomb.

Usually, I'm not violent. But I -- I -- for some reason that night, I was very upset with every -- everybody and everything. I just felt like everybody was in on me.

If you'll read in the transcript -- if you'll read in -- in -- in a transcript, Ms. Edwards -- she's talking about the mention of a -- a -- a gun or something like that. Here, I got it right here. All right.

If you'll read in the transcript, it -- it -- it clearly -- it clearly shows that -- it clearly shows several things, really. I mean, he asked me about my medication. Well, first of all, he denied me -- Judge Cole denied me a *Blair* hearing, which I didn't even know nothing about a *Blair* hearing. I'm fairly 100 percent sure Mr. Stalvey never informed me about a -- what was called a "*Blair* hearing." If he did, I didn't understand it.

I was loopy. I was on all that medication. And Mr. Stalvey -- I -- I informed Mr. Stalvey before we come out -- come out to do the jury trial and all that stuff. I said, "Mr. Stalvey, this medicine has got me messed up, man. I think -- I'm high as hell" -- excuse my language. I said, "I'm high, man."

He says, "Well, do you feel like it would -- what --

you -- you be able to go ahead and go along with the proceedings?"

I said, "Yeah, I guess. I mean, I -- I guess I can."

And I guess that was good enough for him not to -- not to challenge it -- the -- push the issue no more. And I didn't push it no more.

But looking back in hindsight, I think I should've had a *Blair* hearing to -- and I wanted definitely to contradict the Department of Mental Health's filing of -- that I didn't suffer from nothing that -- that -- or -- and I was criminally responsible. I wasn't criminally responsible when I took this woman's car.

I swear to God, I know I wasn't criminally responsible. If what -- this constitution talks about statutes about what criminal responsibility and all that means, none of them apply to me because I did not -- I -- I wasn't under impression of -- of none of that stuff. I was just on autopilot.

I -- I done been -- been shot at. I done been hung up wet, wringing to dry, by Laurens County Police Department. It's not the first time they've tried to -- they've tried to initiate me into making buys for them undercover as -- as a -- as a C.I. narcotic agent for Laurens County Sheriff's Department. They've tried to do it several times in the past.

It's -- it's just -- I felt like, you know, I -- everybody keeps talking about rights, rights, constitutional this, due process this. I don't know hardly nothing about none of that. What little I do understand now, it -- it has come from rereading and rereading probably a -- a stack no -- no thinner than this right here. I had to read this a hundred times to get a basic understanding of well -- what really this -- these statutes and laws means.

I was highly medicated. I shouldn't have -- I shouldn't have -- I shouldn't have been able to -- the judge shouldn't have accepted my plea. As far as me "Yes, sir," "No, sir, Your Honor," and going along with his -- what do you call it? -- a -- a -- examination by the Court, I mean, I say right here: "Do you know of any defense to have to enter -- to either charge?"

This is Judge Cole asking me: "Do you -- do you know of any defense that you have to either charge?"

My answer: "I don't know. I'm just rolling with the flow, Your Honor. I don't know nothing about the law. I'm ignorant when it comes to the law."

Mr. Cole: "Well, I understand. But what I'm asking you is: Can you think of any reason or do you know of any reason yourself or after discussions with Mr. Stalvey why you should not be found guilty of carjacking?"

"No. I mean, no." And I didn't. I mean, I -- I guess I did carjack her. I mean, I made her get out of the car. And the law says that's carjacking. Okay. I -- I did that. But I would not have done it if I hadn't have been hallucinating in the first place.

I was wanting a jury trial to -- to weigh that and decide theirself. I was going put my whole life in the hands of 12 people. And I -- I -- I was confident enough to -- to -- I really actually believed and still believe today that the jury -- any jury -- just about practically any jury that gets empaneled, when they hear the facts of these cases, how these Laurens County Sheriff's Department was sending me all over the county, buying drugs and -- and no license and under the influence, I mean, that -- that -- that can't be right neither. I mean, do the -- the -- does people like them have a free rein -- does -- does the rules only apply to ordinary people? Or do they -- the -- the -- or police officers and other peoples of authority, are they immune? Do -- because it's -- what it seems to me like on this particular case is nobody's been called to the -- to bat for what happened.

And they was basically a hundred percent responsible for me stealing her car. The -- they -- nobody's ever shown up at court, none of my hearings, and said, "Yeah. We put a wire on Mr. Nabors. Yeah. He went into crack

houses and meth labs. Yeah. We admit all that."

I ain't saying solicitor from Greenwood circuit court here has -- has admitted that yet at -- at any of the proceedings I been into. I wanted him to subpoena Brian K. Bridges, the head narcotic agent, and his partners that were running me and putting these wires and cameras and sending me into these places to buy dope. I wanted them subpoenaed under oath and -- and questioned by my lawyer. I didn't get that. No -- every lawyer I've asked to do that has refused.

My discovery -- I hadn't got my discovery yet. All this stuff right here is stuff I've got on my own. And I know that's -- there's stuff like motions and all that that Mr. Stalvey supposedly filed that I never -- I've never seen, witnesses statements I've never seen.

I mean, it -- I ain't up here trying to cry a river or a sad story. But I just feel like if -- if -- if what these constitutional rights and due process laws are actually supposed to stand for and mean, then it doesn't matter. It ain't supposed to matter that I'm a junkie, an alcoholic, or -- or I got a -- a mental disease. I should still be treated just as fairly as the next man when it comes to consideration of -- of was there mitigating circumstances involved in -- in -- in the incident.

And I believe yes. I believe there was a lot of

mitigating circumstances involved, especially -- especially, you know, the cops making me be a narc and then had gotten -- gotten exposed only a couple hours before I stole her car and then -- then released me right back out. I've never had a P.R. bond that I can remember in my whole life where they just turned me loose.

And I -- I -- I was just hallucinating. I was hallucinating in that courtroom. Talking crazy and looking crazy is what everybody said that -- that come out -- out of the courtroom that day.

I was in -- in W -- Judge Copeland, the one who -- who -- who give me a -- that bond hearing. And I -- I -- I -- what I understood was Mareno Foggie or somebody from the sheriff's department contacted him and had me sprung because they wanted me to go back and find out about where does everybody go. Because when they got down there, there was cars everywhere but there wasn't no people for the cars. Everybody done fled through the woods with the dope, most of it.

And I feel like I got good issues. As far as trying to represent myself, like, you know, I asked you -- you let me do that, and you did. As -- as far as being a -- a -- a fool for a client, I -- I'm definitely that, because I'm not no lawyer. I'm not no lawyer. I don't know that part.

But I know that I've been told enough and showed

enough in these law books about these constitutional rights and about these due processes rights, I -- I -- I think I finally comprehend enough to know that certain things wasn't done in my case that should've been done. And most definitely, the Laurens County Sheriff's Department should have never enlisted a mentally ill, alcoholic drug addict to do these things they had me doing.

I mean, couldn't they'd have gotten somebody more qualified than -- than me with less -- with less baggage than me? I don't know. That's why I wanted him to call -- to -- to -- to testify. I wanted -- I wanted them to be questioned. Why did you have Mr. Nabors -- and -- they can't -- they can't deny -- say they didn't know I was mentally ill. They -- they knowed for -- for many years that myself has a drug, alcohol problem, and mental health issues. They knew that. But yet they're going threaten me going back to prison and getting raped to coherce [sic] me into -- into becoming a -- a narcotic agent for them and risking not only my life, but my family's life.

I mean, that's just how -- that's how they -- that's how they work. You know, I understand that now. That's how they work. If they can't get to you personally for doing something to them, then, hey, everybody's on board. They go get your kid, the -- your mama, your daddy, your sister, your aunt, your grandpa. They'll go kill one of

them just to teach you a lesson.

Oh, so you want to wear a wire up in my -- my trap and buy dope from me and then go turn it in to the police and videotape me and everything and try to send me to prison? And that's how they looking at it. And I see it from their point of view too.

I wouldn't have never went in there to wear no wire if I hadn't have been threatened to being sent back to prison. I'm deathly afraid of prison, man. I hate prison. I am deathly afraid of it. Things -- bad things have happened to me. I don't -- I -- I -- I don't -- I can't really fight off people, not with four or five peoples on me, holding me down, raping me. I -- it's hard to do that: fight off four or five people when they -- when they raping you.

And I didn't want to go back to prison. Nothing -- I -- I -- I did not want to go back to prison. And I ended up being convinced by Mr. Stalvey that pleading guilty would've been the best thing I could've done. And what I understood, that Mr. Stalvey was trying to apply to me -- it could've been my medication, that I just wasn't comprehending. But I think I comprehended it well.

He -- he -- he was telling me if I didn't go out there and stop the jury trial, the jury -- the jury were in the jury room. He brought me back out here. He says, "If you

don't go out here" -- he says, "If you don't go tell Judge Cole that you -- you -- you saw -- ask for the mercy of the Court and plead guilty, he's going hang you, probably with the two-strike law." And that scared the heck out of me. I mean, that scared the heck out of me.

And I got up there and -- and -- and -- and tried to act, you know, normal, like a normal person would be, and -- and -- and -- and let -- and -- and I let Mr. Stalvey do all the talking and -- for once. And as you'll see in the transcripts and everything, I mean, all of this is reflected.

The judge keeps on and on asking me things. And I'm confused. I mean, I'm confused right now. I mean, you've got to sit down and explain certain things to me. And if I -- if -- if I'm having one of my -- one of my bad days or if my medications ain't acting right with one another, I can't hardly think. I can't hardly think, much less reason.

And the judge asking me -- he asked -- he asked Mr. Stalvey -- I believe he said, "Do you know of any -- do you know of any defenses that exist for Mr. Nabors?"

And he said, "No, Your Honor. At this time I can't offer no defense."

Well, what's public authority? If I was acting under public authority for the Laurens County Sheriff's

Department, I think that would've been a good defense.

What about my exposure at that meth lab that they sent me to -- because I was under public authority -- that led to me taking this woman's car? I think that was evidence.

The psychiatrist that Mr. Stalvey hired that I didn't know he -- he didn't give the money to or nothing -- was outside the courtroom and would've gladly come in here, from what I understood. While -- while -- while the state was talking and when -- when -- when Mr. Stalvey was talking, I was sitting here, going, "Yes, sir. No, sir. Yes, sir. No, sir." If -- if -- if that psychiatrist, Dr. Barton from the Greenwood County Jail, would've come in her, that would've shot -- that would've shot a hole right in the Department of Mental Health's report off the top.

Another thing with the Department of Mental Health report was it was based on that psychiatric evaluation -- social-work evaluation. That's when a -- a person calls and talks to your family about your mental health, about your lifestyle, and all that. Well, Ms. Cassandra Simms called my mother while her and my grandfather and all them were down at the beach. She called to talk to her.

And I finally got a copy of -- of -- of what -- what was asked and all that. And -- and my mama -- I don't know if my mama was -- she's kind of off in the head or what or -- or she did it out of vindictiveness -- I don't know what

she did. But she lied on all them questions, all them important questions, like did -- did your -- did -- did your son have a normal childhood? Is it -- was -- was it -- was it a lot of separation in and out of different homes? She said no.

And there was. I got drug all over the country when I was a little kid. They was always fighting, always separating, always fighting, always separating.

She -- she asked my mom about the drugs. Mama didn't say, "No. They -- they was all -- they -- we used to have pounds of reefer and crank and -- and all this and -- and we used to have all of it. He'd get in it. And we'd have to put a lock on our door to keep him from going in our room and stealing our drugs."

I got one slick on them. I went out and pulled the air conditioner out of the window; crawled through the hole in -- in -- in the window and got more drugs. And I've been doing that my whole life.

My daddy's a good man. He don't do drugs no more. I think it was just a phase for him. He's had the same job for almost 40 years: Cryovac, Simpsonville. Same place my grandfather and them retired from.

And my daddy got his act together. And everybody seems to wonder why I can't get my act together. I don't know why I can't get my act together. I mean, I -- I'm --

I -- I -- I don't know.

If -- if the doctors -- with what these psychiatrists and stuff are saying, I mean, they -- they like, "Why don't you try to go get you a crazy check or something?" I don't want to go get no crazy check. If I try to go get a crazy check, then they going probably put me in a stripped-out cell or padded room or something.

That's why I ain't -- I don't -- I've never really -- another reason I don't mess with them people on the street, Department of Mental Health, is because I'm scared of them. They got the power -- a -- a judge can court order me to go indefinitely. I can die in there.

And I know it's got to -- probably just as worse in -- in a place like that than it is in here, all them people hollering and screaming and throwing doodoo and feces and stuff. I don't want to be no part of that stuff. If I wanted -- wanted some of that, I'd go to the Gilliam Center.

THE COURT: All right. Do you have anything else that you want to present?

THE APPLICANT: Yes, sir. That psychiatric social worker -- I got it right here -- yeah. Asked my mom -- asked my mom did I have a normal childhood; was I ever cruel to animals; did I ever set fires. She said no.

I done all them things: about burnt the house down a

couple times; set the woods on fire, playing with fire; killed a bunch of little animals around my neighborhood. Why? I don't know.

I wasn't no devil worshiper or nothing like that there. I just, like, just killed them to take out my frustrations. I was killing them -- something weaker than what I was. Because at the time somebody was taking things out on me, and I could not defend myself. So I guess I wanted to justify me being the aggressor instead of the -- of the victim. Try and see how it felt, and it didn't feel too good, so I didn't kill too many animals, thank God. And if I did, it was deer and I ate them.

I give you both the incident reports from Moody. I give you the incident report from -- from the -- where I was at on 6/10 -- 6/10/09. And I should've give you a incident report handed up to you -- a incident report -- Laurens County Sheriff's Department incident report for -- for 10/23/09. Because that's when Sgt. Moody went back and made the arrest at this meth lab.

I could've proved today -- I know I could've proved today by preponderance of the evidence that I'm innocent of that armed robbery and that there should've been a lot of things brought up and made a -- a court made aware of that wasn't made aware of. A couple of lawyers I had -- I had Chip Howe. He told me point-blank, he said -- he says,

"I'm nót" -- he said, "Your victim, being a police's mama, a ex-police herself -- blah, blah, blah -- and with your criminal record, I don't even want your case, Nabors."

I said, "Okay." So I -- I got the next one. I got Bill Mayer. Bill Mayer made me feel like if I didn't plead guilty, that basically I was going get the same thing. He kept talking about the two-strike/three-strike law.

MR. JOHNSON: Once again, Your Honor, this is ---

THE APPLICANT: Okay.

MR. JOHNSON: --- about -- this ---

THE APPLICANT: Okay. Because ---

MR. JOHNSON: --- is about ---

THE APPLICANT: --- I just ---

MR. JOHNSON: --- Mr. Stalvey ---

THE APPLICANT: I just ---

MR. JOHNSON: --- not ---

THE APPLICANT: I apologize.

MR. JOHNSON: --- Mr. ---

THE APPLICANT: I apologize. I didn't want to -- I ain't do that -- I didn't do that on purpose, Mr. Rutledge.

I mean, I just wanted some -- I wanted some investigation done in it. I wanted -- I wanted them people called up on the carpet for what -- for the things they had me doing.

THE COURT: All right. Well, you can pass those

documents up for my review. Anything else?

THE APPLICANT: Well, only thing I got to give you -- I'm -- I'm looking for -- is -- is the Department of Mental Health report that will -- I want -- I -- I wanted to challenge that report. And I'm digging for it right now, Your Honor. And it's in here. I had it awhile ago. My nerves are so tore up.

(To the bailiff) Would you give that to him?

That's -- that's what started it all right there, that break-in with Daddy's TV getting stolen. That's what started the whole thing right there. And that was in '08.

MR. JOHNSON: Mr. Nabors, I have a copy of the mental health report if you'd like me to give it to the judge.

THE APPLICANT: Do you got the -- do you have the -- do you got the -- the -- the -- the -- from Cassandra Simms, the social -- the -- the psychiatric ---

MR. JOHNSON: Yes, sir. I'll let you look at it. That's the one?

THE APPLICANT: Let me see it.

MR. JOHNSON: Cassandra Simms?

THE APPLICANT: Yeah. That's it. Is it -- is that her questions in there? I think that's just the reports. And she had a report, too, and that's what I'm looking for. And he based it -- he based his opinion off of half of her -- her report made up half his opinion, with his made the

majority.

But they -- together is what made them come up with what they came up with. And if they was basing that on unreliable information with my mama saying I had a rosy, perfect-picture childhood when I know I didn't -- and I don't know why she -- she didn't tell them, you know, I -- I -- I -- I've been around drugs and stuff my whole life, you know. I -- I ain't saying that I wouldn't have never started doing drugs somewhere else maybe later on. But I knowed -- have started doing as young as I was, I would've never done that if they hadn't have been at the house.

They -- they said that they would testify for me also, but something come up. They wasn't here today. And they got a -- a -- my mama's grandpa, my great-grandpa, is on his deathbed, I believe. So they couldn't make it.

And that's unfortunate. But I wanted to preserve -- I wanted to preserve this. Because if I need it later on, it'll be on record.

From what I understand, I need somebody to explain to me this 59(e) -- what -- exactly what are you going to let me -- what are you -- what -- what issues are you going to accept to review and what do I need to -- to -- to -- to -- to keep on record in order to preserve it for the next level. I don't know nothing about this stuff. I don't know nothing about it. I don't know nothing about it.

Here it is, Judge. It's -- the way she printed -- the way she printed it out, as you'll see up here at the top corner of the evaluation, the psychiatrist -- the -- the -- the -- the -- the people that done these exams, they -- they said that they based their formula or their opinion off of a social work admission assessment and also by the interview with the psychologist.

Okay. Well, the -- the -- the -- there was only two examiners. One was the psychiatric social worker. And the other examiner was the psychologist. So he -- he used her -- Cassandra Simms -- her -- her results, her -- what -- the responses that she got from my mama to base on him finding that I had a normal childhood and -- and basically, you know, just rosy and -- and -- and it wasn't nothing mitigating. I think that's the word for it, mitigating. I'm not sure.

I'm just glad you let me ramble on. And I'm -- I didn't want to fire him. I -- I wanted to be represented by a lawyer because I -- I -- I know I don't know law. I'm up here making a fool of myself right now. And I will never probably live this down as long as I live. But I didn't know what else to do.

I -- I can't get them to do a couple few things for me. They making it seem like I'm wanting them to get a hundred witnesses. I don't. I don't -- I got it down to

12 people. And each one of them will get up there and say something just a little different or a lot different than the one before. It's not going to be 12 people getting up there and saying the same thing.

And that's what Ms. Horlbeck kept trying to stress to me: that she didn't want to subpoena 30 people and all 30 people got up there and said the same thing. She said the Court will be displeased with that. And I agree. I -- I understand that.

So I went through my list. And I -- and I knocked -- I weeded through it. And I -- I got about 12 to 10 people. I got two transcripts that I wanted to get. And I wanted my discovery that I never got.

I -- I been trying. I been trying to get these issues and stuff together to present them when the -- when the time came. And here I am today in your Court, Your Honor. And I'm -- I apologize for, you know, making a -- making a -- a butthead out of myself. But I didn't know what else to do. Because I don't know what's going on, man.

I mean, I know what's going on is I got all this time, and I'm going to probably end up dying in prison because Laurens County Sheriff's Department had me doing the things I was doing. And if it wouldn't have been for them, I wouldn't have been at that meth lab on 6/10/09 and got exposed to them toxic chemicals and then took to jail and

then released on a P.R. bond and told to go back.

Okay. Well, I didn't go back. I -- I -- well, I didn't -- I -- I take that back. When I got -- got -- got -- got going up the road in her car, I went straight to the meth lab. Why? My wife thinks I wanted more meth. What I went there for, I -- I guess, because I wanted to see if they was still down there. I didn't know what I was thinking, actually.

THE COURT: All right, Mr. -- Mr. Nabors. That appears to be your case. I'll give the state their turn. Anything?

MR. JOHNSON: The state calls Alex Stalvey to the stand, Your Honor.

THE COURT: All right. Let's stand for a couple moments -- at ease for a moment ---

MR. JOHNSON: All right. Thank you.

THE COURT: --- before we proceed.

(Off the record from 11:40 a.m. until 11:43 a.m.)

(Whereupon, the witness came forward.)

THE COURT: All right. I'll swear him.

ALEX STALVEY, having been first duly sworn, testified as follows:

THE COURT: All right. You may proceed.

MR. JOHNSON: Thank you, Your Honor. May it please the Court.

DIRECT EXAMINATION

BY MR. JOHNSON:

Q Mr. Stalvey, I guess, will you give the Court a little background on you became involved in this case?

A Yes, sir. I was appointed to represent Mr. Nabors by Judge Hill. It was my understanding that Mr. Nabors had -- had had several previous attorneys. Judge Hill had been presiding over in Laurens and knew about Mr. Nabors. I had just gotten into private practice. And Judge Hill thought it would be a good idea for me to represent him.

Q And when was the first time -- or how many times did you meet with Mr. Nabors over the course of your representation?

A I met with him a bunch. I -- I -- actually, one of the first things I did was have him moved from Laurens County Detention Center over to the Greenville County Detention Center so I could see him more frequently. I mean, I -- I don't know for certain how many times I met with him.

But as I do with all my clients, I mean, we -- we prepared for a jury trial and started a jury trial. So our meetings were frequent and -- and extensive.

Q And did you receive discovery from the state in this case?

A I did.

Q And did you share that with Mr. Nabors?
A I did.
Q Did you ever give him a copy of that?
A I thought I gave him a copy of it. We went over the case so many times. I mean, I -- he and I both knew the evidence backwards and forwards. There wasn't -- the -- there wasn't much to it. But we certainly went over it a lot. And we were very familiar with the discovery.
Q And what all would've been involved in the discovery?
A Well, we had, you know, some incident reports. Mr. Nabors gave a statement to the police, which we actually challenged in a pretrial motion at the jury trial. There was, I believe, a statement from the victim in the case. There were transcripts from his, I guess, wife at the time. She had entered a guilty plea. We reviewed that. She was going to be called as a witness, I believe, for the state.

There was -- you know, I mean, he -- he was evaluated by the Department of Mental Health. We went over that evaluation. He had also been having some issues over at the Greenville County -- or at the Laurens County Detention Center while he was awaiting trial. So we pulled all the medical records from those incidents. He had cut himself, and we were, you know, evaluating a possible insanity defense. So we went through all that, his prior criminal history.

I mean, everything that -- everything we got from the solicitor's office, it wasn't much. We went over that. But -- but all the other stuff that I got through subpoenas and requesting the transcripts, we went over that as well.

Q And based on all this information you gathered, did you form a defense in this case?

A Well, I did. I mean, we -- we -- Mr. Nabors and I talked about it. I told him that, you know, the first probably best defense that he would have would be to prove or to at least create a reasonable doubt in the -- the minds of the jury members that the victim in the case did not -- that he didn't use a knife and it wasn't an armed robbery; it was a common law robbery.

The victim had described Mr. Nabors as a clean-cut, I believe, clean-shaven individual. He looked about like he looks today. I mean, he certainly wasn't clean-cut at the time. So we were going to challenger her credibility as far as what she observed that day. And hopefully, you know, we would've gotten a common law robbery out of it, instead of an armed robbery.

We also talked about his mental -- or his capacity to appreciate right from wrong at the time of the event -- of the incident. I did have a psychiatrist that evaluated him -- well, didn't evaluate him, but had been treating him at the Greenville County Detention Center; did diagnose him

with paranoid schizophrenia. I had spoken with that doctor, Dr. Martin, several times.

Dr. Martin was not prepared to offer a specific finding of Mr. Nabors' criminal responsibility. But I thought, based on what Dr. Martin had told me, that I could at least get him to testify as to what paranoid schizophrenia was. And also, he was going to testify on the use of methamphetamine and how that interacts with paranoid schizophrenia. We were going to use that to -- to educate the jury.

We were also going to use it to call in the credibility of the evaluation of the state's psychiatrist. And that was Dr. Gaston, who was called as a witness.

Q And was -- speaking about the Department of Mental Health's -- he actually was evaluated by the Department of Mental Health?

A That's correct.

Q And was a record or the findings recorded in any way?

A They were. I -- they issued a written report that I -- it may be in the record already but ---

Q Is this part of your discovery, what you discussed with Mr. Nabors?

A Yes, sir.

MR. JOHNSON: Your Honor, may I approach the witness?

THE COURT: Yes.

MR. JOHNSON: And I've already shown Mr. Nabors that previously.

Q You recognize that?

A I do.

Q Is that a true and accurate copy of what the -- it purports to be that -- that report?

A It is.

MR. JOHNSON: Your Honor, at this time I'd move that into evidence as State's Exhibit 1.

THE COURT: Any objection?

MR. JOHNSON: I have it marked.

THE COURT: Hearing none, it's admitted.

MR. JOHNSON: Thank you.

Q And upon your review of that report ---

THE COURT REPORTER: Mr. Johnson, you wanted the exhibit marked?

MR. JOHNSON: Yes. Your Honor, may I have it so she may -- court reporter may mark it? Thank you, Your Honor. I apologize.

(Whereupon, State's Exhibit 1 was marked and entered into evidence.)

MR. JOHNSON: Thank you.

Q Mr. Stalvey, in that report is there a finding about criminal responsibility?

A There was.

Q And what was that finding?
A That Mr. Nabors was criminally responsible at the time of the incident.
Q Okay. So basically, he knew right from wrong?
A That's what the report said.
Q Is there anything in that report about paranoid schizophrenia?
A If I remember correctly, there -- well, I'm -- I'm -- I can't -- without looking at it, I wouldn't be able to testify to that. I can't -- I just can't remember. I believe there was not -- well, I -- I'd -- I'd have to look at it.
Q Was there findings about -- or at least a -- a history of his drug use?
A Yes.
Q And his mental health history?
A Yes.
Q And would you have used those as mitigating circumstances at the trial?
A Well, I -- I would've -- you're asking me about the Department of Mental Health's report. I was prepared at trial to argue that their report, while some parts of it were accurate, other parts of it were not. And that was the purpose of having Dr. Martin subpoenaed and -- and there to appear for trial.

But I -- I certainly -- I mean, I -- and I think I did -- argue at the guilty plea about mitigating circumstances related to his substance abuse, to his mental health issues.

Q And speaking of guilty pleas, did the state provide any offers to Mr. Nabors about the -- plea offers in this case?

A Yes, sir.

Q And can you please discuss those?

A Well, I mean, it -- when I got involved in it, they had offered him -- they had offered him something. I can't remember what it was. But -- but after I got involved, they extended a plea offer of 12 years. I discussed it with Mr. Nabors. He -- he didn't want to take that deal.

You know, I -- when I first met with Mr. Nabors, I -- I -- our first conversation -- I remember this clearly -- I said, "You know, look, I know you've had a couple lawyers before. I know they tried to talk you into pleading guilty to something you don't want to plead guilty to. I'm not here to force you to plead guilty to anything. If you want a trial, let's get ready for a trial."

And he said -- well, he seemed to appreciate that. So they -- they made that offer. We talked about it. And -- and he had the same position when we discussed that offers, that he wanted the trial.

And so I -- I told him -- I said, "All right. Let's get ready."

Q And you were prepared for a trial?

A Yes, sir.

Q And you actually started that trial?

A We did.

Q But whose ultimate decision was it to reject that plea offer?

A Mr. Nabors'.

Q Let's talk a little bit about the beginning of that trial. Jury selected?

A Yes, sir.

Q You alluded to some pretrial motions. Do you remember exactly what motions were made?

A We had a motion to suppress the statement that Mr. Nabors gave police. Mr. Nabors felt like the police intimidated him. I think he's talked a little bit about that today.

I remember specifically asking the offer that took his statement -- Mr. Nabors had told me the officer had a cell phone that had a -- the sound of a gunshot on it and was -- was taking pictures of the -- of Mr. Nabors and trying to intimidate him. So we spent a -- a long time during a suppression hearing. I was cross-examining him -- the -- the law enforcement officer. So that -- that took some

time. But ultimately, the judge decided -- decided to let the statement in.

As far as other pretrial motions, I mean, I -- I can't -- I can't remember any other specific ones. I'd -- I just can't -- I -- I feel like there may have been some other stuff that we did. But I just can't remember specifically.

Q Now, after the pretrial motions, did Mr. Nabors want to then plead guilty or was there a break in the action? Was there a recess for the day? How did he come about pleading guilty in this case?

A All right. Well, we did the -- I mean, we started the trial in the morning. We did the pretrial motions. We took maybe at -- it was time for lunch after that. We had already picked a jury. I can't remember if we picked the jury before or after the pretrial motions.

But there was jury selection, pretrial motions. We did opening statements. And they -- the state may have called one witness. I can't remember.

But we broke for the day. We came back the next morning. I went in there and, you know -- not -- to just kind of talk to Mr. Nabors before we got started again. They hadn't extended any kind of plea offers or anything like that.

And it -- if I remember correctly, the next witness that the state was going to call was going to be the

victim. And, you know, he -- he told me that morning -- he said, "I just -- I want to get this over with." I mean, I remember that clearly.

He -- he -- I said, "Are you sure? We've already started. You know, this -- we're here."

And he said, "I just want to get it over with."

Q And at that point did you agree with his decision to plead guilty?

A I felt like -- you know, I -- I did not feel good about our chances in getting a not guilty. I felt like he was going to be convicted after the -- you know, by the jury. I felt like he was probably going to get a better sentence through a guilty plea, rather than go through the trial and especially making this elderly woman get up there and testify. I didn't think that was going to go in his favor, as far as sentencing at the end. So I thought it was in his best interests to plead guilty.

Q And did you explain that to Mr. Nabors?

A I did.

Q Was he on board with that?

A He seemed to be at the time. I mean, he -- he understood everything I -- well, he seemed to understand everything I was talking about. Like I said, I mean, he and I -- I felt like we spent a lot of time together. And we -- we worked hard getting ready for it. So he -- he

understood, in my opinion, what was going on.
Q Did he ever at any time stop you and say, you know, "Counsel, I -- I don't -- I don't understand what's going on"?
A No. Not that I remember.
Q So you felt that you had enough time to prepare for this case?
A Oh, yeah.
Q And you felt fully prepared?
A Yes, sir.
Q And how long have you been practicing law?
A Well, it's been -- I mean, I -- I graduated law school in 2004. I clerked for a judge; worked in the solicitor's office for five years. But I've been in private practice 3 1/2 years, so almost nine years -- now. When I took his case, it was maybe five -- five years.
Q And had you tried any cases before his?
A Yes, sir.
Q As a solicitor, you said?
A Oh, yeah.
Q So you had plenty of courtroom experience, plenty of investigation experience?
A I did.
Q And did you make your preparation and trial strategy based on your experience?

A Sure.
Q And ---
A Yeah.
Q --- facts of this case?
A Absolutely.
Q And your advice would've been based on that as well?
A That's right.
Q Now, turning to the guilty plea itself, do you have a copy of that?
A I don't.
MR. JOHNSON: May I approach, Your Honor?
THE COURT: Yes.
MR. JOHNSON: I believe Your Honor has a copy.
Q During this guilty plea, was that -- did the state present the Department of Mental Health report that says -- it's on page 4 and 5 -- or 3 and 4 that he's competent to stand trial?
A Your question is: Did they present the report?
Q Yes. Or was ---
A It ---
Q --- it presented?
A That -- yes, sir.
Q And did Mr. Nabors admit that he felt no reason why he wouldn't have been found guilty of both charges? I think that's page 5.

A Can you repeat that question, please?
Q On page 5, lines 12 through 19 ---
A Yes, sir.
Q --- that allude to -- does Mr. Nabors answer that question of why he wouldn't -- he had found no reason why he wouldn't have been found guilty?
A That -- that's correct. It -- I mean, he answered "no."
Q And did the judge review all of his constitutional rights with him?
A Yes.
Q And Mr. Nabors said he understood those?
A That's correct.
Q And he was pleading guilty because he committed the carjacking?
A That's correct.
Q And understood that carried 20 years in prison?
A Yes, sir.
Q Did he also plead guilty because he committed the armed robbery?
A Yes, sir.
Q And he understood that he could get 10 to 20 on that -- I mean, 10 to 30? Excuse me.
A He understood that.
Q And he understood the most serious strikes in this

case?

A Yes.

Q Did he also admit to the judge that the medicines that he was on helped him understand what was going on during the guilty plea?

A I can't -- I -- if you could ---

Q Page 16, line 5.

A He did tell the judge that the medications he was taking assisted him in making the decisions that he was making that day.

Q And he also told the judge that he was treated for substance abuse but was now not addicted to any substance.

A He certainly testified that he had been treated for substance abuse. And -- that's correct. He -- he testified that he did not suffer from any addiction on the day of the plea.

Q Okay. And you proceeded to present mitigation on Mr. Nabors' behalf?

A That's correct.

Q Okay. And the judge gave Mr. Nabors a chance to speak -- anything he wanted to say at this guilty plea, didn't he?

A He did.

Q And, in fact, if I'm reading page 17, line 1 through 5, Mr. Nabors accepts responsibility by saying: "I'm very

shameful for what I've done to the victim. And I know that I done wrong. She was trying to be a good citizen and I just flipped out. And that's no excuse.

"I was on drugs too. That's no excuse. I already know that."

Is that in that transcript?

A That is.

Q And this is when he's under oath?

A That's correct.

Q So it's -- it's no secret that he was on drugs at the time this happened?

A Absolutely not.

Q Okay. And it's no secret that he had a mental health history?

A That -- that's correct. I mean, he -- yes.

Q And then, it states on line 17 that he's been treated for emotional issues, including bipolar disease.

A Correct.

Q But he fully understood what -- what he was doing at the plea. Did he testify to that?

A That's -- yes, sir.

THE APPLICANT: Your Honor, can I say one thing, sir? I don't ---

THE COURT: No.

THE APPLICANT: --- know if ---

THE COURT: He's testifying now.

THE APPLICANT: Okay.

Q And did Mr. Nabors agree with the facts of this case, as presented by the state, at the guilty plea?

A Yes, sir.

Q And then, you testified that the evidence is sufficient to prove guilty but mentally ill?

A Repeat that question ---

Q Or that ---

A --- please.

Q --- you don't think that the evidence is sufficient to prove guilty but mentally ill on page 22?

A No. We didn't -- we didn't have any -- we didn't have any evidence to prove guilty but mentally ill at that point.

Q So do you have an opinion on the state's ability to prove their case beyond a reasonable doubt?

A I think the state would've -- would've proved their case beyond a reasonable doubt. I mean, I -- I think we had a shot of maybe confusing a juror and getting a mistrial and then maybe, you know, going through again -- or going back to negotiating the case and, at that point, maybe, if we got another offer of 12 years, Mr. Nabors, after being through the trial and kind of seeing what -- the way it would go, maybe would take that.

But I certainly -- I didn't -- I didn't think there was a good chance of that happening. I mean, I thought that it was kind of a longshot to -- to get that result.

But, you know, it was -- he -- he wanted to take it. He wanted to take that chance. And I -- I told him I -- I'm going do everything I can to -- to try to make that happen.

Q And just to -- to recap a little bit of testimony: So you investigated his mental health history?

A Yes, sir.

Q You investigated his -- his past drug use?

A Yes, sir.

Q You investigated the facts of the case?

A I did.

Q You researched based on the facts of this case?

A Yes.

Q Do you have experience trying cases?

A I do.

Q You relayed any offers to Mr. Nabors?

A Yes, I did.

Q It was Mr. Nabors' decision to reject those offers and proceed to trial?

A That's correct.

Q And then, it was Mr. Nabors' decision to stop the trial and accept the guilty plea?

A That's correct.

Q And then, as the guilty plea speaks for itself, under oath he gives up his constitutional rights? He waives any defenses he may have had to the insanity defense that alludes to today?

A That's correct.

MR. JOHNSON: No further questions at this time, Your Honor.

THE COURT: All right. Mr. Nabors, do you have any questions you wanted to ask Mr. Stalvey?

THE APPLICANT: Yes, sir. You want me -- you want me -- just ask from back here? You want me to ask him from right here?

THE COURT: You -- ask him any questions -- if you want to ask him any questions.

THE APPLICANT: Yes, sir.

CROSS-EXAMINATION

BY THE APPLICANT:

Q Mr. Stalvey, isn't it true that I asked you on a -- quite a few occasions to try to get these people from the narcotics office that were having me buy this crack and this -- and this meth and do all these things, that I was wanting to bring that forth and present it in evidence at the jury trial how they was making a diagnosed mentally ill man with schizophrenia, according to the doctors -- was it

-- would a jury -- how would a jury -- do you think would -- would've -- would've had reacted or -- or the Court, for matter, because we didn't even bring this up in -- in the Court -- also medicated when -- when I did come out there and plead guilty that morning, I was more concerned about my mama ---

THE COURT: All right.

Q --- crying ---

THE COURT: Mr. Nabors ---

THE APPLICANT: Yes, sir. I'm -- I'm -- I lose tracking.

THE COURT: You're -- you're -- the -- you're asking a question or are you just talking?

THE APPLICANT: I'm -- I'm trying to ask a question.

THE COURT: All right.

THE APPLICANT: I'm sorry.

THE COURT: How long a -- how long a question is this?

THE APPLICANT: Not -- not very long.

THE COURT: Well, start over and ask a question.

THE APPLICANT: Yes, sir.

Q Mr. Stalvey, didn't I inform you that Laurens County Sheriff's Department had me operating a -- as a -- as a narcotic agent undercover, wearing -- putting cameras on me and wires and sending me into these places?

A You did.

Q I asked you -- didn't -- didn't I ask you several times to -- to please okay a investigator, Glenn Bailey out of Lexington, to take my case? Do you remember that?

A I remember something about Glenn Bailey out of Lexington. I can't really ---

Q Yes, sir.

A --- remember ---

Q I know ---

A --- what ---

Q --- it's hard to remember. Me too.

Well, Mr. -- Mr. Bailey -- Bradley, he said he contacted ---

THE COURT: No. You can't talk. You got to ask questions.

THE APPLICANT: Yes, sir.

Q So you didn't think it was a good idea for me to have a private -- a -- an investigator's services that could've done, you know, all the footwork that really needed done -- I don't believe you went to Gray Court or talked to -- took any dispositions [sic] from -- from my witnesses or anything like that, did you?

A No. I didn't take any depositions ---

Q Yes, sir.

A --- from any witnesses.

Q But it -- it could -- that -- that -- am I saying that

right? What -- a deposition is before we go to trial, you get these people to ask these certain questions.

A You're not allowed to do that in ---

Q You're not ---

A --- criminal ---

Q --- allowed to ---

A --- court.

Q --- do that?

A No, sir.

Q Okay. I had a lawyer one time in Columbia -- she done that. So that's why I was thinking something about getting a sworn affidavit or -- or statement ---

MR. JOHNSON: Objection, Your Honor. This is nonresponsive. No question ---

THE COURT: You got to ---

MR. JOHNSON: --- is asked.

THE COURT: --- ask a question. You had your time to just talk, talk, talk.

THE APPLICANT: Right.

THE COURT: You did ---

THE APPLICANT: Okay.

THE COURT: --- that ---

THE APPLICANT: Yes, sir, Your Honor.

THE COURT: --- for over an hour. Now you got to ask questions.

THE APPLICANT: Yes, sir.

Q Mr. Stalvey, so when I came out and pled guilty that morning, did -- did I tell you that the medications I was on had me feeling real loopy, like I was kind of high, and you don't recollect me saying that?

A I don't remember you saying that -- I don't remember you saying you felt high. And I don't remember you saying you felt real loopy. To be honest with you, I can't remember you -- you saying anything about how the medication was affecting you. I do remember you saying, "I just want to get this over with."

Q Yeah. And that's true. I -- I did -- I -- I -- I did want to get it over with. But I felt like there wasn't ---

THE COURT: Well, you ---

Q --- there ---

THE COURT: --- have to ask questions.

THE APPLICANT: Okay.

Q So in your opinion, Mr. Stalvey, if I'd have had presented the witnesses, the narcotic officers that were forcing me to be a undercover C.I. agent and who had sent me to that lab several times, trying to -- trying to gather information on it so they could -- the narcotics division, Sgt. Moody and -- and Brian -- Brian -- I can't think of the last name -- Brian Bridges -- Bridges -- he's a lieutenant over narcotics -- did I -- in your opinion --

I'm sorry -- in your opinion, would that have made a -- any difference whatsoever on -- on how the jury would've leaned, either toward -- toward a not guilty or toward a guilty verdict, in your opinion, I mean?

A In my opinion, it would've hurt your case. Mr. Nabors, we talked about that -- that whole aspect of your case and -- and possibly trying to argue an involuntary-intoxication defense based on the fact that the police forced you into a situation that -- that -- you know, it put you in these crack houses where you wouldn't have any -- any willpower or -- or -- you know, to -- to say no to drugs and that they knew that you were going to be smoking crack or shooting methamphetamine. We talking about that as ---

Q Right.

A --- an involuntary-intoxication defense. After we talked about it, I explained to you I don't think that's going to work. And I also told you -- and I think we agreed on it -- we have some other legitimate issues that we could present to the jury. I don't want to present an issue that -- that is somewhat, in my opinion, kind of crackpot defense when, I mean, it just would hurt the credibility of our entire case.

So that's why we didn't go down that road. And I -- and it -- if your question is, is it my opinion that that

would've helped your case, no. It would've hurt your case.

Q Okay. Did you -- did you make any effort to subpoena school records and -- and certain other medical records, outside of SCDC, that I had asked you to get that would've proved -- would've proved -- I guess they call it "mitigating." I don't know, Your Honor. And I ain't trying -- but I'm trying to ask a question here. Let me start over.

Mr. Stalvey, in your opinion, would that have any impact on my intended insanity or guilty-but-mentally-ill defense if we would've come to the -- to the Court and presented this to the jury and the state this -- these many, many hundreds and thousands of pieces of paper about my mental health history, a lot of it to do with schizophrenia -- it just seems to me like it got downplayed. Do you feel like it got -- maybe got downplayed, just kind of swept under the rug, at the -- at the actual hearing and at the plea, that it had no bearing -- what I'm trying to ask you -- do you feel like it had zero bearing on what took place 6/10/09 when I -- when I took Mrs. Edwards' car from her?

A No. No. I think it had something to do with your behavior that day. And ---

Q Yes, sir.

A --- that's why we had Dr. Ernest Martin subpoenaed and

ready to testify in your trial.

Q Right.

A I was prepared to present his findings: that -- that you did suffer from paranoid schizophrenia. He was going to talk about the effects of your methamphetamine use. And, you know, that was -- that was going to be presented at -- at the trial. It -- it -- I mean, it was not presented at the guilty plea, but I -- I think Judge Cole understood -- and I think I -- I mean, it -- I think I've already testified that we did talk about your mental health issues and your drug addiction. And ---

Q Right.

A --- and as you stated earlier, I told the judge that you were not the person -- based on all our conversations, I just didn't -- you weren't the same person to me that you may have been on June 10th, 2009.

Q Appreciate that. It's -- it's true.

Mr. Stalvey, do you think the last one -- question -- I don't know if this improper to ask or not. The judge or the A.G. can tell me if it is. And I -- I don't mean no respect about it. So you -- do you believe personally or ethically that a person with a mental health issues and -- and -- and chronic alcohol and substance issues with possible brain damage -- should that type of person have been used by a law enforcement agency to -- to do these

things that -- that I were doing?

MR. JOHNSON: Objection: That is improper on what law enforcement agency would do.

THE COURT: All right. Objection sustained.

THE APPLICANT: What's that mean, Your Honor? I don't ---

THE COURT: Yeah. He doesn't have to answer that question.

THE APPLICANT: Well, can I reword it differently?

THE COURT: You can do whatever you wish, but that's an improper question.

THE APPLICANT: Yes, sir.

THE COURT: I sustained the objection.

THE APPLICANT: So when you said that I -- it's like on a personal level is what you said, that question?

THE COURT: It's irrelevant at whether ---

THE APPLICANT: Irrelevant.

THE COURT: --- he has an opinion about what the law enforcement might do regarding an investigation.

THE APPLICANT: Oh, okay.

Q So what -- what -- what I'm trying to say -- and I can't -- I can't ask you what your opinion is. We -- we couldn't have used that as trial strategy? We -- we couldn't have presented that to the jury and had those individuals subpoenaed and let the jury hear?

A We could've. But it would've been a terrible idea. It would've made your case even worse that it already was.

Q I -- I think I'd been willing to take that chance. I really -- I really wanted to take that chance and -- and ---

THE COURT: No.

MR. JOHNSON: Your Honor, he's testifying ---

THE COURT: You must ---

MR. JOHNSON: --- again.

THE COURT: --- ask questions ---

THE APPLICANT: I'm sorry.

THE COURT: --- sir.

THE APPLICANT: I'm sorry. I apologize.

Q What about the medications that I was on, Mr. Stalvey? Did -- did you do any investigation on all them psychotropic drugs I was on and the side effects of them? Because you said you would -- you -- you said just a moment ago that in your opinion I was competent and I could cooperate with you. So I just -- I -- I'd like to know if you got a psychologist degree as well as a law degree, or is that ---

THE COURT: How many ---

Q --- just a personal ---

THE COURT: --- different ---

Q --- opinion?

THE COURT: What's -- what's your question?

THE APPLICANT: My question is, Your Honor: Did Mr. Stalvey ---

Q Did you, Mr. Stalvey, sir, research anything on the medications I was taking or consult with Dr. Martin about these medications in any way?

A Yeah. Yeah. I mean, I definitely consulted with Dr. Martin about the medications you were taking. In my opinion, whatever you were taking was helping you understand what was going on.

I mean, I -- you and I -- I felt like we were on the same page getting ready for this trial. We certainly spent a lot of time together preparing for it. And when you and I were talking about the defenses to your case and -- and what the chances were and what I was going to do during cross-examination and -- you understood. And I -- and -- I mean, you understood, in my opinion. We ---

Q Yes, sir.

A --- were -- we were on the same page. We were ready. We're -- we felt good about it.

Q So, Mr. Stalvey, do you -- I can't answer that. I done asked you that. Mr. Stalvey, did -- did you get all of my mental health records that I asked you to get, or did you just get records from SCDC?

A I got -- the mental health records that I can remember

getting, besides what we got from SCDC, were the records from the Laurens County Detention Center and the Greenwood County Detention Center.

Q Yes, sir. I was trying to find something to pass up, let you look at it. But I know that's probably -- that ain't going happen.

So, Mr. Stalvey, you felt like I didn't -- I didn't have -- have a good chance at a -- at the trial if -- if I could've presented things I wanted to present, as far as witnesses? I -- I -- I think you -- you subpoenaed a few witnesses, I -- I later found out. But I -- I don't -- I didn't believe that they were -- would've been good for my defense either. Lt. Sullivan from the Laurens County Detention Center, I don't understand how -- what help she would've been, unless she was the one that let me go ---

THE COURT: All right. What's your question?

Q My -- my question is: Did -- Mr. Stalvey, did you go to the narcotics agents department over here at the sheriff's department and speak with Brian -- Lt. Brian Bridges or to Sgt. Moody or to Sgt. Rhodes about my involvement going -- you know, doing undercover work for them, making buys?

A No, sir.

Q So you didn't think that was -- that -- that would've been an important issue that could've been raised?

A No.

Q Okay. That's just -- that's just your -- your opinion, right? I mean, it's ---

A Yeah, that's my opinion.

Q Okay. Because the whole time ---

THE COURT: What's your question?

Q I'm going to ask you another question here.

THE COURT: What's your -- yes, sir.

THE APPLICANT: Yes, sir.

Q Mr. Stalvey, did you -- did you do any social -- have a social work examination -- history done on me about -- you know, about basically my whole life? It's my understanding as to how them things work. Did you -- did you -- did you consult with a qualified social psychiatric case worker to have him or her review all of the things that I told you I been through in my life and the exposure to drugs and -- did you -- you didn't -- did -- did you think that was important or did -- did you think it was irrelevant? What I'm asking is: Did you even go and talk to Brian K. Bridges that's over the -- over the narcotics -- Laurens County Sheriff's Department or his other employees, Sgt. Justin Moody and Sgt. Matthew Veal? Did you -- did you consult with them and ask them to produce any of the videotapes, which were many ---

THE COURT: How many -- you're asking how many

questions at this point?

THE APPLICANT: I'm sorry.

THE COURT: Do you want to -- what's your question?

THE APPLICANT: One question.

Q Did you -- did you -- did you ever go to Brian Bridges and -- at the -- narcotic agent or Sgt. Justin Moody of the narcotic agents of Laurens County and discuss with them what I was telling you, how they made me -- was making me be a undercover narcotic agent? Did you -- did you ---

THE COURT: All right. You've asked -- you don't need to ask the question and then ask the same question twice. Ask it and then let him answer it.

THE APPLICANT: Yes, sir.

A No, sir.

THE COURT: Go ahead.

A I did not talk to either of those people.

Q So in your opinion, it -- in your professional opinion, it wouldn't have had no -- no weight or no positive impact on the outcome of the proceedings had of it -- the -- the Court or the jury been fully briefed about the activities that I was involved in with Laurens County Sheriff's Department?

A That's correct.

Q Okay.

THE COURT: Any further questions?

THE APPLICANT: Just really one for you, Your Honor.

THE COURT: No. You ask questions for this witness.

THE APPLICANT: Okay.

THE COURT: If ---

Q Mr. Stalvey ---

THE COURT: --- you have any. If you don't have any ---

THE APPLICANT: Yes, sir.

THE COURT: --- that's fine.

THE APPLICANT: Yes, sir.

Q Mr. Stalvey, did -- did -- did you ever hand over to me my discovery? Because I still, to this day, haven't gotten my discovery. All this stuff right here, I've got ---

MR. JOHNSON: Your Honor ---

Q --- on my own.

MR. JOHNSON: --- he's asking a question and testifying.

THE COURT: All right. You ---

THE APPLICANT: Okay. Do what, now?

THE COURT: You want to know if he has handed over you your discovery. Is that the question?

THE APPLICANT: Yeah. That's -- that's the question, ain't it?

THE COURT: All right. Well ---

THE APPLICANT: Here we go.

THE COURT: --- he can answer the question. Go ahead.

THE APPLICANT: Yes, sir. Yes, sir.

A I -- I thought I had given you copies of your discovery when we were preparing for the trial.

THE COURT: All right. Next question.

Q Mr. Stalvey, in your personal opinion or in -- in -- in your professional opinion as an attorney of law, I didn't have no defense; is that what you saying -- no legitimate defense whatsoever, other than to come out here and plead guilty?

A I thought that the defenses that you did have were going to be tough to establish.

Q Yes, sir.

A And I thought that you were probably going to be found guilty on both charges by the jury.

Q Yes, sir. Okay. Did you -- Mr. Stalvey, have you -- is there any way, when this PCR hearing convenes and is over with, is there any way that you can somehow send me a copy of the complete discovery you got so I can -- when I go on to the next phase of my appeal or whatever after this PCR, that I -- I -- I have it? And I'd like to introduce it into evidence if I got to, because I -- I want -- I want -- I want to make sure I got everything. And so far, I haven't received ---

THE COURT: All right.

Q --- my discovery.

THE COURT: You -- the question is can he send you things after the hearing?

THE APPLICANT: And has -- has he got it -- does it got it ---

THE COURT: It ---

THE APPLICANT: --- with him today or after the hearing?

THE COURT: Well, how many questions are you going to -- how many do you want him to answer?

THE APPLICANT: Well ---

THE COURT: Or how many do you ---

THE APPLICANT: One at ---

THE COURT: --- want to ask?

THE APPLICANT: --- a time. One at a time, Your Honor.

THE COURT: All right. Well ---

Q Mr. Stalvey ---

THE COURT: --- well ---

Q --- is there any way you can get me a complete copy of the -- of that discovery?

A Sure.

Q Okay.

THE APPLICANT: And your -- this -- this is addressed

to you, Your Honor. Can I ask you a question?

THE COURT: No, sir.

THE APPLICANT: No?

THE COURT: No, sir.

THE APPLICANT: All right. I guess that about concludes it, for my ---

THE COURT: All right.

THE APPLICANT: --- for my part.

THE COURT: Any redirect?

MR. JOHNSON: None, Your Honor.

THE COURT: All right. Thank you, sir. You may step down.

(Whereupon, the witness exited the witness stand.)

MR. JOHNSON: The state has no further witnesses.

THE COURT: All right. Now, what question do you want to ask?

THE APPLICANT: I was wanting to ask you about my issues that I -- that I brung up earlier, all -- all these issues that I wanted to address. Am I going have to do a 59 -- what they call a "59(e)" to preserve these, or is it preserved as long as it's on record? I mentioned them on record.

THE COURT: Well, I -- I can't give you any advice as to what you need to you. You're representing yourself. I cannot advise you as to what you need to do.

THE APPLICANT: No. Okay. Let me -- let me rephrase it. Is -- is this going be a record of this whole proceeding, anything ---

THE COURT: Yeah.

THE APPLICANT: --- that was said ---

THE COURT: Yes.

THE APPLICANT: --- at this proceeding?

THE COURT: Yeah. That's what the court reporter is doing: taking -- making a record of everything that is said.

THE APPLICANT: And that will preserve these issues?

THE COURT: Well, the -- the record is made ---

THE APPLICANT: And will it preserve them ---

THE COURT: --- by the court reporter.

THE APPLICANT: --- if I get to the next level?

THE COURT: I -- I -- I can't answer your question as to what is preserved and what you need to do ---

THE APPLICANT: Yes, sir.

THE COURT: --- and all those things. All right.

Thank you, sir. All right. That'll conclude this hearing.

MR. JOHNSON: Thank you, Your Honor.

THE COURT: All right.

MR. JOHNSON: Take it under advisement?

THE COURT: Yes. I will take it under advisement.

We'll notify the parties. And all of these documents that Mr. Nabors handed up will be made a part of the record.

(Whereupon, the Court and the court reporter conferred.)

THE COURT: I'm going to mark all the papers you handed up as one exhibit.

(Whereupon, the Court and the court reporter conferred.)

(Whereupon, Applicant's Exhibit 1 was marked and entered into evidence.)

(Whereupon, the proceeding was concluded at 12:23 p.m.)

--- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT, OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE EXCERPT OF TRANSCRIPT OF RECORD IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR LAURENS COUNTY, SOUTH CAROLINA, ON THE 13TH DAY OF MARCH, 2013.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JANUARY 7, 2014

STATE OF SOUTH CAROLINA COUNTY OF LAURENS	IN THE COURT OF COMMON PLEAS EIGHTH JUDICIAL CIRCUIT

LYNN W. LANCASTER
2013 MAY 22 A 9:19

Benjamin Ray Nabors, #233844,

Applicant,

v.

State of South Carolina,

Respondent.

2011-CP-30-0308

LAURENS COUNTY
CLERK OF COURT

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 30, 2011. Respondent made its Return on August 25, 2011. An evidentiary hearing into the matter was convened on March 13, 2013, at the Greenwood County Courthouse. The Applicant proceeded *pro se* after having Rodney Richey, Esquire relieved as counsel. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, Applicant testified on his own behalf. Alex Stalvey, Esquire, also testified. This Court also had before it a copy of the records of the Laurens County Clerk of Court, records from the South Carolina Department of Corrections, the guilty plea transcript, a report from the Department of Mental Health and numerous articles on the subject of methamphetamines and addiction, which were introduced by the Applicant.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Laurens County. The Applicant was indicted at the October 2009 term of the Laurens County Grand Jury for Carjacking (2009-GS-30-

ATTORNEY GENERAL'S OFFICE

RECEIVED 5/28/13

ADMINISTRATIVE INSTRUCTIONS

JCJ 5/29

____ FILE ____ OPEN ____ END

____ HAVE ____ COPIES MADE

____ ROUTE TO ____

____ ORDER: ____ TRANSCRIPT

____ PEN RECORDS ____ CLERK RECORDS

____ OTHER: Scan; LB; send copy to SCDC for service; calendar date 30 days

1276), and Armed Robbery (2009-GS-30-1387). He was represented by Alex Stalvey, Esquire. On October 18, 2010, the Applicant pled guilty as indicted to both charges. The Honorable J. Derham Cole sentenced the Applicant to incarceration for a period of twenty-five (25) years for armed robbery, and twenty (20) years suspended with five (5) years' probation to run consecutively. He did not appeal his convictions or sentences.

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

1. "I have a long history of mental illness and was not allowed to plea guilty but mentally ill, was abused by guards"

   a) "Long history of illness, earlier incident on day in question was evidence of mental illness at that time"

In his amended application filed by Rodney Richey, Esquire on January 15, 2013, the Applicant alleged numerous issues including ineffective assistance of counsel.

At the hearing, Applicant proceeded on the ineffective assistance of counsel and involuntary guilty plea claims.

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 at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

Ineffective Assistance of Counsel

Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he

burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (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. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Failure to Investigate

Applicant claims Counsel was ineffective because Counsel failed to properly investigate his case prior to his guilty plea.

"Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998). 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).

The Applicant alleged Counsel conducted no pre-trial investigation, and the Applicant had witnesses that would have confirmed this allegation. Additionally, the Applicant stated he wanted an independent mental evaluation, separate from the one conducted by the Department of Mental Health. The Applicant further made allegations that he wanted a copy of his discovery, a copy of the guilty plea transcript, a Blair[1] hearing, and an independent psychiatrist's evaluation. He also claims he was insane at the time of the crime, and Counsel did not investigate any of these issues.

Counsel testified he was appointed by Judge Hill, as the Applicant had several prior attorneys on this case. Counsel stated he met with the Applicant on numerous occasions and even had the Applicant transferred from the Laurens County Detention Center to the Greenville County Detention Center so that he could meet with the Applicant more often. Counsel testified he prepared this case for a jury trial. Counsel stated he has been practicing criminal law for eight years, including five years as an assistant solicitor.

Counsel also testified he received discovery from the State in this case and extensively discussed it with the Applicant. The discovery included, but was not limited to, the incident reports, the Applicant's statement to law enforcement, the victim's statement, the transcript from the Applicant's wife's (also a co-defendant) guilty plea transcript, the evaluation from the Department of Mental Health, which deemed the Applicant competent, the Applicant's medical records, and the Applicant's prior record. Counsel also stated he prepared a defense to the armed robbery charge and was prepared to challenge the State's theory that the Applicant was armed with a knife. Counsel would have attempted to persuade the trial judge to instruct the jury on common law robbery.

Counsel also testified he researched a possible insanity defense. Counsel would have challenged the report from the Department of Mental Health as to its finding of criminal responsibility and the Applicant's mental health status. Counsel testified he researched the medications the Applicant was taking and even had a mental health expert subpoenaed and ready to testify at the trial. However, Counsel admitted the Applicant was criminally responsible as he knew right from wrong.

Further, Counsel testified he prepared for trial and even started the trial. Counsel challenged the Applicant's statement to law enforcement in a Jackson v. Denno[2] hearing. However, the trial judge ruled the statement was admissible. Additionally, both Counsel and the State gave opening statements; and the State even called one witness before the case broke for the day. Counsel testified he spoke with the Applicant the next morning, and the Applicant told Counsel he wanted to plead guilty. Counsel then stated he advised the Applicant that, in his opinion, the Applicant would have been convicted, and the best possible sentence would result from a guilty plea. The Applicant did

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1 State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981) (competency to stand trial).
2 378 U.S. 368 (1964).

not tell Counsel he did not understand or that he was against this idea. Counsel lastly testified he felt fully prepared, and based his advice to the Applicant on his experience and the facts of the case.

This Court finds the Applicant's testimony regarding Counsel's ineffectiveness is not credible while also finding Counsel's testimony is credible. Counsel, based on his experience as a former assistant solicitor and now defense attorney, sufficiently prepared this case for trial. Counsel thoroughly discussed with the Applicant all of the discovery documents on numerous occasions. He researched the Applicant's mental health, even retaining a mental health expert to assist in case preparation and understanding the various medications the Applicant was taking. Counsel also was prepared to challenge the evaluation completed by the Department of Mental Health. The Applicant alleged an independent mental evaluation would have proven Counsel was ineffective for not having him separately evaluated. However, the Applicant failed to provide any evidence that a separate evaluation would have shown any different results than Department of Mental Health's report as to his competency to stand trial.

The Applicant also alleged he had witnesses that would have proven Counsel was ineffective. However, no witnesses testified on the Applicant's behalf at the evidentiary hearing. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992).

This Court finds the Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby. Accordingly, this allegation is denied.

Involuntary Guilty Plea

The Applicant alleges Counsel coerced him into pleading guilty. The Applicant also testified he pled because he was under the impression that Judge Cole would give him a life sentence and because he was on various medications at the time of his guilty plea.

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993).

The Applicant's alleges his plea was involuntarily entered. This Court finds that this allegation is conclusively refuted by the record. At the guilty plea hearing, the Applicant testified that he was not under the influence of any alcohol or drugs, other than medications that helped him understand what was occurring around him. (Transcript p. 16 line 5). Judge Cole informed Applicant of the maximum penalty of carjacking and armed robbery (Transcript p. 10 line 14; p. 12 line 15), and informed him of his right to remain silent as well as his right to a jury trial and other associated jury trial rights. (Transcript p. 6 line 5- p. 9 line 14). Applicant subsequently affirmed

that he was guilty of both carjacking and armed robbery (Transcript p. 10 line 10; p. 12 line 11), and he agreed with the facts of the case as stated by the solicitor. (Transcript p. 20 lines 7 and 9). Applicant stated "I just want to get this over with so [victim] ain't got to keep standing over there and getting put through more of it. I'm very shameful for what I have done to her. And I know what I done was wrong. She was just trying to be a good citizen. And I just flipped out. And that's no excuse." (Transcript p. 16 line 24- p. 17 line 4). Not once during the guilty plea did the Applicant explain to Judge Cole that Counsel coerced him into pleading guilty or that he did not understand the proceedings.

This Court further finds that Applicant has failed to carry his burden of proving that his guilty plea was not freely and voluntarily entered. The overwhelming evidence in the record reflects that the plea was knowingly and voluntarily entered. Boykin v. Alabama, 395 U.S. 238 (1969); Vickery v. State, 258 S.C. 33, 186 S.E.2d 827 (1972). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The Applicant showed no reason why he should be allowed to depart from the truth of the statements he made during his guilty plea hearing. This Court finds the Applicant's testimony at the PCR hearing lacked credibility. Therefore, this Court finds that Applicant's guilty plea was freely and voluntarily entered.

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. Therefore, these allegations are 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 advises 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!

Clifton B. Newman
Presiding Circuit Court Judge
Eighth Judicial Circuit

April 25, 2013
Lexington, South Carolina

A TRUE COPY OF ORIGINAL
Lynn W. Lancaster
Lynn W. Lancaster
Laurens County CCCP & GS

WITNESSES

Robert Plaxico
Laurens County Sheriff

WARRANT NUMBER

J616454 True Bill

Susan L Brown
Foreman of the Grand Jury

Date: Oct 2, 2009

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

October Term, 2009

Indictment # 09GS30-1276

I

THE STATE

vs.

Benjamin Ray Nabors

INDICTMENT FOR

CARJACKING
16-03-1075

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

INDICTMENT FOR

CARJACKING
16-03-1075

At a Court of General Sessions, convened on the 2nd day of October, 2009 the Grand Jurors of Laurens County present upon their oath:

That Benjamin Ray Nabors, did in Laurens County, state aforesaid, on or about the 10th day of June, 2009 willfully and unlawfully take or attempt to take a motor vehicle from another person by force and violence or by intimidation while the person was operating the vehicle or while the person was in the vehicle, to wit: that the said Benjamin Ray Nabors did, by means of force and violence, did take a 2008 silver Ford Escape being operated by one Toni Edwards, in violation of the provisions of Section 16-3-1075 of the 1976 Code of Laws of South Carolina, as amended

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

Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF Laurens)
STATE VS.)
Benjamin Ray Nabors)
AKA:)
Race: CAU Sex: M Age: 34)
DOB: [redacted] SS#: [redacted])
Address: [redacted])
City,State,Zip: Gray Court, SC 29645)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 09GS30-1276
A/W#: J616454
Date of Offense: 6/10/2009
S.C. Code § : 16-03-1075
CDR Code #: 2599

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Carjacking (0-20 years)

in violation of § 16-03-1075 of the S.C. Code of Laws, bearing CDR Code # 2599
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. ____ (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: C. Yates Brown, Yates 78607 SC Bar# X Defendant Attorney for Defendant 71739 SC Bar#

WHEREFORE, the Defendant is commited to the ☑ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 ~~days/months~~/years ~~or~~ ☐ under the **Youthful Offender Act** not to exceed — years
and/or to pay a fine of $ —; ~~provided that upon the service~~ of — days/months/years and/or payment
of $ —; plus costs and assessments as applicable*; ~~the balance is~~ suspended with **probation** for 5
~~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.

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

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ ____ plus 20% fee: ____ $ ____
Payment Terms: ____
☐ Set by SCDPPPS ____
Recipient: ____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$ 500
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5
§ 44-53-450(C) (Conditional Discharge)	$350	$
3% to County (if paid in installments)		$ 18.90
TOTAL		$ 648.90

PTUP ____
____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. ____
May serve W/E begining ____
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: no contact

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

Clerk of Court/ Deputy Clerk Lynn W. Lancaster
Court Reporter: April Herron
Presiding Judge
Judge Code: 2053
Sentence Date: October 19, 2010

SCCA/217 (06/2010)

WITNESSES

Robert Plaxico
Laurens County Sheriff

WARRANT NUMBER

J616455 True Bill

Foreman of the Grand Jury

Date: Oct 2, 2009

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

October Term, 2009

Indictment # 09GS30- 1387 I

THE STATE

vs.

Benjamin Nabors

INDICTMENT FOR

ARMED ROBBERY
16-11-0330

362

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

INDICTMENT FOR

ARMED ROBBERY
16-11-0330

At a Court of General Sessions, convened on the 2nd day of October, 2009 the Grand Jurors of Laurens County present upon their oath:

That Benjamin Nabors, did in Laurens County, state aforesaid, on or about the 10th day of June, 2009 willfully and unlawfully while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon, or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take from the person or presence of Toni Edwards by means of force or intimidation, goods or monies described as follows: a pocketbook, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 of the South Carolina Code of Laws, 1976, as amended.

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

Solicitor

364

STATE OF SOUTH CAROLINA)
COUNTY OF Laurens)
STATE VS.)
Benjamin Ray Nabors)
AKA:)
Race: CAU Sex: M Age: 34)
DOB: [redacted] SS#: [redacted])
Address: [redacted])
City,State,Zip: Gray Court, SC 29645)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 09GS30-1387
A/W#: J616455
Date of Offense: 6/10/2009
S.C. Code § : 16-11-0330
CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Armed Robbery (10-30 years)

in violation of § 16-11-0330 of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. ____ (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Brown, Yates 78607 SC Bar# Defendant Attorney for Defendant 71789 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 ~~days/months~~/years ~~or~~ ☐ under the Youthful Offender Act not to exceed ____ years
and/or to pay a fine of $ ____ ; ~~provided that upon the service of~~ ____ days/months/years and/or payment
of $ ____ ; plus costs and assessments as applicable*; ~~the balance is suspended with probation for~~ ____
~~months/years~~ and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference. recommend ATK while incarcerated.
☐ 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.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ ____ plus 20% fee: ____ $ ____
Payment Terms: ____
☐ Set by SCDPPPS ____
Recipient: ____

*Fine:

§ 14-1-206 (Assessments 107.5%)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5
§ 44-53-450(C) (Conditional Discharge)	$350	$
3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

PTUP ____
____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. ____
May serve W/E begining ____
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: ____

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

Clerk of Court/ Deputy Clerk Lynn W Lancaster
Court Reporter: Cpnl Henon
Presiding Judge
Judge Code: 2053
Sentence Date: October 19, 2010

SCCA/217 (06/2010)

COURT OF COMMON PLEAS AND GENERAL SESSIONS
EXHIBIT RECORD AND RECEIPT FORM

PLAINTIFF Benjamin Nabors
DEFENDANT State of SC
CASE NO. 2011-CP-30-00308
DATE 11/14/12
DATE ENDED 11/14/12

ATTORNEY Caroline Horlbeck
ATTORNEY J. Rutledge Johnson
JUDGE Addy
COURT REPORTER Susan Hudgins

	PLAINTIFF'S/STATE'S EXHIBITS	ID	EV

	~~DEFENDANT'S~~ EXHIBITS	ID	EV
	Court's Exhibits		
1	Letter from Mr. Nabors ✓		

Susan W. Hudgins
COURT REPORTER

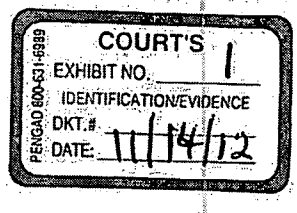
Lynn W. Lancaster
CLERK OF COURT

PAGE 1 OF 1

DATE 11-14-12

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ALAN WILSON
ATTORNEY GENERAL

November 7, 2012

Caroline M. Horlbeck, Esquire
101 Whitsett Street
Greenville, SC 29601

RE: **Ben Nabors v. State of South Carolina**
2011-CP-30-0308

Dear Mr. Belding:

Enclosed please find a copy of a letter that was sent to our office by your client.

Sincerely,

J. Rutledge Johnson
Assistant Attorney General

JRJ:cey
Enclosure

2. H.C. of S.C.

Rom: BEN NABORS #233844
LEE.C.I. K-S-1115
990 Wisacky Hwy.
Bishopville, S.C. 29010

RE: P.C.R. 2011-CP-30-308

and 2-murder rudder CONFESSIONS
These R. cases in COURT and
ISSUES They R presentencing
R. maybe good for vacations
and NEW TRIALS. GOT ALL
info. Everything. one of Rem
also swears he's killed B-4-
and got away with it.
the other swears he help 50/50
on murder but the States case
was so Weekends in New York
That He will B-out SOON, and
Then he's GOIN 2 kill the m.f.
Who testified. N-e ways,
JUST WANT a Fair
P.C.R. Hearing. Thats ALL

*William Gresham #349177
*GARVIN DUVALL #334729
*Deangelo Gilliam
#249626
IT'S-ON
DON'T STAND NO
COPS. DON'T TALK
2-COPS AND MORE. PAIR
THEM. TRUST
THEMSELF.

(COPS-Lawyers-Judges)
CAN BE CONVICTS
JUST LIKE EXTRA MAP.
WITH THEY BREAK LAWS.

GOT IS NOT HAPPY AS HELL

RECEIVED
NOV - 6 2012
Referred to R. Johnson CA
Answered

WANT! If The STATE will Just let me have what  need 2 prove I'm telling The truth, cops forced me 2 B-UNdercover NarC and  was working 4-cops "public Authority" ON 6-10-09 at time OF carJacking. AND  NEVER would have took That SWEET OLE' ladies car had  NOT of been Suffering from The effects OF toxic meth Chemicals exposure That resulted AS result of me doing what Those crooked cops make me do!  only WANT you 2 FUCKIN Give me Fair shot AND so Far  have NOT been

about these charges from 6-10-05
or the trial that was a joke
or the plea [illegible] was suckered in-2
white space'd out on several psyh
drugs and [illegible] have been allowed
to be represented on this
p.c.r. by a lawyer who will
actually present, collect
present the evidence which
will prove [illegible] L.C.S.D. cops
and the 8th cir. solicitors
office violated several of
my state and hate federal
const. rights due process
and also broke several
criminal laws. And [illegible] only
want 4 U 2 please allow me →

~~V370~~

The Chance 2 prove it All & IN return 👁 also will help the STATE Solve some murders and maintain convictions that are in question of sticking. I'm pissed off, my Rights HAVE been Shited all over cause I'm a mental ill JUNKIE DRUNK with Brain damage! 👁 been screwed over my whole life by a system created 2 protect people JUST like me! Thats NOT Right. Also no This 2-months ago or longer longer 👁 did notify all parties including Judges Russo and FRANKADY JR that COURT appointed Shyster CAROLINE HORBECKER IS CONFLICTED 2

5. She's C.H. CONFLICTIONS of ambitions She's fuckin Alex Stalbey making hard core porn tapes and her law firm Elizabeth Wiygul L.L.C. and Her self are parties Named as defendants in multi Law suits, (1) have filed in courts. I'm not goin 2 let you actors pretend 2 let me have fair pl.ce. "you R" goin 2 give me a fair pl.ce with every chance (1) need 2 prove I'm wrongly prosecuted convicted, sentenced for crime resulted cause (1) done what fuckin crooked cops told me 2 do! Thats not

372

Right and if you people ever anything close 2 Human you would see, realize and feel I've been violated by cops - lawyers - prosecutors & I'm not stopin or shutin up til the whole fuckin system is shitin it's pants. You can't say youre enforcin laws and at same time you be Breaking those same laws you swore 2 uphold & hold sold told Do→ can't do that! people R-out there 2 help mentally enlightened people like me. I want fair pick. please. dont have me fuckin murdered!

William Graham Sumner says "Laws are not a contrivance by which people who are wise, or think they are wise, make other people do what they think right." Also says other people R-dead. It's evil motives, a conspiracy against the people.

mouth lawyers fuckin me over
And the only real reason (I)
wrote is 2 help you keep
fucking murders from killing
other victims. These are
some sick ass motherfuckers
If you beat a little old ladies
brains out with a hammer
cut her throat stab her in the
eye. Rape drag her lifeless
body under house put a rubber
on and molest her and go down
on her with your mouth she's dead
Rats fuckin crazy! And (I)'m
telling you. This puppy has done
this shit B-4- And has so far got away
with it. Will- (I) got to pray. Everyone sins
No ones invincible

TO: WHO EVER IN A.G. OFFICE IS OVER SEEING P.C.R CASES FOR STATE ON

* WILLIAM CANNON GRESHAM SCDC# 349177. P.C.R. 2012-CP-37-915

* GARVIN DUVALL SCDC# 334729

* DEAN GELO GILLIAM SCDC# 240626

DO NOT TALK/WALK WITH COPS- NEVER EVER AGAIN. SO DONT SEND SLED OR ~~F.B.I. OR CIA~~ AT.

WILL NOT TALK 2 COPS, SO DONT FUCK WITH ME BY SENDIN A FUCKIN DICK 2 TALK 2 ME! COME YOURSELVES AND WANT 100% PHOTO I.D. PROOF THAT YOU R. WHO SAY U-R-U- ANYTHING IS GIVEN OVR 2-U- I'M TIRED OF SLICK→

COURT OF COMMON PLEAS AND GENERAL SESSIONS

EXHIBIT RECORD AND RECEIPT FORM

PLAINTIFF Benjamin Nabors
ATTORNEY Pro Se
CASE NO. 2011-CP-30-0308
DATE STARTED 03/13/13
DATE ENDED 03/13/13

DEFENDANT State of South Carolina
ATTORNEY J Rutledge Johnson
JUDGE Clifton B Newman
COURT REPORTER Maryann S Nevers

PLAINTIFF'S EXHIBITS	DEFENDANT'S EXHIBITS
1. Various Documents- Composite Exhibit	1. Report on Criminal Responsibility/ Capacity to Conform Conduct
2.	2.
3.	3.
4.	4.
5.	5.
6.	6.
7.	7.
8.	8.
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20.	20.

Court Reporter

Lynn W. Lancaster
Clerk of Court

Page 1 of 1 Pages

Date 04/08/13

Report on Criminal Responsibility/Capacity to Conform Conduct

Name: Nabors, Benjamin

Date of Birth (Age): [redacted] (24)
Dates of Interviews: 02/10/2010, 07/23/2010, & 08/25/2010
Date of Report: 08/30/2010

Examiners: Michael D. Gassen, Psy.D. (presiding)
Cassandra Sims, LMSW

Others Present: Kendra Randerson (Social Work Intern, on 08/25/2010)

Opinion on Criminal Responsibility: Criminally responsible

Opinion on Capacity to Conform Conduct: Had capacity to conform

Referral Information

Mr. Nabors is a 34-year-old male who is charged with Armed Robbery and Carjacking as a result of events that allegedly occurred on 06/10/2009. The State of South Carolina, County of Laurens, Court of General Sessions issued an order to evaluate his criminal responsibility and, if opined to be responsible, his capacity to conform at the times of the alleged offenses. The basis for the order is listed as, "*To determine mental competency.*" Pursuant to this order, Mr. Nabors was evaluated on 02/10/2010, 07/23/2010, and 08/25/2010 at the Forensic Evaluation Service of the South Carolina Department of Mental Health (SCDMH). At the time of the 07/23/2010 interview, Mr. Nabors was detained at the Greenville County Detention Center, and he was returned to that facility following the evaluation.

Notification

Mr. Nabors refused to participate in the evaluation on 02/10/2010, stating he would not talk to the presiding examiner until certain records were received. The interview was therefore terminated. Prior to the 07/23/2010 and 08/24/2010 interviews, Mr. Nabors was advised that he was here for a Court-ordered evaluation, and the information he provided could therefore be communicated to the defense counsel, the solicitor, and the judge. He displayed comprehension of the nature and purpose of the evaluation as well as the limitations to confidentiality, signed a form that explains these issues, and agreed to proceed with the evaluation.

Sources of Information

- State of South Carolina, County of Laurens, Court of General Sessions order for criminal responsibility/capacity to conform evaluation
- Laurens County Arrest Warrants and Indictments for the alleged offenses
- Laurens County Sheriff's Office records for the alleged offense
- Mr. Nabors' RAP sheet
- Records from Gilliam Psychiatric Hospital (from 03/26/1997 to 02/01/2002)
- Records from the South Carolina Department of Corrections (from 07/16/2001 to 04/24/2007)



- Records from Greenville County Detention Center (from 07/23/2009 to 07/10/2010)
- Recordings of Laurens County 911 calls (made on 06/10/2009)
- A Psychiatric Social Work Admission Assessment completed by Cassandra Sims, MSW, with information provided by Jennifer Anne Hughes and Mary Nabors (dated 07/09/2010)
- Telephone interviews conducted by Dr. Gassen with Marie Livingston, medical staff at Greenville County Detention Center (on 07/23/2010), and Toni Edwards (on 08/27/2010)
- Clinical/Forensic interview of Mr. Nabors on 07/23/2010 (approximately 2 hours) and 08/25/2010 (approximately 1.5 hours)
- Psychological Testing: Structured Interview of Reported Symptoms (on 08/25/2010)

Background Information

Family History

Mr. Nabors reported he was born in Laurens County, SC, and was raised by his biological parents as well as "my grandma." He described his childhood as "pretty good," though he indicated he was physically and sexually abused at age six or seven and witnessed domestic violence in the home. On questioning, he reported a family history of mental illness (e.g., "bipolar," "paranoid schizophrenic"), and he indicated he and his parents "used to do drugs together." Regarding a criminal history among family members, he reported there was "no major trouble, just DUI's."

Mr. Nabors reported he is married but does not have any children. He stated he was "homeless...me and my wife was both on the streets" at the time of the alleged offenses.

Educational History

Mr. Nabors reported he discontinued his education during the 10th grade but subsequently earned his GED. He indicated he stopped going to school in order to start a career in welding but was kicked out of welding school "for marijuana." When asked to describe his academic performance, he responded, "Poor—couldn't concentrate." He indicated he was in special education classes "all through school" due to "ADHD," and he stated he was prescribed Ritalin (a stimulant). Aside from repeating the fourth grade once, he did not report a history of retentions. He stated he was suspended from school on numerous occasions for "mostly" bringing drugs and alcohol to school, but he added he was also in trouble for fighting, disrespecting teachers, and skipping.

Employment History

Mr. Nabors reported he has been employed in roofing, masonry, framing, and at a cotton mill and a couple "manufacturing facilities." He stated his longest period of employment was working as a "ride foreman" for carnival rides for approximately 15 years. He acknowledged he has been fired from jobs "lots of times" for "coming to work high" or "drunk." A history of receiving disability benefits was denied.

JSM

Medical History

Mr. Nabors did not report a history of significant medical problems; however, he reported he has sustained significant head injuries during physical altercations (e.g., has been hit in the head with bricks). He stated his most recent head injury occurred approximately two years ago from being "hit in the head with a baseball bat." He said he subsequently received medical treatment, including an MRI of his head, and he was told he had sustained a "mild concussion."

Substance Use History

Mr. Nabors reported he first consumed alcohol at age seven, and he said he has a history of drinking "every day." He indicated he last consumed alcohol "probably last June" (i.e., June 2009). He acknowledged he has developed a tolerance to alcohol and has experienced alcohol withdrawal symptoms (e.g., tremors). Regarding illicit substances, he reported he began using crack cocaine and methamphetamine at approximately age 15. He stated he has used crack cocaine daily, engaged in dangerous behavior while using it, had legal troubles as a result of his use, and he acknowledged relationship problems arising from his crack cocaine use. Regarding methamphetamine, he indicated it is his drug of choice and that it has caused him psychological problems, led to relational conflicts, and resulted in a loss of jobs. Mr. Nabors reported a history of using marijuana, cocaine, ecstasy, LSD, psilocybin mushrooms, and heroin, though his history of his use of these substances was not extensive. He acknowledged he has abused medications in the past (e.g., Loretab), and he reported he huffed "gas and glue" as a child. He said he received substance abuse treatment at "Cedar Springs" in Charlotte, NC, as an adolescent. He reported he has attended Alcoholics Anonymous and Narcotics Anonymous meetings "very few" times and "only because it was court-ordered."

Mental Health History

Mr. Nabors denied a history of inpatient mental health treatment, and he indicated he has not received outpatient mental health treatment aside from receiving "Klonopin and Ativan" from a facility in Florida on one occasion. When asked if he has received mental health services while detained or incarcerated, he responded, "Every time I get locked up," and stated he receives those services for depression, anxiety, and "paranoia." In regards to the paranoia, he said he recently held a belief that there "was a GPS chip in my head." On questioning, he reported a large number of atypical hallucinations that he said occur at times when he is not using illicit substances. He said he his currently prescribed Depakote (an anticonvulsant), Artane, Prozac (an antidepressant, and Navane (an antipsychotic).

Records from Gilliam Psychiatric Hospital (from 03/26/1997 to 04/02/1997) indicate Mr. Nabors was admitted to that facility after he attempted to hang himself at Broad River Reception and Evaluation. He informed staff his suicidal behavior was an "attempt to get on state wide (PC) and get to an institution where he could complete his education." He denied a history of a mental illness, though he acknowledged a history of substance abuse. No symptoms were noted during his admission. On discharge, he was diagnosed with adjustment disorder with depressed mood, polysubstance dependence, and antisocial personality disorder.

JEM

According to records from Gilliam Psychiatric Hospital (from 01/31/2002 to 02/01/2002), Mr. Nabors was admitted to that facility during a prior incarceration due to threatening to commit suicide. At that time, he presented with a "sad affect," and he complained of others "talking about him." He reported experiencing auditory hallucinations, but it was noted, "No overt signs of psychosis were observed." On discharge, he was diagnosed with mood disorder not otherwise specified and polysubstance dependence, in a controlled environment. He was prescribed Tegretol (an anticonvulsant) and Desyrel (an antidepressant).

Legal History

Mr. Nabors reported he has been arrested approximately 12 times for "Second Degree Burglary," "Grand Larceny," "Petit Larceny," "DUI," and "DUS." He stated he has been to prison "several times," and he said he has been on probation "once or twice" but "never successfully completed it."

According to records from the South Carolina Department of Corrections (from 07/16/2001 to 04/24/2007), Mr. Nabors has seen mental health staff during prior incarcerations. He has reported a history of "ADHD," cutting himself, and "depressive episodes," and he has made bizarre statements and presented with paranoia. At one point, he threatened to harm himself and later stated it was an attempt to obtain mediations to help him sleep. He was diagnosed with "psychosis NOS (in remission)." He was prescribed Seroquel (an antipsychotic), Prozac (an antidepressant), and trazodone (an antidepressant).

Records from Greenville County Detention Center (from 07/23/2009 to 07/10/2010) indicate that, during his current detention, Mr. Nabors has reported a history of depression and complained of experiencing "panic attacks." He reportedly used a "homemade scalpel" to cut his forehead, and he told staff he was trying to "remove a microchip that was planted in his head." He has cut his head at least twice while voicing beliefs about needing to remove a microchip. Subsequently, he was shown a CT scan of his head and said he now believed there was no chip present. He also reported "hearing voices" that involved "mostly laughing." However, he subsequently did not appear psychotic despite not having begun a psychotropic medication regimen. He also voiced concerns that "Laurens County is coming to gt [*sic*] him." Records indicate he has threatened to harm staff when his demands are not met. He was diagnosed with schizophrenia, paranoid type and prescribed fluoxetine (an antidepressant), Navane, and Risperdal (an antipsychotic).

Current Presentation

On 07/23/2010, Mr. Nabors presented as a 34-year-old Caucasian male of below average height and medium build who appears his stated age. He presented for the interview in correctional garb and shackles, and it was noted that he had numerous tattoos. His grooming and hygiene were adequate, and, aside from lacerations on his right cheek, no physical abnormalities were observed. No oddities in posture or movement were noted. Mr. Nabors was alert and attentive throughout the interview, and he offered a normal amount of eye contact. On tasks to assess concentration, his performance was fair. Specifically, he correctly spelled "world" backward aside from omitting the "d," and he completed a serial subtraction task with few errors. His speech was of normal rate, rhythm, and volume, and no difficulties in articulation or other

JEM

language disturbances were noted. On questioning, Mr. Nabors accurately stated his name, his location, and the date. He said he was brought to this facility to "determine if I'm competent for trial and what state of mind I was in." He repeated a list of three words, but he appeared to recall only one of the words after approximately five minutes had elapsed. His ability to recall events from his recent and remote past appeared intact. His fund of knowledge appeared average. Based on his explanations of common proverbs and responses to questions about classifying similar objects, no difficulties with abstract thinking were indicated. His judgment seemed to be adequate as well. His intellectual functioning appeared to be in the average range. He described his current mood as "cool" and his normal mood as "anxious and I guess kind of paranoid." His affect (i.e., observed emotional expression) was normal and consistent with the contents of his speech. His thought processes appeared generally clear and coherent. When asked about hallucinations, he reported experiencing a large number of hallucinations, but he did not appear to be responding to internal stimuli. He also reported a number of odd beliefs. For example, he said he believes the government can control the weather. He denied any current suicidal or homicidal ideation or intent.

On 08/25/2010, his presentation was similar to that on 07/23/2010. His thought processes were organized, and he did not display symptoms of a mental illness. Although he reported he continues to experience hallucinations and voiced odd beliefs, his description of these experiences was atypical. He indicated he has thoughts of suicide and taking "somebody with me," but he denied any plan or intent to commit those actions.

Collateral Contacts

The presiding examiner conducted a telephone interview with Marie Livingston, medical staff at Greenville County Detention Center, on 07/23/2010. Ms. Livingston reported that Mr. Nabors has cut himself in what he stated was an attempt to remove a chip from his head. She said he has also attempted to swallow a battery and razors. She stated he will appear calm and asymptomatic and spontaneously voice complaints about a GPS chip in his head. She reported staff have observed him talking to himself (e.g., "nonsensical stuff") in his cell; however, she did not report other observations of a psychotic presentation. She added that he has said he hears voices in only his left ear and the voices come from his shoe. She said staff have therefore suspected malingering. Nonetheless, he has been diagnosed with schizoaffective disorder and obsessive compulsive disorder. He is prescribed Risperdal, Depakote, and thiothixene (an antipsychotic).

Psychological Testing

Mr. Nabors completed a test used to assess feigning of psychiatric symptoms on 08/25/2010. His scores on this test were similar to individuals who attempt to significantly exaggerate and/or fabricate psychiatric symptoms.

Diagnostic Impressions

Mr. Nabors' records indicate that, during his current detention, he presented with agitation, voiced bizarre and "nonsensical" comments, and engaged in self-injurious behavior that he indicated was precipitated by paranoid beliefs. However, he also told staff that he hears voices, but his description of his symptoms led to staff considering a diagnosis of malingering. He has not displayed other symptoms of psychosis. During the interviews, he reported a large number JSM

home and it was getting late. Me and Ben (Benjamin Nabors) walked to Food Lion to try and get a ride. This lady walked out of Food Lion and we asked her about giving us a ride to Gray Court. She said that she would be glad to give us a ride because she lives up that way. We (me and Benjamin Nabors) got in the car and I was in the front passenger seat. Ben was in the back right behind me but then he slid over to the other side. When we were going down the road Ben asked her for a cigarette and she gave us one. When we got into Gray Court Ben tells the lady to go down Speedway Drive. The next thing I know she is on the ground and she stopped the car. I looked over and Ben had his hand on her chest with his arm over her shoulder. Ben kept telling her that he wasn't going to hurt her. I tried to push Ben off of the woman and he was pushing me against the door. I told him not to do this to that woman and to give her the car and pocketbook back. Ben told the woman to get out of the car. After she got out, Ben got out of the car and told her to stay back. Then he (Benjamin Nabors) got in the driver seat and took off. He wanted to go get some meth from the Creek. He was opening the pocketbook and going through it while we were driving. Ben stopped by the Creek and Gene and Parker's place and tried to buy some meth but after what happened the other night they wouldn't sale [*sic*] to him. Then he wanted to go down to Georgia Acres where they sell dope. We went down to Georgia Acres and Ben bought a $20.00 rock of crack with the money that we already had. I smoked that crack rock with Ben but I didn't smoke any of the crack that Ben bought with that woman's fourty [*sic*] dollars."

The following is a statement by Mr. Nabors, given to Laurens County Sheriff's Office on 06/11/2009: "I got released from jail yesterday on a P.R. Bond. My wife was there for support. I worked on getting us a ride and Red picked us up and dropped us off on Conway. From Conway we walked to Food Lion. We sat outside Food Lion for about an hour and asked several people for a ride. A lady came walking out of Food Lion when I approached her and asked her for a ride to Gray Court. She give [*sic*] us a ride and went to Speedway Drive. I gave her directions to Hellens Road. I told her that it would be quicker to go to Speedway Drive. When we got to the bridge I reached up and put my hand on her shoulder and told her to put her hands on the steering wheel and put the car in park. I put my fingers on her shoulder or neck. She asked me what did I have. I told her not to worry about it and to just walk up the road. I told her that she would find her car about thirty miles up the road. This wasn't pre-meditated to start with. My wife did not know nothing about what I was going to do. She has been telling me to surrender and to take the car back. I intimidated Jennifer to not to try and leave my side. My statement and my wifes [*sic*] statement may not be exact in certain places but I have been under the influence of meth for about eight days."

Collateral Information

Recordings of Laurens County 911 calls (on 06/10/2009) were reviewed by the presiding examiner. The recordings reveal a man called 911 early in the morning. He stated his name was Ben Nabors, and he reported a "possible homicide." He claimed there were people in the woods "coming to get me." He said there were "maybe about ten" people and that they were "drug dealers." A subsequent call made by a man who identified himself as Mr. Smith (first name was unclear) who indicated that the individual who called previously was in his yard talking about "people out there with guns." He indicated the man also had entered his home previously.

JEM

of odd beliefs and hallucinatory experiences; however, his description of many of those symptoms was not consistent with what is known about primary psychotic disorders (e.g., schizophrenia). He was therefore administered psychological testing to assess feigning of psychiatric symptoms on 08/25/2010, and his results indicate he was significantly feigning symptoms. As such, a diagnosis of malingering is offered at this time. The essential feature of malingering is the intentional production of false or grossly exaggerated psychological symptoms motivated by external incentives, which in this case primarily involves his current legal situation. Given that his self-report of his symptoms appears unreliable, coupled with a lack of clear observation of psychotic symptoms, no psychotic disorder diagnosis is offered at this time.

Mr. Nabors appeared to openly discuss his history of substance abuse, and he reported a history consistent with dependence diagnoses for his use of alcohol, crack cocaine, and methamphetamine. As such, diagnoses of alcohol dependence, cocaine dependence, and amphetamine dependence appear warranted at this time. The specifier, in a controlled environment, is included for each diagnosis. This specifier refers to the fact that he is currently detained and theoretically does not have access to those substances.

Mr. Nabors reported a history of behavior problems in school, which suggests he may have met the diagnostic criteria for conduct disorder as a child. As an adult, he has engaged in illegal and dangerous activities, demonstrated irresponsibility (e.g., lost jobs due to substance abuse), and been irritable and aggressive towards others (e.g., threatening correctional officers). Given this information, a diagnosis of antisocial personality disorder is offered at this time.

Information Relevant to Criminal Responsibility and Capacity to Conform Conduct

Records Pertinent to the Alleged Offenses

Laurens County Sheriff's Office records (incident number 09001911) indicate that Mr. Nabors is accused of committing the "crime of car jacking and armed robbery by taking a 2008 Ford Escape from the person of Toni Edwards while armed with a knife, a deadly weapon. This occurred on Speedway Drive in Gray Court, SC." The events that led to these charges allegedly occurred on 06/10/2009.

Records from the Laurens County Sheriff's Office (case number 09001911) indicate that on 06/10/2009, Sergeant Jeffrey B. Tucker "responded to a call of a car jacking on Speedway Dr in Gray Court." He spoke to the complainant, who "stated that she was giving a ride to a white male and a white female from Food Lion in Laurens to a location in Gray Court where the subjects were going." She also said "that the male subject told her to turn onto Speedway Dr and when she got to the bridge the subject told her to stop and get out of the car . . . subject had a knife and showed it to her and said he would hurt her if she did not get out of the car." The complainant also informed Sgt. Tucker, "The subject stated he would leave the car about 30 miles away and the he was wanted by the police and was on drugs."

The following is a statement by Jennifer Ann Hughes, given to Laurens County Sheriff's Office on 06/11/2009: "We were at James Simmons [*sic*] house in Laurens. We didn't have a way

JSM

A telephone interview was conducted by the presiding examiner with Toni Edwards (on 08/27/2010). She reported she exited Food Lion on 06/10/2009 "and put my groceries in the car." Mr. Nabors's wife "approached me and told me they were looking for a ride to their home in Gray Court." She said she agreed to give them a ride because Mr. Nabors told her his wife recently "got out of the emergency room" and "lost a baby." She said Mr. Nabors also showed her his i.d., but she was not able to view it closely. She stated, "He talked to me the whole way to Gray Court and said his wife had lost the baby." In addition, he reportedly asked his wife if she was "feeling ok," but his wife did not respond. Ms. Edwards reported that Mr. Nabors initially said he preferred to be dropped off at the entrance to Gray Court, but, as they approached that area, he and his wife began giving her directions. She reportedly followed their directions, and Mr. Nabors told her to drive slowly on the gravel road and cautioned her about driving carefully on an upcoming bridge. She said, "When I got close to the bridge is when he put the knife across my neck." At that point, he told Ms. Edwards "not to do anything stupid" and that he "wouldn't hurt" her. He told her he was "running from the law" and "strung out on amphetamines." Once they stopped the car, he told her not to take "anything out of the car; just to get out of the car." She said she asked him not "to take my car," and he asked her "where my cell phone was." She stated she had it on a clip underneath her shirt, and she repeatedly reached down to make sure it was concealed by her shirt. She reported Mr. Nabors "kept asking me what I was reaching for" when she tried to ensure her shirt kept her phone hidden. She stated she told him, "I'm not reaching for anything." Subsequently, Mr. Nabors reportedly made her exit the vehicle while holding a knife to her back and holding onto the back of her neck with his other hand. She said she continued to beg him not to take her car and leave her in a remote area. Nonetheless, he reportedly told her to "start walking and turn around" and that he would "leave your car 23 miles from here." She said he then "got in the car and took off." On questioning, Ms. Edwards reported she had a digital camera in the car, but she stated she did not observe Mr. Nabors looking at the pictures on the camera while she was in the car with him. She said, "He was just talking to me the whole time." When asked if she told him of any connection she has with law enforcement, she responded, "I told him my sons were in law enforcement." She said she mentioned this "maybe five minutes before he made me get out of the car," which was before he "pulled the knife." She added, "That was the only mention of law enforcement other than him telling me he was running from the law." She stated Mr. Nabors did not make any statements to suggest he was afraid of her or had concerns that she was in possession of a weapon. She described Mr. Nabors as "clear-headed" and said he "talked normal," and she said Mr. Nabors "carried on a normal conversation up until" he pulled out the knife.

Defendant's Account of the Alleged Offenses

Mr. Nabors was asked about events that led up to the alleged offenses. He stated he had been on a methamphetamine and crack cocaine "binge" for approximately eight days prior to the alleged offenses and had not slept during that time. He stated he was living with his wife in an "RV" behind his parents' home. He said he was preparing to go back to work, which would involve being "on the road" with a carnival. He stated he was feeling "depressed" around that time because he felt his "marriage was falling apart" and he was "strung out." He said that his "binge began" when he and his wife used crack cocaine while they were in Gray Court. He stated that,

JEM

after he and his wife began using crack cocaine, one of his relatives invited him and his wife to "the creek," which he said is "several RV communities" that are involved in "cooking meth." He stated he is "pretty sure" he and his wife waited about one day to go to "the creek," and he estimated he used crack cocaine "three to four times" before they went to "the creek."

Mr. Nabors reported that, once he and his wife arrived at "the creek," "I just fell right in with the crowd." He said the people were "feeding me and my wife all the dope we could do." He stated he was assigned a duty of "looking out for the police," but he stated he was ironically working as a "confidential informant" for a local law enforcement narcotics division at that time. He said he stayed there for an entire week and "wasn't doing no sleeping." Mr. Nabors reported that, on 06/10/2009, he was "on guard for police" and became "paranoid" at approximately 2:00 a.m. Specifically, he reportedly "thought I saw my wife get shot by Mexicans," and he subsequently left the lab and began running through the woods. He said he believed the people at the lab were chasing him. He stated he was alone, and he eventually "come across these people's house" and "knocked on [their] door." He reported the owner of the house gave him his cell phone to call 911. Although Mr. Nabors reportedly "barged my way in" to the man's home, the man made him call the police from outside. Mr. Nabors said he hid under a "Trans Am" parked in the driveway and called the police. He stated a SWAT team arrived, "cuffed me," placed him in a "police car," told him his "wife is fine," and transported him to "jail." He stated that mental health staff at the detention center "didn't see me" despite his report that he was "seeing and hearing things."

Mr. Nabors stated he was released from jail "two to three house later . . . on a P.R. bond." His wife reportedly met him at the detention center, and the two walked together to a convenience store. He said they "got a ride to Watts Mill" from "someone we know," and they went to "food Lion" and asked people there if they were "headed to Gray Court." He stated a woman gave them a ride, and Mr. Nabors showed the woman his and his wife's i.d. so the woman would know they were going to Gray Court. While they were riding in the woman's car, she reportedly began "talking about how she was ex-police." She also showed Mr. Nabors pictures on her digital camera "with police on it." He stated that he therefore began to believe that "she was gonna shoot me" and that "she had a gun." When asked why he thought she would shoot him, he responded, "Me being a NARC." He added, "I flipped out and said police is out to get me." He stated he told her to "get out" of the vehicle, and he instructed her, "Don't do nothing and I won't hurt you." He stated he also told her not to "reach for that gun." The woman reportedly asked him, "Can I get my pocket book," and he told her she could not because "that's probably where your gun is." He stated he informed her of where she could find her pocket book. He acknowledged he took money from her pocket book "and bought crack with it." On questioning, he indicated he told her she would find her car "30 miles up the road."

Clinical Impressions Regarding Criminal Responsibility

As noted above, there is little reliable information to suggest that Mr. Nabors has a mental illness that is not substance-induced. His self-report, records, and collateral data indicate he was experiencing paranoid beliefs on 06/10/2009 that were the result of methamphetamine and crack cocaine use. Only if the Court were to determine that Mr. Nabors's substance abuse around the time of the alleged offenses was involuntary, could the paranoia at that time be considered a symptom of a mental disease. Regardless, there is little to suggest that Mr. Nabors did not

understand the wrongfulness of the acts for which he is charged. Indeed, while he reported during the interviews that he feared the alleged victim was going to harm him, neither he nor Jennifer Ann Hughes reported this immediately following their arrests (on 06/11/2009). Furthermore, despite Mr. Nabors's report that the alleged victim showed him pictures of police officers and that he warned her not to reach for her gun, causing him to fear for his safety, this is inconsistent with collateral information. Given this information, there is little to suggest that Mr. Nabors, as a result of a mental disease or defect, was incapable of distinguishing moral or legal right from moral or legal wrong or recognizing the particular acts charged as morally or legally wrong.

Clinical Impressions Regarding Capacity to Conform Conduct

As noted above, it appears Mr. Nabors was experiencing substance-induced paranoia on the date of the alleged offenses; however, there is little to suggest he lost sufficient capacity to conform his conduct to the requirements of the law. He reportedly waited patiently and calmly asked individuals for a ride to Gray Court immediately prior to the alleged offenses. In addition, he reportedly was talking in a calm and clear manner in the car with the alleged victim. Indeed, he was able to give directions and caution her to drive slowly on an upcoming gravel road and bridge. Such an ability to plan ahead and consider details relevant to one's safety suggest he had not lost significant control of his actions at that time. As such, it does not appear that Mr. Nabors, at the time of the alleged offenses, was suffering from a mental disease or defect that caused him to lack sufficient capacity to conform his conduct to the requirements of the law.

M W Gassen, Psy.D. 8/30/10

Michael Gassen, Psy.D. Date
Chief Psychologist

JSM

SCDMH South Carolina Department of Mental Health

DMH South Carolina Department of Mental Health

HIPAA (PHI) FAX COVERSHEET

DMH Mailing Address –

CBSH/Forensic Evaluation Center
7901 Farrow Road
Building, #6
Columbia, SC 29203
(803) 935-5600

To: Alex Stalvey, Esq.	TELEPHONE	FAX
From: Tamika Lee		(864) 298-0146
Date: 08/30/10	NO. PAGES INCLUDING THIS PAGE	TIME See Date Stamp

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

SUBJECT:
CR/CTC Report: B. Nabors

MESSAGE:
Please see attached. Thank you.

cc: C. Yates Brown, Esq., Fax: (864) 984-6200

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US VIA U.S. POSTAL SERVICE. THANK YOU.

DMH South Carolina Department of Mental Health

Division of Inpatient Services
Forensic Evaluation and Treatment Services
Building #6
7901 Farrow Road
Columbia, South Carolina 29203
Information: (803) 935-5600
Fax: (803) 935-5544

August 30, 2010

Alex Stalvey
Attorney at Law
PO Box 10007
Greenville, SC 29601

Re: The State of South Carolina vs. Nabors, Benjamin
DMH Case #: 963-0097
Laurens County, Court of General Sessions

Dear Attorney Stalvey:

In accordance with the court order issued by the Honorable D. Garrison Hill, evaluations of criminal responsibility and capacity to conform were conducted by the South Carolina Department of Mental Health (SCDMH) pursuant to S.C. Code Ann. §17-24-10 (1976).

If the court order specifies either an "evaluation requested by either party after defendant's assertion of insanity defense" or an "evaluation requested by consent of both parties at any time," both the solicitor and the defense attorney will find a copy of the SCDMH report attached to this letter. However, if the court order specifies an "ex parte evaluation requested by defendant prior to assertion of insanity defense," only the defense attorney will find a copy of the SCDMH report attached to this letter.

This 11 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

8/30/10
Date

Jeffrey E. Musick Ph.D. ABPP
Jeffrey Musick, Ph.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

cc: C. Yates Brown, Jr., Assistant Solicitor, PO Box 516, Greenwood, SC 29648

JM/tl

Exhibit # _____

THE STATE OF SOUTH CAROLINA
OFFICE OF THE SOLICITOR
EIGHTH JUDICIAL CIRCUIT

EXHIBIT APPLICANT'S 03/13/13 MSH
PENCAD 800-631-6989

State's Offer for Plea Agreement

Defendant: Benjamin Nabors

Date of Offer: 8-21-09

Counsel for Defendant:

Offer Expires: 10-2-09

Solicitor: Cade C. Gibson

	Warrant/ Indictment #	Charge	Recommended Sentence	Restitution
☒ Plea ☐ NP	J-616454	Car Jacking	20 yrs suspd w/ 12 yrs & 5 yrs PROB	$
☐ Plea ☒ NP	J-616455	Armed Robbery	drop if plea	$
☐ Plea ☒ NP	On Info	Conspiracy	concurrent w/ above if want plea	$
☐ Plea ☐ NP				$
☐ Plea ☐ NP				$
☐ Plea ☐ NP				$
☐ Plea ☐ NP				$
☐ Plea ☐ NP				$
☐ Plea ☐ NP				$
			Total Restitution =	$

Comments: Armed Robbery = 10-30 yrs (felony)
Carjacking = 0-20 yrs (felony) 2599
16-003-40-75 (B)(1)

* No contact w/ victim/Substance abuse counseling as conditions of plea

B.H.S. Records Clerk:
Please send me a copy of Cassandra Sims M.S.W. Report dated 7-9-2010. I need this most badly Bluc

NOTE:

- A Psychiatric Social Work Admission Assessment completed by Cassandra Sims, MSW, with information provided by Jennifer Anne Hughes and Mary Nabors (dated 07/09/2010)
- A telephone interview conducted by Dr. Gassen with Marie Livingston, medical staff at Greenville County Detention Center (on 07/23/2010)
- Clinical/Forensic interview of Mr. Nabors on 07/23/2010 (approximately 2 hours)

SCDMH - BEHAVIORAL HEALTH SERVICES RECEIVED AUG 24 REC'D Health Information

Background Information

Family History

Mr. Nabors reported he was born in Laurens County, SC, and was raised by his biological parents as well as "my grandma." He described his childhood as "pretty good," though he indicated he was physically and sexually abused at age six or seven and witnessed domestic violence in the home. On questioning, he reported a family history of mental illness (e.g., "bipolar," "paranoid schizophrenic"), and he indicated he and his parents "used to do drugs together." Regarding a criminal history among family members, he reported there was "no major trouble, just DUI's."

SCDMH - BEHAVIORAL HEALTH SERVICES RECEIVED 2012 AUG 24 REC'D Health Information

NOT 4 NARCOTIC COPS PUT US UP IN Hotel ROOMS !

Mr. Nabors reported he is married but does not have any children. He stated he was "homeless...me and my wife was both on the streets" at the time of the alleged offenses.

Educational History

Mr. Nabors reported he discontinued his education during the 10th grade but subsequently earned his GED. He indicated he stopped going to school in order to start a career in welding but was kicked out of welding school "for marijuana." When asked to describe his academic performance, he responded, "Poor – couldn't concentrate." He indicated he was in special education classes "all through school" due to "ADHD," and he stated he was prescribed Ritalin (a stimulant). Aside from repeating the fourth grade once, he did not report a history of retentions. He stated he was suspended from school on numerous occasions for "mostly" bringing drugs and alcohol to school, but he added he was also in trouble for fighting, disrespecting teachers, and skipping. DID NOT. CITES FUCKING LIES !

Employment History WAS IN S

Mr. Nabors reported he has been employed in roofing, masonry, framing, and at a cotton mill and a couple "manufacturing facilities." He stated his longest period of employment was working as a "ride foreman" for carnival rides for approximately 15 years. He acknowledged he has been fired from jobs "lots of times" for "coming to work high" or "drunk." A history of receiving disability benefits was denied.

Medical History

Mr. Nabors did not report a history of significant medical problems; however, he reported he has sustained significant head injuries during physical altercations (e.g., has been hit in the head with

JSM

bricks). He stated his most recent head injury occurred approximately two years ago from being "hit in the head with a baseball bat." He said he subsequently received medical treatment, including an MRI of his head, and he was told he had sustained a "mild concussion."

Substance Use History

He age 8-9

Mr. Nabors reported he first consumed alcohol at age seven, and he said he has a history of drinking "every day." He indicated he last consumed alcohol "probably last June" (i.e., June 2009). He acknowledged he has developed a tolerance to alcohol and has experienced alcohol withdrawal symptoms (e.g., tremors). Regarding illicit substances, he reported he began using crack cocaine and methamphetamine at approximately age 15. He stated he has used crack cocaine daily, engaged in dangerous behavior while using it, had legal troubles as a result of his use, and he acknowledged relationship problems arising from his crack cocaine use. Regarding methamphetamine, he indicated it is his drug of choice and that it has caused him psychological problems, led to relational conflicts, and resulted in a loss of jobs. Mr. Nabors reported a history of using marijuana, cocaine, ecstasy, LSD, psilocybin mushrooms, and heroin, though his history of his use of these substances was not extensive. He acknowledged he has abused medications in the past (e.g., Loretab), and he reported he huffed "gas and glue" as a child. He said he received substance abuse treatment at "Cedar Springs" in Charlotte, NC, as an adolescent. He reported he has attended Alcoholics Anonymous and Narcotics Anonymous meetings "very few" times and "only because it was court-ordered."

Mental Health History

Mr. Nabors denied a history of inpatient mental health treatment, and he indicated he has not received outpatient mental health treatment aside from receiving "Klonopin and Ativan" from a facility in Florida on one occasion. When asked if he has received mental health services while detained or incarcerated, he responded, "Every time I get locked up," and stated he receives those services for depression, anxiety, and "paranoia." In regards to the paranoia, he said he recently held a belief that there "was a GPS chip in my head." On questioning, he reported a large number of atypical hallucinations that he said occur at times when he is not using illicit substances. He said he his currently prescribed Depakote (an anticonvulsant), Artane, Prozac (an antidepressant, and Navane (an antipsychotic).

Records from Gilliam Psychiatric Hospital (from 03/26/1997 to 04/02/1997) indicate Mr. Nabors was admitted to that facility after he attempted to hang himself at Broad River Reception and Evaluation. He informed staff his suicidal behavior was an "attempt to get on state wide (PC) and get to an institution where he could complete his education." He denied a history of a mental illness, though he acknowledged a history of substance abuse. No symptoms were noted during his admission. On discharge, he was diagnosed with adjustment disorder with depressed mood, polysubstance dependence, and antisocial personality disorder.

According to records from Gilliam Psychiatric Hospital (from 01/31/2002 to 02/01/2002), Mr. Nabors was admitted to that facility during a prior incarceration due to threatening to commit suicide. At that time, he presented with a "sad affect," and he complained of others "talking about him." He reported experiencing auditory hallucinations, but it was noted, "No overt signs

JEM

PSYCHIATRIC SOCIAL WORK ADMISSION ASSESSMENT

Social Worker: [illegible] MSW Assessment Date: 7-9-10

IDENTIFYING DATA

Name: Benjamin Ray Nabors D# 963-0097 WSHPI UNIT: JES

Date of Admission/Evaluation 7-12-10 S [redacted] Gender: Male

Race/Ethnicity: Caucasian Age: 37 DOB: [redacted]

Type Admission: ___ Emergency ___ Voluntary ___ Judicial ✓ Court

Referred By: Medical Services MHC: VA

Patient's Address/County: Laurens

Occupation: Dad Working Status: Unemployed

Legal Charges (if any see page 7)

INFORMANT

Name: Jennifer Anne Nabors Relationship: Wife

Address: 86N-[redacted] Phone: [redacted] (H) ___ (W)

History Taken: ✓ By Telephone ___ In Person Information Reliable ✓ Yes ___ No

Attitude Toward Patient:

INFORMANT

Name: Mary Nabors Relationship: Mother

Address: 86N-876-0062 Phone: 876-0062 (H) ___ (W)

History Taken: ✓ By Telephone ___ In Person Information Reliable ✓ Yes ___ No

Attitude Toward Patient: Concerned + Supportive

Additional Information From:

Attempts to Contact Informants:

I.D.

Benjamin Ray Nabors
963-0097

SOCIAL WORK ASSESSMENT (ADULT)
WILLIAM S. HALL PSYCHIATRIC INSTITUTE
MULTI DISCIPLINARY ASSESSMENT

SCDMH FORM
AUG.95 (REV.NOV 2000) William S. Hall - 130

REASON FOR ASSESSMENT: Order for Competency to Stand Trial, Criminal Responsibility, Capacity to Conform Evaluation

Incidence Precipitating Hospitalization: Incident

Age When Problem First Appeared ___ History of Problems: ADHD as child - started out Ritalin in 4th grade - would not take - assaultive easily enraged + continued to be hyper.

Description of Any Significant Symptoms, behavioral change Immediately Prior to, Immediately After, and/or at Time of Incident/Arrest/Hospitalization/Evaluation Using drugs. Mother believes he was using meth, although his drug of choice was crack.

Prior Psychiatric Hospitalization: ___ Yes ✓ No If Yes, Where, When, By Whom: May have received psychiatric treatment while incarcerated.

Outpatient Treatment: ___ Yes ✓ No If Yes, Where, When, By Whom: Denies

Psychiatric Medications: Prozac, Seroquel, atypical psychotic

Patient's Response to Medication/Problems, Side Effects to Medications: Not known

Treatment/Medication Compliance: ___ Good ___ Poor ___ Inconsistent ___ N/A If compliance Has Been Less Than Good, Why? ___

Substance Abuse Problem: ✓ Yes ___ No Describe (Substance, Duration, Frequency, Etc.): Alcohol, meth, cocaine - according to mother, drug of choice is crack.

History of Treatment for Substance Abuse: Hospitalized in Charlotte - tx for alcohol abuse age 13 - for 4-6 wks.

Pertinent Medical History: Denies

Other Current Medications: None known (see jail Records)

SOCIAL WORK ASSESSMENT (ADULT)
WILLIAM S. HALL PSYCHIATRIC INSTITUTE
MULTI DISCIPLINARY ASSESSMENT

I.D.

Benjamin Ray Lubin
963-0017

"1 THIS SIDE COPY ONLY"

FAMILY HISTORY: (Developmental History

Is the Patient: ✓ Natural Child ____ Adopted Child ____ Foster Child

(If the patient is adopted provide information about adoptive parent(s) and place information known about natural parents in the next section provided. If the patient is/was a foster child, provide information about natural or adoptive parent(s) here and place information about foster family in the next section provided.)

Mother's Name: Mary Dolores Age: 50 Current Health: ____

If Deceased, State Cause of Death and Date: NA

Mother Mentally Ill: ✓ Yes ____ No Diagnosis: Bipolar

In the Mother's Family, Is There a History of Mental Illness/Suicide/Homicide Substance Abuse? ✓ Yes ___ No

If Yes, Describe: Mother, maternal uncle, maternal grandmother - Schizophrenic

Father's Name: Kenneth Dabors Age: 51 Current Health: HBP

If Deceased, State Cause of Death and Date: NA

Father's Mentally Ill: ____ Yes ____ No Diagnosis: ____

In the Father's Family, Is There a History of Mental Illness/Suicide/Homicide Substance Abuse? ___ Yes ___ No

If Yes, Describe: Father's brother alcohol

Parent's Marital Status: ____ Single ✓ Married ____ Separated ____ Divorced ____ Widowed

Information About Natural/Adoptive/Foster Family as Needed: Parents briefly separated when Dolores age 3-4

Mother's Attitude Toward Patient: Concerned & supportive

Father's Attitude Toward Patient: ____

Number of Siblings: 0 Patient's Birth Order: only Number Siblings Living in Home: ____

Name:		M	F	Age:		Name:		M	F	Age:
Name:		M	F	Age:		Name:		M	F	Age:
Name:		M	F	Age:		Name:		M	F	Age:
Name:		M	F	Age:		Name:		M	F	Age:
Name:		M	F	Age:		Name:		M	F	Age:

Do Any Siblings Have a History of Mental Illness/Suicide/Homicide/Substance Abuse? ___ Yes ____ No

If yes, Describe NA

Any Siblings Deceased: ____ Yes ____ No If yes, whom: NA

I.D.
Benjamin Ray Nabors
963-0097

CHILDHOOD: BIRTH HISTORY

Planned Pregnancy: ___ Yes ✓ No Welcomed Pregnancy: ✓ Yes ___ No

Is Patient the Child of a Single Mother ___ Yes ___ No

Gestation: ✓ Normal ___ Abnormal Describe: Mother Uses to use drugs before pregnant - Late Pregnancy Father

Birth Defects: ___ Yes ✓ No Describe: ___

Psychomotor Milestone: ___ Early ✓ Normal ___ Late ___ Unknown

Did Patient Interact Well With Other Children Their Age During Their Early Development? ✓ Yes ___ No:

If no, describe problems: Did not have many friends.

Comments on Family Functions/Home Environment (History of abuse, neglect, interaction with family members, history of fire setting, running away, cruelty to animals, living conditions, child care arrangements, removed from home, etc.) DCS

Abuse & Neglect removed from home, no fire setting, no running away, no cruelty to animals.

Is There a History of:

Head Trauma:	✓ Yes	___ No	Describe:	fights & bicycle accidents				
Seizures:	___ Yes	✓ No	Describe	___				
Surgery:	___ Yes	✓ No	Describe	___				
Retardation:	___ Yes	___ No	Describe	___				
Chicken Pox:	✓ Yes	___ No	Describe	___				
Measles	___ Yes	✓ No			Immunized	___ Yes	___ No	
Mumps	___ Yes	✓ No			Gamma Globulin	___ Yes	___ No	

Initial Adjustment to School: Adequate.

General School Performance (Regular classes, special education, grades, attitude toward school, usual interaction with others, participation, in school activities, suspensions, expulsion, history of ADHD and/or medicated, etc.)

Was M.R. Expelled in the 9th grade & Dropped Out several times, Added

I.D.

Benjamin Ray Hubbard
963-0097

Childhood: (continued)

General School Performance: to behavior problems. Repeated 4th grade - Problems staying focused

SEXUAL HISTORY:

(FEMALES ONLY) Age at Menarche: _____ Problems: _____

Pregnancies: _____ Deliveries: _____ Miscarriages: _____

Abortions: _____ Onset of Menopause: _____

(ALL PATIENTS) Age at first consented to sexual intercourse: as adult

History of Sexual Trauma: ✓ Yes ___ No If Yes, Describe: Wrote letter to mother informing her that maternal grandfather molested her as well as uncle age 3 or 4,

Currently Sexually Active ___ Yes ___ No ___ Unknown

History of ___ Heterosexual Behavior ___ Homosexual Behavior ___ Both

Birth Control/Protection Method: _____

Does Patient have any history or currently has STD/HIV? ___ Yes ___ No ___ If Yes, describe (tested, treatment, etc.) _____

MARITAL/RELATIONSHIP HISTORY

Has the Patient ever been married or had other significant relationship? ✓ Yes ___ No

If yes, describe: _____

Age at First Marriage/Significant Relationship: _____ Number of Marriages/Significant Relationship: _____

Number of Divorces: ___

Current/Most Recent Spouse/Significant Other: Jennifer Ann Hughes Age: 21

History of Mental Illness, Substance Abuse, Suicide/Homicide in Spouse/Significant Other: ✓ Yes ___ No

If yes, Describe: _____

Describe Patient's Current/Most Recent Marriage/Relationship (length, stressors/strengths, compatibility) Arguments between mother, client + Jennifer not recalled - together 3 yrs - conflictual relationship fights recalled - both

Describe Patient's Previous Marriage/Relationships (length, stressors/strengths, compatibility): use drugs.

I.D.

Benjamin Ray Dabbs
963-0097

MARITAL/RELATIONSHIP HISTORY (Continued)

Children (Names, Ages, Problems, Etc.)

1. No children

2.

3.

4.

5.

6.

Other Comments: Wife had 5 miscarriages - Ray Jr. 1 now - not sure if it is his or not - from another relationship

EMPLOYMENT HISTORY

Military Service: ___ Yes ✓ No Describe: NA

Type of Discharge: NA Benefits: NA

Has Patient Ever Held a Job for Pay? ✓ Yes ___ No

Describe Patient's Employment History (Types of jobs, unusual/longest length of employment, periods of employment/reasons for unemployment, attitude toward work etc.): Bricklaying, framing, trucking, Worked @ Carrier & Wife (longest job held)

CURRENT LIVING SITUATION

Patient Currently Lives With: ___ Parent ___ Spouse/Significant Other ___ Family (who) ___

___ Lives Alone ___ Foster Care ___ Group Home ___ DJJ ✓ Jail/Prison ___ Residential Care

___ Rents home/mobile home/apt. ___ Buying Home/mobile home ___ Other: ___

Patient's Financial Status: ___ Apparently Adequate ___ Apparently Well-Off ___ "Working Poor"

___ Financial Assistance ___ Disability ___ Retired/Fixed Income

___ Family ___ Spouse/Significant Other ___ Other ___

Approximate Month Income: ___ Food Stamps: ___ Yes ___ No

Private Medical Insurance: ___ Yes ___ No Name of Insurance Company: ___

Medicaid: ___ Yes ___ No Medicare: ___ Yes ___ No

If Receiving SSI or Disability, Who is Payee?

CULTURAL ASSESSMENT:

Patient National Origin: African American

Family National Origin: African American

Language Spoken at Home: ✓ English ___ Other: ___

Ethnic/Cultural Preference: ___

Religious/Spiritual Affiliation: Christian

Actively Practices Faith: ___ Yes ___ No

Family Cultural/Religious Values, Beliefs Relating to Illness: N/A

Cultural/Religious values and beliefs relating to illness, medication, counseling, therapy, and activities of daily living: N/A

Patient's hobbies, interests, leisure activities: Basketball, Video Games, Cartoons

LEGAL HISTORY

Current Charges ✓ Yes ___ No If yes, Describe: Carjacking and Armed Robbery

History of Arrests, Convictions, Amount of Time Served, Name of Jail/Prison, Disposition, Past/Current Probation, Name/Phone # of current probation/parole officer: Burglary, Resisting Arrest, Drug Under Influence, Drug Violation Suspension, Burglary, Petty Larceny, Breach of Peace, Malicious Injury to Real Property, Disorderly Conduct, Armed Robbery, Grand Larceny, Breaking into Automobiles, Weapon Possession, Petty Larceny, Returning Stolen Goods

CONSIDERATIONS FOR DISCHARGE PLANNING

Are There Legal Considerations in the Hospital's Management of the Patient: (For example, "Patient is here for Forensic examination or DJJ hearing pending") ✓ Yes ___ No If Yes, Describe:

Order for competency to stand trial, Criminal Responsibility, Capacity to Confess Evaluation.

MHC/Private Contact Person: None Phone #: N/A

Tentative Discharge Site: SCDC

I.D.

Benjamin Ray Nabors
963-0097

CONSIDERATIONS FOR DISCHARGE PLANNING (continued)

Does Patient Have Adequate Financial Platform for Placement: ____ Yes ✓ No

If No, Will Financial Referral be Needed: ____ Yes ✓ No

Will Referral to CCRS be Required? ____ Yes ✓ No

Local MHC Intervention Required While Patient is Hospitalized: ____ Yes ✓ No

Does Patient Have Support System in his Community Other Than family? ____ Yes ✓ No

If yes, whom/What: N/A

Family Willing to Participate in Treatment and Discharge Planning? ____ Yes ____ No

Family's expectation of Hospitalization: N/A

Social Worker Told Family That Hospitalization Will Provide: N/A

Patient's STRENGTHS, With Focus on Systems/Support Outside the Hospital: Family support, Knows MED

Patient's LIABILITIES with the Same Focus: Legal, charges, Extensive legal history, Substance abuse

Treatment Recommendations for this Hospitalization: N/A

Recommendation for Community Referral Support: N/A

ASSESSMENTS SUMMARY (Summarize patient's history of problem, level of function prior to hospitalization/evaluation/arrest/community/family support/patient's strengths and recommendations for treatment, as needed:)

Has Dabetes in a 3rd w/child Competency could not consult w/DR from Laurens County for Competency to Stand Trial & Criminal Responsibility)

Cassandra Sims, MSW

SOCIAL WORKER'S SIGNATURE

7-9-10

DATE

SOCIAL WORK ASSESSMENT (ADULT)
WILLIAM S. HALL PSYCHIATRIC INSTITUTE
MULTI DISCIPLINARY ASSESSMENT

I.D.

Benjamin Ray Nabors
463-0047

TO BE UTILIZED FOR READMISSION WITHIN ONE YEAR AND/OR

ADDENDUM: NARRATIVE ADDITIONAL INFORMATION

capacity to conform [illegible] he was detained by the Greenville County Detention Center on charges of Carjacking + Armed Robbery. He is currently housed in a single cell at the jail's special housing unit which is the most restrictive environment in attempt to get on "GPS tracking" pretrial out of jail. Pt reported that his time is mostly spent reading the bible.

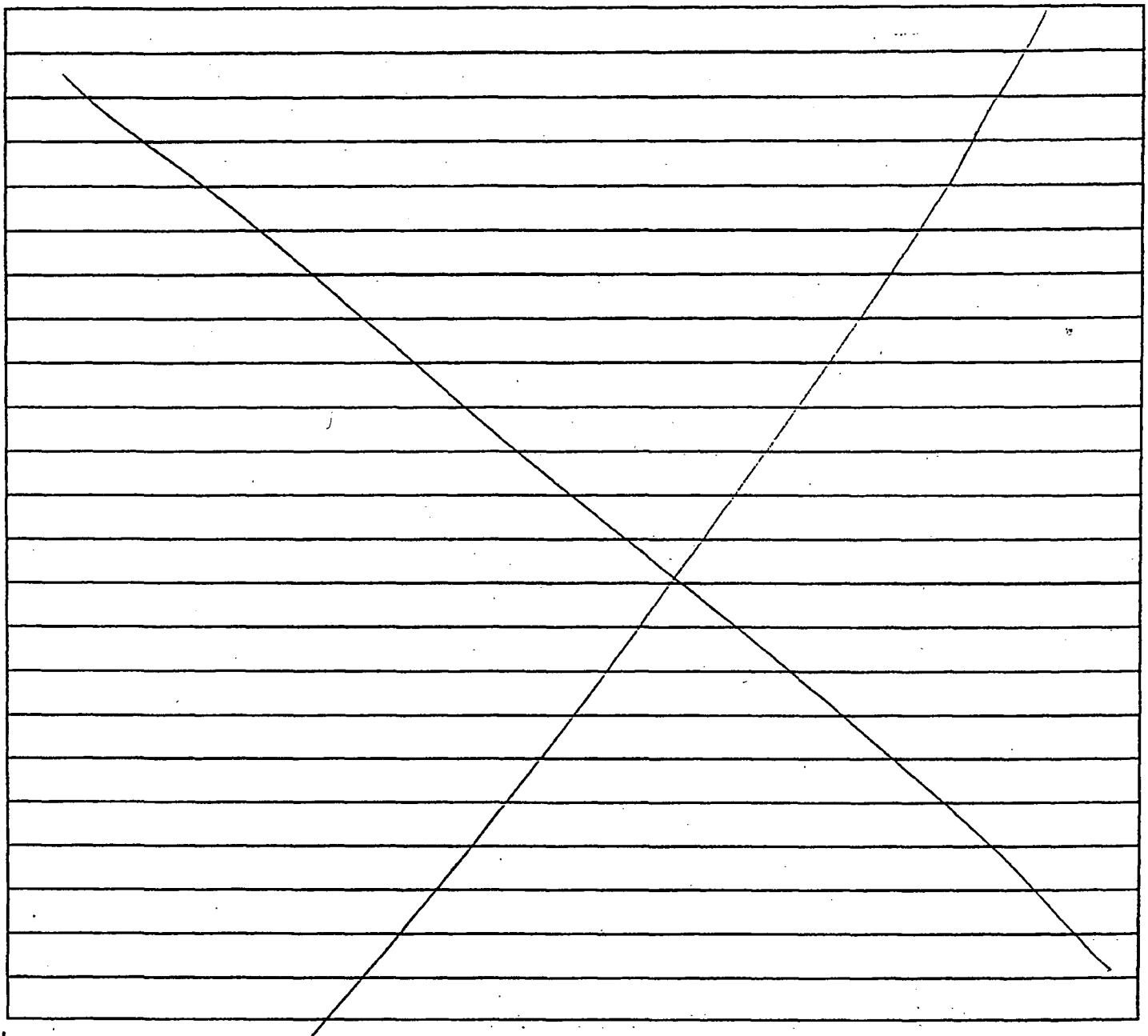
According to his mother he has spent most of his life without [illegible] jail or prison [illegible] page 17.

SOCIAL WORK ASSESSMENT (ADULT)
WILLIAM S. HALL PSYCHIATRIC INSTITUTE
MULTI DISCIPLINARY ASSESSMENT

I.D.

Benjamin Ray Waters
963-0097

SCDMH FORM
AUG.95 (REV.NOV 2000) William S. Hall - 130



SOCIAL WORKER'S SIGNATURE

7-9-10
DATE

SOCIAL WORK ASSESSMENT (ADULT)
WILLIAM S. HALL PSYCHIATRIC INSTITUTE
MULTI DISCIPLINARY ASSESSMENT

I.D.
Benjamin Ray Nabors
913-0097

SCDMH FORM
AUG.95 (REV.NOV 2000) William S. Hall - 130

TO BE UTILIZED FOR READMISSION WITHIN ONE YEAR AND/OR

ADDENDUM: NARRATIVE ADDITIONAL INFORMATION

Social Work Update Note:
Social worker contacted Greenville County Detention Center + spoke to Mavis Lennyston of their mental health team 864-467-4400 who reported that client is now housed in seclusion following incident of attempting to self-harm by attempting to break a "chicken" - tried to cut his forearm with a battery that he had hoarded until this point - he had a cell mate + believed to have cut the battery from lens. Client had remained with mental health staff + on cell mate until this incident of self mutilation. Mavis put him on the following medications: Haldol 5mg q 4 hours prn. - Ativan 2mg stat + Haldol 5mg daily Depakote 500 a every morning + 1 every night.

(Continued)

I.D.

Benjamin Waters
463-0097

(continued)
Since starting Haldol Dec X +
Depo w/ seclusion, client has
shown improvement - affect
appears better, not as irritable
No longer paranoid thoughts
+ denies hearing voices.
Dry mouth has stopped now
& hydrophrenia.

Cassandra Sears, MSW
SOCIAL WORKER'S SIGNATURE

8-25-10
DATE

SOCIAL WORK ASSESSMENT (ADULT)
WILLIAM S. HALL PSYCHIATRIC INSTITUTE
MULTI DISCIPLINARY ASSESSMENT

SCDMH FORM
AUG.95 (REV.NOV 2000) William S. Hall - 130

I.D.
Benjamin Nabors
9163-0017

(12) Alex Stalvey Just big huge (123) all N most bad bad of ways, Failed me as my Defense Attorney as my advocate. If its nessarry, (I) also can prove by a preponderance of evidence that (I) suffered Const-Civil and due process rights violations from the 8th Cir Solicitors office and the L.C.S.D.

(I) am fully prepared to prove all my Issues here today by a preponderance of the evidence and (I) pray to this Honorable Court That after it has heard weighed and considered such evidence in support of my Issues that it delays nothing in granting me relief. By Law, Im entitle to recent Amen.

 person suffering from schizophrenia, Anxiety & panic Attacks, paranoia, depression, Impulse control disorder and chronic Alcohol and substance abuse which probably were in part responsible for causing me brain damage.

Alex Stalvey refused to introduce testimony from expert witnesses or family members who would have confirmed all the facts for my defense Issues from being made to be an undercover narcotic agent for and by the Licsin, to the fact that ☺ suffered an abusive child hood, was diagnosed and treated for psychological disorders as a child, with powerful medications and was all through school enrolled in special ed classes

AGENCY I.D. 20300000

LAURENS COUNTY SHERIFF'S OFFICE
INCIDENT REPORT

0 8 0 0 3 0 6 8 — 405

EVENT

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. 23H - LARCENY - ALL OTHER	☒YES ☐NO	☐YES ☐NO	20		☒ Individual
2.	☐YES ☐NO	☐YES ☐NO			☐ Business, ☐ Financial Inst., ☐ Government, ☐ Relig. Orgn., ☐ Soc./Public, ☐ Other, ☐ Unknown, ☐ Police Off.
3.	☐YES ☐NO	☐YES ☐NO			

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER): [redacted]., GRAY COURT SC — ZIP CODE: 29645 — WEAPON TYPE:

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK: DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.
08/28/2008	0700		08/28/2008	2100	08/28/2008	2128	2134	2207	09

VICTIM #1

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
GRIFFIN, KERRY DEANNA	AQ			O S O U	W	F	34	N	[redacted] H / B	H / B

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
[redacted]	GRAY COURT	SC	29645	18

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
NEIGHBORS, KENNY				O S O U	W	M	50	N	[redacted] H / B	H / B

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.
5-8	230	BRO	BLU	

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
[redacted]RD.	GRAY COURT	SC	29645	

VISIBLE INJURY (VICT. 1) ☐YES ☒NO EXPLAIN –

VICTIM (NO. 1) USING: ALCOHOL: ☐YES ☒NO ☐UNK. DRUGS: ☐YES ☒NO ☐UNK.

☐TWO-MAN VEH. ☐ONE-MAN VEH. ☐DETECTIVE/SPLASMT. ☐OTHER ☐ALONE ☐ASSISTED — J - This Jurisdiction S - State O - Out of State U - Unknown

SUBJECT #1

☒ SUSPECT ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS

SUBJECT NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
WORTHY, JAMES RICHARD	W	M	45	N	[redacted]	5-8	165	BRO	BRO

FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
[redacted]	LAURENS	SC	29360	

SUBJECT (NO. 1) USING: ALCOHOL: ☐YES ☐NO ☒UNK. DRUGS: ☐YES ☐NO ☒UNK. TYPE:

ARRESTED NEAR OFFENSE SCENE ☐YES ☒NO — TOTAL # ARRESTED 2

DATE/TIME OF OFFENSE	DATE/TIME OF ARREST
08/28/2008 0700	09/18/2008 1500

NARRATIVE

Offenses:
LARCENY - ALL OTHER

ON ABOVE DATE AND TIME SGT. KURTA RESPONDED TO I/L IN REFERENCE TO A BREAK-IN. UPON SGT. KURTA'S ARRIVAL HE SPOKE WITH THE COMP. SHE ADVISED THAT THE VICTIM WAS OUT OF TOWN AND THAT HE HAD THE SUBJ. TO WATCH HIS PLACE WHILE HE WAS GONE. THE SUBJECT, WHO WAS NOT THERE WHEN SGT. ARRIVED, TOLD THE COMP. THAT THE VICTIMS SON SHOWED UP AT THE VICTIMS RESIDENCE AND THAT HE TOOK THE ITEMS.
SGT. KURTA WAS ABLE TO TALK WITH THE VICTIM OVER THE PHONE AND HE BELIEVES IT WAS THE SUBJECT AND NOT HIS SON WHO TOOK THE ITEMS. SGT. KURTA ADVISED THE VICTIM THAT WITHOUT HIM BEING HERE THAT HE COULD ONLY DO A PRELIMINARY REPORT AND THAT WHEN HE COMES BACK IN TOWN HE NEEDED TO MAKE CONTACT WITH THE INVESTIGATOR TO DO A FOLLOW UP REPORT. VICTIM WANTED REPORT JUST TO DOCUMENT WHAT HAPPENED SO FAR.
SGT. KURTA ALONG WITH THE COMP. WENT NEXT DOOR TO SEE WHAT MIGHT HAVE BEEN TAKEN. THE ONLY THINGS THAT APPEARED TO BE MISSING WAS A FLAT SCREEN T.V AND A STEREO (NO FURTHER INFORMATION AVAILABLE AT THIS TIME). SGT. KURTA ALONG WITH THE COMP. SECURED THE RESIDENCE WHEN WE LEFT AND THE COMP. TOOK CUSTODY OF THE KEYS PER THE VICTIMS REQUEST

PROPERTY

	TYPE (GROUP)	26-Radios/TVs/VC	36-Tools		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY 0300000		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	TOTAL VALU
Burned								
Count./Forged								
Dest./Damaged								
Recovered								
Seized								
Stolen		1575.00	600.00					217
Unknown								

ADMINIST

SUBJECT IDENTIFIED	SUBJECT LOCATED				
☒YES ☐NO	☐YES ☒NO	☐ACTIVE ☐ADM. CLOSED ☐UNFOUNDED	☐ARRESTED UNDER 18 ☒ARRESTED 18 AND OVER	☐EX-CLEAR UNDER 18 ☐EX-CLEAR 18 AND OV

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

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	N
SGT. BRIAN KURTA	08/28/2008	227	LIEUTENANT MARTY CRAIN	08/28/2008	
			FOLLOW-UP INVESTIGATION OFFICER ☒YES ☐NO LIEUTENANT MARENO FOGGIE	08/29/2008	

STATE OF SOUTH CAROLINA **COUNTY OF LAURENS**	**IN THE COURT OF GENERAL SESSIONS** Indictment No.(s): A/Warrant No.(s): J616454, 455, J615016
The State of South Carolina, **Plaintiff** **v.** Benjamin Ray Nabors **Defendant.**	**ORDER FOR COMPETENCY TO STAND TRIAL EVALUATION PURSUANT TO STATE V. BLAIR** **EVALUATION BY:** **(Select Only One)** ☒ **Department of Mental Health (Mental Illness)** **OR** ☐ **Department of Disabilities and Special Needs (Mental Retardation or Related Disability)**

RECEIVED JAN 27 2010 COURT UNIT

LAURENS COUNTY CLERK OF COURT 2010 MAR -4 A 9:11 LYNN A. CASTER

Per Sol 1/27/10 address crim. consp. + aggravating

This matter is before me for an order requiring defendant Benjamin Ray Nabors, charged with armed robbery, to submit to an evaluation for competency to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981) and S.C. Code Ann. § 44-23-410 (1976).

BASIS FOR ORDER. I have considered the showing made in support of the motion requesting this evaluation and have reason to believe defendant may lack the competency to understand the criminal proceedings or to assist with the defense as a result of a lack of mental competence.

This order is issued for the following reasons: Mr. Nabors is claiming lack of criminal responsibility, and has exhibited erratic behavior. To determine mental competency. Should have been on CR GH GH

THEREFORE, IT IS ORDERED: Defendant shall be examined and observed at an appropriate facility by two examiners of the Department of Mental Health if suspected of having a mental illness or by two examiners designated by the Department of Disabilities and Special Needs if suspected of having mental retardation or a related disability, to render an opinion whether defendant is competent to stand trial.

COMPLIANCE DEADLINE/TRANSPORT FOR EVALUATION. The examining facility shall schedule the ordered examination no later than thirty (30) days from the examining agency's receipt of this order. If defendant is currently free on bond or personal recognizance,

defendant is responsible for making transportation arrangements to attend the examination. In the event defendant does not appear at the scheduled examination, upon written notice of such failure by the examining agency to the Sheriff of the county in which this case arose, defendant shall be taken into custody by the Sheriff and held until an examination can be scheduled and completed, and thereafter shall be released. Defendant's bond or bail is hereby revoked to the extent necessary to carry out the provisions of this order, and upon completion of the examination and release of defendant, any previous bail or bond issued by the Court shall remain in effect. If defendant is in custody at the time of the scheduled examination, the Sheriff is hereby authorized and required to transport defendant to and from the examination, arriving at the examining facility at the time established by confirmed appointment with the staff of the examining facility. In the event defendant is in custody of a law enforcement agency other than a Sheriff's department, nothing herein prevents such agency from carrying out the provisions of this order.

TRANSFER TO ALTERNATE AGENCY. If the initial examination is performed by the Department of Mental Health, and examiners find indications of mental retardation or a related disability but not mental illness, the Department of Mental Health shall not render an opinion on mental competency, but shall inform the Court, prosecutor, and defense counsel that defendant is "not mentally ill" and shall provide a copy of such notification and a copy of this order to the Department of Disabilities and Special Needs. Likewise, if the initial examination is performed by the Department of Disabilities and Special Needs, and examiners find indications of mental illness but not mental retardation or a related disability, the Department of Disabilities and Special Needs shall not render an opinion on mental competency, but shall inform the Court, prosecutor, and defense counsel that defendant does "not have mental retardation or a related disability" and shall provide a copy of such notification and this order to the Department of Mental Health.

In either case, the examining agency shall make copies of any records gathered or created in connection with its examination available to examiners designated by the alternate agency, and the alternate agency shall thereafter designate examiners to evaluate defendant as to competency to stand trial within thirty (30) days of receipt of the notification from the initial examining agency.

FINDING OF DUAL DIAGNOSIS. If examiners of either the Department of Mental Health or the Department of Disabilities and Special Needs find an indication of a dual diagnosis of mental illness and mental retardation or a related disability, no opinion on defendant's mental

competency shall be rendered, and the dual diagnosis must be reported to the Court, prosecutor, and defense counsel. The examining agency shall also provide notification of the finding and a copy of this order to the other agency. Thereafter, the Department of Mental Health and the Department of Disabilities and Special Needs shall arrange for an examiner from each agency to further evaluate defendant to render a final report on defendant's mental competency. Both agencies are authorized and required to make copies of all relevant records within their possession or control available to examiners for purposes of completing the dual evaluation.

AUTHORIZATION FOR INPATIENT EVALUATION. In the event examiners from either agency determine defendant requires an inpatient examination, upon written notice to this Court from the director of the examining agency or his designee, defendant shall be committed to an appropriate facility of the requesting agency for no more than fifteen (15) days for examination and observation related to defendant's mental competency to stand trial.

REQUEST FOR EXTENSION. Before the expiration of the examination period or the examination and observation period, the Department of Mental Health or the Department of Disabilities and Special Needs, as appropriate, may apply to a judge designated by the Chief Justice of the South Carolina Supreme Court for an extension of time up to fifteen (15) days to complete the examination or the examination and observation.

DETENTION BEYOND EVALUATION PERIOD. If, in the judgment of the designated examiners, defendant is in need of immediate hospitalization or inpatient treatment, upon written request to this Court from the director of the examining facility or his designee, defendant may be detained by the requesting agency in a suitable facility for so long as deemed clinically necessary or until a hearing required and provided by S.C. Code Ann. § 44-23-430 (1976) may be conducted by this Court. An additional Court order **shall** be necessary for ongoing pre-trial inpatient detention of defendant as discussed in this paragraph.

ISSUANCE AND ADMISSIBILITY OF WRITTEN REPORT. Within ten (10) days of all examinations or the conclusion of the observation period, a written report shall be made to the Court pursuant to S.C. Code Ann. § 44-23-420 (1976). A copy of the report shall also be forwarded to the prosecutor and defense counsel. This evaluation report shall be admissible as evidence in subsequent hearings pursuant to S.C. Code Ann. § 44-23-420(c) (1976); thus, the report is a statutory exception to the rule against hearsay and shall be admissible without need for foundational

testimony. However, the report shall be inadmissible in any other proceedings except as expressly permitted by South Carolina law.

OWNERSHIP AND DISCOVERABILITY OF EXAMINING AGENCY FILES. The examining agency is an independent entity, conducting this evaluation pursuant to Court order, and is not aligned with any party before the Court. To promote full disclosure and to assure the cooperation of defendant during the evaluation process, ownership of the examining agency's files shall be vested with the examining agency, including clinician's notes, staff reports, evaluation documents, memoranda, test results, etc. Neither these files nor any of their contents shall be provided to any party except upon presentation of a Court order authorizing such or a release authorization signed by defendant. In the event the examining agency's evaluation opinion is contested, an examiner may be appropriately and fully questioned as to the basis for the examiner's opinion at any hearing pursuant to S.C. Code Ann. § 44-23-430 (1976). However, examiners and agency staff may not be compelled to testify regarding statements made during the competency examination for any purpose other than to establish competency. Also, statements made during the examination may not be used to impeach defendant at trial. Hudgins v. Moore, 337 S.C. 333, 524 S.E.2d 105 (1999).

MEDICAL PROVIDERS/SCHOOLS MUST RELEASE NECESSARY RECORDS. State agency examiners conducting the evaluation may need clinical and school records concerning defendant to assist in forming an opinion. It is therefore ordered, upon presentation by the examining agency of this order with a written request for specific records attached thereto, that any physician or clinician, licensed health care facility, licensed health care provider, or any school district is hereby authorized and required to furnish copies of all records concerning defendant to the Department of Mental Health or the Department of Disabilities and Special Needs, or both.

COUNSEL REQUIRED TO FURNISH NECESSARY RECORDS. Upon written request from the examining agency, counsel for the prosecution and defense shall furnish to the agency such records and information in counsel's possession as the agency requests, including but not limited to copies of law enforcement reports, investigations, witness statements, statements by defendant (both written and electronic), defendant's medical records, and prior psychiatric or psychological evaluations of defendant. Nothing herein shall be construed to require counsel to divulge any information, documents, notes, or memoranda that are protected by attorney-client privilege or work-product doctrine.

DUTIES OF DEFENSE COUNSEL. Unless the prosecution is the party moving for this evaluation, defense counsel has the responsibility to file, serve, and transmit this order as outlined in the final paragraph below. Defense counsel does not have the right to attend any clinical interview scheduled pursuant to this Order, nor does defendant have a constitutional right to compel counsel's attendance. State v. Hardy, 283 S.C. 590, 325 S.E.2d 320 (1985). The Court recognizes, however, that circumstances may arise through which the examining agency may request counsel's attendance to facilitate the examination. In the event that such a determination is made, the examining agency may request counsel's attendance in writing, and counsel's level of participation shall be prescribed by the examining agency's written evaluation protocol. In this event, because of the substantial number of individuals awaiting examination, such interviews cannot be rescheduled, postponed, or canceled to accommodate counsel except upon presentation to the examining agency of a written statement from a circuit court judge that counsel's attendance is required in Court at the time the examination is scheduled. Whether or not defense counsel is requested to attend the clinical interview, defense counsel must meet with defendant prior to the interview to discuss this Court order, the evaluation process, the clinical interview, defendant's rights with regard to the clinical interview, and penalties associated with non-appearance and non-cooperation. Failure to comply with these requirements may result in sanctions for defense counsel. Defendant's refusal to participate at the interview because of the absence of counsel will be deemed non-cooperation. Failure of defendant to cooperate or participate in the interview may result in cancellation of the interview, examiners being unable to offer an opinion on competency to stand trial, and the case being called for trial without completion of the evaluation.

FILING, SERVICE, AND TRANSMITTAL OF ORDER. It is the responsibility of counsel for the party requesting the evaluation to file and serve this order as outlined herein. In the event the evaluation has been requested by consent, or the moving party cannot be determined, defense counsel shall be responsible. After being signed by the Court, the original order without attachments shall be immediately filed with the Clerk of Court and a certified copy served upon the opposing party. Further, within five (5) business days, a certified copy of this order, together with the attachments listed at the end of this order, must be served upon the examining agency at the address listed below. To expedite commencement of the evaluation process and scheduling of the clinical interview, counsel is instructed to immediately contact the examining agency to advise of the

issuance of this order and forthcoming service upon the agency:

Evaluation Order Service Information

Department of Mental Health	Department of Disabilities and Special Needs
Forensic Evaluation Service Paralegal S. C. Department of Mental Health CBHS Forensic Center 7901 Farrow Road Columbia, S.C. 29203-3220 (803) 935-5540 (Phone) (803) 935-5544 (Fax) Email: FES-PARALEGAL@SCDMH.ORG	Office of Clinical Services Department of Disabilities and Special Needs Post Office Box 4706 Columbia, S.C. 29240 (803) 898-9694 (Phone) (803) 898-9660 (Fax) Email: OBSForensics@ddsn.sc.gov

AND IT IS SO ORDERED.

Presiding Circuit Judge

Hill

Printed Name of Presiding Circuit Judge

Laurens, South Carolina

Dated: 1/19/10

Prosecutor	Michael Turner, Jr. Defense Counsel
PO Box 516	105 West Public Square
Address	Address
Greenwood, SC 29648	Laurens, SC 29360
City, State, Zip	City, State, Zip
864 984 2282	864-984-6565
Telephone	Telephone
jhammack@co.laurens.sc.us	
Email	Email

The following documents must be attached to this order upon submission to the Department of Mental Health or to the Department of Disabilities and Special Needs whichever is applicable:

1. Completed DMH/DDSN Outpatient Information Appointment Sheet
2. Copy of the indictment(s) (if issued)
3. Copy of the arresting agency's incident report
4. Copy of the warrant(s)
5. Law enforcement investigative reports
6. Defendant's statements to law enforcement, written or electronically recorded
7. Witness statements to law enforcement
8. Defendant's school psychological records (if available)
9. Autopsy reports (if applicable)

****

COVERSHEET FOR DMH AND DDSN EVALUATION ORDERS

1. The Competency to Stand Trial Evaluation orders (SCCA 221 and SCCA 487) and the Criminal Responsibility (McNaughten) Evaluation order (SCCA 222) should **not** be altered. It is important for purposes of compliance with the statutes as well as timeliness, efficiency and quality control in conducting evaluations that the applicable form order be used **exactly** as published, **without alterations or additions** to the terms of the form order.

2. Additional records **must** be attached to the order for a complete evaluation. It is the duty of counsel requesting the evaluation to obtain these records in advance and have them ready at the time the judge signs the order so that the evaluation will not be delayed. Within five (5) days of its issuance, counsel must file the order with the Clerk and serve the order on the examining agency. A list of the necessary records is available on the last page of the order, and may include:

- ☐ Completed DMH/DDSN Outpatient Information Appointment Sheet
- ☐ Copy of the indictments(s)
- ☐ Copy of the arresting agency's incident report
- ☐ Copy of the warrant(s)
- ☐ Law enforcement investigative reports
- ☐ The defendant or juvenile's statements to law enforcement, written or electronically recorded
- ☐ Witness statements to law enforcement
- ☐ Autopsy reports
- ☐ Defendant's school psychological records
- ☐ Defendant's Rule 5(f) notice of insanity records
- ☐ Copy of the Juvenile Petition
- ☐ Special education records, including psychological evaluations and IEPs
- ☐ School records, including disciplinary and attendance records
- ☐ Mental health records, including inpatient and outpatient evaluation and/or treatment

3. Only **one** Competency to Stand Trial evaluation can be ordered. For Defendants with mental illness, the order is addressed to the Department of Mental Health. For Defendants with mental retardation, the order is addressed to the Department of Disabilities and Special Needs. The order may not be addressed to both agencies. In the event there is a dual diagnosis or uncertainty as to the correct diagnosis, the order is first addressed to the Department of Mental Health, and the examiners will determine whether further referral is necessary. All orders for criminal responsibility evaluation, regardless of the diagnosis, are forwarded to the Department of Mental Health.

414

19

STATE OF SOUTH CAROLINA **COUNTY OF LAURENS**	**IN THE COURT OF GENERAL SESSIONS** Indictment No.(s): _____ A/Warrant No.(s): _____
The State of South Carolina, Defendant. Benjamin Ray Nabors	**ORDER FOR CRIMINAL RESPONSIBILITY AND CAPACITY TO CONFORM EVALUATION** **(M'NAUGHTEN)** **Select one of the following:** (Controls access to evaluation report as outlined below.) ☐ **Ex parte evaluation requested by defendant prior to assertion of insanity defense.** ☐ **Evaluation requested by either party after defendant's assertion of insanity defense.** ☒ **Evaluation requested by consent of both parties at any time.**

RECEIVED
JAN 27 2010
COURT UNIT

Per SC
1/27/10
address
Crim Consp+
Capacity
PD

This matter is before me for an order requiring defendant Benjamin Ray Nabors, charged with armed robbery, to submit to an evaluation for criminal responsibility and capacity to conform conduct to the requirements of the law on or about 06/10/2009 pursuant to S.C. Code Ann. § 17-24-10 (1976). One of the following circumstances applies to the issuance of this order: (1) defendant has requested an evaluation to determine whether the insanity defense may apply; or (2) prosecution or defendant has requested this evaluation after defendant has affirmatively asserted the insanity defense and given appropriate notice pursuant to Rule 5(f) of the South Carolina Rules of Criminal Procedure; or (3) both parties by consent request this evaluation regardless of whether defendant has asserted the insanity defense.

BASIS FOR ORDER. I have considered the showing made in support of the motion requesting this evaluation and find defendant's mental state at the time of the alleged crime(s) will likely be at issue in this proceeding.

This order is issued for the following reasons:

To determine mental competency. – See CST Davis.

THEREFORE, IT IS ORDERED: Because the Department of Mental Health has

statutory responsibility for custody and control of individuals determined not guilty by reason of insanity, defendant shall be examined and observed at an appropriate facility of the Department of Mental Health by one or more examiners to determine whether defendant is criminally responsible pursuant to S.C. Code Ann. § 17-24-10(A) (1976) for conduct on or about 06/10/2009.

If defendant is believed to be criminally responsible by the designated examiners, defendant shall be further examined to determine whether, because of mental disease or defect, defendant lacked sufficient capacity to conform conduct to the requirements of the law on or about 06/10/2009 pursuant to S.C. Code Ann. § 17-24-20(A) (1976).

COMPLIANCE DEADLINE/TRANSPORT FOR EVALUATION. The examining facility shall schedule the ordered examination as soon as possible and no later than sixty (60) days from the receipt of this order by the Department of Mental Health, this time being necessary to gather required records. If defendant is currently free on bond or personal recognizance, defendant is responsible for making transportation arrangements to attend the examination. In the event defendant does not appear at the scheduled examination, upon written notice of such failure by the Department of Mental Health to the Sheriff of the county in which this case arose, defendant shall be taken into custody by the Sheriff and held until an examination can be scheduled and completed, and thereafter shall be released. Defendant's bond or bail is hereby revoked to the extent necessary to carry out the provisions of this order, and upon completion of the examination and release of defendant, any previous bail or bond issued by the Court shall remain in effect. If defendant is in custody at the time of the scheduled examination, the Sheriff is hereby authorized and required to transport defendant to and from the examination, arriving at the examining facility at the time established by confirmed appointment with the staff of the examining facility. In the event defendant is in custody of a law enforcement agency other than a Sheriff's department, nothing herein prevents such agency from carrying out the provisions of this order.

PROCEDURE IF LACK OF COMPETENCY IS INDICATED. If, during the course of the criminal responsibility and capacity to conform evaluation scheduled pursuant to this Order, the examiner finds indications that defendant may not be competent to stand trial pursuant to S.C. Code Ann. § 44-23-410 (1976) and State v. Blair, 275 S.C. 529, 273 S.E.2d 536

(1981), the examiner shall terminate the criminal responsibility and capacity to conform evaluation, issue no report thereon, and by written communication recommend to the Court that a competency to stand trial evaluation should be ordered. Further, the examiner should state whether, in the examiner's opinion, such lack of competency is due to a mental illness or, in the alternative, mental retardation or a related disability. A copy of this written communication shall be sent to the prosecutor and defense counsel.

AUTHORIZATION FOR INPATIENT EVALUATION. In the event examiners from the Department of Mental Health determine defendant requires an inpatient examination, upon written notice to this Court from the director of the Department of Mental Health or his designee, defendant shall be committed to an appropriate facility of the Department of Mental Health for no more than fifteen (15) days for examination and observation related to defendant's criminal responsibility and capacity to conform. If the examination and observation of defendant has not concluded at the end of the initial inpatient fifteen (15) days, defendant may be kept in the continued custody of the Department of Mental Health for an additional period not to exceed fifteen (15) days, provided the director of the examining facility or his designee notifies this Court in writing. The issuance of an additional Court order allowing for the inpatient commitment(s) discussed in this paragraph is not necessary.

DETENTION BEYOND EVALUATION PERIOD. If, in the judgment of Department of Mental Health examiners, defendant is in need of immediate hospitalization or inpatient treatment, upon written request to this Court from the director of the examining facility or his designee, defendant may be detained by the Department of Mental Health in a suitable facility for so long as deemed clinically necessary or until a hearing on the matter may be conducted by this Court. An additional Court order **shall** be necessary for ongoing pre-trial inpatient detention of defendant as discussed in this paragraph.

ACCESS TO EXAMINER'S REPORT. The Department of Mental Health is an independent entity, conducting this evaluation pursuant to Court order, and is not aligned with any party before the Court. It is the intention of the State of South Carolina to provide defendant an adequate opportunity for mental status investigation when the defendant's mental condition is seriously in question pursuant to Ake v. Oklahoma, 470 U.S. 68, 105 S.Ct. 1087 (1985), either before or after defendant formally asserts the insanity defense.

The purpose of the following provisions controlling access to the examiner's report is to strike a balance between defendant's right to explore the possibility of an insanity defense and prosecution's right to respond if such defense is raised. If defendant is requesting evaluation prior to asserting the defense of insanity, the evaluation shall be confidential until such time as defendant elects to assert the insanity defense. If defendant or prosecution is requesting evaluation after defendant's formal assertion of the insanity defense pursuant to Rule 5(f) of the South Carolina Rules of Criminal Procedure, or both parties are requesting the evaluation by consent, the evaluation shall **not** be confidential and both defense counsel and the prosecutor shall be provided a copy of the examiner's report. In either case, ownership of the examining agency's files shall be vested with the examining agency.

(A) Ex parte evaluation requested by defendant prior to assertion of insanity defense.

If defendant has requested an evaluation to determine whether the insanity defense may be viable, the examiner's report shall not be provided to the prosecution and shall not be admissible as evidence in any Court proceedings. The prosecution may not discover any portion of the evaluation files. Any written report resulting from the evaluation shall be considered confidential and provided only to defense counsel, and shall be provided within ten (10) days of all examinations or the conclusion of the inpatient examination period. Examiners and agency staff may not be compelled to testify regarding statements made during the criminal responsibility and capacity to conform examination for any purpose unless and until defendant asserts the defense of insanity. However, as a condition of accepting the evaluation provided by the State of South Carolina, defendant expressly waives any and all confidentiality privileges associated therewith if defendant subsequently asserts the insanity defense. In such case, the evaluation shall no longer be confidential, and all parties' access to the evaluation report shall be controlled by paragraph (B) below.

(B) Evaluation requested by either party after assertion of insanity defense.

Because the assertion of the insanity defense places defendant's mental status at issue, either party may discover any portion of the evaluation files upon presentation of a Court order authorizing such or a release authorization signed by defendant. Both the prosecutor and defense counsel shall be provided a copy of the examiner's report within ten (10) days of the conclusion of all examinations or the inpatient examination period. The evaluation report may be

admissible as evidence in subsequent hearings concerning defendant's criminal responsibility and capacity to conform. However, the report shall be inadmissible in any other proceedings except as expressly permitted by South Carolina law. Examiners and agency staff may not be compelled to testify regarding statements made during the criminal responsibility and capacity to conform examination for any purpose other than on the issue of criminal responsibility and capacity to conform. Also, statements made during the examination may not be used to impeach defendant at trial. Hudgins v. Moore, 337 S.C. 333, 524 S.E.2d 105 (1999).

(C) Evaluation Requested by Consent of Both Parties.

By consent, the parties may request evaluation at any time, regardless of whether the insanity defense has been asserted by the defendant. The procedures and rules for this examination shall be the same as outlined in paragraph (B) above; however, in the event defendant does not assert the insanity defense, the examiner's report shall not be admissible for any reason, nor shall the contents of the evaluation files be used for any purpose.

MEDICAL PROVIDERS/SCHOOLS MUST RELEASE NECESSARY RECORDS. Department of Mental Health examiners conducting the evaluation may need clinical and school records concerning defendant to assist in forming an opinion. It is therefore ordered, upon presentation by the Department of Mental Health of this order with a written request for specific records attached thereto, that any physician or clinician, licensed health care facility, licensed health care provider, or any school district is hereby authorized and required to furnish copies of all records concerning defendant to the Department of Mental Health.

COUNSEL REQUIRED TO FURNISH NECESSARY RECORDS. Upon written request from the Department of Mental Health, counsel for prosecution and defense shall furnish to the agency such records and information in counsel's possession as the agency requests, including but not limited to copies of law enforcement reports, investigations, witness statements, statements by defendant (both written and electronic), defendant's medical records, and prior psychiatric or psychological evaluations of defendant. Nothing herein shall be construed to require counsel to divulge any information, documents, notes, or memoranda that are protected by attorney-client privilege or work-product doctrine.

DUTIES OF DEFENSE COUNSEL. Unless the prosecution is the party moving for this evaluation, defense counsel has the responsibility to file, serve, and transmit this order as

outlined in the final paragraph below. Defense counsel does not have the right to attend any clinical interview scheduled pursuant to this Order, nor does defendant have a constitutional right to compel counsel's attendance. State v. Hardy, 283 S.C. 590, 325 S.E.2d 320 (1985). The Court recognizes, however, that circumstances may arise through which the Department of Mental Health may request counsel's attendance to facilitate the examination. In the event that such a determination is made, the Department of Mental Health may request counsel's attendance in writing, and counsel's level of participation shall be prescribed by the Department of Mental Health's written evaluation protocol. In this event, because of the substantial number of individuals awaiting examination, such interviews cannot be rescheduled, postponed, or canceled to accommodate counsel except upon presentation to the Department of Mental Health of a written statement from a circuit court judge that counsel's attendance is required in Court at the time the examination is scheduled. Whether or not defense counsel is requested to attend the clinical interview, defense counsel must meet with defendant prior to the interview to discuss this Court order, the evaluation process, the clinical interview, defendant's rights with regard to the clinical interview, and penalties associated with non-appearance and non-cooperation. Failure to comply with these requirements may result in sanctions for defense counsel. Defendant's refusal to participate at the interview because of the absence of counsel will be deemed non-cooperation. Failure of defendant to cooperate or participate in the interview may result in cancellation of the interview and examiners being unable to offer an opinion on criminal responsibility and capacity to conform. Failure to cooperate may further result in the case being called for trial without completion of the evaluation, and may result in defendant being prohibited from presenting expert testimony on the issue of insanity or waiver of the insanity defense.

FILING, SERVICE, AND TRANSMITTAL OF ORDER. It is the responsibility of counsel for the party requesting the evaluation to file and serve this order as outlined herein. In the event the evaluation has been requested by consent, or the moving party cannot be determined, defense counsel shall be responsible. After being signed by the Court, the original order without attachments shall be immediately filed with the Clerk of Court and a certified copy served upon the opposing party. Further, within five (5) business days, a certified copy of this order, together with the attachments listed at the end of this order, must be served upon the

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Department of Mental Health at the address listed below. To expedite commencement of the evaluation process and scheduling of the clinical interview, counsel is instructed to immediately contact the Department of Mental Health to advise of the issuance of this order and forthcoming service upon the agency:

Evaluation Order Service Address for the Department of Mental Health

Forensic Evaluation Service Paralegal
S. C. Department of Mental Health
CBHS Forensic Center
7901 Farrow Road
Columbia, S.C. 29203-3220
(803) 935-5540 (Phone)
(803) 935-5544 (Fax)
Email: FES-PARALEGAL@SCDMH.ORG

AND IT IS SO ORDERED.

Presiding Circuit Judge

Printed Name of Presiding Circuit Judge

Laurens, South Carolina

Dated: 1/19/10

Jack W Hammack
Prosecutor

PO Box 516
Address

Greenwood, SC 29648
City, State, Zip

864 984 2202
Telephone

hammack@co.laurens.sc.us
Email

Michael Turner, Jr.
Defense Counsel
105 West Public Square
Address
Laurens, SC 29360
City, State, Zip
864-984-6565
Telephone

Email

If he didn't get off my case etc. He ~~sent the~~ solicitor that on 12-7-09 So why this shit eater even representin me at that this hearing that never even should have occured in Judge Hills court perion Cause Judge Hill been prejudice against me also! About six months B-4 my arrest or less @ approached Judge Hill in Greenville outside his office building and hit him up for some $, had my girl with me told him she fuck him for it, he told me to get my ass away from him, and @ said "fuck you Judge!" Don't that count

ENCY I422
0300000

LAURENS COUNTY SHERIFF'S OFFICE
PROPERTY LISTING

CASE NUMBER: 09001911

NCIC: INQ. | ENTD.

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☐ ORIGINAL REPORT ☐ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

PAGE 1

RECOVERED

MOTOR VEHICLE - AUTOMOBILES				-25,000.00
Make: FORD	Model: ESCAPE	Cal:	Serial #:	
			License:	
			TOTAL GROUP	-25,000.00

STOLEN

MOTOR VEHICLE - AUTOMOBILES				25,000.00
Make: FORD	Model: ESCAPE	Cal:	Serial #: 1FMCU02Z68KA90859	
NIC #: V702803338			License: 4209BX	
CREDIT/DEBIT CARDS				0.00
Make:	Model:	Cal:	Serial #:	
			License:	
MONEY				40.00
Make:	Model:	Cal:	Serial #:	
			License:	
			TOTAL GROUP	25,040.00

TOTAL PROPERTY 40.00

ADMINIST

SUBJECT IDENTIFIED	SUBJECT LOCATED			
☐ YES ☒ NO	☐ 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
SGT. JEFFERY B. TUCKER	06/10/2009	223	LIEUTENANT ROBBIE HAUPFEAR	06/10/2009	213
			FOLLOW-UP INVESTIGATION OFFICER ☒ YES ☐ NO LIEUTENANT ROBERT PLAXICO	06/11/2009	1-24

The State of South Carolina

OFFICE OF THE SOLICITOR
EIGHTH JUDICIAL CIRCUIT

Abbeville
Greenwood
Laurens
Newberry

JERRY W. PEACE
SOLICITOR

864/942-8800
FAX 864/942-8830

Suite 203, Park Plaza
600 Monument Street
Post Office Box 516
Greenwood, SC 29648-0516

Attorney at Law

Hand Delivered

RE: State v. Benjamin Nabors

Dear :

In an effort to comply with the requirements of Rule 5, SCRCP/Brady, I am enclosing copies of the following documents:

- [x] Warrant(s) (2 page(s))
- [ ] Uniform Traffic Ticket (page(s))
- [x] Incident Report and Supplemental Reports (5 page(s))
- [x] Booking Report (4 page(s))
- [x] Defendant's Criminal History (9 page(s))
- [ ] Defendant's Driving Record (page(s))
- [ ] Breath Alcohol Analysis Test Report (page(s))
- [ ] Implied Consent/Videotaping Advisement (page(s))
- [ ] Notice of Suspension (page(s))
- [ ] Chain of Custody (page(s))
- [ ] Consent to Search (page(s))
- [ ] Marijuana Analysis Report and Chain of Custody (page(s))
- [ ] SLED Drug Analysis Report and Chain of Custody L - (page(s))
- [x] Waiver of Rights and Voluntary Statement of (4 page(s))
- [ ] Waiver of Rights and Voluntary Statement of (page(s))
- [ ] Waiver of Rights and Voluntary Statement of (page(s))
- [ ] Voluntary Statement of (page(s))
- [ ] Voluntary Statement of (page(s))
- [ ] Voluntary Statement of (page(s))

☐	Other	(page(s))
☐	Other	(page(s))
☐	Other	(page(s))
☐	Other	(page(s))
☐	Other	(page(s))
☐	Other	(page(s))
☐	Other	(page(s))
☐	Other	(page(s))
☐	Other	(page(s))

In addition, the State may introduce various pieces of physical evidence during the trial of this case, including, but not limited to:

- ☐ Video Tape
- ☐ Audio Tape
- ☐ Photographs
- ☐ Drugs
- ☐ Items Listed on Search Warrant Return
- ☐ Other
- ☐ Other
- ☐ Other
- ☐ Other
- ☐ Other

This evidence is available for inspection at your convenience.

Finally, please find enclosed a copy of the State's Motion for Reciprocal Discovery made pursuant to the South Carolina Rules of Criminal Procedure.

Sincerely,

Cade C. Gibson
Assistant Solicitor

The State further moves that the defense provide written notice of its intention to rely upon the defense of insanity and/or guilty but mentally ill at the time of the crime, if applicable, or its intention to plead guilty but mentally ill, as is required and provided under Rule 5(f), SCRCP.

Respectfully Submitted,

Cade C. Gibson
Assistant Solicitor

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STATE OF SOUTH CAROLINA COUNTY OF NEWBERRY State of South Carolina, vs. Defendant. Benjamin Nabors	)	IN THE COURT OF GENERAL SESSIONS EIGHTH JUDICIAL CIRCUIT MOTION FOR DISCOVERY & INSPECTION

Now comes the State, by and through its undersigned attorney, Cade C. Gibson, Assistant Solicitor, pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure (SCRCP), and moves the defense to permit the State to inspect and copy or photograph, including, but not limited to, the following, with the express provision that the duty of disclosure be a continuing one in the event that any such materials come into existence or become available after the initial disclosures:

a) Any 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 trial;

b) 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 reports relate to his testimony;

c) The State would further move that if the Defendant intends to call to the stand an expert witness, that if no report of said witness has to this point been made, that the Defendant, prior to trial, have said expert witness reduce the essence of his testimony to writing, listing the basis for his opinion and the methods used to substantiate said opinion.

d) Pursuant to subsection (e) of Rule 5, SCRCP, the State moves the defendant to serve upon the prosecution within ten (10) days, or at such time as the Court may direct, a written notice of the defendant's intention to offer an alibi defense. The notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the defendant intends to rely to establish such alibi.

LAURENS COUNTY SHERIFF'S OFFICE

SYNOPSIS

INCIDENT NUMBER: 09001911

ON 06/10/09 , BENJAMIN NABORS AND JENNIFER HUGHES DID COMMIT THE CRIME OF CAR JACKING AND ARMED ROBBERY BY TAKING A 2008 FORD ESCAPE FROM THE PERSON OF TONI EDWARDS WHILE ARMED WITH A KNIFE, A DEADLY WEAPON. THIS OCCURRED ON SPEEDWAY DRIVE IN GRAY COURT SC, COUNTY OF LAURENS ON JUNE 10, 2009

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Office of the
Sheriff
Ricky W. Chastain

Advisement of Rights

Case Number: 0900191I Date: 6-11-09 Time: 12:31 PM

Before we/I ask you any questions you must understand your rights.

- You have the right to remain silent.
- Anything you say can be used against you in court.
- You have the right to talk to a lawyer for advice before we/I ask you any questions and to have him/her with you during questioning.
- If you have no money to pay a lawyer's fee, the court will appoint one to represent you without cost if you wish.
- If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

Please Initial Your Response

Do you understand each of these rights I have explained to you?	Yes	TH	No	
Do you want a lawyer?	Yes		No	TH
Do you want to answer questions now?	Yes	TH	No	

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Robert R. Wilke
Witness

Signature

Witness

12:32 PM
Time

3/26/08

47-75-[redacted]

[redacted] Rd, Gray Court SC

[redacted]

Date 6-11-09 12:34PM Page No. 1

STATEMENT OF:

Jennifer Ann Hughes

(JH) This statement is being written out by Lt. Willis at the request of Jennifer Ann Hughes. We were at James Simmons house in Lowers. We didn't have a way home and it was getting late. Me and Ben (Benjamin Nabors) walked to Foodlion to try and get a ride. This lady walked out of Foodlion and we asked her about giving us a ride to Gray Court. She said that she would be glad to give us a ride because she lives up that way. We (me + Benjamin Nabors) get in the car and I was in the front passenger seat. Ben was in the back right behind me but then he slid over to the other side. When we were going down the road Ben asked her for a cigarette and she gave us one. When we get into Gray Court Ben tells the lady to go down Speedway Drive. The next thing I know she is on the ground and she stopped the car. I looked over and Ben had his hand on her chest with his arm over her shoulder. Ben kept telling her that he wasn't going to hurt her. I tried to push Ben off of the woman and he was pushing me against the door. I told him not to do this to that woman and to give her the car and pocketbook back. Ben told the woman to get out of the car. After she got out Ben got out of the car and told her to stay back. Then he (Benjamin Nabors) got in the driver seat and took off. He wanted to go get some meth from the creek. He was opening the pocketbook and going through it (JH)

Jennifer Hughes

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Date 6-11-09 12:34pm Page No. 2

STATEMENT OF:

Jennifer Ann Hughes

(JH) While we were driving, Ben stopped by the Creek at Gene and Parker's place and tried to buy some meth but after what happened the other night they wouldn't sale to him. Then he wanted to go down ...to Georgie acres other they sell dope. We went down to Georgie Acres and Ben bought a $20.00 rock of rock with the money that we already had. I Smoked that crack rock with Ben but I didn't Smoke any of the rock that Ben bought with that womens fourty dollars. End of Statement (JH)

Jennifer Hughes

Jennifer Hughes

Office of the
Sheriff
Ricky W. Chastain

February 20, 2013

Ben Nabors #233844
Lee C. I
990 Wisacky Hwy.
Bishopville, SC 29010

Re: FOIA Request

Dear Mr. Nabors,

The purpose of this letter is to respond to your letter of February 9th, 2013. You state in your letter that this is a Freedom of Information Act (FOIA) request. If you will review the statute you will find that certain records are available to the public for inspection and copying.

If you desire to review and inspect any of non-exempt public records, our normal office hours are 9 AM to 5 PM, Monday through Friday. Please contact our records clerk, Crystal Bailey, at 864-984-4967 and schedule a mutually convenient time to review these records. Please be advised that certain documents or information contained in the documents responsive to your request may be exempt from disclosure. To the extent that is the case, this office will redact the exempt portions of any such documents and produce a copy of the redacted document to you.

Once you have had the opportunity to inspect the non-exempt documents covered by your request, we will determine the time, labor and materials necessary to cover the estimated costs. Payment of those costs will be required at the time of inspection.

Also, please be advised that it is your responsibility to investigate and determine your duty, if any, under South Carolina law as to the use of any public records for commercial solicitation. Please see South Carolina Code Section 30-2-50.

Thank you in advance for your assistance in this matter and if I may be of any assistance, please do not hesitate to contact me at 864.984.4967 or by email at mcoats@laurenssheriff.org.

Respectfully,

Michael Coats, Captain
Administrative Services

P.O. Box 68 • 216 West Main Street • Laurens, South Carolina 29360
Office: (864) 984-4967 • Fax: (864) 984-5754
www.laurenssheriff.org

Lynn W. Lancaster
Laurens County Clerk of Court
P. O. Box 287
Laurens, SC 29360

July 18, 2012

Ben Nabors #233844
Lee Correctional Institution
Kershaw.South.1115
990 Wisacky Highway
Bishopville, SC 29010

Dear Mr. Nabors:

I am in receipt of your letter wherein you request the arrest reports and investigator's comments in reference to your arrest on June 10, 2009 (J-615016).

The officer who is named on that warrant is Mareno Foggie; however, he is no longer with the Sheriff's Department. I would address your request to Officer Judy Stiles as I believe she is in charge of FOIA request. Her address would be Laurens County Sheriff's Department, P. O. Box 68, Laurens, SC 29360.

Sincerely,

Lynn W. Lancaster

/lwl

INCIDENT REPORT

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INCI. 090035666 ENTD 4336

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
35A - MANUFACTURING METHAMPHETAMINE, CONSP. MANUFACTURE METH, SIMPLE	☒YES ☐NO	☐YES ☐NO	20		☒ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☒ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
280 - POSS. OF STOLEN RIFLE	☒YES ☐NO	☐YES ☐NO	20		
	☐YES ☐NO	☐YES ☐NO			

IDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)	ZIP CODE	WEAPON TYPE
3 HELLAMS RD, GRAY COURT SC	29645	

CIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK				LOCATION NO.
					DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	
10/23/2009	1445		10/23/2009	2002	10/23/2009	1445	1445	2002	09

PLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
CIETY/PUBLIC, 234	ST	ST	ST	J S O U					H B	H B

RESS	CITY	STATE	ZIP CODE	LOCATION NO.
				07

TIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
CIETY/PUBLIC, 234				J S O U					H B	H B

IGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

RESS	CITY	STATE	ZIP CODE	LOCATION NO.
				07

BLE INJURY (VICT. 1) ☐YES ☒NO EXPLAIN –

TIM (NO. 1) USING: ALCOHOL: ☐YES ☒NO ☐UNK. DRUGS: ☐YES ☒NO ☐UNK.

WO-MAN VEH. ☐ONE-MAN VEH. ☐DETECTIVE/SPLASMT. ☐OTHER ☐ALONE ☐ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown

USPECT / UNAWAY / ANTED / ARRANT / RREST / UL / UMMONS	SUBJECT NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
	RECORD, EXPUNGED	W	M	37	N	[redacted]				
	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO					
	SUBJECT (NO. 1) USING: ALCOHOL: ☐YES ☒NO ☐UNK. DRUGS: ☒YES ☐NO ☐UNK. TYPE: E	ARRESTED NEAR OFFENSE SCENE ☒YES ☐NO TOTAL # ARRESTED 8		DATE/TIME OF OFFENSE 10/23/2009 1445		DATE/TIME OF ARREST 10/23/2009 1508				

ses:
NUFACTURING METHAMPHETAMINE, CONSP. MANUFACTURE METH, SIMPLE POSS. MARIJUANA
SS. OF STOLEN RIFLE

ABOVE DATE AND TIMES SGT VEAL AND SGT MOODY WAS CHECKING THE AREA OF HELLAMS ROAD FOR ILLEGAL NARCOTIC TIVITY. UPON ARRIVING ON HELLAMS ROAD SGT MOODY WAS CHECKING ON A KNOWN LOCATION, INCIDENT LOCATION, AND NOTICED /ERAL VEHICLES ON THE PROPERTY THAT HAS NEVER BEEN THERE BEFORE. SGT MOODY AND SGT VEAL WENT DOWN TO THE SIDENCE AND WANTED TO SPEAK WITH THE PROPERTY OWNER. ONCE TO THE CAMPER ON THE PROPERTY NOTICED A GREEN /OTA PICKUP TRUCK WITH A WHITE MALE, [redacted] AND A WHITE FEMALE STANDING BY IT. SGT VEAL ASKED HIM WHAT HIS ME WAS AND WHERE WAS THE PROPERTY OWNER. [redacted] BECAME NERVOUS AND STARTED REACHING IN HIS POCKET. SGT L ASKED HIM TO TAKE HIS HANDS OUT OF HIS POCKET AND WHEN HE DID PULLED A BAGGY OF GREEN LEAFY SUBSTANCE OUT. SGT L ASKED THE SUBJECT WHAT WAS THAT AND SUBJECT REPLIED "MARIJUANA". AT THAT TIME SGT MOODY PLACED SUBJECT IN ESTIGATIVE DETENTION. SGT VEAL RAN BOTH [redacted] AND [redacted] AND FOUND NEITHER ONE OF THEM TO BE WANTED. T MOODY ADVISED [redacted] SHE COULD LEAVE AND SHE DID SO. SGT MOODY THEN WENT TO LOOK IN THE CAB OF THE TRUCK AND HT BEFORE HE LOOKED HE ASKED [redacted] IF HE MINDED HIM LOOKING IN THE TRUCK. [redacted] GAVE CONSENT TO RCH THE VEHICLE. IN PLAIN VIEW WAS A RIFLE, LAYING IN THE FRONT SEAT WITH BARREL POINTED TO THE FLOOR. SGT MOODY RIEVED THE RIFLE AND HANDED IT TO SGT VEAL. SGT VEAL CALLED DISPATCH AND ASKED THEM TO RUN IT NCIC. SGT VEAL GAVE E MAKE AND SERIAL NUMBER. ROSSI .223 CALIBER SERIAL NUMBER [redacted] COMING BACK STOLEN OUT OF NEWBERRY COUNTY.

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY SC0300000	
(GROUP)	10-Drugs/Narcotic	13-Firearms					TOTAL VALUE
d							
L/Forged							
Damaged							
ered		500.00					500.00
d							
own							

SUBJECT IDENTIFIED	SUBJECT LOCATED				
☒YES ☐NO	☒YES ☐NO	☐ACTIVE ☐UNFOUNDED	☐ADM. CLOSED	☐ARRESTED UNDER 18 ☒ARRESTED 18 AND OVER	☐EX-CLEAR UNDER 18 ☐EX-CLEAR 18 AND OVER

ON 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
MATTHEW A VEAL	10/26/2009	234	LIEUTENANT BRIAN K. BRIDGES	10/26/2009	208
. JUSTIN R. MOODY	10/26/2009	259	FOLLOW-UP INVESTIGATION OFFICER ☐YES ☒NO LIEUTENANT BRIAN K. BRIDGES	10/30/2009	204

SC0300000

INCIDENT REPORT

CASE NUMBER: 090035666 | NCIC INQ. | NCIC ENTD.

DISPATCH SENT A HIT TO CONFIRM THE WEAPON WAS IN FACT STOLEN. APPROXIMATELY 10 MINUTES LATER NEWBERRY CONFIRMED THE WEAPON WAS STOLEN. AT THAT TIME SGT VEAL ADVISED [redacted] HE WAS UNDER ARREST FOR POSSESSION OF STOLEN PROPERTY AND SIMPLE POSSESSION OF MARIJUANA. SGT MOODY THEN WENT TO LOOK FOR THE PROPERTY OWNER, [redacted]. COULD NOT FIND HIM AT THE FIRST CAMPER SO WENT ACROSS THE PROPERTY TO ANOTHER CAMPER. SGT MOODY SMELT A STRONG ODOR COMING FROM THE CAMPER AND ADVISED SGT VEAL THAT IT APPEARED SOMEONE WAS COOKING METHAMPHETAMINE IN THE CAMPER. SGT MOODY LOOKED IN A TRASH CAN OUTSIDE AND SEEN SHAKER BOTTLES AND OTHER ITEMS USED IN THE MANUFACTURING OF METHAMPHETAMINE. WHILE SGT MOODY WAS DOING THAT A FEMALE CAME OUT FROM THE SIDE OF THE TRAILER, MS SMITH. SGT MOODY ASKED HER WHAT WAS SHE DOING AND SHE STATED SHE WAS HEAR LOOKING FOR HER DOG. SGT MOODY THEN ASKED HER IF ANYONE WAS INSIDE THE CAMPER, SHE ADVISED "THERE WAS TWO GUYS INSIDE COOKING DOPE". SGT VEAL AND SGT MOODY THEN WENT TO THE TRAILER AND KNOCKED ON THE DOOR, NO ONE WOULD COME TO THE DOOR. SGT VEAL AND SGT MOODY HEARD SOMEONE MOVING AROUND AND KNOCKED AGAIN AND ANNOUNCED "SHERIFF'S OFFICE", STILL NO ONE CAME TO THE DOOR. SGT MOODY KNOCKED AND ANNOUNCED AGAIN AND HEARD SOMETHING AS IF IT WAS THROWN AND THEN THE DOOR OPENED. SGT VEAL ADVISED THE CAMPER APPEARED TO BE ON FIRE DUE TO A LOT OF SMOKE. SGT MOODY ADVISED THERE WAS AN APPARENT METHAMPHETAMINE LAB THERE AND WAS ATTEMPTING TO GET EVERYONE OUT DUE TO THE SMOKE. SGT VEAL ADVISED LT RICHARDS AND SGT WOOD, OF UNIFORM PATROL, THAT ASSISTANCE WAS NEEDED IN A HURRY. SGT VEAL ADVISED THAT A POSSIBLE METH LAB WAS ON FIRE. WHILE SGT VEAL WAS ADVISING LT RICHARDS OF THE INCIDENT SGT MOODY GOT FIRST SUBJECT OUT, MR EATON. MR EATON THEN ADVISED SOMEONE ELSE WAS INSIDE AND HE WAS PARALYZED. SGT MOODY ATTEMPTED TO GO INSIDE THE CAMPER TO GET OTHER SUBJECT, MR GIBBS. SGT MOODY WAS ABLE TO GET MR GIBBS OUT. SGT VEAL, SGT MOODY, MR EATON, AND MR GIBBS GOT AWAY FROM THE CAMPER AND NOTIFIED DISPATCH THEY NEEDED THE FIRE DEPARTMENT. WHILE WAITING ON OTHERS TO ARRIVE SGT VEAL AND SGT MOODY PLACED ALL INDIVIDUALS IN INVESTIGATIVE DETENTION AND READ MIRANDA WARNING. SGT MOODY BEGAN TALKING WITH MS SMITH AND ASKED HER FOR HER DRIVERS LICENSE SHE ADVISED IT WAS INSIDE THE CAMPER. AFTER FURTHER TALKING WITH EVERYONE IT WAS DETERMINED THAT A FEMALE AND ANOTHER MALE TOOK OFF RUNNING INTO THE WOODS WHEN UNITS ARRIVED. LT BRIDGES AND LT COATS WERE NOTIFIED AS WELL. A SEARCH WARRANT WAS OBTAINED FOR THE ENTIRE PROPERTY. LT COATS ARRIVED ON THE SCENE AND ASSESSED THE SCENE AND DETERMINED THAT A CLEAN-UP CREW NEEDED TO RESPOND. WHILE LT BRIDGES WAS WALKING AROUND THE PROPERTY HE FOUND A SUBJECT WALKING TOWARD HIM, MS ELLEDGE. SHE STATED TO LT BRIDGES "I'M COMING BACK TO TURN MYSELF IN". LT BRIDGES ADVISED SGT VEAL AND MOODY. MS ELLEDGE WAS PLACED INTO INVESTIGATIVE DETENTION AND ADVISED OF MIRANDA WARNING. MS ELLEDGE STATED SHANNON FRAZIER WAS THE OTHER PERSON THAT TOOK OFF RUNNING. SGT VEAL AND SGT MOODY ATTEMPTED TO LOCATE MR FRAZIER BUT WAS UNABLE TO DO SO. ONCE OTHERS ARRIVED ON SCENE SGT MOODY WENT TO AN ABANDONED TRAILER TO SEARCH IT. WHEN HE WENT INSIDE HE FOUND MR CAMPBELL HIDING IN A ROOM. MR CAMPBELL WAS DETAINED AS WELL AND BROUGHT OUTSIDE. MR CAMPBELL APPEARED TO BE ON SOME TYPE OF NARCOTIC. AFTER TALKING WITH EVERYONE IT WAS DETERMINED THAT ALL HAD A PART IN THE MANUFACTURING OF METHAMPHETAMINE SO EVERYONE WAS PLACED UNDER ARREST. DEPUTY BLACKSTOCK, DEPUTY MARTIN, MAJOR HUDSON, AND DEPUTY SIMMONS PROVIDED TRANSPORT FOR ALL SUBJECTS. WHILE OFFICERS WERE SEARCHING THE ENTIRE RESIDENCE AND WAITING FOR THE CLEAN UP CREW TO FINISH OFFICERS SAW A CHEVY PICKUP TRUCK PULL INTO THE RESIDENCE. MR COOPER, DRIVER, ADVISED HE WAS THERE TO GET A MUFFLER PUT ON HIS TRUCK. AFTER FURTHER INVESTIGATION MR COOPERS NAME HAD APPEARED ON METH CHECK NUMEROUS TIMES AND WAS ASKED ABOUT THAT. MR COOPER WOULD NOT COOPERATE AND SGT MOODY HAD ENOUGH TO CHARGE MR COOPER WITH CONSPIRACY TO MANUFACTURE METHAMPHETAMINE. ALL VEHICLES WERE TOWED THAT WERE ON PROPERTY AND TOW FORMS ARE ATTACHED. PICTURES WERE TAKEN OF SCENE. CLEAN UP CREW FINISHED AND ALL OFFICERS CLEARED THE SCENE.

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY SC0300000	
/PE (GROUP)	10-Drugs/Narcotic	13-Firearms					TOTAL VALUE
med							
unt./Forged							
st./Damaged							
covered		500.00					500.00
ted							
ken							
known							

SUBJECT IDENTIFIED	SUBJECT LOCATED				
☒ YES ☐ NO	☒ YES ☐ NO	☐ ACTIVE ☐ UNFOUNDED	☐ ADM. CLOSED	☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

ASON 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
T MATTHEW A VEAL	10/26/2009	234	LIEUTENANT BRIAN K. BRIDGES	10/26/2009	208
T. JUSTIN R. MOODY	10/26/2009	259	FOLLOW-UP INVESTIGATION OFFICER ☐ YES		

SIGNED OFF ON 03/23/05 @ 9:05 BY DANA OSTROV, LICENSED PRACTICAL NURSE

** ENCOUNTER: 172 MENTAL HEALTH CLINIC 03/22/05 15:25 KIRKLAND CC
PSYCHOLOGY: TODAY I RECEIVED A MESSSGE FROM INMATE WRITTEN 03/19, AFTER I SAW HIM OM 03/18/05. HE WS MOVED TO D DOEM ON ADMINISTRATIVE LOCKUP BECAUSE HE HAS A PAST ESCAPE CHARGE. HE INTERPRETED THIS AS BEING PUT WHERE HE CAN BE KILLED, HIS DELUSIONAL TENDENCIES BEING STIMULATED, APPARENTLY.
IT IS HOPED HE CAN BE BROUGHT UP TO NP DELANEY'S PSYCHIATRIC CLINIC TODAY. IF NOT, I WILL ENDEAVOR TO FOLLOW UP ON THE MORROW.
SIGNED OFF ON 03/22/05 @ 15:31 BY EDWIN H HEARON, III, LICENSED PSYCHOLOGI
SIGNED OFF ON 03/22/05 @ 15:58 BY EILEEN DELANY, NURSE PRACTITIONER III

NOTE See 169

** ENCOUNTER: 171 MENTAL HEALTH CLINIC 03/18/05 14:50 KIRKLAND COI
PSYCHOLOGY: DIAGNOSTIC COMPLETED. SOURCES: SCDC MEDICAL RECORDS; BENDER VISUAL MOTOR GESTALT TEST; CARLSON PSYCHOLOGICAL SURVEY; PERSONALITY ASSESSMENT INVENTORY; PROJECTIVE DRAWINGS; CLINNICAL INTERVIEWS.
DATA INDICATE INMATE IS SCHIZOPHRENIC. ANXIETY IS HIGH, DEPRESSION IS PRESENT AND MAY BECOME AGITATED. MUCH CONCERN SEEMS TO CENTER AROUND SEX IMAGE AND RELATIONSHIPS, AND DATA HINT THAT INMATE MAY BE COPING WITH HOMOSEXUAL TENDENCIES. DATA COULD REPRESENT A MOTHER OR OTHER FEMALE IN HIS LIFE WHO HAS BEEN DIFFICULT TO RELATE TO BECAUSE OF HER OWN PERCEIVED PERSONALITY DIFFICULTIES.
HE DENIES ACTUAL HALLUCINATIONS, ADMITS ONLY TO OCCASIONALLY "HEARING" HIS OWN THOUGHTS. IT IS WONDERED WHETHER HOMOSEXUAL IMPULSES OR FEELINGS INCREASE DISTURBANCE OF REALITY TESTING. ANXIETY AND DEPRESSION ARE PART OF SCHIZOPHRENIA IN MANY CASES, WILL NOT BE REDIAGNOSED BUT SEE ENC. #169.
DIAGNOSIS APPEARS TO BE 295.60, SCHIZOPHRENIA, RESIDUAL TYPE BUT MAY PROVE TO BE UNDIFFERENTIATED OR PARANOID IN TYPE. PARANOID IDEAS, NOT ACTUAL DELUSIONS, INDICATED. SOME DATA WAS ANSWERED IN THE EXTREME, INTERPRETED AS ASKING FOR HELP AND RELIEF.
RECOMMEND: REFER TO PSYCHIATRIST.
> ASSIGN TO OUTPATIENT MENTAL HEALTH INSTITUTION
EDWIN HEARON, PH.D., LICENSED PSYCHOLOGIST
SIGNED OFF ON 03/18/05 @ 15:27 BY EDWIN H HEARON, III, LICENSED PSYCHOLOGIS
PSYCHIATRIST CONSULT.
SIGNED OFF ON 03/21/05 @ 8:06 BY JAMIL A EL-SHAMI, NURSE PRACTITIONER III
ABOVE PSYCHIATRIC CONSULT NOTED ON TICKLER.
SIGNED OFF ON 03/21/05 @ 8:32 BY DONNA L O'DANIEL, REGISTERED NURSE I

** ENCOUNTER: 170 SICK CALL 03/14/05 10:53 KIRKLAND COMF
S> IM TO MEDICAL REPORTS HAVING DRY SKIN. IM REPORTS HAVING DRY SKIN THROUGHOUT ENTIRE BODY. IM STATES HAD PROBLEM FOR 8-9 YEARS.
O> TEMP=098.7 PULSE= 76 RESP=18 BP=100/ 80 WEIGHT=166
IM LEGS HAVE DRY CRACKED AREAS THAT ARE NOTICEABLE.
P> ISP LOTION
SIG:USE AS DIRECTED
SIG:
START DATE: 03/14/05 TOTAL DAYS: 30
MD:EL-SHAMI,JAMIL -
PER VO J. EL-SHAMI,NP ORDER ISP LOTION FOR ONE MONTH. ISP LOTION ORDERED.

NOTE> DATA indicate inmate is SCHIZOPHRE
DIAGN
PARANOID

436 Extensive polysubstance Abuse

DCI880D SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 10/31
OMINMDCA SCDC HEALTH SERVICES: MEDICAL SUMMARY C01C

SCDC# 233844 NABORS,BENJAMIN RAY PAGE

** ENCOUNTER: 184 FOLLOW-UP DENTAL 04/19/05 14:12 LEE CO
NO SHOW FOR EXAM
SIGNED OFF ON 04/19/05 @ 14:12 BY DEBORAH L MCCLARY, MEDICAL ASSISTANT TEC

** ENCOUNTER: 183 NARRATIVE 04/14/05 18:23 LEE CO
INMATE WAS A NO SHOW FOR SICK CALL.
SIGNED OFF ON 04/14/05 @ 18:24 BY RENEE P GEE, UNCLASSIFIED

** ENCOUNTER: 182 MENTAL HEALTH CLINIC 04/13/05 13:47 LEE COI
CCC NOTE - INTAKE ASSESSMENT:
D: I/M IS 29 YR OLD S/W/M FROM LAURENS, SC SERVING 4.5 YRS FOR ESCAPE. HE HAS HAD 5/6 PREVIOUS INCARCERATIONS, AS WELL AS YOA SENTENCE. HE STS HE WAS HOMLESS AT TIME OF INCARCERATION. IS ONLY CHILD - BOTH PARENTS LIVING IN GREY COURT, SC. REPORTED ATTENDING SCHOOL THRU 10TH GRADE IN SPECIAL ED. DUE TO SXS OF ADHD. GOT HIS GED W/INCARCERATED AT TURBEVILLE CI. REPORTED 1 PRIOR INPATIENT ADMISSION AT AGE 14/15 - IN CHARLOTTE, NC AND 3 PRIOR GPH ADMITS. HAS EXTENSIVE POLYSUBSTANCE ABUSE HX SINCE AGE 12. CURRENT COMPLIANTS: DEPRESSION, "TOTALLY BUMMED OUT", STAYS TO HIMSELF, POOR APPETITE/REPORTED WEIGHT LOSS, FEELINGS OF PARANOIA & PERSECUTION HX OF INTERMITTANT EXPLOSIONS OF ANGER. HE WAS CALM AND COOPERATIVE. STS HE DOES NOT WATCH TV OR LISTEN TO RADIO-SOMETIMES "FEEL LIKE THEY ARE TALKING DIRECTLY TO ME....TRYING TO PROGRAM ME". HE DENIED THOUGHTS OR PLANS TO HARM SELF/OTHERS. DENIED AUDIO/VISUAL HALLUCINATIONS. HIS SPEECH WAS LOGICAL, THOUGHTS ORGANIZED. EYE CONTACT FAIR, HYGIENE APPROPRIATE - BALD - TATTOOS COVERING ARMS, HEAD & NECK. HIS MOOD WAS EUTHYMIC, AFFECT CONSTRICTED/WORRIED, FOREHEAD FROWNED, EYES SQUINTED DURING ENTIRE INTERVIEW. C/O NOT GETTING MEDS AS RX. CCC WILL F/U. WILLING TO ATTEND/COOPERATE WITH GROUP + 1:1 COUNSELING.
A: I/M DX BY DR. HEARON AS SCHIZOPHRENIA, RESIDUAL TYPE. I/M DOES NOT APPEAR PSYCHOTIC, NOR DOES HE APPEAR ACUTELY ANXIOUS OR PARANOID. DID NOT VERBALIZE OR SHOW ANY BEHAVIORS TO INDICATE HIM TO BE A DANGER TO SELF/ OTHERS. DENIED PROBLEMS IN POPULATION/UNIT SETTING-DESPITE POOR MED DELIVERY. REQUESTING AM PROZAC DELIVERED AT PM.
P: CCC WILL CONTINUE TO MONITOR PRN. SCHEDULE FOR PSYCH MD APPT & DEVELOP TX PLAN OBJECTIVES. G. BREON, HSCI
SIGNED OFF ON 04/13/05 @ 15:23 BY SUSAN V BREON, HUMAN SERVICES COORD I

** ENCOUNTER: 181 SEIZURE/ASTHMA CLINI 04/10/05 15:24 LEE COMP
S: NEW I/M TO LEE REPORTED TO ASTHMA CLINIC. I/M DENIES RECENT ACUTE EPISODES. PER I/M HE IS COMPLIANT WITH MEDS.
O: WT: 153...CAOX3, COLOR GOOD, SKIN W/D. LUNGS C/E
PEAKFLOW: 350/400/400
MEDS: ALBUTEROL, QVAR
A: ASTHMA
P: CONTINUE CURRENT TX PLAN. DISCUSSED MEDS, DOSAGE AND POSSIBLE SIDE EFFECTS. DISCUSSED DISEASE PROCESS. DISCUSSED IMPORTANCE OF PROPER DIET, EXERCISE AND MED COMPLIANCE. I/M VERBALIZED UNDERSTANDING.
L GRAHAM, RN
SIGNED OFF ON 04/10/05 @ 15:26 BY LEIGH A GRAHAM, UNCLASSIFIED

NOTE mental

DX. By DR. Hearon as Schizophrenia.
4-13-05

LUNGS
CLEAR
GENITALIA-MALE
NORMAL TESETS
PSYCHIATRIC
MSE WNL ANGERS EASLILY
SKIN
MASSIVE TATTOOS

PHYSICANS ORDERS:----------
PSYCHIATRY FOR RX/FU SUBSTITUTE AND CONTINUE RX
SIGNED OFF ON 03/04/05 AT 09:15 BY JACK M VALPEY, M.D., PHYSICIAN II

NURSES RESPONSE:----------
ORDERS NOTED.OTR ISSUED FOR KOP MEDS AND DOSE BY DOSE MEDS.MAR PREPARED FO
SAME.TICKLER-PSYCHIATRIC F/U REQUESTED AS PER PE.
SIGNED OFF ON 03/04/05 AT 13:52 BY DOLORES B JOHNSON, REGISTERED NURSE I

** ENCOUNTER: 164 MENTAL HEALTH CLINIC 03/03/05 14:55 KIRKLAND COMI
PSYCHOLOGY: INMATE SEEN IN R&E ON HIS RETURN FOR CONVICTION OF ESCAPE, ONE MONTH BEFORE MAXOUT OF PREVIOIUS CONVICTION. UPSET ABOUT MEDICATIONS, SAID NO ONE SEEMED TO UNDERSTAND. HE WAS DX'ED ADHD IN 4TH GRADE, TOOK RITALIN TO 9TH, "JUST STOPPED" BUT KNOWS NOW IT HELPED. PROMARI SYMPTOMS NOW ARE DEPRESSION, OFTEN DEEP, IN WHICH HE WITHDRAWS, WANTS NOTHING TO DO WITH ANYONE. HE BECOMES INSOMNIAC, GET SLEEP DEPRIVATION ADDED TO DEPRESSION. HE DOES NOT BECOME SUICIDAL, HAS NOT ATTEMPTED SUICIDE SINCE HE WAS A TEEN.

HE REPORTS THAT IF AGGRAVATED HE MAY "BLOW UP" IN ANGER BUT IT IS QUICK, GOES AWAY QUICKLY. IT FEELS "LIKE I STEP AWAY FROM MYSELF" AS IF IT IS SOMEONE ELSE; HE SEES IT HAPPENING BUT IT IS OUT OF CONTROL, IMPULSE, HE IS AWARE AND KNOWS ABOUT IT AFTERWARD BUT BY THE TIME HE IS AWARE, IT HAS ALREADY HAPPENED. (SUGGESTS AN ORGANIC, SEIZURE-LIKE EVENT?)

HE WAS PUT ON MANY DIFFERENT KINDS OF MEDICATION THAT DID NOT SEEM TO HELP AND CAUSED MORE PROBLEMS.

HIS DESCRIPTION DOES NOT SUGEST BIPOLAR DISORDER, MORE LIKE MAJOR DEPRES -SION AND A PERSONALITY DISORDER (HE WAS ABUSED BY FATHER AS A CHILD). (BORN WHIM MOTHER WAS 14, DAD WAS 17.)

HE SAID MEDICATIONS THAT WORK FOR HIM INCLUDE PROZAC UP TO 60MG (IN SCDC BEFORE) AND TRAZODONE 150MG. THE PSYCHIATRIST AT PERRY, YEARS AGO, GOT HIM ON THIS.

RECOMMEND WE TRY MEDICATIONS HE SAYS HAVE WORKED WELL BEFORE. RECOMMEND A THOROUGH PSYCHOLOGICAL EVALUATION TO HELP CONFIRM DIAGNOSIS AND TREATMENT NEEDS.
EDWIN HEARON, PH.D., LICENSED PSYCHOLOGIST
SIGNED OFF ON 03/03/05 @ 15:15 BY EDWIN H HEARON, III, LICENSED PSYCHOLOGIST
START PROZAC: RX ON F5
SIGNED OFF ON 03/04/05 @ 14:32 BY MICHAEL J BEINOR, PHYSICIAN II
MED ENTRY ALREADY ON MAR AND INMATE HAS BEEN TAKING. CURRENTLY IN LOCK-UP AND MED TAKEN DXD TO HIM AT D-DORM.
SIGNED OFF ON 03/19/05 @ 13:40 BY DEBRA A HENDERSON, LICENSED PRACTICAL NURSI

WIC. mental Health record

NOTE, mental health history of suicide attempts, Mood Disorder NOS Organic - 2-2-05

LUNGS
CLEAR
GENITALIA-MALE
NORMAL TESETS
PSYCHIATRIC
MSE WNL ANGERS EASLILY
SKIN
MASSIVE TATTOOS

PHYSICANS ORDERS:----------
PSYCHIATRY FOR RX/FU SUBSTITUTE AND CONTINUE RX
SIGNED OFF ON 03/04/05 AT 09:15 BY JACK M VALPEY, M.D., PHYSICIAN II

NURSES RESPONSE:----------
ORDERS NOTED.OTR ISSUED FOR KOP MEDS AND DOSE BY DOSE MEDS.MAR PREPARED FO SAME.TICKLER-PSYCHIATRIC F/U REQUESTED AS PER PE.
SIGNED OFF ON 03/04/05 AT 13:52 BY DOLORES B JOHNSON, REGISTERED NURSE I

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HE WAS PUT ON MANY DIFFERENT KINDS OF MEDICATION THAT DID NOT SEEM TO HELP AND CAUSED MORE PROBLEMS.

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RECOMMEND WE TRY MEDICATIONS HE SAYS HAVE WORKED WELL BEFORE. RECOMMEND A THOROUGH PSYCHOLOGICAL EVALUATION TO HELP CONFIRM DIAGNOSIS AND TREATMENT NEEDS.
EDWIN HEARON, PH.D., LICENSED PSYCHOLOGIST
SIGNED OFF ON 03/03/05 @ 15:15 BY EDWIN H HEARON, III, LICENSED PSYCHOLOGIST
START PROZAC: RX ON F5
SIGNED OFF ON 03/04/05 @ 14:32 BY MICHAEL J BEINOR, PHYSICIAN II
MED ENTRY ALREADY ON MAR AND INMATE HAS BEEN TAKING. CURRENTLY IN LOCK-UP AND MED TAKEN DXD TO HIM AT D-DORM.
SIGNED OFF ON 03/19/05 @ 13:40 BY DEBRA A HENDERSON, LICENSED PRACTICAL NURSI

MH. mental Health record

NOTE→ mental health history of [illegible]

MDCI880D SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 10/31
OMINMDCA SCDC HEALTH SERVICES: MEDICAL SUMMARY C010

SCDC# 233844 NABORS,BENJAMIN RAY PAGE

** ENCOUNTER: 180 FOLLOW-UP SICK CALL 04/08/05 17:10 LEE COI
NEW IM TO LEE ON PSYCH MEDS. Y. MCDONALD, RN.
SIGNED OFF ON 04/08/05 @ 17:11 BY YVONNE MCDONALD, UNCLASSIFIED
CCC WILL SCHEDULE INTAKE ASSESSMENT. G. BREON, CCCIII
SIGNED OFF ON 04/12/05 @ 18:05 BY SUSAN V BREON, HUMAN SERVICES COORD I

** ENCOUNTER: 179 FOLLOW-UP SICK CALL 04/08/05 17:10 LEE CON
NEW IM TO LEE NEEDS DENTAL SCREENING. Y. MCDONALD, RN.
SIGNED OFF ON 04/08/05 @ 17:10 BY YVONNE MCDONALD, UNCLASSIFIED
SCHEDULED FOR DENTAL EXAM
SIGNED OFF ON 04/11/05 @ 7:12 BY DEBORAH L MCCLARY, MEDICAL ASSISTANT TECH

** ENCOUNTER: 178 MENTAL HEALTH CLINIC 04/04/05 15:23 KIRKLAND COM
CLOSED DUE TO INMATES RELEASE(PROGRAM: CLOSEENC)
PSYCHOLOGY: FOLLOWUP CONTACT. HE HAS ADJUSTED TO BEING ON LOCKUP IN D-DORM. HE SAID PROZAC (GENERIC) WAS INCREASED TO 60MG. HE HAS BEGUN TO FEEL BETTER, THINKS IT IS WORKING, NOT STAYING IN BED NOT EATING AS HE WAS FOR A WHILE. MOOD WAS FAIRLY GOOD TODAY. HE IS ALMOST ABLE TO JOKE AND SHOW A SENSE OF HUMOR.
HE HAD BEEN UNABLE TO SEE TO TAKE DIAGNOSTIC TESTS UNTIL I LENT HIM AN "EMERGENCY" (FOR ME) PAIR OF READING GLASSES IN MY DESK; SUBSEQUENTLY AS OF TODAY, WITH DORM SECURITY PERMISSION, I GAVE HIM AN EVEN WEAKER, CHEAP PAIR OF DRUGSTORE READERS THAT MAY HELP UNTIL HE CAN SEE AN OPTOMETRIST.
INMATE NABORS STILL GETS PARANOID AT TIMES BUT DOES NOT APPEAR TO BE ACTIVELY DELUSIONAL. PARANOID DISTRUST SEEMS TO COME IN A VICIOUS CYCLE WITH ANXIETY. IT IS WONDERED IF UNSETTLED SITUATIONS TRIGGER ANXIETY WHICH IN TURN BRINGS PARANOIA, ETC.
IF READ CORRECTLY HIS CLASSIFICATION STILL DOES NOT SHOW HIM AS HAVING MENTAL HEALTH NEEDS (NOT THE MEDCLASS). IT SHOULD BE NEAR TIME FOR HIM TO GO TO HIS ASSIGNMENT.
EDWIN HEARON, PH.D./ LICENSED PSYCHOLOGIST
SIGNED OFF ON 04/04/05 @ 15:59 BY EDWIN H HEARON, III, LICENSED PSYCHOLOGIST

** ENCOUNTER: 177 SICK CALL 03/31/05 14:08 KIRKLAND COMP
S> INMATE TO MEDICAL COMPLAINING OF BREATHING PROBLEMS. STATES HE IS NOT HAVIN G PROBLEMS THIS AM BUT WHEN HE CLEANS UP ROOM AROUND CHEMICALS, SOMEONE GET S "GASSED" ECT THEN HE NEEDS THE INHALER. STATES HAD ONE BUT IT WAS TAKEN WHEN HE WENT TO PC. INMATE ALSO STATES HE HAS SEASONAL ALLERGIES AND IS SUFFERING FROM CONGESTION, ITCHING EYES AND POST NASAL DRIP. WANTS SOME ALLERGY MEDICATIONS
O> TEMP=098.4 PULSE= 78 RESP=18 BP=100/ 68 WEIGHT=160 PPD= 0
LUNGS CLEAR TO AUSCULTATION, NASAL TURBINATES REDDENED. NO SIGNS OF POST NASAL DRIP. THERE IS SOME REDDEND AREA AROUND SCLERA BILAT. NO SINUS TENDERNESS PALPATED. INMATE HAS ALBUTERAL AND QVAR ORDERS ON PRESCRIPTION.
A> SEASONAL ALLERGY SYMPTOMS
P> DEFER TO MD
SIGNED OFF ON 03/31/05 @ 14:15 BY WILLIAM C LITRELL, NURSE ADMINISTRATOR/MGR
SIGNED OFF ON 03/31/05 @ 14:19 BY WILLIAM C LITRELL, NURSE ADMINISTRATOR/MGR
SIGNED OFF ON 03/31/05 @ 14:20 BY JAMIL A EL-SHAMI, NURSE PRACTITIONER III

CARBAMAZEPINE 200MG
SIG:ONE PO TID
SIG:
START DATE: 01/25/02 TOTAL DAYS: 90
MD:GLISSON,BRENTON -
TRAZODONE 100MG
SIG:ONE PO QHS
SIG:
START DATE: 01/25/02 TOTAL DAYS: 90
MD:GLISSON,BRENTON -
RTC ONE MONTH
CBC, CHEM 18, AND TEGRETOL LEVEL IN 7 TO 10 DAYS
PLEASE E-MAIL ME OF RESULTS
SIGNED OFF ON 01/25/02 @ 12:43 BY BRENTON D GLISSON, PHYSICIAN II
CONSULT COMPLETED FOR RETURN VISIT. LAB WORK SCHEDULED FOR FEB 7
SIGNED OFF ON 01/25/02 @ 15:10 BY DEBORAH C WILLIS, REGISTERED NURSE I

** ENCOUNTER: 15 MENTAL HEALTH CLINIC 01/14/02 8:30 TYGER RIVER COMI
LATE ENTRY FOR 1/10/02. I/M DID NOT KEEP SEVERAL APPOINTMENTS TO SEE HIM.
MS. LITTLEJOHN,CCCIV
SIGNED OFF ON 01/14/02 @ 8:31 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES COC

** ENCOUNTER: 14 DENTAL CLINIC 01/08/02 11:50 TYGER RIVER COMI
SCALING(4).POE.
SIGNED OFF ON 01/08/02 @ 11:51 BY CECIL R HAWKINS, DENTIST

** ENCOUNTER: 13 NARRATIVE 12/18/01 11:46 TYGER RIVER COMI
> PSYCHIATRY APPOINTMENT SCHEDULED FOR 12/28/01 HAS BEEN CANCELLED WILL BE RE
SCHEDULED SOMETIME IN JANUARY PER LINDA FASHANU.
SIGNED OFF ON 12/18/01 @ 11:48 BY CHARLES BALZOTTI, REGISTERED NURSE II

** ENCOUNTER: 12 SECURITY INIT 12/14/01 7:13 TYGER RIVER COMP
INMATTE HAD TATTOO OF CROSS IN CENTER OF CHEST AND LETTERS OC ON RT ARM.
SOME SCABBING NOTED TO LETTERS. NO S/S OF INFECTION NOTED. INSTRUCTED
IF ANY APPEAR TO LET MEDICAL KNOW.
SIGNED OFF ON 12/14/01 @ 7:15 BY DEBORAH C WILLIS, REGISTERED NURSE I

** ENCOUNTER: 11 SICK CALL 12/06/01 7:24 TYGER RIVER COMP
S> STATES WAS ON XANAX AND OTHER MEDS ON STREET FOR NERVES BUT HAS NOT BEN ON
ANYTHING SIENCE HE HAS BEEN IN JAIL.GE IS EXPERCING ANXIETY ATTACKS AND BE-
> COMING MORE PARANOID EACH DAY.FEELS LIKE IF HE DOESNT GET SOME HELP HE MIG-
HT HURT SOMEONE AND DOESNT WANT TO DO.
O> TEMP=098.6 PULSE= 80 RESP=18 BP=120/ 80 WEIGHT=158
I/M IS TALKATIVE BUT DOESNT MAKE EYE CONTACT VERY MUCH.APPEARS IN GOOD PHY-
SICAL HEALTH. WAS RECOMENDED TO SEE PHYCHRITIST AT LEE BUT HAS NEVER SEEN A
NYONE.HAD 2 MENTAL HEALTH EVALS SCHEDULE BUT DUE TO SECURITY PROBLEMS WAS N
OT SEEN.I/M DENISE INTENT TO HURT HIMSELF BUT FEELS HE MIGHT GET IN TROUBLE
WITH SOME ONE ELSE IF GETS NO HELP.HIS DEMENOR DOES NOT APPEAR THAT OF SOME
ONE UNDER MUCH STRESS.
A> ? MENTAL HEALTH PROB.

paranoid
12-6-01

MDCI880D SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 10/31
OMINMDCA SCDC HEALTH SERVICES: MEDICAL SUMMARY C010

SCDC# 233844 NABORS,BENJAMIN RAY PAGE

** ENCOUNTER: 215 DENTAL CLINIC 11/21/05 13:21 LEE CO
TEETH CLEANED BY DR. UBAH, SEE HARD COPY
SIGNED OFF ON 11/21/05 @ 13:22 BY DEBORAH L MCCLARY, MEDICAL ASSISTANT TEC

** ENCOUNTER: 214 SEIZURE/ASTHMA CLINI 10/30/05 17:00 LEE COI
S: I/M REPORTED TO ASTHMA CLINIC. I/M DENIES ACUTE DISTRESS. PER I/M HE IS COMPLIANT WITH MEDS.
O: WT: 167 PEAK FLOW: 350/375/400
CAOX3, COLOR GOOD, SKIN W/D. LUNGS C/E.
MEDS: ALBUTEROL, Q-VAR
A: ASTHMA
P: CONTINUE CURRENT TX PLAN. TEACHING PROVIDED ON MEDS, DIET, EXERCISE AND DISEASE PROCESS. I/M VERBALIZED UNDERSTANDING.
L GRAHAM,R N
SIGNED OFF ON 10/30/05 @ 17:02 BY LEIGH A GRAHAM, UNCLASSIFIED

** ENCOUNTER: 213 MENTAL HEALTH CLINIC 10/28/05 11:04 LEE COM
CCC TX TEAM NOTE: CASE STAFFED BY T. YATES, J. MCFADDEN. TX PLAN UPDATED & APPROVED. DX=ADHD, HYPERACTIVE TYPE, IMPULSE CONTROL D/O. RX=PROZAC, SEROQUEL. I/M STABLE ON MEDS. REMAIN OUTPT MH. CONTINUE MH SERVICES TO MONITOR STABILITY & FOR MED ADMIN. NEXT UPDATE: 4/06. G. BREON, CCCIII
SIGNED OFF ON 10/28/05 @ 11:05 BY SUSAN V BREON, HUMAN SERVICES COORD I

** ENCOUNTER: 212 MENTAL HEALTH CLINIC 10/27/05 14:49 LEE COMI
CCC NOTE - I/C SESSION
D: I/M WAS ON TIME & WELL-GROOMED FOR SESSION. HE WAS ALERT & ORIENTED, WITH GOOD EYE CONTACT. WHEN RECENT BEHAVIORAL PROBLEMS DISCUSSED, I/M STS "I WAS FALSELY ACCUSED". WENT INTO LENGTHY DISCUSSION AS TO WHY. I/M DID, HOWEVER, EXPRESS THAT HE FELT COMFORTABLE IN NEW DORM & IS FUNCTIONING APPROPRIATELY. RELATED THAT HE WOULD LIKE A JOB ON THE YARD TO ALLEVIATE BOREDOM. CCC REFERRED I/M TO CLASSIFICATION STAFF. HE REPORTED TAKING RX MEDS & THAT "PROZAC HELPS MY DEPRESSION...SEROQUEL HELPS ME SLEEP GOOD". APPETITE WNL. REPORTED GOOD MEMORY & CONCENTRATION. I/M'S SPEECH WAS LOGICAL, THOUGHTS WELL-PRESENTED. HE WAS CALM & RESPONSIVE. MOOD & AFFECT WNL. HE DENIED H/S IDEATIONS OR ANY SXS OF PSYCHOSIS. DISCUSSED PLANS FOR FURTURE RELEASE. I/M STS HE DID CONSTRUCTION WORK & HAD A TRAILER IN YARD BESIDE PARENTS. RELATED THAT NOT F/U WITH MENTAL HEALTH WAS MAJOR DOWNFALL LEADING TO RELAPSE & RE-INCARCERATION. I/M AWARE OF IMPORTANCE & SEEMS WILLING TO PERSUE UPON RELEASE. CCC PROVIDED COUNSELING TO ASSIST WITH MED COMPLIANCE, AFTERCARE PLANS & USING COPING SKILLS TO DEAL W/DAILY STRESS. I/M WAS POLITE & COOPERATIVE.
A: DX = ADHD,HYPER TYPE, IMPULSE CONTROL D/O. I/M APPEARS STABLE ON MEDS HAS D/C BEHAVIORAL PROBLEMS. IS AWARE/ACCOUNTABLE FOR HIS ACTIONS. TENDS TO BE NARCISSTIC AT TIMES. MOOD SWINGS OVERTLY OBSERVABLE.
P: CCC WILL CONTINUE TO F/U & MONITOR PER TX PLAN. G. BREON, CCCIII
SIGNED OFF ON 10/27/05 @ 15:36 BY SUSAN V BREON, HUMAN SERVICES COORD I

** ENCOUNTER: 211 LAB CLINIC 10/20/05 8:17 LEE COMP
HEP ABC BACK ENC 178 NEGATIVE.

Follow-up mental Health needed
*upon release 10-17-05

MDCI880D SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 10/31
OMINMDCA SCDC HEALTH SERVICES: MEDICAL SUMMARY C010

SCDC# 233844 NABORS,BENJAMIN RAY PAGE

** ENCOUNTER: 314 MENTAL HEALTH CLINIC 02/11/11 16:04 MCCORMICK COM
D: MENTAL HEALTH NOTE CI
WRITER OBSERVED INMATE IN MIDDLE OF CELL WITH BLANKET WRAPPED AROUND HIM.
INMATE STATES. " I'M COLD AND I NEED MY CLOTHES.
A:DX; PSYCHOSIS NOS VS SCHIZO,ASPD
GAF; 70
INMATE APPEARS TO HAVE A SMILE ON HIS FACE. DENIES SI/HI/
A/V HALLUCINATION. PSCHOSIS NOTES
EATING AND SLEEPING WELL. ORIENTED X3
P; ON CALL WRITER WILL MONITOR INMATE OVER THE WEEKEND.
SIGNED OFF ON 02/14/11 @ 9:31 BY BETTY J CONNOR, HUMAN SERVICES COORD I

** ENCOUNTER: 313 MENTAL HEALTH CLINIC 02/10/11 15:52 MCCORMICK COM
D:MENTAL HEALTH NOTE (CI)
INMATE WROTE A NOTE STATED:HE HEARING THINGS, REPORT GPS CHIP EMBEDDED IN B
RAIN, CAUSING HIM TO HEAR THINGS.
A: DX;PSYCHOSIS NOS VS SCHIZO,ASPD
GAF: 60
INMATE APPEARS TO HAVE FLAT AFFECT. PSYCHOSI NOTED.
AUDITORY HALLUCINATION NOTED
P; WRITER PLACED INMATE ON CI. TX PLAN
STRIPPED CELL, FINGER FOOD, SUCIDE BLANKET
WRITER WILL CONTINUE TO MONITOR INMATE.
SIGNED OFF ON 02/14/11 @ 9:31 BY BETTY J CONNOR, HUMAN SERVICES COORD I

** ENCOUNTER: 312 MENTAL HEALTH CLINIC 01/14/11 14:36 MCCORMICK COMP
D: MENTAL HEALTH INC. NOTE
WRITER RECEIVED DISCIPLINARY STATEMENT FROM DHO.
SIGNED OFF ON 02/03/11 @ 13:52 BY DONIKIA S GRAY, HUMAN SERVICES COORD I

** ENCOUNTER: 311 MENTAL HEALTH CLINIC 01/14/11 14:35 MCCORMICK COMP
D: WRITER RECEIVED DOSCIPLINARY STATEMENT FROM DHO.
SIGNED OFF ON 01/14/11 @ 14:36 BY BETTY J CONNOR, HUMAN SERVICES COORD I

** ENCOUNTER: 310 INSIDE APPOINTMENT 12/09/10 9:11 MCCORMICK COMP
I/M A NEW RECIEVER FROM KIRKLAND CI. I/M HAS A MENTAL HEALTH HX. PRESENT PR
ESCRIBED MEDS ARE HALDOL, PROZAC AND COGENTIN. PRESENTLY ON A REGULAR DIET.
HAS NO PENDING APPTS. REFERRAL SENT TO MENTAL HEALTH. 2ND STEP PPD GIVEN WI
THOUT DIFFICULTY. OTR GIVEN. ORIENTATION PACKAGE COMPLETED, I/M VOICED UNDE
RSTANDING.....A.CRAWFORD/LPN
SIGNED OFF ON 12/09/10 @ 9:16 BY ANITA A CRAWFORD, LICENSED PRACTICAL NURSE

** ENCOUNTER: 309 LAB CLINIC 11/16/10 13:06 KIRKLAND COMP
I/M DID NOT SHOWUP FOR BLWK TODAY.
SIGNED OFF ON 11/16/10 @ 13:06 BY BONITA R O'NEAL, MEDICAL ASSISTANT TECH I

** ENCOUNTER: 308 LAB CLINIC 11/09/10 8:21 KIRKLAND COMP
NO SHOW FOR BLOOD WORK WILL CONTINUE TO SEND FOR I?M AT ALATER DATE
SIGNED OFF ON 11/09/10 @ 8:22 BY YOLANDA D GILL, MEDICAL ASSISTANT TECH I

Hallucinations - psychosi -
2-14-11

MDCI880D SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 10/31,
OMINMDCA SCDC HEALTH SERVICES: MEDICAL SUMMARY C010:

SCDC# 233844 NABORS,BENJAMIN RAY PAGE

** ENCOUNTER: 283 MENTAL HEALTH CLINIC 02/08/07 15:39 MCCORMICK COM
CCC NOTE: INMATE WAS PRESENTED AT TREATMENT TEAM MEETING TODAY. TREATMENT PLAN APPROVED. TREATMENT TEAM MEMBERS PRESENT INCLUDED: MR. WILLIAMS, CCC IV, MS. TABB, CCC III AND MS. CAYE, CCC III. WILL REVIEW AGAIN IN 6 MONTHS.
M. CAYE, CCC III
SIGNED OFF ON 02/08/07 @ 15:40 BY MARGIE M CAYE, HUMAN SERVICES COORD I

** ENCOUNTER: 282 NARRATIVE 01/24/07 14:05 MCCORMICK COM
PER VO.DR. MCREE SEROQUEL RENEWED
SEROQUEL 200MG
SIG:TAKE 1 TAB Q HS
SIG:
START DATE: 01/24/07 TOTAL DAYS: 90
MD:MCREE,JOHN B
MAR UPDATED. R. POWELL RN
SIGNED OFF ON 01/24/07 @ 14:06 BY RUTH H POWELL, REGISTERED NURSE I
OK TO RENEW MCREE, MD
SIGNED OFF ON 01/25/07 @ 7:53 BY JOHN B MCREE, PHYSICIAN II

** ENCOUNTER: 281 MENTAL HEALTH CLINIC 01/16/07 15:34 MCCORMICK COMI
D\ ASSESSMENT NOTE (THIS IS BEING RE-TYPED IN REFERENCE TO ENCOUNTER # 278)
CCC HAD INDIVIDUAL SESSION WITH INMATE FOR CLINICAL ASSESSMENT AS INMATE WAS TRANSFERRED FROM PERRY CI ON 01-02-07. INMATE IS A 31 YO WM WHO IS SERV ING A 4 1\2 YEAR SENTENCE FOR ESCAPE. INMATE REPORTED THAT HE WAS INCARCERA TED FOR CRIME OF COMMON LAW ROBBERY WITH A 10 YEAR SENTENCE PRIOR TO THE ESCAPE CRIME. INMATE RELATED THAT HE HAD SERVED 6 YEARS AND WAS TRANSFERRED TO PRE-RELEASE AT TYGER RIVER CI WHERE HE SAYS " I JUST JOGGED OFF...I HAD FAMILY PROBLEMS..MY FIANCEE HAD GOTTEN INVOLVED WITH A MAN WHO WAS ABUSIVE AND I FELT THAT I NEEDED TO BE THERE..I ONLY HAD 28 DAYS BEFORE I WAS TO BE RELEASED." INMATE'S MAX OUT DATE IS NOW MAY 2007.INMATE REPORTED THAT HE HAS HAD MENTAL HEALTH PROBLEMS SINCE HE WAS YOUNG AND DIAGNOSED WITH ADHD. INMATE REPORTED HE HAD BEEN ADMITTED TO CEDAR SPRINGS BEHAVIORAL HOSPITAL AT AGE 12 YO.
A\ INMATE WAS ALERT AND ORIENTED X 3 WITH LOGICAL THOUGHT PROCESS. INMATE WAS COOPERATIVE AND HAD APPROPRIATE BEHAVIORS DURING THE SESSION. INMATE DENIES ANY SUICIDAL\HOMOCIDAL IDEATIONS.INMATE REPORTS NO AUDIO\VISUAL HALL UCINATIONS. INMATE STATED THAT HE HAD SELF-HARMED IN 1995 BY CUTTING HIS ARM. INMATE DENIES AOD ADDICTION BUT SAYS HE HAS ATTENDED SUBSTANCE ABUSE GROUPS SINCE INCARCERATION. INMATE STATED THAT HE USES MARAJUANA ON AN OCC- TIONAL BASIS AND CONSIDER HIMSELF A "SOCIAL DRINKER." INMATE IS PRESCRIBED SEROQUEL 200MG X1 DAY.
7 AXIS I 298.9 PSYCHOSIS NOS (IN REMISSION)
AXIS II NONE
AXIS III DEFERRED\ASTHMA
AXIS IV INCARCERATION
AXIS V GAF 75
P\ CCC WILL HAVE INDIVIDUAL SESSION X1 PER MONTH OR AS NEEDED. CCC DISCUSS- ED GROUPS WITH INMATE AND WILL HAVE ANOTHER SESSION TO COMPLETE TREATMENT PLAN. CCC WILL CONTINUE TO MONITOR FOR MEDICATION COMPLIANCE.
M. CAYE, CCC III

PSYCHOSIS NOS IN REMISSION
1-16-07

SSION.INMATE STATES "IN THE PAST I HAVE CUT MYSELF DUE TO STRESS. REPORT T
E LAST TIME HE CUT HIMSELF WAS OCT.2010. STATES HE WAS LOOKING FOR A GPS T
ACKING DEVICE IN HIS FORHEAD HE STATES THAT THE MILITARY/GOVERMENT THANKS
E'S A SPY. INMATE REPORTS SEEING SHADOWS, HEARING PEOPLE MUMMING BUT CAN'T
MAKE IT OUT HE REPORTS THIS HAPPEN CERTAIN PARTS OF THE DAY,
INMATE STATES " I TAKE MY MEDICATION EVERYDAY"
A; PSYCHOSIS NOS/SCHIZO.ASPD
GAF;66
INMATE APPEARED TO HAVE FLAT AFFECT. DENIES SI/HI. REPORTS SEEING SHADOWS .
ND HEARING MUMMING SOUNDS. ORIENTED X 3. GREAT EYE CONTACT.
EATING AND SLEEPING WELL. PER MAR INMATE COMPLIANT WITH MEDICATION.
P: WRITER WILL CONTINUE TO MONITOR INMATE EVERY 90 DAYS
WRITER WILL SCHEDULE INMATE TO SEE PSYCH NEXT VISIT.
SIGNED OFF ON 03/08/11 @ 8:32 BY BETTY J CONNOR, HUMAN SERVICES COORD I

** ENCOUNTER: 318 MENTAL HEALTH CLINIC 02/14/11 7:43 MCCORMICK COM
D: MENTAL HEALTH NOTE CI
WRITER OBSERVED INMATE IN THE MIDDLE OF CELL WITH BLANKET WRAPPED AROUND HI
S WAIST. INMATE STATES: I'M COLD CAN I GET MY CLOTHES'
INMATE STATES " I AM OKAY"
A:DX: PSYCHOSIS NOS VS SCHIZO, ASPD
GAF; 69
INMATE APPEARS TO BE IN A SLEEPY MOOD. DENIES S/I, H/I, A/V HALLUCINATION.
ORIENTED X 3. EATING AND SLEEPING WELL. GREAT EYE CONTACT.
P; WRITER RECOMMEND INMATE TO BE REMOVED FROM CI.
SIGNED OFF ON 02/14/11 @ 9:33 BY BETTY J CONNOR, HUMAN SERVICES COORD I

** ENCOUNTER: 317 INSIDE APPOINTMENT 02/13/11 14:43 MCCORMICK COMI
SEEN DURING SMU PILL PASS
NO DISTRESS NOTED
NO COMPLAINTS VOICED
DENIES ANY NEEDS
COURSONRN
SIGNED OFF ON 02/13/11 @ 14:45 BY VERA E COURSON, REGISTERED NURSE I
SIGNED OFF ON 02/15/11 @ 10:08 BY DEDRIC WILLIAMS, HUMAN SERVICES COORD II

** ENCOUNTER: 316 INSIDE APPOINTMENT 02/12/11 18:14 MCCORMICK COMP
IM RESTING QUIETLY
EASILY AROUSED WITH VERBAL STIMULI
DENIES ANY NEEDS
STATES "I'M JUST WAITING TO GET OFF HERE."
COURSONRN
SIGNED OFF ON 02/12/11 @ 18:16 BY VERA E COURSON, REGISTERED NURSE I
SIGNED OFF ON 02/15/11 @ 10:07 BY DEDRIC WILLIAMS, HUMAN SERVICES COORD II

** ENCOUNTER: 315 NARRATIVE 02/12/11 6:52 MCCORMICK COMP
L/E INMATE RESTING NO DISTRESS NOTED OR VOICED. BWILLIAMS RN
SIGNED OFF ON 02/12/11 @ 6:53 BY BRENDA L WILLIAMS, REGISTERED NURSE I
SIGNED OFF ON 02/15/11 @ 10:12 BY DEDRIC WILLIAMS, HUMAN SERVICES COORD II

Hallucinations-psychosis NOS/Schizo ASPD.

3-8-11

MDCI880D SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 10/3
OMINMDCA SCDC HEALTH SERVICES: MEDICAL SUMMARY C01

SCDC# 233844 NABORS,BENJAMIN RAY PAGE

** ENCOUNTER: 321 PPD 03/15/11 11:37 MCCORMICK CC
LATE NOTE FOR 03/14/2011
PPD = 0MM
P.CUSHMAN,LPN
SIGNED OFF ON 03/15/11 @ 11:38 BY PAMELA - CUSHMAN, UNCLASSIFIED

** ENCOUNTER: 320 MENTAL HEALTH CLINIC 03/10/11 11:53 MCCORMICK CO
S: I/M SEEN FOR FOLLOW-UP. HE STATES THE MEDICATIONS ARE NOT HELPING AS M
CH. STILL DELUSIONAL TALKING ABOUT GPS IN HIS HEAD. NOTES HE STILL HEARS
VOICES. ALSO TALKS ABOUT HIGH LEVEL OF ANXIETY. NOTED TO BOUNCE LEGS DUR
NG INTERVIEW, FEELS LIKE SKIN IS CRAWLING. IS ON HIGH DOSE PROZAC AS WELL
AS HALDOL AND COULD BE AKATHISIA. DISCUSSED POSSIBLY REDUCING PROZAC AND
R ADDITION OF PROPRANOLOL. HE HAS BEEN ON PROZAC SINCE 13 AND FEARS TO REI
UCE DOSE BUT IS AGREEABLE TO PROPRANOLOL.
O: ALERT, ORIENTED, MOOD ANXIOUS, CONGRUENT AFFECT, DENIES SI. +AH, + DELU
SIONS.
A: PSYCHOSIS NOS
P: WILL INCREASE HALDOL TO 10MG BID, CONTINUE COGENTIN 2MG HS, PROZAC 40MG
BID. ADD PROPRANOLOL FOR ? AKATHISIA
HALOPERIDOL 5MG
SIG:TWO PO BID
SIG:
START DATE: 03/10/11 TOTAL DAYS: 180
MD:POLLOCK,RALPH C
BENZTROPINE 2MG
SIG:ONE PO QHS
SIG:
START DATE: 03/10/11 TOTAL DAYS: 180
MD:POLLOCK,RALPH C
FLUOXETINE 20MG
SIG:TWO PO BID
SIG:
START DATE: 03/10/11 TOTAL DAYS: 180
MD:POLLOCK,RALPH C
PROPRANOLOL 10MG TABS (FOR MENTAL HEALTH SIDE EFFECTS ONLY)
SIG:ONE PO BID
SIG:
START DATE: 03/10/11 TOTAL DAYS: 180
MD:POLLOCK,RALPH C
SIGNED OFF ON 03/10/11 @ 11:56 BY RALPH C POLLOCK, PSYCHIATRIST
NOTED AND MAR UPDATED. COURSONRN
SIGNED OFF ON 03/10/11 @ 15:18 BY VERA E COURSON, REGISTERED NURSE I

** ENCOUNTER: 319 MENTAL HEALTH CLINIC 03/07/11 15:55 MCCORMICK COMP
D: MENTAL HEALTH F/U CI/ASSESSMENT (TX PLAN)
INMATE ARRIVED TO I/C SEESION PER OTR. INMATE STATES " I FEEL BETTER SINCE
COMING OF CI. INMATE IS A 35 YR OLD SWM SERVING A 25 YRS SENTENCE FOR ARMED
ROBBERY REPORTS HE'S FROM LAURENS COUNTY.INMATE REPORTS A HX OF MENTAL HEAL
TH SINCE AGE 13. REPORTS HIS MATERNAL SIDE OF THE FAMILY SUFFERS WITH DEPRE

Hallucinations - psychosis NOS
3-10-11

THEM. I/M DID NOT REPORT ANY JUVENILE INCARCERATION.
A. DXI: SUBSTANCE ABUSE BY HX. OLD BACK INJURY IN 1999. MH HX. DEPRESSI ON. APPEARANCE ACCEPTABLE. SPEECH SOMETIMES PRESSURED. LACKING EYE CONTA CT. SAD AFFECT AND MOOD. ORIENTED IN ALL SPHERES. ILLOGICAL THOUGHT PROCE SS, EVIDENCE OF DELUSIONAL REFERENCE, PARANOIA. HALLUCINATIONS WHEN ON CERTAIN DRUGS. LIMITED MOVEMENT. REPORTS SOME APPETITE AND SLEEP DISTURBA NCES. MEMORY APPEAR INTACT. PAST HX OF SUICIDAL ATTEMPTS. HAVE A PLAN FOR SUICIDAL IDEATIONS AND HOMICIDAL IN PLACE. I/M IS ADAMENT ABOUT HIS DETERMINATION TO COMMIT SUICIDE. HE IS A RISK TO REMAIN AT THIS INST. AND NEED PSYCHIATRIC EVALUATION. GPH WAS CALLED FOR PLACEMENT.
P. WAITING FOR RESPONSE FROM GPH.
MS. LITTLEJOHN, CCCIV
SIGNED OFF ON 01/31/02 @ 13:13 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES COC

** ENCOUNTER: 19 MENTAL HEALTH CLINIC 01/31/02 12:31 TYGER RIVER COMI
ADDENDUM NOTE FOR ENC# 18. ERROR, I/M DID NOT ATTEND ANY GROUP. PLEASE DISREGARD.
MS. LITTLEJOHN, CCCIV
SIGNED OFF ON 01/31/02 @ 12:32 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES COC

** ENCOUNTER: 18 MENTAL HEALTH CLINIC 01/31/02 7:28 TYGER RIVER COMI
LATE ENTRY GROUP NOTE FOR 1/17/02. I/M PARTICIPATED IN COGNITIVE GROUP THERAPY, FOCUS ON DEPRESSION.
MS. LITTLEJOHN, CCCIV
SIGNED OFF ON 01/31/02 @ 7:29 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES COC

** ENCOUNTER: 17 EMERGENCY OUTSIDE 01/30/02 17:37 TYGER RIVER COMI
SEEN INMATE PER REQUEST OF SECURITY. INMATE STS HE HAS BEEN THINKING ABOUT KILLING HIMSELF. STS HE IS VERY DEPRESSED. ASKED IF HE HAS THOUGHT OF PLAN INMATE STS HE THOUGHT ABOUT CLIMBING WATER TOWER AND JUMPING OFF.
STS MOM WAS JUST DIAGNOSED WITH BREAST CANCER 4 MONTHS AGO. STS SHE IS OMLY 41 YRS OLD. INMATE SPEAKS WITH HEAD DOWN. STS HE TOLD OFFICERS HE WOUL D BE ALRIGHT TONIGHT BUT HE NEEDS TO TLAK WITH MRS. LITTLEJOHN IN AM. INFORMED INMATE I WOULD SEND MESSAGE TO MRS. LITTLEJOHN AND HAVE HER SEE HIM IN AM. BUT HE HAS TO LOOK ME IN EYES AND PROMISE ME HE WAS NOT GOING TO HURT HIMSELF TONIGHT. INMATE DOES LOOK ME IN EYE AND STATED HE WILL BE ALRIGHT UNTIL HE TALKS TO MRS LITTLEJOHN IN AM
MESSAGE REFERED TO MRS. LITTLEJOHN
SIGNED OFF ON 01/30/02 @ 17:43 BY DEBORAH C WILLIS, REGISTERED NURSE I
SIGNED OFF ON 02/04/02 @ 12:08 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES COC

** ENCOUNTER: 16 MENTAL HEALTH CLINIC 01/25/02 12:19 TYGER RIVER COMI
S/O: 26 Y/O CM C H/O AND C/O POOR IMPULSE CONTROL AND ANXIETY ATTACKS. HE GIVES A REASONABLE DESCRIPTION THAT IS C/W PANIC D/O, BUT HAS HAD PROBLEMS TOLERATING SSRIS. HE REPORTS A H/O AND INABILITY TO TOLERATE PAXIL, ZOLOFT, AND PROZAC. HE REPORTS THAT THEY INCREASED HIS ANXIETY AND MADE HIM WANT TO GO OFF.
MSE: AAOX4, NO SI/HI, NO AVH, CALM/COOPERATIVE, CONSTRICTED, INSIGHT IS INTACT, JUDGEMENT IS FAIR TO POOR.
A/P: 1) PD NOS C A,PD/BPD TRAITS AND POOR IMPULSE CONTROL

NOTE: paranoia + Hallucinations
1-31-07

MDCI880D SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 10/3:
OMINMDCA SCDC HEALTH SERVICES: MEDICAL SUMMARY C01(

SCDC# 233844 NABORS,BENJAMIN RAY PAGE

SIGNED OFF ON 03/23/05 @ 9:05 BY DANA OSTROV, LICENSED PRACTICAL NURSE

** ENCOUNTER: 172 MENTAL HEALTH CLINIC 03/22/05 15:25 KIRKLAND CC
PSYCHOLOGY: TODAY I RECEIVED A MESSSGE FROM INMATE WRITTEN 03/19, AFTER I SAW HIM OM 03/18/05. HE WS MOVED TO D DOEM ON ADMINISTRATIVE LOCKUP BECAUSE HE HAS A PAST ESCAPE CHARGE. HE INTERPRETED THIS AS BEING PUT WHERE HE CAN BE KILLED, HIS DELUSIONAL TENDENCIES BEING STIMULATED, APPARENTLY.
IT IS HOPED HE CAN BE BROUGHT UP TO NP DELANEY'S PSYCHIATRIC CLINIC TODAY. IF NOT, I WILL ENDEAVOR TO FOLLOW UP ON THE MORROW.
SIGNED OFF ON 03/22/05 @ 15:31 BY EDWIN H HEARON, III, LICENSED PSYCHOLOGI
SIGNED OFF ON 03/22/05 @ 15:58 BY EILEEN DELANY, NURSE PRACTITIONER III

NOTE See 169

** ENCOUNTER: 171 MENTAL HEALTH CLINIC 03/18/05 14:50 KIRKLAND COI
PSYCHOLOGY: DIAGNOSTIC COMPLETED. SOURCES: SCDC MEDICAL RECORDS; BENDER VISUAL MOTOR GESTALT TEST; CARLSON PSYCHOLOGICAL SURVEY; PERSONALITY ASSESSMENT INVENTORY; PROJECTIVE DRAWINGS; CLINNICAL INTERVIEWS.
DATA INDICATE INMATE IS SCHIZOPHRENIC. ANXIETY IS HIGH, DEPRESSION IS PRESENT AND MAY BECOME AGITATED. MUCH CONCERN SEEMS TO CENTER AROUND SEX IMAGE AND RELATIONSHIPS, AND DATA HINT THAT INMATE MAY BE COPING WITH HOMOSEXUAL TENDENCIES. DATA COULD REPRESENT A MOTHER OR OTHER FEMALE IN HIS LIFE WHO HAS BEEN DIFFICULT TO RELATE TO BECAUSE OF HER OWN PERCEIVED PERSONALITY DIFFICULTIES.
HE DENIES ACTUAL HALLUCINATIONS, ADMITS ONLY TO OCCASIONALLY "HEARING" HIS OWN THOUGHTS. IT IS WONDERED WHETHER HOMOSEXUAL IMPULSES OR FEELINGS INCREASE DISTURBANCE OF REALITY TESTING. ANXIETY AND DEPRESSION ARE PART OF SCHIZOPHRENIA IN MANY CASES, WILL NOT BE REDIAGNOSED BUT SEE ENC. #169.
> DIAGNOSIS APPEARS TO BE 295.60, SCHIZOPHRENIA, RESIDUAL TYPE BUT MAY PROVE TO BE UNDIFFERENTIATED OR PARANOID IN TYPE. PARANOID IDEAS, NOT ACTUAL DELUSIONS, INDICATED. SOME DATA WAS ANSWERED IN THE EXTREME, INTERPRETED AS ASKING FOR HELP AND RELIEF.
RECOMMEND: REFER TO PSYCHIATRIST.
> ASSIGN TO OUTPATIENT MENTAL HEALTH INSTITUTION
EDWIN HEARON, PH.D., LICENSED PSYCHOLOGIST
SIGNED OFF ON 03/18/05 @ 15:27 BY EDWIN H HEARON, III, LICENSED PSYCHOLOGIST
PSYCHIATRIST CONSULT.
SIGNED OFF ON 03/21/05 @ 8:06 BY JAMIL A EL-SHAMI, NURSE PRACTITIONER III
ABOVE PSYCHIATRIC CONSULT NOTED ON TICKLER.
SIGNED OFF ON 03/21/05 @ 8:32 BY DONNA L O'DANIEL, REGISTERED NURSE I

** ENCOUNTER: 170 SICK CALL 03/14/05 10:53 KIRKLAND COMP
S> IM TO MEDICAL REPORTS HAVING DRY SKIN. IM REPORTS HAVING DRY SKIN THROUGHOUT ENTIRE BODY. IM STATES HAD PROBLEM FOR 8-9 YEARS.
O> TEMP=098.7 PULSE= 76 RESP=18 BP=100/ 80 WEIGHT=166
IM LEGS HAVE DRY CRACKED AREAS THAT ARE NOTICEABLE.
P> ISP LOTION
SIG:USE AS DIRECTED
SIG:
START DATE: 03/14/05 TOTAL DAYS: 30
MD:EL-SHAMI,JAMIL -
PER VO J. EL-SHAMI,NP ORDER ISP LOTION FOR ONE MONTH. ISP LOTION ORDERED.

NOTE, DATA indicate inmate is schizophrenic
DIAGNOSES APPEARS 295.60 schizophrenia
PARANOID TYPE

P> WILL REFER TO MENTAL HEALTH
SIGNED OFF ON 12/06/01 @ 7:33 BY COLIE B CAMP, LICENSED PRACTICAL NURSE
I/M HAVE NOT KEPT SCHEDULED APPOINTMENTS.
MS. LITTLEJOHN, CCCIV
SIGNED OFF ON 01/14/02 @ 8:40 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES C(

** ENCOUNTER: 10 SICK CALL 11/15/01 16:09 TYGER RIVER COI
S> INMATE STATES HE WOULD LIKE TO SEE THE CCC DUE TO HAVING EPISODES OF ANXIETY THAT IS CAUSING HIM TO HAVE VIOLENT EPISODES. INMATE DENIES ANY SU: CIDAL OR HOMOCIDAL IDEATIONS OR PLANS. HAS BEEN ON MEDS TO CONTROL THIS AT TIMES.
O> TEMP=098.4 PULSE= 84 RESP=14 BP=120/ 70 WEIGHT=150
SKIN W/D MUCUS MEMBRANES PINK AND MOIST. INMATE ALERT TO PERSON PLACE AND T IME.
A> ANXIETY
P> WILL CONSULT CCC.
SIGNED OFF ON 11/15/01 @ 16:12 BY BRUCE P KEISLER, LICENSED PRACTICAL NURSE
I/M DID NOT REPORT BACK TO CCC.
MS. LITTLEJOHN, CCCIV
SIGNED OFF ON 12/04/01 @ 11:40 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES CO

** ENCOUNTER: 9 EMERGENCY OUTSIDE 11/07/01 13:27 TYGER RIVER COM
S> IM STATES HE WAS IN VOLVED INALTERCATION LAST PM THAT HE WAS STRUCK IN THE HEAD AND NECK BY ANOTHER INMATE WITH HIS FIST. STATES HAS BEEN HAVING HEADACHE EVERY SINCE.
O> TEMP=098.9 PULSE= 80 RESP=14 BP=120/ 74 WEIGHT=145
UPON EXAM NOTED SMALL AMOUNT OF BRUSING, SWELLING TO FOREHEAD AND NECK. NO NUERO DEFACITS NOTED.
A> TENSION HEADACHE.
P> 1. SEE S.O. #1.
2. PERCOGESIC TABLETS 2 QID X 2 DAYS.
3. IF THE FOUR KEY SIGNS OF PAIN ARE PRESENT, CONSULT THE M.D.
4. IF NOT RESOLVED IN 48 HOURS, REFER TO THE M.D.
PERCOGESIC GIVEN PER S/O.
ABOVE INSTRUCTIONS GIVEN AND SHOWED UNDERSTANDING.
SIGNED OFF ON 11/07/01 @ 13:31 BY BRUCE P KEISLER, LICENSED PRACTICAL NURSE
NOTED
SIGNED OFF ON 11/07/01 @ 14:03 BY BARBARA B MOORE, REGISTERED NURSE I

** ENCOUNTER: 8 NARRATIVE 11/01/01 13:46 TYGER RIVER COMF
INMATE IS SCHEDULED TO SEE DR.PRATT ON 12-28-01 AT PERRY 1:00PM AS MD ORDER ED.
SIGNED OFF ON 11/01/01 @ 13:47 BY AMY D SPENCER, REGISTERED NURSE II

** ENCOUNTER: 7 FOLLOW-UP SICK CALL 10/16/01 10:36 TYGER RIVER COMP
INMATE TRANSFERED FROM LEE CI ON 10/15/01 WITH HX FEELING DEPRESSED AND ANXIETY. ALERT/ORIENTED, TALKING IN LOUD TONE. STS. HE NEED TO SEE SOMEONE TO VENT HIS FEELINGS, STS. HE HAVE A HX OF ALCOHOL AND DRUG ABUSE, MAXOUT 3/02, STS. HE WANTS TO MAKE SURE HE IS F/U WITH MENTAL HEALTH WHEN HE GETS OUT, BECAUSE HE NEED HELP. REQUESTING SOMETHING TO HELP HIM KEEP CALM, BUT

Requested Follow-up
mental health treatment upon Release

MDCI880D A-2 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS 10/31/
OMINMDCA SCDC HEALTH SERVICES: MEDICAL SUMMARY C0102

SCDC# 233844 NABORS,BENJAMIN RAY PAGE

DOESNT WANT TO BE MOVED OFF THIS YARD, STS. HE IS HAPPY,HAVE A JOB WORKING IN THE KITCHEN, DONT WANT TO GET IN ANY TROUBLE. IM HAVE GOOD EYE CONTACT IM WAS SEEN AT LEE VIA CCC, ON 9/11/01 AND 9/25/01 WITH RECOMMENDATION TO F/U WITH PSYCH. WILL REFER IM TO CCC ASAP, FOR F/U , WILL SEND TO PSYCH FOR NEXT AVAILABLE DATE.
SIGNED OFF ON 10/16/01 @ 10:46 BY LINDA M WORTHY, LICENSED PRACTICAL NURSE
SIGNED OFF ON 10/16/01 @ 10:50 BY LINDA M WORTHY, LICENSED PRACTICAL NURSE
I/M WAS AN OTR, BUT DID NOT REPORT FOR SCHEDULED APPOINTMENT.
MS. LITTLEJOHN, CCCIV
SIGNED OFF ON 10/24/01 @ 9:26 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES CO

** ENCOUNTER: 6 MENTAL HEALTH CLINIC 09/25/01 15:16 LEE COM
CCC NOTE: 30 DAY L/U EVALUATION.
D: A&O X3, TALKATIVE, INITIALLY SOMEWHAT UNWILLING TO LISTEN TO REASON RE: WAITING LIST FOR PSYCH. APPT. BUT HE EVENTUALLY VOICED AN UNDER-STANDING. REPORTED FEELING OF ANXIETY & DEPRESSION (AS INDICATED IN PREVIOUS CCC NOTE) BUT DENIED S/H IDEATIONS. HOPES TO GET TRANSFERRED CLOSER TO HOME BUT HAS NOT RECEIVED ANY RESPONSES FROM CLASSIFICATION-HE WAS IN AGREEMENT & THANKFUL WHEN CCC OFFERED TO SEND MESSAGE TO CLA-SSIFICATION. (NOTE: I/M WAS PREVIOUSLY A "Y").
A: MAYBE EXPERIENCING SOME ADJUSTMENT PROBLEMS DUE TO: SMU ENVIRONMENT & & STRAIGHT TIMER SENTENCE.
P: WILL NOTIFY CCC (TAYLOR) OF ABOVE & DISCUSS TX ALTERNATIVES WHILE AWAITING PSYCH. EVALUATION. T. YATES, CCC V
SIGNED OFF ON 09/25/01 @ 15:30 BY TONIA T YATES, HUMAN SERVICES COORD II

** ENCOUNTER: 5 MENTAL HEALTH CLINIC 09/11/01 15:44 LEE COME
CCC NOTE: MEDICAL REFERRAL
(D) I/M REPORTS HAVING PROBLEMS WITH HIS CURRENT LOCATION WHICH IS SMU. HE REPORTS HAVING PROBLEMS WITH ANXIETY AND FLASH BACKS FROM HIS CHILDHOOD . I/M REPORT HE HAS A HX OF TAKING PSYCH MEDS IN THE PAST. I/M STATES HE DC MEDS WITHOUT RECOMMENDATION FROM MD OR CCC AT TCI. I/M STATES HIS SYMPTOMS ARE BEYOND HIS CONTROL. I/M REQUEST RESTART MEDS. CCC COUN -SELED I/M ON THE IMPORTANCE OF TAKING MEDS AND FOLLOWING RECOMMENDATIO -N OF CCC AND MD. I/M RECEPTIVE TO INFO GIVE. I/M DENIED S/H IDEATIONS DENIED DEPESSIVE SYMPTOMS BUT IS AT TIMES SAD.
(A) NO MENTAL DISTRESS NOTED AT THIS TIME. NO MEDICAL ENCOUNTERS TO SUPPORT I/M'S CLAIMS THAT HE WAS TAKING MEDS AT ONE POINT. FURTHER INVESTIGATIO -N NEEDED.
(P) RECOMMENDATION: WILL SET UP FOR PSHCH CLINIC. KAREN TAYLOR CCC III
SIGNED OFF ON 09/11/01 @ 16:02 BY KAREN E TAYLOR, HUMAN SERVICES COORD I

** ENCOUNTER: 4 SICK CALL 09/07/01 11:29 LEE COMP
S> I/M TO SICK CALL WITH COMPLAINTS OF ANXIETY. STATES HE IS HAVING PANIC ATTACKS ALMOST ON A DAILY BASIS. STATES THAT HE IS HAVING TROUBLE SLEEPING. DENIES ADITORY OR VISUAL HALLUCINATIONS. DENIES SUCIDAL IDEATIONS STATES" I AM NOT GOING TO DO ANYTHING CRAZY I JUST NEED TO GET SOME HELP"
O> TEMP=098.7 PULSE= 88 RESP=20 BP=120/ 72 WEIGHT=144
SKIN WARM DRY AND INTACT. MODERATE ANXIETY NOTED.
A> DEFER TO CCC.

* WITHOUT MEDS I FEEL OUT OF CONTROL. WASNT ON MEDICATIONS OR IN TREATMENT

SCDC# 233844 NABORS,BENJAMIN RAY PAGE

P> 1. See S.O. #3.
2. IF PATIENT HAS RHINORRHEA,GIVE CTM 4 MG.TID X 5 DAYS
3. IF PATIENT HAS PRODUCTIVE COUGH MAY GIVE QUAIFINESIN 100 MG. 1 Q 6 HOURS X 5 DAYS.
4. ASA TABS 2 OR TYLENOL 2 TABS Q4H PRN FOR FEVER OR DISCOMFORT X 5 DAYS.
5. INCREASE FLUID INTAKE TO 6-8 GLASSES H20 PER DAY X 5 DAYS.
6. DISCONTINUE SMOKING.
INMATE GIVEN CTM FROM ABOVE WITH INSTRUCTIONS FROM ABOVE. INMATE STATES UNDERSTANDING. INMATE IS OFF UNTIL FRIDAY. INMATE TO RETURN AS NEEDED.
SIGNED OFF ON 12/30/03 @ 14:08 BY AMY D SPENCER, REGISTERED NURSE II

** ENCOUNTER: 147 MENTAL HEALTH CLINIC 12/29/03 13:28 TYGER RIVER COM
D. I/M SEEN TODAY PER HIS REQUEST. I/M STATES HE IS WORRIED, HE DO NOT WANT TO COME BACK TO PRISON. HE NEED A PLACE TO STAY, JOB, SSI AND ANY BENEFITS AVAILABLE. I/M REPORTS HE DO NOT WANT TO LIVE WITH HIS FAMILY HE WANTED TO MAKE IT ON HIS OWN. HE REQUESTED HIS STATUS BE CHANGED TO STABLE. I/M WAS HAPPY TO KNOW OF A PLACE TO GO.
A. DXI: LEGTIMATE CONCERNS. CONTACTED MIRACLE HILL IN SPARTANBURG, BY TELEPHONE. I/M WILL BE ABLE TO GO TO MH, 189 FOREST STREET, SPARTANBURG , S.C., TELEPHONE NUMBER 864-583-1628. HE MUST REPORT BEFORE 4:00 P.M. UPON RELEASE. HE WILL BE ABLE TO FIND A JOB AND TAKE CARE OF ALL HIS CONCERNS.
P. CONSIDER STATUS CHANGE. PROVIDE I/M WITH INFORMATION.
MS. LITTLEJOHN,CCCIV
SIGNED OFF ON 12/29/03 @ 13:38 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES CO

Seriously Homeless?

** ENCOUNTER: 146 MENTAL HEALTH CLINIC 12/17/03 10:34 PERRY COM
D. LATE NOTE FOR 12/16/03. I/M SEEN FOR INDIVIDUAL SESSION. I/M STATES HE IS DOING GREAT ON HIS DEPRESSED MOODS. HE WILL NEED A PLACE TO GO WHEN HE IS RELEASED. I/M REPORTS HE WILL HAVE NO NEED FOR MH WHEN HE IS RELEASE D. HE WILL SEEK A JOB AND PLACE TO STAY. HE WOULD LIKE TO GO TO PRE-RELEA SE. DENIES ANY SUICIDAL OR HOMICIDAL THOUGHTS. NO PRESCRIBED MEDICATION.
A. DXI: APPEARS TO BE FUNCTIONING ADEQUATELY. CURRENT GAF 75.
P. ASSIST I/M IN OBTAINING A RESIDENCE AND EMPLOYMENT. CONTINUE TO MONITOR MH FOR POSSIBLE STATUS CHANGE.
MS. LITTLEJOHN,CCCIV
SIGNED OFF ON 12/17/03 @ 10:39 BY GERALDINE C LITTLEJOHN, HUMAN SERVICES COC

** ENCOUNTER: 145 SICK CALL 12/16/03 9:33 TYGER RIVER COMF
S> I HAVE A STUFFY NOSE. THINK I MIGHT HAVE WHAT IS GOING AROUND.
O> TEMP=097.2 PULSE= 78 RESP=14 BP=116/ 80 WEIGHT=156
AGE 29 NKDA. EARS WNL. THROAT CLEAR. NASAL TURBINATES VERY SWOLLEN CHEST CLEAR.
A> SINUS CONGESTION AND/OR HEADACHE.
P> 1. See S.O. #2.
2. DREXOPHED (DRIXORIL) 1 P.O. BID X 5 DAYS
3. TYLENOL TABLETS 2 P.O. Q.I.D. X 5 DAYS.
4. WARM COMPRESSES TO SINUS AREA FOR 20 MINUTES TID X 5 DAYS.
5. IF AFTER 5 DAYS THESE SYMPTOMS ARE NOT RELIEVED, REFER TO THE M.D.
6. IF SYSTOLIC B/P IS GREATER THAN 160 AND/OR DIASTOLIC B/P IS GREATER

NOTE: Mental Health* Upon Release
12-17-03

INCIDENT REPORT

0900189 8

INC | ENFD 451

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1 13A - ASSAULT - AGGRAVATED	☒ YES ☐ NO	☐ YES ☐ NO	20		☒ 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)	ZIP CODE	WEAPON TYPE
836 HELLAMS RD., GRAY COURT SC	29645	99

INCIDENT DATE	24 HR CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR CLOCK				LOCATION NO
					DISP DATE	DISP TIME	TIME ARRIVED	DEPART TIME	
06/10/2009	0300		06/10/2009	0420	06/10/2009	0423	0442	0616	09

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
NABORS, BENJAMIN RAY	OK	OK	OK	(R) S O U	W	M	33	N	H B	H B

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO
[redacted] RD	GARY COURT	SC	29645	09

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
HUGHES, JENNIFER ANNE	RU			(R) S O U	W	F	21	N	[redacted] H B	H B

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC
5-2	116	BRO	GRN	

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO
[redacted] RD	GRAY COURT	SC	29645	09

VISIBLE INJURY (VICT 1) ☐ YES ☒ NO EXPLAIN –

VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☒ NO ☐ UNK. DRUGS: ☒ YES ☐ NO ☐ UNK. METH

☐ TWO-MAN VEH. ☐ ONE-MAN VEH ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown

	SUBJECT NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
☒ SUSPECT	PERSON, UNKNOWN/UNTRACKED	U	U	00	U					
☐ RUNAWAY	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
☐ WANTED										
☐ WARRANT	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO					
☐ ARREST										
☐ JAIL	SUBJECT (NO 1) USING: ALCOHOL: ☐ YES ☐ NO ☒ UNK.	ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO	DATE/TIME OF OFFENSE		DATE/TIME OF ARREST					
☐ SUMMONS	DRUGS ☐ YES ☐ NO ☒ UNK. TYPE:	TOTAL # ARRESTED 0	06/10/2009 0300							

Offenses:
ASSAULT - AGGRAVATED

ON THE ABOVE DATE AND TIMES DEPUTIES EDWARDS AND VEAL WERE DISPATCHED TO 770 HELLAMS ROAD FOR THREATS BEING MADE TOWARDS THE COMPLAINANT. ONCE ON SCENE DEPUTIES WERE APPROACHED BY THE COMPLAINANT MR. BENJAMIN NABORS WHICH STATED THAT THERE WAS A METH LAB NEXT DOOR AT [redacted] ROAD AND THAT SOME INDIVIDUALS HAD KIDNAPPED HIS GIRLFRIEND AND HE HEARD A GUN SHOT. THE COMPLAINANT STATED THAT THERE WERE AROUND 20 INDIVIDUALS NEXT DOOR AT THIS ACTIVE METH LAB AND THAT THE INDIVIDUALS WERE OUT TO GET HIM. DEPUTIES INFORMED DISPATCH ON WHAT WAS GOING ON AND ALSO INFORMED LT. CRAIN THAT WE NEEDED ASSISTANCE DUE TO THE INFORMATION GIVEN TO US ON THE NUMBER OF PEOPLE SUPPOSEDLY AT THE INCIDENT LOCATION DEPUTY RHODES, TIMMONS, GARRISON, SGT. KURTAL AND LT. CRAIN RESPONDED TO THE SCENE FOR ASSISTANCE. ONCE ALL DEPUTIES LISTED ABOVE WERE ON SCENE A PLAN WAS FORMED AND WHILE APPROACHING LOCATION DEPUTIES OBSERVED A VEHICLE APPROACH THE LOCATION. DEPUTIES STOPPED THE VEHICLE AND FOUND A MRS. JEAN PARKER DRIVING. MRS PARKER LIVED AT THE RESIDENCE AND GAVE THE DEPUTIES CONSENT TO COME ON THE PROPERTY AND CHECK THE SCENE FOR THE VICTIM. LT. CRAIN ADVISED DEPUTIES TO PUT MRS. PARKER IN INVESTIGATIVE DETENTION UNTIL THE SCENE WAS SECURE. DEPUTIES THEN APPROACHED THE INCIDENT LOCATION WITH EXTREME CAUTION DUE TO THE CIRCUMSTANCES GIVEN TO US. WHEN DEPUTIES APPROACHED THE RESIDENCE OFFICERS ANNOUNCED THEIR PRESENCE AND THREE INDIVIDUALS CAME OUT OF THE CAMPER. ALL THREE INDIVIDUALS (JEREMY JAMES, THOMAS PARKER, AND VICTIM JENNIFER ANN HUGHES) WERE PLACED INTO INVESTIGATIVE DETENTION. MR. PARKER WAS ASKED IF ANYONE ELSE WAS IN THE RESIDENCE AND HE STATED THAT THERE WAS NOT

		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		
TYPE (GROUP)						TOTAL VALUE
Stolen						
Count/Forged						
Lost/Damaged						
Recovered						
Seized						
Burned						
Unknown						

SUBJECT IDENTIFIED	SUBJECT LOCATED			
☒ YES ☐ NO	☒ YES ☐ NO	☐ ACTIVE ☐ ADM. CLOSED ☒ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

CONDITION 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
DEPUTY JAMIE LEE EDWARDS	06/10/2009	235	LIEUTENANT MARTY CRAIN	06/10/2009	214
DEPUTY MATTHEW A VEAL	06/10/2009	234	FOLLOW-UP INVESTIGATION OFFICER ☒ YES ☐ NO LIEUTENANT MARENO FOGGIE		

INCIDENT REPORT

0 9 0 0 1 8 9 8	INC.	ENTD.

UTIES CLEARED RESIDENCE TO MAKE SURE THAT NOBODY ELSE WAS IN THE CAMPER. ONCE CAMPER WAS CLEARED THE REST OF PROPERTY WAS CLEARED ALSO AND NOBODY ELSE WAS LOCATED. DEPUTIES THEN DETERMINED AFTER SPEAKING WITH THE 'IM, SHE WAS NOT SHOT NOR WAS BEING HELD AGAINST HER WILL. MR. PARKER WAS ASKED IF THE DEPUTIES COULD HAVE ISENT TO SEARCH THE RESIDENCE DUE TO ALL INDIVIDUALS LISTED ABOVE STATED THAT THEY HAD USED METH. MR. PARKER ISED DEPUTIES THAT WE COULD SEARCH THE RESIDENCE AND NOTHING WAS FOUND IN THE CAMPER AFTER SEARCH. ALL VIDUALS WERE RAN THROUGH NCIC FOR WARRANTS AND COMPLAINANT HAD AN OUTSTANDING WARRANT OUT FOR HIS ARREST IN RENS COUNTY. DISPATCH CONFIRMED THAT CAPTAIN BOYCE HAD WARRANT IN HAND. ALL OTHER INDIVIDUALS WERE CLEAR AND EASED AT THE SCENE. DURING THE SEARCH OF THE PREMISES NO METH LAB WAS FOUND. DEPUTY RHODES TRANSPORTED MR. IORS TO THE DETENTION CENTER FOR PROCESSING. AFTER INVESTIGATION IT WAS DETERMINED THAT AN ARGUMENT OCCURRED WEEN TWO UNKNOWN INDIVIDUALS AND THE GUN SHOT RESULTED FROM THAT INCIDENT.NO ONE WAS HURT AND NO ONE COULD NSE WHAT THE ARGUMENT WAS OVER. DEPUTIES CLEARED THE SCENE AND AN INCIDENT REPORT WAS DONE FOR CUMENTATION.

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				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
YPE (GROUP)							TOTAL VALUE
urned							
ount./Forged							
ost/Damaged							
ecovered							
ezed							
olen							
nknown							

SUBJECT IDENTIFIED	SUBJECT LOCATED				
☒ YES ☐ NO	☒ YES ☐ NO	☐ ACTIVE ☐ ADM. CLOSED ☒ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

EASON 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
DEPUTY JAMIE LEE EDWARDS	06/10/2009	235	LIEUTENANT MARTY CRAIN	06/10/2009	214
DEPUTY MATTHEW A VEAL	06/10/2009	234	FOLLOW-UP INVESTIGATION OFFICER ☒ YES ☐ NO LIEUTENANT MARENO FOGGIE	06/10/2009	I-25

6

NATIONAL INSTITUTE ON DRUG ABUS

Research Report SERIES

METHAMPHETAMINE
Abuse and Addiction

The abuse of methamphetamine—a potent and highly addictive psychostimulant—is a very serious problem in the United States. Initially limited to Hawaii and western parts of the country, methamphetamine abuse continues to spread eastward, with rural and urban areas everywhere increasingly affected. According to one national survey, approximately 10 million people in the United States have tried methamphetamine at least once.

Methamphetamine abuse leads to devastating medical, psychological, and social consequences. Adverse health effects include memory loss, aggression, psychotic behavior, heart damage, malnutrition, and severe dental problems. Methamphetamine abuse also contributes to increased transmission of infectious diseases, such as hepatitis and HIV/AIDS, and can infuse whole communities with new waves of crime, unemployment, child neglect or abuse, and other social ills.

The good news is that methamphetamine abuse can be prevented and methamphetamine addiction can be treated. People do recover, but only when effective treatments that address the multitude of problems resulting from methamphetamine abuse are readily available. Primary goals of the National Institute on Drug Abuse (NIDA) are to apply what our scientists learn from drug abuse research to develop new and enhance existing treatment approaches and to bring these effective treatments to the communities that need them.

In this report, we provide an overview of the latest scientific findings on methamphetamine. Our intent is to enlighten readers about the damaging effects of methamphetamine abuse and to inform prevention and treatment efforts.

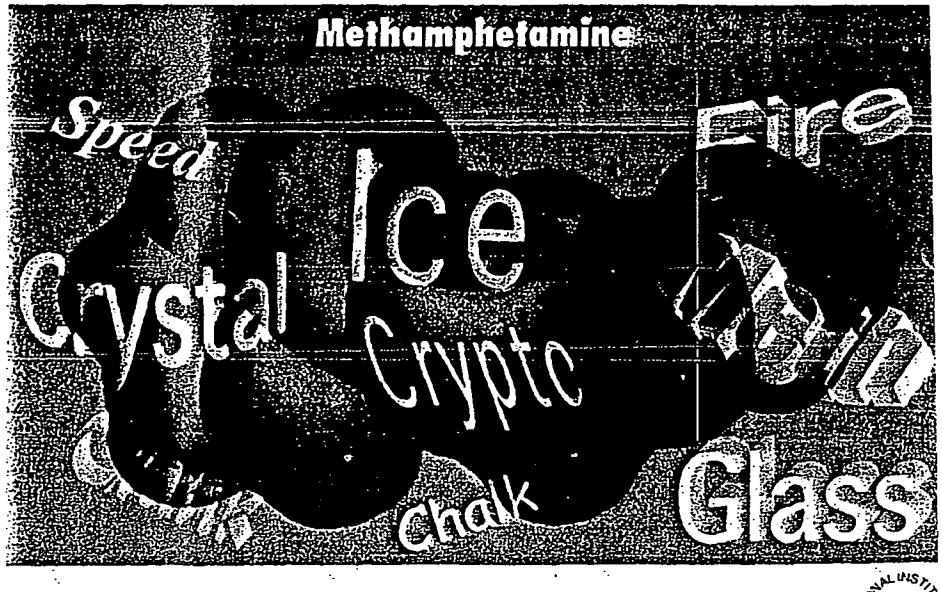
Nora D. Volkow, M.D.
Director
National Institute on Drug Abuse

from the director

What is methamphetamine?

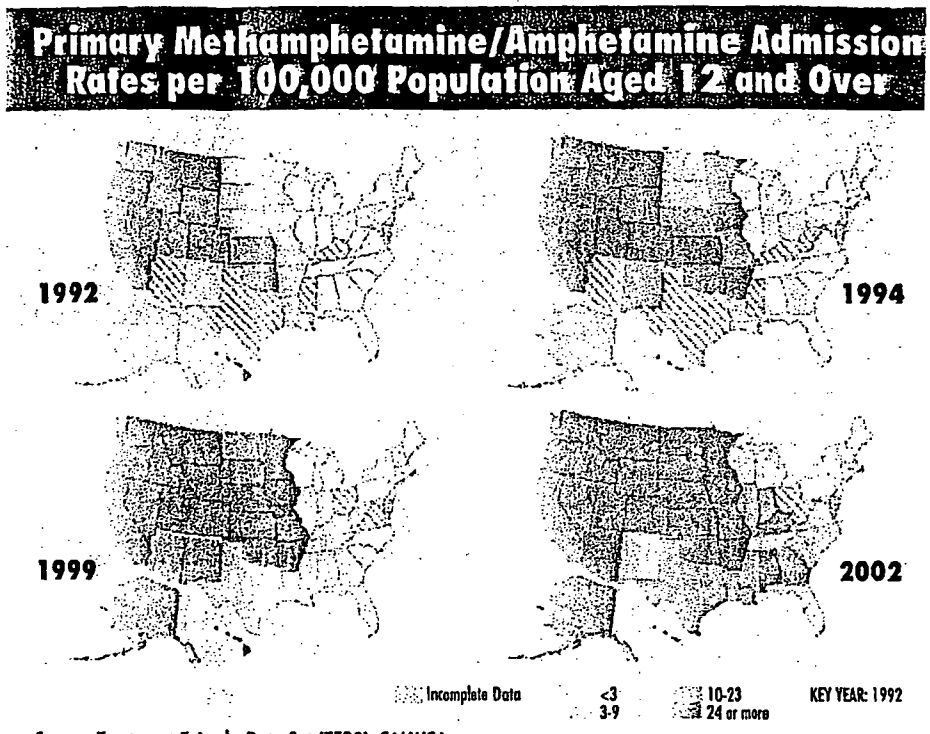
Methamphetamine is a highly addictive stimulant that affects the central nervous system. Although most of the methamphetamine used in this country comes from foreign or domestic superlabs, the drug is also easily made in small clandestine laboratories, with relatively inexpensive over-the-counter ingredients. These factors combine to make methamphetamine a drug with high potential for widespread abuse.

Methamphetamine is commonl known as "speed," "meth," and "chalk." In its smoked form, it is often referred to as "ice," "crystal," "crank," and "glass." It is a white, odorless, bitter-tasting crystalline powder that easily dissolves in water or alcohol. The drug was developed early last century from its parent drug



amphetamine, and was used originally in nasal decongestants and bronchial inhalers. Like amphetamine, methamphetamine causes increased activity and talkativeness, decreased appetite, and a general sense of well-being. However, methamphetamine differs from amphetamine in that at comparable doses, much higher levels of methamphetamine get into the brain, making it a more potent stimulant drug. It also has longer lasting and more harmful effects on the central nervous system.

Methamphetamine is a Schedule II stimulant, which means it has a high potential for abuse and is available only through a prescription. It is indicated for the treatment of narcolepsy (a sleep disorder) and attention deficit hyperactivity disorder; but these medical uses are limited, and the doses are much lower than those typically abused.



Source: Treatment Episode Data Set (TEDS), SAMHSA.

What is the scope of methamphetamine abuse in the United States?

NIDA's Community Epidemiology Work Group (CEWG), an early warning network of researchers that provides information about the nature and patterns of drug abuse in 21 major areas of the U.S., reported in January 2006 that methamphetamine continues to be a problem in the West, with indicators persisting at high levels in Honolulu, San Diego, Seattle, San Francisco, and Los Angeles; and that it continues to spread to other areas of the country, including both rural and urban sections of the South and Midwest. In fact, methamphetamine was reported to be the fastest growing problem in metropolitan Atlanta.

According to the 2005 National Survey on Drug Use and Health (NSDUH), an estimated 10.4 million people age 12 or older (4.3 percent of the population) have tried methamphetamine at some time in their lives. Approximately 1.3 million reported past-year methamphetamine use, and 512,000 reported current (past-month) use. Moreover, the 200[5] Monitoring the Future (MTF) survey of student drug use and attitudes reported 4.5 percent o high school seniors had used methamphetamine within their lifetimes, while 8th-graders and 10th-graders reported lifetime use at 3.1 and 4.1 percent, respectively. However, neither of these surveys has document[e] an overall increase in the abus[e] of methamphetamine over the past few years. In fact, both surveys showed recent decline[s] in methamphetamine abuse among the Nation's youth.

In contrast, evidence from emergency departments and treatment programs attest to

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the growing impact of methamphetamine abuse in the country. The Drug Abuse Warning Network (DAWN), which collects information on drug-related episodes from hospital emergency departments (EDs) throughout the Nation, has reported a greater than 50 percent increase in the number of ED visits related to methamphetamine abuse between 1995 and 2002, reaching approximately 73,000 ED visits, or 4 percent of all drug-related visits in 2004.

Treatment admissions for methamphetamine abuse have also increased substantially. In 1992, there were approximately 21,000 treatment admissions in which methamphetamine/amphetamine was identified as the primary drug of abuse, representing more than 1 percent of all treatment admissions during the year. By 2004, the number of methamphetamine treatment admissions increased to greater than 150,000, representing 8 percent of all admissions.

Moreover, this increased involvement of methamphetamine in drug treatment admissions has also been spreading across the country. In 1992, only 5 states reported high rates of treatment admissions (i.e., >24 per 100,000 population) for primary methamphetamine/amphetamine problems; by 2002, this number increased to 21, more than a third of the states.

How is methamphetamine abused?

Methamphetamine comes in many forms and can be smoked, snorted, injected, or orally ingested. The preferred method of methamphetamine abuse varies by geographical region and has changed over time. Smoking methamphetamine, which leads to very fast uptake of the drug in the brain, has become more common in recent years, amplifying methamphetamine's addiction potential and adverse health consequences.

The drug also alters mood in different ways, depending on how it is taken. Immediately after smoking the drug or injecting it intravenously, the user experiences an intense rush or "flash" that lasts only a few minutes and is described as extremely pleasurable. Snorting or oral ingestion produces euphoria—a high but not an intense rush. Snorting produces effects within 3 to 5 minutes, and oral ingestion produces effects within 15 to 20 minutes.

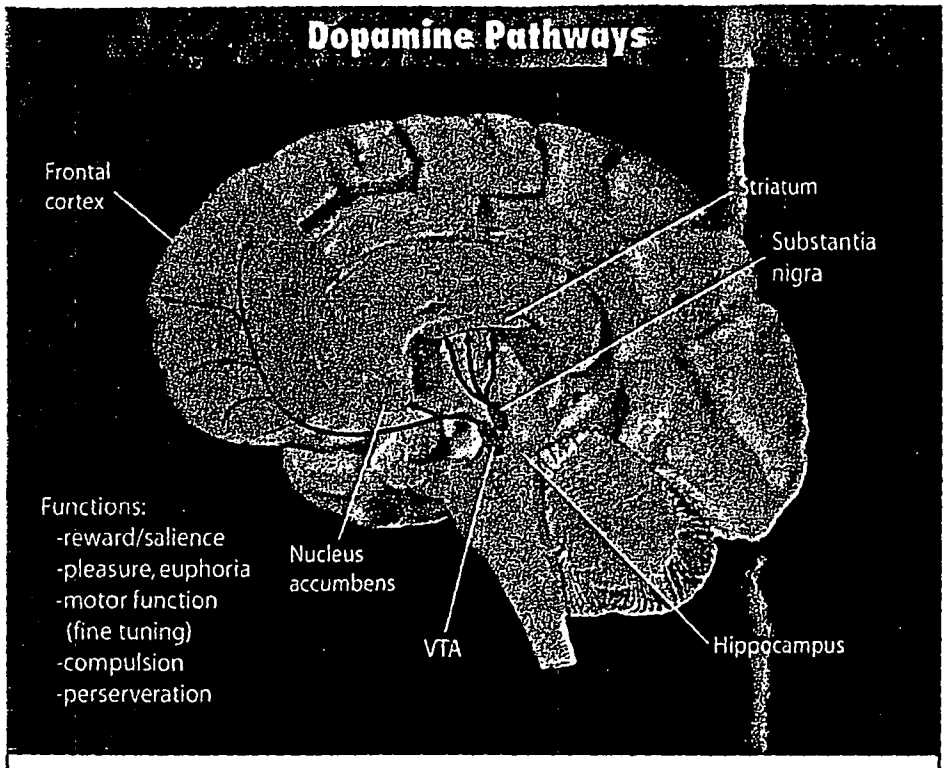
As with similar stimulants, methamphetamine most often is used in a "binge and crash" pattern. Because the pleasurable effects of methamphetamine disappear even before the drug concentration in the blood falls significantly—users try to maintain the high by taking more of the drug. In some cases, abusers indulge in a form of binging known as a "run," foregoing food and sleep while continuing abuse for up to several days.

How is methamphetamine different from other stimulants, such as cocaine?

Methamphetamine is structurally similar to amphetamine and the neurotransmitter dopamine, but

Methamphetamine vs. Cocaine

Stimulant	—	Stimulant and local anesthetic
Man-made	—	Plant-derived
Smoking produces a long-lasting high	—	Smoking produces a brief high
50% of the drug is removed from the body in 12 hours	—	50% of the drug is removed from the body in 1 hour
Increases dopamine release and blocks dopamine re-uptake	—	Blocks dopamine re-uptake
Limited medical use	—	Limited use as a local anesthetic in some surgical procedures



In the brain, dopamine plays an important role in the regulation of reward and movement. As part of the reward pathway, dopamine is manufactured in nerve cell bodies located within the ventral tegmental area (VTA) and is released in the nucleus accumbens and the prefrontal cortex. Its motor functions are linked to a separate pathway, with cell bodies in the substantia nigra that manufacture and release dopamine into the striatum.

it is quite different from cocaine. Although these stimulants have similar behavioral and physiological effects, there are some major differences in the basic mechanisms of how they work. In contrast to cocaine, which is quickly removed and almost completely metabolized in the body, methamphetamine has a much longer duration of action and a larger percentage of the drug remains unchanged in the body. This results in methamphetamine being present in the brain longer, which ultimately leads to prolonged stimulant effects. And although both methamphetamine and cocaine increase levels of the brain chemical dopamine, animal studies reveal much higher levels of dopamine following administration of methamphetamine due to the different mechanisms of action within nerve cells in response to these drugs. Cocaine prolongs dopamine actions in the brain by blocking dopamine re-uptake. While at low doses, methamphetamine blocks dopamine re-uptake, methamphetamine also increases the release of dopamine, leading to much higher concentrations in the synapse, which can be toxic to nerve terminals.

What are the immediate (short-term) effects of methamphetamine abuse?

As a powerful stimulant, methamphetamine, even in small doses, can increase wakefulness and physical activity and decrease appetite. Methamphetamine can also cause a variety of cardiovascular problems, including rapid heart rate, irregular heartbeat, and increased blood pressure. Hyperthermia (elevated body temperature) and convulsions may occur with methamphetamine overdose, and if not treated immediately, can result in death.

Most of the pleasurable effects of methamphetamine are believed to result from the release of very high levels of the neurotransmitter dopamine. Dopamine is involved in motivation, the experience of pleasure, and motor function, and is a common mechanism of action for most drugs of abuse. The elevated release of dopamine produced by methamphetamine is also thought to contribute to the drug's deleterious effects on nerve terminals in the brain.

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What are the long-term effects of methamphetamine abuse?

Long-term methamphetamine abuse has many negative consequences, including addiction. Addiction is a chronic, relapsing disease, characterized by compulsive drug seeking and use, accompanied by functional and molecular changes in the brain. In addition to being addicted to methamphetamine, chronic abusers exhibit symptoms that can include anxiety, confusion, insomnia, mood disturbances, and violent behavior. They also can display a number of psychotic features, including paranoia, visual and auditory hallucinations, and delusions (for example, the sensation of insects creeping under the skin). Psychotic symptoms can sometimes last for months or years after methamphetamine abuse has ceased, and stress has been shown to precipitate spontaneous recurrence of methamphetamine psychosis in formerly psychotic methamphetamine abusers.

With chronic abuse, tolerance to methamphetamine's pleasurable effects can develop. In an effort to intensify the desired effects, abusers may take higher doses of the drug, take it more frequently, or change their method of drug intake. Withdrawal from methamphetamine occurs when a chronic abuser stops taking the drug; symptoms of withdrawal include depression, anxiety, fatigue, and an intense craving for the drug.

Chronic methamphetamine abuse also significantly changes the brain. Specifically, brain imaging studies have demonstrated alterations in the activity of the dopamine system that are associated with reduced motor speed and impaired verbal learning. Recent studies in chronic methamphetamine

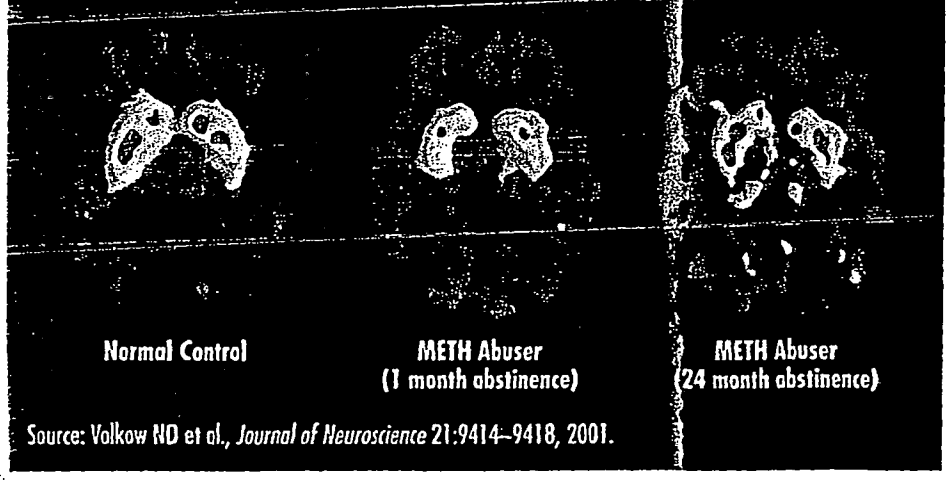
Short-Term Effects May Include:

- Increased attention and decreased fatigue
- Increased activity and wakefulness
- Decreased appetite
- Euphoria and rush
- Increased respiration
- Rapid/irregular heartbeat
- Hyperthermia

Long-Term Effects May Include:

- Addiction
- Psychosis, including:
  - paranoia
  - hallucinations
  - repetitive motor activity
- Changes in brain structure and function
- Memory loss
- Aggressive or violent behavior
- Mood disturbances
- Severe dental problems
- Weight loss

Recovery of Brain Dopamine Transporters in Chronic Methamphetamine (METH) Abusers



Source: Volkow ND et al., *Journal of Neuroscience* 21:9414–9418, 2001.

abusers have also revealed severe structural and functional changes in areas of the brain associated with emotion and memory, which may account for many of the emotional and cognitive problems observed in chronic methamphetamine abusers.

Fortunately, some of the effects of chronic methamphetamine abuse appear to be, at least partially, reversible. A recent neuroimaging study showed recovery in some brain regions following prolonged abstinence (2 years, but not 6 months). This was associated with improved performance on motor and verbal memory tests. However, function in other brain regions did not display recovery even after 2 years of abstinence, indicating that some methamphetamine-induced changes are very long-lasting. Moreover, the increased risk of stroke from the abuse of methamphetamine can lead to irreversible damage to the brain.

What are the risks of methamphetamine abuse during pregnancy?

Prenatal exposure to methamphetamine may also be a problem in the United States. Although according to the NSDUH, less than 1 percent of pregnant women aged 15–44 had used methamphetamine in the past year, any use among this population is of concern. Unfortunately, our knowledge of the effects of methamphetamine during pregnancy is limited. The few human studies that exist have shown increased rates of premature delivery, placental abruption, fetal growth retardation, and heart and brain abnormalities. However, these studies are difficult to interpret due to methodological issues, such as small sample size and maternal use of other drugs. Ongoing research is continuing to study developmental outcomes such as cognition, social relationships, motor skills, and medical status of children exposed to methamphetamine before birth.

Are methamphetamine abusers at risk for contracting HIV/AIDS and hepatitis B and C?

Increased HIV and hepatitis B and C transmission are consequences of increased methamphetamine abuse, not only in individuals who inject the drug, but also in noninjecting methamphetamine abusers. Among injection drug users, infection with HIV and other infectious diseases is spread primarily through the re-use of contaminated syringes, needles, or other paraphernalia by more than one person. However, regardless of how it is taken, the intoxicating effects of methamphetamine can alter judgment and inhibition and lead people to engage in unsafe behaviors.

Methamphetamine has becom associated with a culture of risk sexual behavior, both among men who have sex with men (MSM) and heterosexual popula tions. This link may be due to the fact that methamphetamine and related psychomotor stimulants can increase libido. Paradoxically, long-term methamphetamine abuse may l associated with decreased sexu functioning, at least in men. The combination of injection a sexual risk-taking may result ir HIV becoming a greater proble among methamphetamine abusers than among opiate an other drug abusers, something that already seems to be occu ring, according to some epide ologic reports. For example, while the link between HIV infection and methamphetami abuse has not yet been estab lished for heterosexuals, data show an association between methamphetamine abuse and spread of HIV among MSM.

Methamphetamine abuse r also worsen the progression

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HIV and its consequences. In animal studies, methamphetamine increased viral replication; in human methamphetamine abusers, HIV caused greater neuronal injury and cognitive impairment compared with nondrug abusers.

NIDA-funded research has found that, through drug abuse treatment, prevention, and community-based outreach programs, drug abusers can change their HIV risk behaviors. Drug abuse can be eliminated and drug-related risk behaviors, such as needle-sharing and unsafe sexual practices, can be reduced significantly, thus decreasing the risk of exposure to HIV and other infectious diseases. Therefore, drug abuse treatment *is* HIV prevention.

What treatments are effective for methamphetamine abusers?

At this time, the most effective treatments for methamphetamine addiction are behavioral therapies such as cognitive behavioral and contingency management interventions. For example, the Matrix Model, a comprehensive behavioral treatment approach that combines behavioral therapy, family education, individual counseling, 12-Step support, drug testing, and encouragement for nondrug-related activities, has been shown to be effective in reducing methamphetamine abuse. Contingency management interventions, which provide tangible incentives in exchange for engaging in treatment and maintaining abstinence, have also been shown to be effective.

There are currently no specific medications that counteract the effects of methamphetamine or that prolong abstinence from and reduce the abuse of methamphetamine by an individual addicted to the drug. However, there are a number of medications that are FDA-approved for other illnesses that might also be useful in treating methamphetamine addiction. Recent study findings reveal that bupropion, the anti-depressant marketed as Wellbutrin, reduced the methamphetamine-induced "high" as well as drug cravings elicited by drug-related cues. This medication and others are currently in clinical trials, while new compounds are being developed and studied in preclinical models.

Where can I get further scientific information about methamphetamine abuse?

To learn more about methamphetamine and other drugs of abuse, contact the National Clearinghouse for Alcohol and Drug Information (NCADI) at 800–729–6686. Information specialists are available to help you locate information and resources.

Fact sheets, including *InfoFacts*, on the health effects of methamphetamine, other drugs of abuse, and other drug abuse topics are available on the NIDA Web site (www.drugabuse.gov), and can be ordered free of charge in English and Spanish from NCADI at www.health.org.

Access information on the Internet

- What's new on the NIDA Web site
- Information on drugs of abuse
- Publications and communications (including *NIDA Notes*)
- Calendar of events
- Links to NIDA organizational units
- Funding information (including program announcements and deadlines)
- International activities
- Links to related Web sites (access to Web sites of many other organizations in the field)

NIDA Web Sites
www.drugabuse.gov
www.steroidabuse.gov
www.clubdrugs.gov
www.hiv.drugabuse.gov
www.inhalant.drugabuse.gov

NCADI
Web Site: www.health.org
Phone No.: 800-729-6686

Glossary

Addiction: A chronic, relapsing disease, characterized by compulsive drug seeking and drug use and by neurochemical and molecular changes in the brain.

Attention deficit hyperactivity disorder: A disorder that often presents in early childhood, characterized by inattention, hyperactivity, and impulsivity.

Central nervous system (CNS): The brain and spinal cord.

Craving: A powerful, often uncontrollable, desire for drugs.

Dopamine: A neurotransmitter present in regions of the brain that regulate movement, emotion, motivation, and feelings of pleasure.

Narcolepsy: A disorder characterized by uncontrollable attacks of deep sleep.

Psychomotor stimulants (psychostimulants): Drugs that increase or enhance the activity of monoamines (such as dopamine and norepinephrine) in the brain. Psychostimulants increase arousal and activity, as well as heart rate, blood pressure, and respiration.

Psychosis: A mental disorder characterized by symptoms such as delusions or hallucinations and disordered thinking.

Rush: A surge of euphoric pleasure that rapidly follows administration of a drug.

Tolerance: A condition in which higher doses of a drug are required to produce the same effect as experienced initially.

Toxic: Damage to an organ or group of organs.

Withdrawal: A variety of symptoms that occur after chronic abuse of an addictive drug is reduced or stopped.

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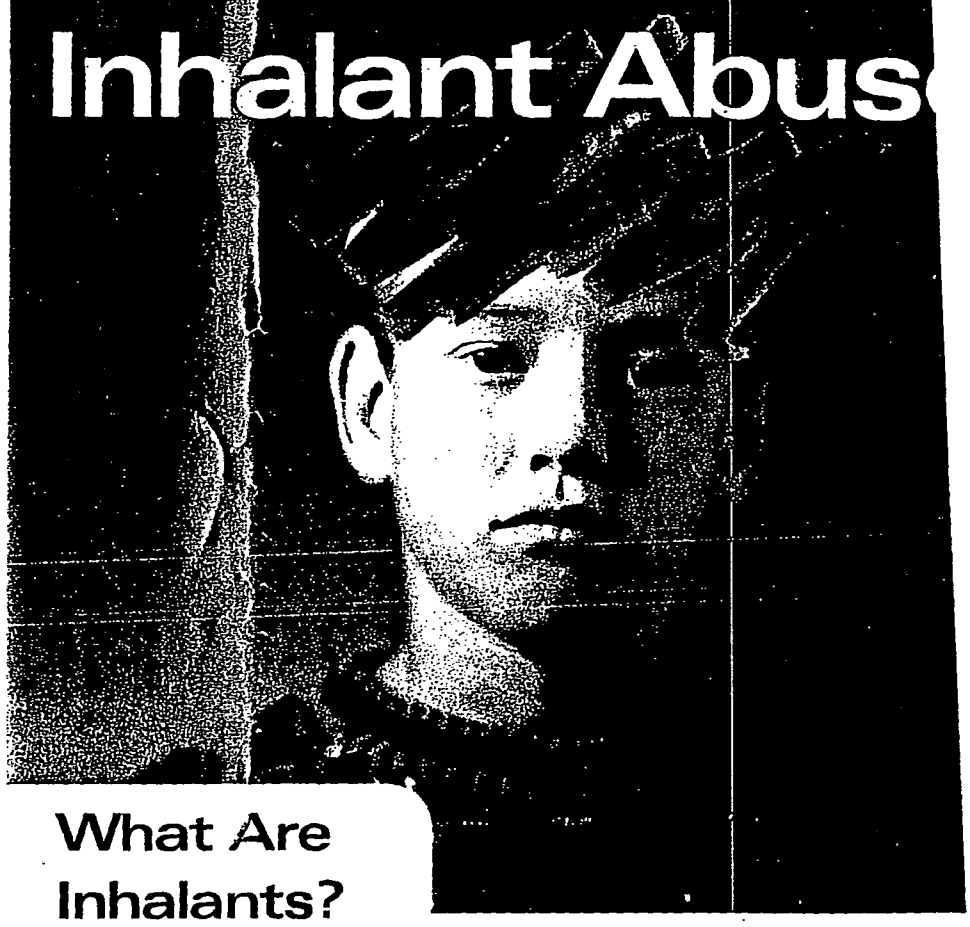


How can inhalant abuse be recognized? See page 4.

U.S. Department of Health and Hum
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NIH... Turning Discovery Into

Research Report Series

Inhalant Abus



from the director:

Although many parents are appropriately concerned about illicit drugs such as marijuana, cocaine, and LSD, they often ignore the dangers posed to their children from common household products that contain volatile solvents or aerosols. Products such as glues, nail polish remover, lighter fluid, spray paints, deodorant and hair sprays, whipped cream canisters, and cleaning fluids are widely available yet far from innocuous. Many young people inhale the vapors from these sources in search of quick intoxication without being aware that using inhalants, even once, can have serious health consequences.

National surveys indicate that nearly 21.7 million Americans aged 12 and older have used inhalants at least once in their lives. NIDA's 2011 Monitoring the Future (MTF) survey reveals that 13.1 percent of 8th-graders have used inhalants. Parents and children need to know that even sporadic or single episodes of inhalant abuse can be extremely dangerous. Inhalants can disrupt heart rhythms and cause death from cardiac arrest, or lower oxygen levels enough to cause suffocation. Regular abuse of these substances can result in serious harm to vital organs, including the brain, heart, kidneys, and liver.

Through scientific research, we have learned much about the nature and extent of inhalant abuse, its pharmacology, and its consequences. This research has brought the picture of inhalant abuse in the Nation into focus and pointed to the dangers and the warning signs for parents, educators, and clinicians. We hope this compilation of the latest scientific information will help alert readers to inhalant abuse and its harmful effects and aid efforts to deal with this problem effectively.

Nora D. Volkow, M.D.
Director
National Institute on Drug Abuse

What Are Inhalants?

Inhalants are volatile substances that produce chemical vapors that can be inhaled to induce a psychoactive, or mind-altering, effect. Although other abused substances can be inhaled, the term "inhalants" is used to describe a variety of substances whose main common characteristic is that they are rarely, if ever, taken by any route other than inhalation. This definition encompasses a broad range of chemicals that may have different pharmacological effects and are found in hundreds of different products. As a result, precise categorization of inhalants is difficult. One classification system lists four general categories of inhalants—volatile solvents, aerosols, gases, and nitrites—based on the forms in which they are often found in household, industrial, and medical products.

continued inside

Inhalant Abuse

Volatile solvents are liquids that vaporize at room temperature. They are found in a multitude of inexpensive, easily available products used for common household and industrial purposes. These include paint thinners and removers, dry-cleaning fluids, degreasers, gasoline, glues, correction fluids, and felt-tip markers.

Aerosols are sprays that contain propellants and solvents. They include spray paints, deodorant and hair sprays, vegetable oil sprays for cooking, and fabric protector sprays.

Gases include medical anesthetics as well as gases used in household or commercial products. Medical anesthetics include ether, chloroform, halothane, and nitrous oxide (commonly called "laughing gas"). Nitrous oxide is the most abused of these gases and can be found in whipped cream dispensers and products that boost octane levels in racing cars. Other household or commercial products containing gases include butane lighters, propane tanks, and refrigerants.



Nitrites often are considered a special class of inhalants. Unlike most other inhalants, which act directly on the central nervous system (CNS), nitrites act primarily to dilate blood vessels and relax the muscles. While other inhalants are used to alter mood, nitrites are used primarily as sexual enhancers. Nitrites include cyclohexyl nitrite, isoamyl (amyl) nitrite, and isobutyl (butyl) nitrite and are commonly known as "poppers" or "snappers." Amyl nitrite is used in certain diagnostic procedures and was prescribed in the past to treat some patients for heart pain. Nitrites now are prohibited by the Consumer Product Safety Commission but can still be found, sold in small bottles labeled as "video head cleaner," "room odorizer," "leather cleaner," or "liquid aroma."

Generally, inhalant abusers will abuse any available substance. However, effects produced by individual inhalants vary, and some users will go out of their way to obtain their favorite inhalant. For example, in certain parts of the country, "Texas shoeshine," a shoe-shining spray containing the chemical toluene, is a local favorite.

What Is the Scope of Inhalant Abuse?

According to the 2010 National Survey on Drug Use and Health (NSDUH), there were 793,000 persons aged 12 or older who had used inhalants for the first time within the past 12 months; 68.4 percent were under the age of 18.

In fact, inhalants—particularly volatile solvents, gases, and aerosols—are often the easiest and first options for abuse among young children who use drugs. NIDA's annual MTF survey of 8th-, 10th-, and 12th-graders consistently reports the highest rates of current, past-year, and lifetime inhalant use among 8th-graders.

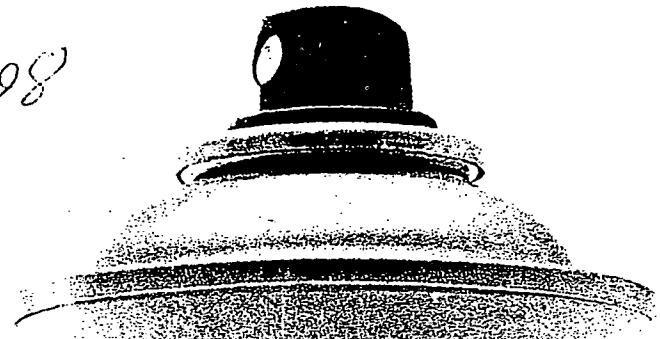
Inhalant use has decreased significantly among 8th-, 10th-, and 12th-graders compared to its peak years in the mid-1990s (see figure, page 3). According to the 2011 MTF survey, past-year use was reported as 7.0, 4.5, and 3.2 percent, for 8th-, 10th-, and 12th-graders, respectively. Data compiled by the National Capital Poison Center also show a decrease in the prevalence of inhalant cases reported to U.S. poison control centers—down 33 percent from 1993 to 2008. The prevalence was highest among children aged 12 to 17, peaking among 14-year-olds.

Demographic differences in inhalant use have been identified at different ages. The MTF survey indicates that in 2011, 8.6 percent of 8th-grade females reported using inhalants in the past year, compared with 5.5 percent of 8th-grade males.

In terms of ethnicity, Hispanics have the highest rates of past-year use among 8th- and 10th-graders, compared to both Blacks and Whites.

People from both urban and rural settings abuse inhalants. Further, research on factors contributing to inhalant abuse suggests that adverse socioeconomic conditions, a history of childhood abuse, poor grades, and school dropout are associated with inhalant abuse.

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How Are Inhalants Used?

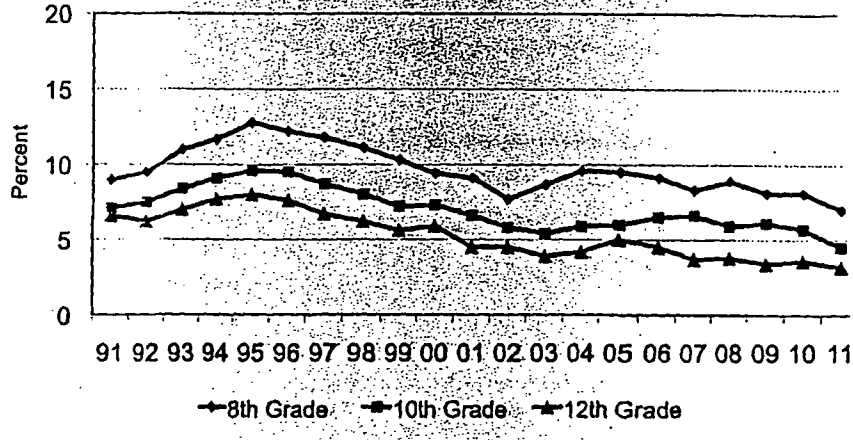
Inhalants can be breathed in through the nose or the mouth in a variety of ways, such as—

- "sniffing" or "snorting" fumes from containers;
- spraying aerosols directly into the nose or mouth;
- "bagging"—sniffing or inhaling fumes from substances sprayed or deposited inside a plastic or paper bag;
- "huffing" from an inhalant-soaked rag stuffed in the mouth; and
- inhaling from balloons filled with nitrous oxide.

Inhaled chemicals are absorbed rapidly into the bloodstream through the lungs and are quickly distributed to the brain and other organs. Within seconds of inhalation, the user experiences intoxication along with other effects similar to those produced by alcohol. Alcohol-like effects may include slurred speech; the inability to coordinate movements; euphoria; and dizziness. In addition, users may experience lightheadedness, hallucinations, and delusions.

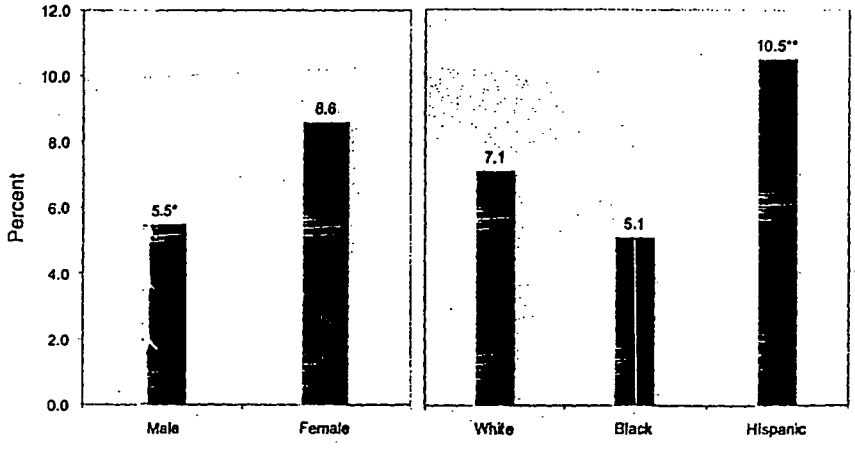
Because intoxication lasts only a few minutes, abusers frequently seek to prolong the high by inhaling repeatedly over the course of several hours, which is a very dangerous practice. With successive inhalations, abusers can suffer loss of consciousness and possibly even death. At the least, they will feel less inhibited and

Past-Year Inhalant Use Among 8th-, 10th-, and 12th-Graders, 1991–2011



Source: University of Michigan, 2011 Monitoring the Future Study

Gender and Race/Ethnicity Differences in Past-Year Inhalant Use Among 8th-Graders, 2011



**Level of significance of difference between Male and Female = .05*
***Level of significance of difference between Whites and Hispanics and Blacks and Hispanics = .001*

Source: University of Michigan, 2011 Monitoring the Future Study



Most inhalants produce a rapid high that resembles alcohol intoxication, with initial excitation then drowsiness, disinhibition, lightheadedness, and agitation.

less in control. After heavy use of inhalants, abusers may feel drowsy for several hours and experience a lingering headache.

How Do Inhalants Produce Their Effects?

Many brain systems may be involved in the anesthetic, intoxicating, and reinforcing effects of different inhalants. Nearly all abused inhalants (other than nitrites) produce a pleasurable effect by depressing the CNS. Nitrites, in contrast, dilate and relax blood vessels rather than act as anesthetic agents.

Evidence from animal studies suggests that a number of commonly abused volatile solvents and anesthetic gases have neurobehavioral effects and mechanisms of action similar to those produced by CNS depressants, which include alcohol and medications such as sedatives and anesthetics.

A 2007 animal study indicates that toluene, a solvent found in many commonly abused inhalants—including model airplane glue, paint sprays, and paint and nail polish removers—activates the brain's dopamine system. The dopamine system has been shown to play a role in the rewarding effects of nearly all drugs of abuse.

What Are the Short- and Long-Term Effects of Inhalant Use?

Although the chemical substances found in inhalants may produce various pharmacological effects, most inhalants produce a rapid high that resembles alcohol intoxication, with initial excitation followed by drowsiness, disinhibition, lightheadedness, and agitation. If sufficient amounts are inhaled, nearly all solvents and gases produce anesthesia—a loss of sensation—and can lead to unconsciousness.



How Can Inhalant Abuse Be Recognized?

Early identification and intervention are the best ways to stop inhalant abuse before it causes serious health consequences. Parents, educators, family physicians, and other health care practitioners should be alert to the following signs:

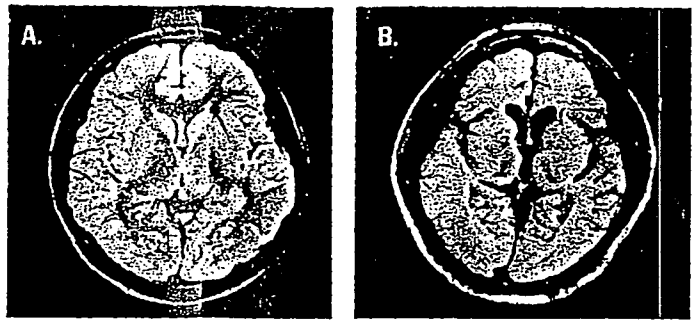
- Chemical odors on breath or clothing
- Paint or other stains on face, hands, or clothes
- Hidden empty spray paint or solvent containers, and chemical-soaked rags or clothing
- Drunk or disoriented appearance
- Slurred speech
- Nausea or loss of appetite
- Inattentiveness, lack of coordination, irritability, and depression

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The chemicals found in solvents, aerosol sprays, and gases can produce a variety of additional effects during or shortly after use. These effects are related to inhalant intoxication and may include belligerence, apathy, impaired judgment, and impaired functioning in work or social situations; nausea and vomiting are other common side effects. Exposure to high doses can cause confusion and delirium. In addition, inhalant abusers may experience dizziness, drowsiness, slurred speech, lethargy, depressed reflexes, general muscle weakness, and stupor. For example, research shows that toluene can produce headache, euphoria, giddy feelings, and the inability to coordinate movements.

Inhaled nitrites dilate blood vessels, increase heart rate, and produce a sensation of heat and excitement that can last for several minutes. Other effects can include flush, dizziness, and headache.

A strong need to continue using inhalants has been reported by many individuals, particularly those who have abused inhalants for prolonged periods over many days. Compulsive use and a mild withdrawal syndrome can occur with long-term inhalant abuse. A recent survey of 43,000 American adults suggests that inhalant users, on average, initiate use of cigarettes, alcohol, and almost all other drugs at younger ages and display a higher lifetime prevalence of substance use disorders, including abuse of prescription drugs, when compared with substance abusers without a history of inhalant use.



Compared with the brain of an individual with no history of inhalant abuse (A), that of a chronic toluene abuser (B) is smaller and fills less of the space inside the skull (the white outer circle in each image). Courtesy of Neil Rosenberg, M.D., NIDA Research Report (NIH 05-3818).

What Are the Other Medical Consequences of Inhalant Abuse?

Inhalant abusers risk an array of other devastating medical consequences. The highly concentrated chemicals in solvents or aerosol sprays can induce irregular and rapid heart rhythms and lead to fatal heart failure within minutes of a session of prolonged sniffing. This syndrome, known as "sudden sniffing death," can result from a single session of inhalant use by an otherwise healthy young person. Sudden sniffing death is associated particularly with the abuse of butane, propane, and chemicals in aerosols. Inhalant abuse also can cause death by—

- **asphyxiation**—from repeated inhalations that lead to high concentrations of inhaled fumes, which displace available oxygen in the lungs;
- **suffocation**—from blocking air from entering the lungs when inhaling fumes from a plastic bag placed over the head;
- **convulsions or seizures**—from abnormal electrical discharges in the brain;
- **coma**—from the brain shutting down all but the most vital functions;
- **choking**—from inhalation of vomit after inhalant use; or
- **fatal injury**—from accidents, including motor vehicle fatalities, suffered while intoxicated.

Based on independent studies performed over a 10-year period in three different states, the number of inhalant-related fatalities in the United States is approximately 100–200 per year.

Animal and human research shows that most inhalants are extremely toxic. Perhaps the most significant toxic effect of chronic exposure to inhalants is widespread and long-lasting damage to the brain and other parts of the nervous system (see figure). For example, chronic abuse of volatile solvents, such as toluene or naphthalene (the volatile ingredient in mothballs), damages the protective sheath

Hazards of Chemicals Found in Commonly Abused Inhalants

amyl nitrite, butyl nitrite
("poppers," "video head cleaner")
sudden sniffing death syndrome; suppressed immunologic function; injury to red blood cells (interfering with oxygen supply to vital tissues)

benzene
(found in gasoline)
bone marrow injury, impaired immunologic function, increased risk of leukemia, reproductive system toxicity

butane, propane
(found in lighter fluid, hair and paint sprays)
sudden sniffing death syndrome via cardiac effects, serious burn injuries (because of flammability)

freon
(used as a refrigerant and aerosol propellant)
sudden sniffing death syndrome, respiratory obstruction and death (from sudden cooling/cold injury to airways), liver damage

methylene chloride
(found in paint thinners and removers, degreasers)
reduction of oxygen-carrying capacity of blood, changes to the heart muscle and heartbeat

nitrous oxide *("laughing gas")*, **hexane**
death from lack of oxygen to the brain, altered perception and motor coordination, loss of sensation, limb spasms, blackouts caused by blood pressure changes, depression of heart muscle functioning

toluene
(found in gasoline, paint thinners and removers, correction fluid)
brain damage (loss of brain tissue mass, impaired cognition, gait disturbance, loss of coordination, loss of equilibrium, limb spasms, hearing and vision loss), liver and kidney damage

trichloroethylene
(found in spot removers, degreasers)
sudden sniffing death syndrome, cirrhosis of the liver, reproductive complications, hearing and vision damage

around certain nerve fibers in the brain and peripheral nervous system. This extensive destruction of nerve fibers is clinically similar to that seen with neurological diseases such as multiple sclerosis.

The neurotoxic effects of prolonged inhalant abuse include neurological syndromes that reflect damage to parts of the brain involved in controlling cognition, movement, vision, and hearing. Cognitive abnormalities can range from mild impairment to severe dementia.

Inhalants also are highly toxic to other organs. Chronic exposure can produce significant damage to the heart, lungs, liver, and kidneys. Although some inhalant-induced damage to the nervous and other organ systems may be at least partially reversible when inhalant abuse is stopped, many syndromes caused by repeated or prolonged abuse are irreversible.

Abuse of inhalants during pregnancy also may place infants and children at increased risk of developmental harm. Animal studies designed to simulate human patterns of inhalant abuse suggest that prenatal exposure to toluene can result in reduced birth weights, occasional skeletal abnormalities, delayed neurobehavioral development, and altered regulation of metabolism and body composition in males, as well as food intake and weight gain in both sexes. A number of case reports note abnormalities in newborns of mothers who chronically abuse solvents, and there is evidence of subsequent developmental impairment in some of these children. However, no well-controlled prospective study of the effects of prenatal exposure to inhalants in humans has been conducted, and it is not possible to link prenatal exposure to a particular chemical to a specific birth defect or developmental problem.

Finally, a 2008 survey of over 13,000 high school students has identified an association between disordered eating (defined as a positive response to one or more of three questions about engaging in inappropriate behaviors for weight control during the past 30 days) and inhalant use among both male and female students.

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What Are the Unique Risks Associated With Nitrite Abuse?

Nitrites are abused mainly by older adolescents and adults. Typically, individuals who abuse nitrites are seeking to enhance sexual function and pleasure. Research shows that abuse of these drugs in this context is associated with unsafe sexual practices that greatly increase the risk of contracting and spreading infectious diseases such as HIV/AIDS and hepatitis.

Animal research raises the possibility that there may also be a link between abuse of nitrites and the development and progression of infectious diseases and tumors. The research indicates that inhaling nitrites depletes many cells in the immune system and impairs mechanisms that fight infectious diseases. A study found that even a relatively small number of exposures to butyl nitrite can produce dramatic increases in tumor incidence and growth rate in animals.

Glossary

Anesthetic: An agent that causes insensitivity to pain and is used for surgeries and other medical procedures.

Central nervous system: The brain and spinal cord.

Dementia: A condition of deteriorated mental function.

Dopamine: A brain chemical, classified as a neurotransmitter, found in regions of the brain that regulate movement, emotion, motivation, and pleasure.

Naphthalene: Volatile, active ingredient in mothballs.

Toxic: Causing temporary or permanent effects detrimental to the functioning of a body organ or group of organs.

Withdrawal: Symptoms that occur after chronic use of a drug is reduced abruptly or stopped.

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Where Can I Get More Scientific Information on Inhalant Abuse?

To learn more about inhalants and other drugs of abuse, or to order materials on these topics free of charge in English or Spanish, visit the NIDA Web site at **www.drugabuse.gov** or contact the *DrugPubs* Research Dissemination Center at 877-NIDA-NIH (877-643-2644; TTY/TDD: 240-645-0228).

NATIONAL INSTITUTE ON DRUG ABUSE

NIDA DRUGPUBS

RESEARCH DISSEMINATION CENTER

What's New on the NIDA Web Site

- Information on drugs of abuse
- Publications and communications (including *NIDA Notes*)
- Calendar of events
- Links to NIDA organizational units
- Funding information (including program announcements and deadlines)
- International activities
- Links to related Web sites (access to Web sites of many other organizations in the field)

NIDA Web Sites

drugabuse.gov
inhalants.drugabuse.gov
steroidabuse.gov
clubdrugs.gov
backtoschool.drugabuse.gov
teens.drugabuse.gov

Other Web Sites

Information on inhalant abuse is also available through these other Web sites:

- Centers for Disease Control and Prevention: *www.cdc.gov*
- National Inhalant Prevention Coalition: *www.inhalants.org*
- Substance Abuse and Mental Health Services Administration Health Information Network: *www.samhsa.gov/shin*

U.S. Department of Health and Human Services
National Institutes of Health

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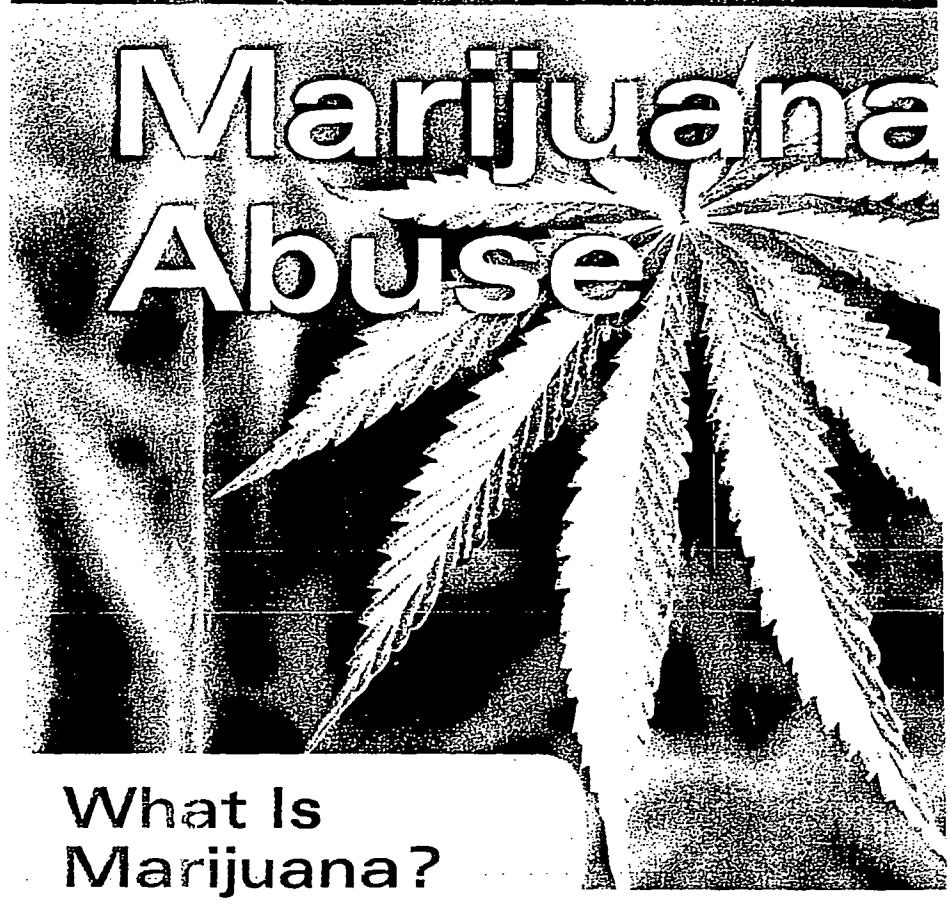


How does marijuana use affect school, work, and social life? See page 7.

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Research Report Series

Marijuana Abuse



from the director:

By the time they graduate from high school, about 46 percent of teens will have tried marijuana.[1] Although current use among U.S. teens dropped dramatically in the past decade (to a prevalence of about 15 percent in 2011), this decline has stalled during the past several years.[2] These data are from the Monitoring the Future survey, which has been tracking drug use among teens since 1975. Still, the World Health Organization ranks the United States first among 17 European and North American countries for prevalence of marijuana use. And more users start every day. In 2010, an estimated 2.4 million Americans used marijuana for the first time; greater than one-half were under age 18.[1]

The use of marijuana can produce adverse physical, mental, emotional, and behavioral effects. It can impair short-term memory and judgment and distort perception. Because marijuana affects brain systems that are still maturing through young adulthood, its use by teens may have a negative effect on their development. And contrary to popular belief, it can be addictive.

We hope that this Research Report will help make readers aware of our current knowledge of marijuana abuse and its harmful effects.

Nora D. Volkow, M.D.
Director
National Institute on Drug Abuse

What Is Marijuana?

Marijuana—often called *pot, grass, reefer, weed, herb, Mary Jane,* or *MJ*—is a greenish-gray mixture of the dried, shredded leaves, stems, seeds, and flowers of *Cannabis sativa*—the hemp plant. Most users smoke marijuana in hand-rolled cigarettes called *joints*, among other names; some use pipes or water pipes called *bongs*. Marijuana cigars, or *blunts*, are also popular. To make blunts, users slice open cigars, remove some of the tobacco, and mix the remainder with marijuana.[3] Marijuana also is used to brew tea and sometimes is mixed into foods.

continued inside

Research Report Series

Marijuana Abuse

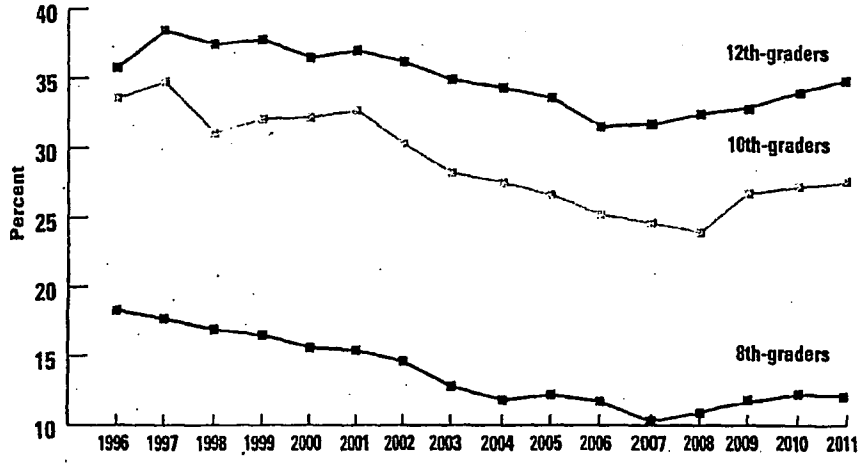
What Is the Scope of Marijuana Use in the United States?

Marijuana is the most commonly used illicit drug (17.4 million past-month users) according to the 2010 National Survey on Drug Use and Health (NSDUH).[1] That year, marijuana was used by 76.8 percent of current illicit drug users (defined as having used the drug at some time in the 30 days before the survey) and was the *only* drug used by 60.1 percent of them.[1]

Marijuana use is widespread among adolescents and young adults. According to the Monitoring the Future Survey—an annual survey of attitudes and drug use among the Nation's middle and high school students—most measures of marijuana use decreased in the past decade among 8th-, 10th-, and 12th-graders. However, this decline has stalled in the past few years as attitudes have softened about marijuana's risks. In 2011, 12.5 percent of 8th-graders reported marijuana use in the past year, and 7.2 percent were current users. Among 10th-graders, 28.8 percent had used marijuana in the past year, and 17.6 percent were current users. Rates of use among 12th-graders were higher still: 36.4 percent had used marijuana during the year prior to the survey, and 22.6 percent were current users.[2]

The Drug Abuse Warning Network (DAWN), a system for monitoring the health impact of drugs, estimated that in 2009, marijuana was a contributing factor in over 376,000 emergency department (ED) visits in the United States, with about two-thirds of patients being male, and 12 percent between the ages of 12 and 17.[4]

Long-Term Trends in Annual* Marijuana Use Among 8th-, 10th-, and 12th-Graders



*use in the past 12 months
Source: University of Michigan, 2011 Monitoring the Future Survey.

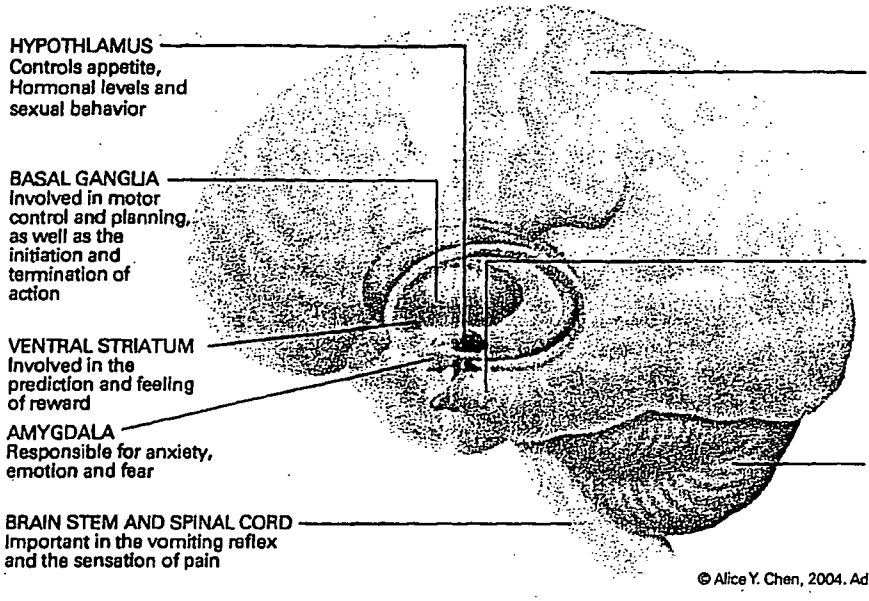


How Does Marijuana Produce its Effects?

Delta-9-tetrahydrocannabinol (THC) is the main active ingredient in marijuana, responsible for many of its known effects. When marijuana is smoked, its effects begin almost immediately. THC rapidly passes from the lungs into the bloodstream, which carries the chemical to organs throughout the body, including the brain. The effects of smoked marijuana can last from 1 to 3 hours. If marijuana is consumed in foods or beverages, the effects appear later—usually in 30 minutes to 1 hour—but can last up to 4 hours. Smoking marijuana delivers significantly more THC into the bloodstream than eating or drinking the drug.

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Marijuana's Effects on the Brain



© Alice Y. Chen, 2004. Adapted from *Scientific American*.

When marijuana is smoked, its active ingredient, THC, travels throughout the body, including the brain, to produce its many effects. THC attaches to sites called cannabinoid receptors on nerve cells in the brain, affecting the way those cells work. Cannabinoid receptors are abundant in parts of the brain that regulate movement, coordination, learning and memory, higher cognitive functions such as judgment, and pleasure.

Scientists have learned a great deal about how THC acts in the brain. THC binds to specific sites called *cannabinoid receptors* (CBRs) located on the surface of nerve cells. These receptors are found in high-density in areas of the brain that influence pleasure, memory, thinking, concentration, movement, coordination, and sensory and time perception.

CBRs are part of a vast communication network known as the endocannabinoid system, which plays a critical role in normal brain development and function. In fact, THC effects are similar to those produced by naturally occurring chemicals found in the brain (and body) called *endogenous cannabinoids*. These chemicals help control many of the same mental and physical functions that may be disrupted by marijuana use.

When someone smokes marijuana, THC stimulates the CBRs artificially, disrupting function of the natural, or endogenous, cannabinoids. An overstimulation of these receptors in key brain areas produces the marijuana "high," as well as other effects on mental processes. Over time, this overstimulation can alter the function of CBRs, which, along with other changes in the brain, can lead to addiction and to withdrawal symptoms when drug use stops.

The THC content or potency of marijuana, as detected in confiscated samples over the past 30+ years, has been steadily increasing.[5] This increase raises concerns that the consequences of marijuana use could be worse than in the past, particularly among new users, or in young people, whose brains are still developing. We still do not know, however, whether cannabis users adjust for the increase in potency by using less or by smoking it differently. We also do not know all the consequences to the brain and body when exposed to higher concentrations of THC.

How Does Marijuana Use Affect Your Brain and Body?

Effects on the Brain

As THC enters the brain, it causes the user to feel euphoric—or high—by acting on the brain's reward system, which is made up of regions that govern the response to pleasurable things like sex and chocolate, as well as to most drugs of abuse. THC activates the reward

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Marijuana users who have taken large doses of the drug may experience an acute psychosis, which includes hallucinations, delusions, and a loss of the sense of personal identity.

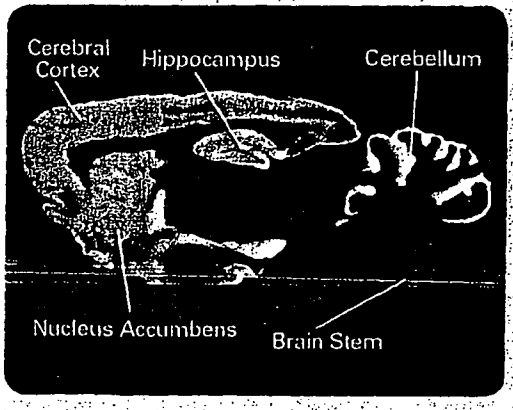
system in the same way that nearly all drugs of abuse do: by stimulating brain cells to release the chemical dopamine.

Along with euphoria, relaxation is another frequently reported effect in human studies. Other effects, which vary dramatically among different users, include heightened sensory perception (e.g., brighter colors), laughter, altered perception of time, and increased appetite. After a while, the euphoria subsides, and the user may feel sleepy or depressed. Occasionally, marijuana use may produce anxiety, fear, distrust, or panic.

Marijuana use impairs a person's ability to form new memories (see **below, "Marijuana, Memory, and the Hippocampus"**) and to shift focus. THC also disrupts coordination and balance by binding to receptors in the cerebellum and basal ganglia—parts of the brain that regulate balance, posture, coordination, and reaction time. Therefore, learning, doing complicated tasks, participating in athletics, and driving are also affected.

Marijuana users who have taken large doses of the drug may experience an acute psychosis, which includes hallucinations, delusions, and a loss of the sense of personal identity. Short-term psychotic reactions to high concentrations of THC are distinct from longer-lasting, schizophrenia-like disorders that have been associated with the use of cannabis in vulnerable individuals. **(See section on the link between marijuana use and mental illness, page 6.)**

Our understanding of marijuana's long-term brain effects is limited. Research findings on how chronic cannabis use affects brain *structure,* for example, have been inconsistent. It may be that the effects are too subtle for reliable detection by current techniques. A similar challenge arises in studies of the effects of chronic marijuana use on brain *function.* Although imaging studies (functional MRI; fMRI) in chronic users do show some consistent alterations, the relation of these



Distribution of cannabinoid receptors in the rat brain. Brain image reveals high levels (shown in orange and yellow) of cannabinoid receptors in many areas, including the cortex, hippocampus, cerebellum, and nucleus accumbens (ventral striatum).

Marijuana, Memory, and the Hippocampus

Memory impairment from marijuana use occurs because THC alters how information is processed in the hippocampus, a brain area responsible for memory formation.

Most of the evidence supporting this assertion comes from animal studies. For example, rats exposed to THC in utero, soon after birth, or during adolescence, show notable problems with specific learning/memory tasks later in life. Moreover, cognitive impairment in adult rats is associated with structural and functional changes in the hippocampus from THC exposure during adolescence.

As people age, they lose neurons in the hippocampus, which decreases their ability to learn new information. Chronic THC exposure may hasten age-related loss of hippocampal neurons. In one study, rats exposed to THC every day for 8 months (approximately 30 percent of their life-span) showed a level of nerve cell loss (at 11 to 12 months of age) that equaled that of unexposed animals twice their age.

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changes to cognitive functioning is less clear. This uncertainty may stem from confounding factors such as other drug use, residual drug effects (which can occur for at least 24 hours in chronic users), or withdrawal symptoms in long-term chronic users.

An enduring question in the field is whether individuals who quit marijuana, even after long-term, heavy use, can recover some of their cognitive abilities. One study reports that the ability of long-term heavy marijuana users to recall words from a list was still impaired 1 week after they quit using, but returned to normal by 4 weeks. However, another study found that marijuana's effects on the brain can build up and deteriorate critical life skills over time. Such effects may be worse in those with other mental disorders, or simply by virtue of the normal aging process.

Consequences of Marijuana Abuse

Acute (present during intoxication)

- Impairs short-term memory
- Impairs attention, judgment, and other cognitive functions
- Impairs coordination and balance
- Increases heart rate
- Psychotic episodes

Persistent (lasting longer than intoxication, but may not be permanent)

- Impairs memory and learning skills
- Sleep impairment

Long-term (cumulative effects of chronic abuse)

- Can lead to addiction
- Increases risk of chronic cough, bronchitis
- Increases risk of schizophrenia in vulnerable individuals
- May increase risk of anxiety, depression, and amotivational syndrome*

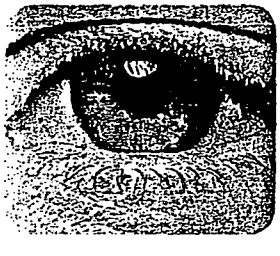
*These are often reported co-occurring symptoms/disorders with chronic marijuana use. However, research has not yet determined whether marijuana is causal or just associated with these mental problems.

Effects on General Physical Health

Within a few minutes after inhaling marijuana smoke, an individual's heart rate speeds up, the bronchial passages relax and become enlarged, and blood vessels in the eyes expand, making the eyes look red. The heart rate—normally 70 to 80 beats per minute—may increase by 20 to 50 beats per minute, or may even double in some cases. Taking other drugs with marijuana can amplify this effect.

Limited evidence suggests that a person's risk of heart attack during the first hour after smoking marijuana is four times his or her usual risk. This observation could be partly explained by marijuana raising blood pressure (in some cases) and heart rate and reducing the blood's capacity to carry oxygen. Such possibilities need to be examined more closely, particularly since current marijuana users include adults from the baby boomer generation, who may have other cardiovascular risks that may increase their vulnerability.

The smoke of marijuana, like that of tobacco, consists of a toxic mixture of gases and particulates, many of which are known to be harmful to the lungs. Someone who smokes marijuana regularly may have many of the same respiratory problems that tobacco smokers do, such as daily cough and phlegm production, more frequent acute chest illnesses, and a greater risk of lung infections. Even infrequent marijuana use can cause burning and stinging of the mouth and throat, often accompanied by a heavy



Within a few minutes after inhaling marijuana smoke, an individual's heart rate speeds up, the bronchial passages relax and become enlarged, and blood vessels in the eyes expand, making the eyes look red.

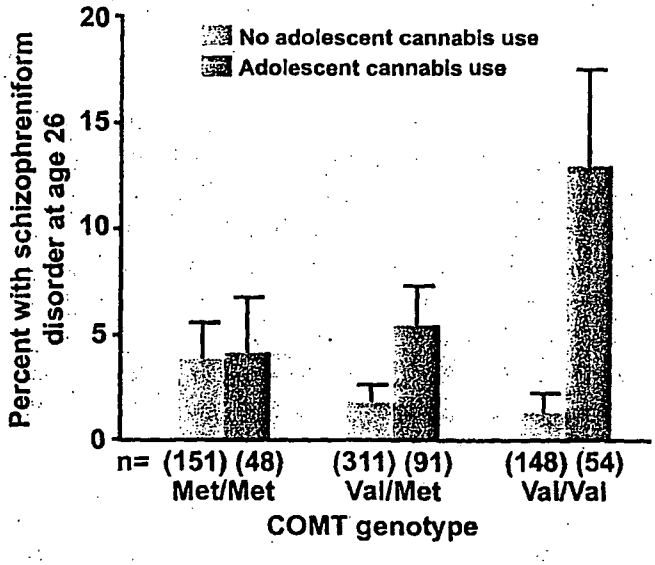
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cough. One study found that extra sick days used by frequent marijuana smokers were often because of respiratory illnesses.[6]

In addition, marijuana has the *potential* to promote cancer of the lungs and other parts of the respiratory tract because it contains irritants and carcinogens—up to 70 percent more than tobacco smoke. It also induces high levels of an enzyme that converts certain hydrocarbons into their cancer-causing form, which could accelerate the changes that ultimately produce malignant cells. And since marijuana smokers generally inhale more deeply and hold their breath longer than tobacco smokers, the lungs are exposed longer to carcinogenic smoke. However, while several lines of evidence have suggested that marijuana use may lead to lung cancer, the supporting evidence is inconclusive.[8] The presence of an unidentified active ingredient in cannabis smoke having protective properties—if corroborated and properly characterized—could help explain the inconsistencies and modest findings.

A significant body of research demonstrates negative effects of THC on the function of various immune cells, both in vitro in cells and in vivo with test animals. However, no studies to date connect marijuana's suspected immune system suppression with greater incidence of infections or immune disorders in humans. One short (3-week) study found marijuana smoking to be associated with a few statistically significant negative effects on the immune function of AIDS patients; a second small study of college students also suggested the possibility of marijuana having adverse effects on immune system functioning. Thus, the combined evidence from animal studies plus the limited human data available seem to warrant additional research on the impact of marijuana on the immune system. **(See also "The Science of Medical Marijuana," page 9.)**

Genetic variation in COMT influences the harmful effects of abused drugs



The influence of adolescent marijuana use on adult psychosis is affected by genetic variables. This figure shows that variations in a gene can affect the likelihood of developing psychosis in adulthood, following exposure to cannabis in adolescence. The COMT gene governs an enzyme that breaks down dopamine, a brain chemical involved in schizophrenia. It comes in two forms: "Met" and "Val." Individuals with one or two copies of the Val variant have a higher risk of developing schizophrenic-type disorders if they used cannabis during adolescence (dark bars). Those with only the Met variant were unaffected by cannabis use.[7]

Is There a Link Between Marijuana Use and Mental Illness?

Research in the past decade has focused on whether marijuana use actually causes other mental illnesses. The strongest evidence to date suggests a link between cannabis use and psychosis.[9] For example, a series of large prospective studies that followed a group of people over time showed a relationship between marijuana use and later development of psychosis. Marijuana use also worsens the course of illness in patients with schizophrenia and can produce a

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brief psychotic reaction in some users that fades as the drug wears off. The amount of drug used, the age at first use, and genetic vulnerability can all influence this relationship. One example is a study **(illustrated, page 6)** that found an increased risk of psychosis among adults who had used marijuana in adolescence and who also carried a specific variant of the gene for catechol-O-methyltransferase (COMT), an enzyme that degrades neurotransmitters such as dopamine and norepinephrine.[7]

In addition to the observed links between marijuana use and schizophrenia, other less consistent associations have been reported between marijuana use and depression, anxiety, suicidal thoughts among adolescents, and personality disturbances. One of the most frequently cited, albeit still controversial, is an amotivational syndrome, defined as a diminished or absent drive to engage in typically rewarding activities. Because of the role of the endocannabinoid system in regulating mood, these associations make a certain amount of sense; however, more research is needed to confirm and better understand these linkages.

Is Marijuana Addictive?

Long-term marijuana use can lead to addiction; that is, people have difficulty controlling their drug use and cannot stop even though it interferes with many aspects of their lives. It is estimated that 9 percent of people who use marijuana will become dependent on it. The number goes up to about 1 in 6 in those who



start using young (in their teens) and to 25–50 percent among daily users. Moreover, a study of over 300 fraternal and identical twin pairs found that the twin who had used marijuana before the age of 17 had elevated rates of other drug use and drug problems later on, compared with their twin who did not use before age 17.

According to the 2010 NSDUH, marijuana accounted for 4.5 million of the estimated 7.1 million Americans dependent on or abusing illicit drugs.[1] In 2009, approximately 18 percent of people aged 12 and older entering drug abuse treatment programs reported marijuana as their primary drug of abuse.[10]

Marijuana addiction is also linked to a withdrawal syndrome similar to that of nicotine withdrawal, which can make it hard to quit. People trying to quit report irritability, sleeping difficulties, craving, and anxiety. They also show increased aggression on psychological tests, peaking approximately 1 week after they last used the drug.

How Does Marijuana Use Affect School, Work, and Social Life?

Research has shown that marijuana's negative effects on attention, memory, and learning can last for days or weeks after the acute effects of the drug wear off.[11] Consequently, someone who smokes marijuana daily may be functioning at a reduced intellectual level most or all of the time. Not surprisingly, evidence suggests that, compared with their nonsmoking peers, students who smoke marijuana tend to get lower grades and are more likely to drop out of high school.[12] A meta-analysis of 48 relevant studies—one of the most thorough performed to date—found cannabis use to be associated consistently with reduced educational attainment (e.g., grades and chances of graduating).[13] However, a *causal* relationship is not yet proven between cannabis use by young people and psychosocial harm.

That said, marijuana users themselves report poor outcomes on a variety of life satisfaction and achievement measures. One study compared current and former long-term heavy users of marijuana with a control group who reported smoking cannabis at least once in their lives but not more than 50 times. Despite similar education and income backgrounds, significant differences were found in educational attainment: fewer of the heavy users of cannabis completed college, and more had yearly household incomes of less than $30,000. When asked how marijuana

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affected their cognitive abilities, career achievements, social lives, and physical and mental health, the majority of heavy cannabis users reported the drug's negative effects on all of these measures. In addition, several studies have linked workers' marijuana smoking with increased absences, tardiness, accidents, workers' compensation claims, and job turnover. For example, a study among postal workers found that employees who tested positive for marijuana on a pre-employment urine drug test had 55 percent more industrial accidents, 85 percent more injuries, and a 75-percent increase in absenteeism compared with those who tested negative for marijuana use.

Does Marijuana Use Affect Driving?

Because marijuana impairs judgment and motor coordination and slows reaction time, an intoxicated person has an increased chance of being involved in and being responsible for an accident.[14, 15] According to the National Highway Traffic Safety Administration, drugs other than alcohol (e.g., marijuana and cocaine) are involved in about 18 percent of motor vehicle driver deaths. A recent survey found that 6.8 percent of drivers, mostly under age 35, who were involved in accidents tested positive for THC; alcohol levels above the legal limit were found in 21 percent of such drivers.



Can Marijuana Use During Pregnancy Harm the Baby?

Animal research suggests that the body's endocannabinoid system plays a role in the control of brain maturation, particularly in the development of emotional responses. It is conceivable that even low concentrations of THC, when administered during the perinatal period, could have profound and long-lasting consequences for both brain and behavior.[16] Research has shown that some babies born to women who used marijuana during their pregnancies display altered responses to visual stimuli, increased tremulousness, and a high-pitched cry, which could indicate problems with neurological development. In school, marijuana-exposed children are more likely to show gaps in problemsolving skills, memory, and the ability to remain attentive. More research is needed, however, to disentangle the drug-specific factors from the environmental ones.[17]

Available Treatments for Marijuana Use Disorders

Marijuana dependence appears to be very similar to other substance dependence disorders, although the long-term clinical outcomes may be less severe. On average, adults seeking treatment for marijuana abuse or dependence have used marijuana nearly every day for more than 10 years and have attempted to quit more than six times. It is important to note that marijuana dependence is most prevalent among patients suffering from other psychiatric disorders, particularly among adolescent and young adult populations.[18] Also, marijuana abuse or dependence typically co-occurs with use of other drugs, such as cocaine and alcohol. Available studies indicate that effectively treating the mental health disorder with standard treatments involving medications and behavioral therapies may help reduce cannabis use, particularly among heavy users and those with more chronic mental disorders. Behavioral treatments, such as motivational enhancement therapy (MET), group or individual cognitive-behavioral therapy (CBT), and contingency management (CM), as well as family-based treatments, have shown promise.

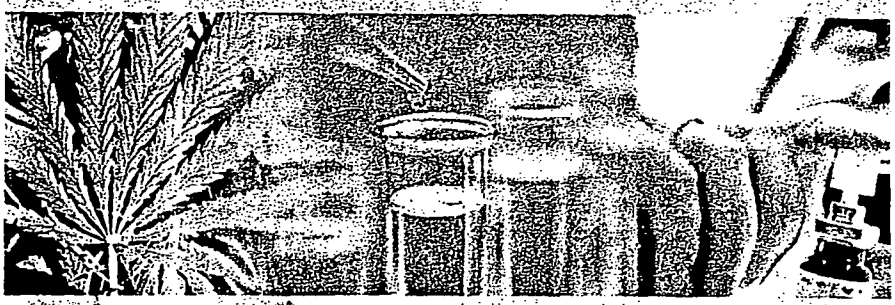
Unfortunately, the success rates of treatment are rather modest. Even with the most effective treatment for adults, only about 50 percent of

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enrollees achieve an initial 2-week period of abstinence, and among those who do, approximately half will resume use within a year. Across studies, 1-year abstinence rates have ranged between 10 and 30 percent for the various behavioral approaches. As with other addictions, these data suggest that a chronic care model should be considered for marijuana addiction, with treatment intensity stepped up or down based on need, comorbid addictions or other mental disorders, and the availability of family and other supports.

Currently, no medications are available to treat marijuana abuse, but research is active in this area. Most of the studies to date have targeted the marijuana withdrawal syndrome. For example, a recent human study showed that a combination of a cannabinoid agonist medication with lofexidine (a medication approved in the United Kingdom for the treatment of opioid withdrawal) produced more robust improvements in sleep and decreased marijuana withdrawal, craving, and relapse in daily marijuana smokers relative to either medication alone. Recent discoveries about the inner workings of the endogenous cannabinoid system raise the future possibility of a medication able to block THC's intoxicating effects, which could help prevent relapse by reducing or eliminating marijuana's appeal.

The Science of Medical Marijuana



The potential medicinal properties of marijuana have been the subject of substantive research and heated debate. Scientists have confirmed that the cannabis plant contains active ingredients with therapeutic potential for relieving pain, controlling nausea, stimulating appetite, and decreasing ocular pressure. As a result, a 1990 Institute of Medicine report concluded that further clinical research on cannabinoid drugs and safe delivery systems was warranted.

At that time, dronabinol (Marinol®) and nabilone (Cesamet®) were the only FDA-approved, marijuana-based medications that doctors could prescribe for the treatment of nausea in patients undergoing cancer chemotherapy and to stimulate appetite in patients with wasting syndrome due to AIDS. These pills contained synthetic versions of THC, the main active ingredient in marijuana. Today, 25 years after their approval, the development of Sativex® marks the arrival of the second generation of cannabis-based medications. This new product (currently available in the United Kingdom and Canada) is a chemically pure mixture of plant-derived THC and Cannabidiol, formulated as a mouth spray and approved for the relief of cancer-associated pain and spasticity and neuropathic pain in multiple sclerosis.

Scientists continue to investigate the medicinal properties of THC and other cannabinoids to better evaluate and harness their ability to help patients suffering from a broad range of conditions, while avoiding the adverse effects of smoked marijuana. These efforts are bound to improve our understanding of the cannabinoid system and help us bring to market a new generation of safe and effective medications.

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Glossary

Addiction: A chronic, relapsing disease characterized by compulsive drug seeking and abuse despite adverse consequences. It is associated with long-lasting changes in the brain.

Basal Ganglia: Structures located deep in the brain that play an important role in the initiation of movements. These clusters of neurons include the caudate nucleus, putamen, globus pallidus, and substantia nigra. It also contains the nucleus accumbens, which is the main center of reward in the brain.

Cannabinoids and Cannabinoid Receptors: A family of chemicals that bind to specific (cannabinoid) receptors to influence mental and physical functions. Cannabinoids that are produced naturally by the body are referred to as endocannabinoids. They play important roles in development, memory, pain, appetite, among others. The marijuana plant *(Cannabis sativa)* contains delta-9-tetrahydrocannabinol (THC) that can disrupt these processes, if administered repeatedly and/or in high enough concentrations.

Carcinogen: Any substance that causes cancer.

Cerebellum: A large structure located in the back of the brain that helps control the coordination of movement by making connections to other parts of the CNS (pons, medulla, spinal cord, and thalamus). It also may be involved in aspects of motor learning.

Cerebral Cortex: The outermost layer of the cerebral hemispheres of the brain. It is largely responsible for conscious experience, including perception, emotion, thought, and planning.

Cognitive-Behavioral Therapy (CBT): A form of psychotherapy that teaches people strategies to identify and correct problematic behaviors in order to enhance self-control, stop drug use, and address a range of other problems that often co-occur with them.

Contingency Management (CM): A therapeutic management approach based on frequent monitoring of the target behavior and the provision (or removal) of tangible, positive rewards when the target behavior occurs (or does not). CM techniques have shown to be effective for keeping people in treatment and promoting abstinence.

Dopamine: A brain chemical, classified as a neurotransmitter, found in regions of the brain that regulate movement, emotion, motivation, and pleasure.

Hippocampus: A seahorse-shaped structure located within the brain that is considered an important part of the limbic system. One of the most studied areas of the brain, the hippocampus plays key roles in learning, memory, and emotion.

Hydrocarbon: Any chemical compound containing only hydrogen and carbon.

Motivational Enhancement Therapy (MET): A systematic form of intervention designed to produce rapid, internally motivated change. MET does not attempt to treat the person, but rather mobilize their own internal resources for change and engagement in treatment.

Psychosis: A mental disorder (e.g., schizophrenia) characterized by delusional or disordered thinking detached from reality; symptoms often include hallucinations.

Schizophrenia: A psychotic disorder characterized by symptoms that fall into two categories: (1) positive symptoms, such as distortions in thoughts (delusions), perception (hallucinations), and language and thinking and (2) negative symptoms, such as flattened emotional responses and decreased goal-directed behavior.

Schizophreniform Disorders: Similar to schizophrenia, but of shorter duration and possibly lesser severity.

THC: Delta-9-tetrahydrocannabinol; the main active ingredient in marijuana, which acts on the brain to produce its effects.

Ventral Striatum: An area of the brain that is part of the basal ganglia and becomes activated and flooded with dopamine in the presence of salient stimuli. The release of this chemical also occurs during physically rewarding activities such as eating, sex, and taking drugs, and is a key factor behind our desire to repeat these activities.

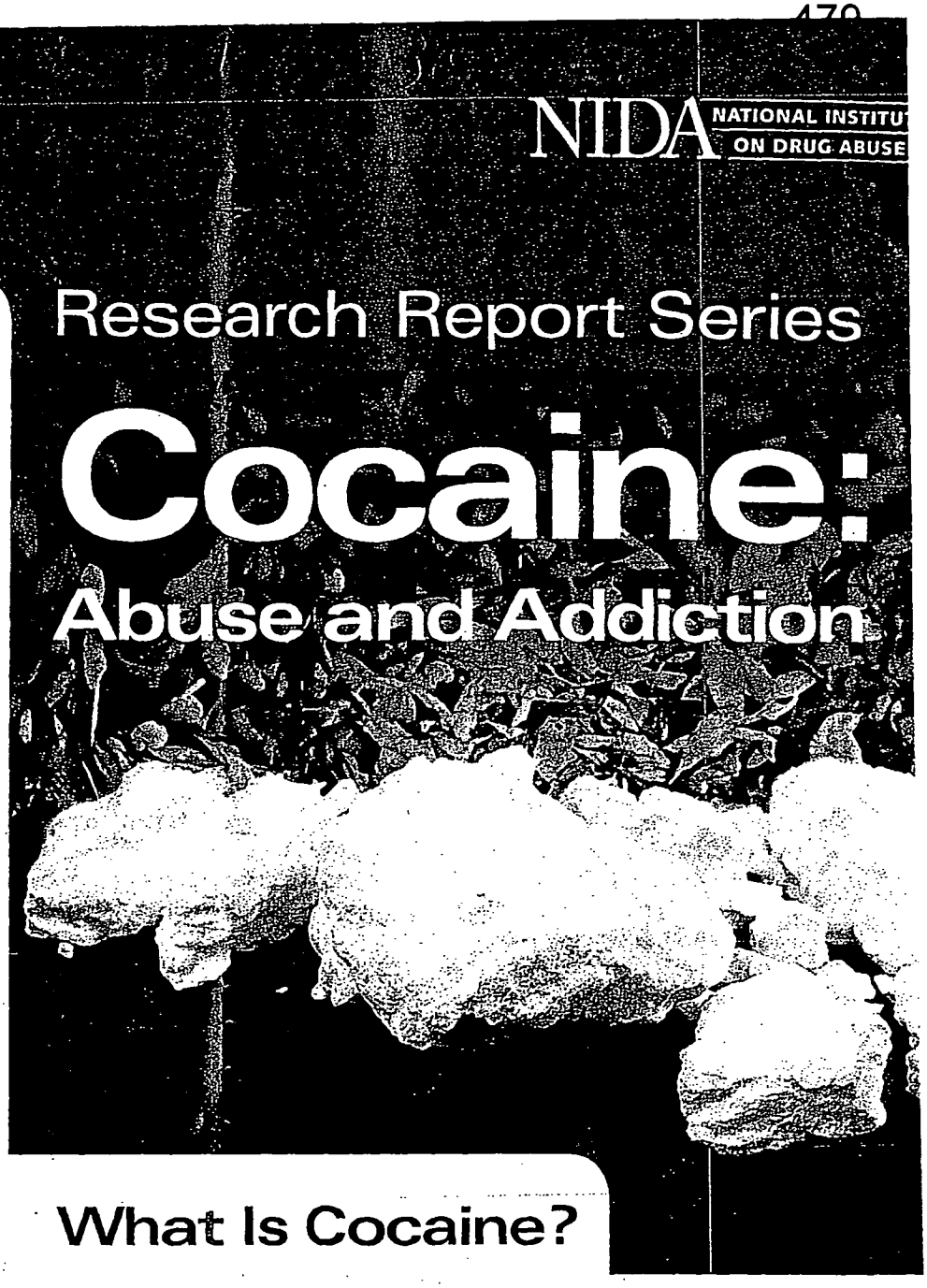
Withdrawal: Adverse symptoms that occur after chronic use of a drug is reduced or stopped.

Cocaine's stimulant and addictive effects explained.
See page 2.

NIDA NATIONAL INSTITUTE ON DRUG ABUSE

Research Report Series

Cocaine: Abuse and Addiction



from the director:

Cocaine abuse and addiction continue to plague our Nation. In 2008, almost 15 percent of Americans had tried cocaine, with 6 percent having tried it by their senior year of high school. Recent discoveries about the inner workings of the brain and the harmful effects of cocaine offer us unprecedented opportunities for addressing this persistent public health problem.

Genetic studies continue to provide critical information about hereditary influences on the risk of addiction to psychoactive substances, including cocaine. But genetic risk is far less rigid than previously thought. More recent epigenetic research has begun to shed light on the power of environmental factors (e.g., nutrition, chronic stress, parenting style) to influence gene expression and thus, genetic risk. Furthermore, sophisticated imaging technologies have allowed scientists to visualize the brain changes that result from chronic drug exposure or that occur when an addicted person is exposed to drug-associated "cues" that can trigger craving and lead to relapse. By mapping genetic factors, epigenetic mechanisms, and brain regions responsible for the multiple effects of cocaine, we are gaining fundamental insights that can help us identify new targets for treating cocaine addiction.

NIDA remains vigilant in its quest for more effective strategies to address the serious public health issues linked to cocaine abuse. We not only support a wide range of basic and clinical research, but also facilitate the translation of these research findings into real-world settings. To this end, we strive to keep the public informed of the latest scientific advances in the field of addiction. We hope that this compilation of scientific information on cocaine abuse will inform readers and bolster our efforts to tackle the personal and social devastation caused by drug abuse and addiction.

Nora D. Volkow, M.D.
Director
National Institute on Drug Abuse

What Is Cocaine?

Cocaine is a powerfully addictive stimulant that directly affects the brain. Cocaine was labeled the drug of the 1980s and 1990s because of its extensive popularity and use during that period. However, cocaine is not a new drug. In fact, it is one of the oldest known psychoactive substances. Coca leaves, the source of cocaine, have been chewed and ingested for thousands of years, and the purified chemical, cocaine hydrochloride, has been an abused substance for more than 100 years. In the early 1900s, for example, purified cocaine was the main active ingredient in most of the tonics and elixirs

continued inside

Cocaine

that were developed to treat a wide variety of illnesses.

Pure cocaine was originally extracted from the leaf of the *Erythroxylon* coca bush, which grew primarily in Peru and Bolivia. After the 1990s, and following crop reduction efforts in those countries, Colombia became the nation with the largest cultivated coca crop. Today, cocaine is a Schedule II drug, which means that it has high potential for abuse but can be administered by a doctor for legitimate medical uses, such as local anesthesia for some eye, ear, and throat surgeries.

Cocaine is generally sold on the street as a fine, white, crystalline powder and is also known as "coke," "C," "snow," "flake," or "blow." Street dealers generally dilute it with inert substances such as cornstarch, talcum powder, or sugar, or with active drugs such as procaine (a chemically related local anesthetic) or amphetamine (another stimulant). Some users combine cocaine with heroin—in what is termed a "speedball."

There are two chemical forms of cocaine that are abused: the water-soluble hydrochloride salt and the water-insoluble cocaine base (or freebase). When abused, the hydrochloride salt, or powdered form of cocaine, can be injected or snorted. The base form of cocaine has been processed with ammonia or sodium bicarbonate (baking soda) and water, and then heated to remove the hydrochloride to produce a smokable substance. The term "crack," which is the street name given to freebase cocaine, refers to the crackling sound heard when the mixture is smoked.


Coca bush

How Is Cocaine Abused?

The principal routes of cocaine administration are oral, intranasal, intravenous, and inhalation. Snorting, or intranasal administration, is the process of inhaling cocaine powder through the nostrils, where it is absorbed into the bloodstream through the nasal tissues. The drug also can be rubbed onto mucous tissues. Injecting, or intravenous use, releases the drug directly into the bloodstream and heightens the intensity of its effects. Smoking involves inhaling cocaine vapor or smoke into the lungs, where absorption into the bloodstream is as rapid as by injection. This rather immediate and euphoric effect is one of the reasons that crack became enormously popular in the mid-1980s.

Cocaine use ranges from occasional to repeated or compulsive use, with a variety of patterns between these extremes. Other than medical uses, there is no safe way to use cocaine. Any route of administration can lead to absorption of toxic amounts of cocaine, possible acute cardiovascular or cerebrovascular emergencies, and seizures—all of which can result in sudden death.

How Does Cocaine Produce Its Effects?

Research has led to a clear understanding of how cocaine produces its pleasurable effects and why it is so addictive. Scientists have discovered regions within the brain that are stimulated by all types of reinforcing stimuli such as food, sex, and many drugs of abuse. One neural system that appears to be most affected by cocaine originates in a region of the midbrain called the ventral tegmental area (VTA). Nerve fibers originating in the VTA extend to a region known as the nucleus accumbens, one of the brain's key areas involved in reward. Animal studies show that rewards increase levels of the brain chemical (or neurotransmitter) dopamine, thereby increasing neural activity in the nucleus accumbens. In the normal communication process, dopamine is released by a neuron into the synapse (the small gap between two neurons), where it binds to specialized proteins (called dopamine receptors) on the neighboring neuron and sends a signal to that neuron. Dopamine is then

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removed from the synapse to be recycled for further use. Drugs of abuse can interfere with this normal communication process. For example, scientists have discovered that cocaine acts by blocking the removal of dopamine from the synapse, which results in an accumulation of dopamine and an amplified signal to the receiving neurons (see image on page 4, "Cocaine in the brain"). This is what causes the initial euphoria commonly reported by cocaine abusers.

What Are the Short-Term Effects of Cocaine Use?

Cocaine's effects appear almost immediately after a single dose and disappear within a few minutes to an hour. Taken in small amounts, cocaine usually makes the user feel euphoric, energetic, talkative, and mentally alert, especially to the sensations of sight, sound, and touch. It can also temporarily decrease the need for food and sleep. Some users find that the drug helps them perform simple physical and intellectual tasks more quickly, although others experience the opposite effect.

The duration of cocaine's euphoric effects depend upon the route of administration. The faster the drug is absorbed, the more intense the resulting high, but also

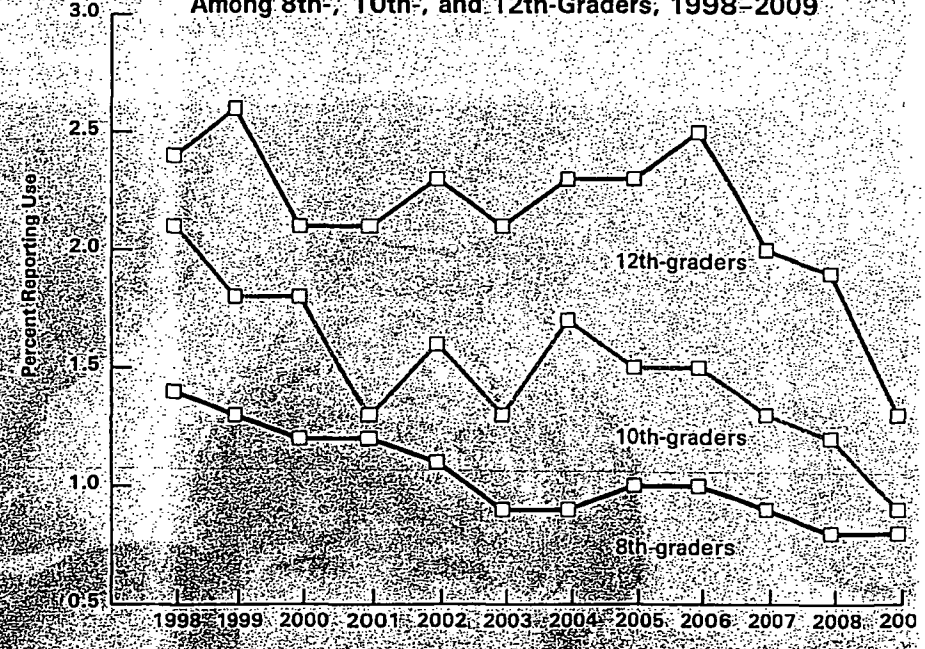
What Is the Scope of Cocaine Use in the United States?

The National Survey on Drug Use and Health (NSDUH) estimates that in 2008 there were 1.9 million current (past month) cocaine users, of which approximately 359,000 were current crack users. Adults aged 18 to 25 years have a higher rate of current cocaine use than any other age group, with 1.5 percent of young adults reporting past-month cocaine use. Overall, men report higher rates of current cocaine use than women.

The 2009 Monitoring the Future survey, which annually surveys teen attitudes and drug use, reports a significant decline in 30-day prevalence of powder cocaine use among 8th-, 10th-, and 12th-graders from peak use in the late 1990s, as well as significant declines in past-month use among 10th- and 12th-graders from 2008 to 2009.

Repeated cocaine use can produce addiction and other adverse health consequences. In 2008, according to the NSDUH, about 1.4 million Americans met the *Diagnostic and Statistical Manual of Mental Disorders* criteria for dependence or abuse of cocaine (in any form) in the past 12 months. Further, data from the 2008 Drug Abuse Warning Network (DAWN) report showed that cocaine was involved in 482,188 of the nearly 2 million visits to emergency departments for drug misuse or abuse. This translates to almost one in four drug misuse or abuse emergency department visits (24 percent) that involved cocaine.

Trends in 30-Day Prevalence of Cocaine Abuse Among 8th-, 10th-, and 12th-Graders, 1998–2009



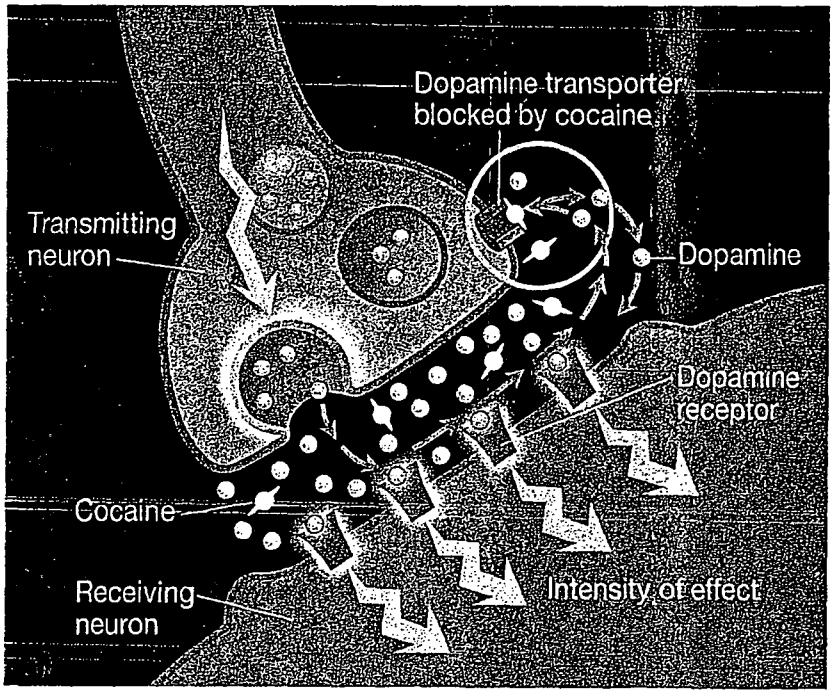
Source: University of Michigan, 2009 Monitoring the Future Survey

the shorter the duration. The high from snorting is relatively slow to arrive, but it may last from 15 to 30 minutes; in contrast, the effects from smoking are more immediate but may last only 5 to 10 minutes.

The short-term physiological effects of cocaine use include constricted blood vessels; dilated pupils; and increased body temperature, heart rate, and blood pressure. Large amounts of cocaine may intensify the user's high but can also lead to bizarre, erratic, and violent behavior. Some cocaine users report feelings of restlessness, irritability, anxiety, panic, and paranoia. Users may also experience tremors, vertigo, and muscle twitches.

There also can be severe medical complications associated with cocaine abuse. Some of the most frequent are cardiovascular effects, including disturbances in heart rhythm and heart attacks; neurological effects, including strokes, seizures, headaches, and coma; and gastrointestinal complications, including abdominal pain and nausea. In rare instances, sudden death can occur on the first use of cocaine or unexpectedly thereafter. Cocaine-related deaths are often a result of cardiac arrest or seizures followed by respiratory arrest.

In addition, research has also revealed a potentially dangerous interaction between cocaine and alcohol. This mixture is the most common two-drug combination that results in drug-related death.



Cocaine in the brain—In the normal communication process, dopamine is released by a neuron into the synapse, where it can bind to dopamine receptors on neighboring neurons. Normally, dopamine is then recycled back into the transmitting neuron by a specialized protein called the dopamine transporter. If cocaine is present, it attaches to the dopamine transporter and blocks the normal recycling process, resulting in a buildup of dopamine in the synapse, which contributes to the pleasurable effects of cocaine.

What Are the Long-Term Effects of Cocaine Use?

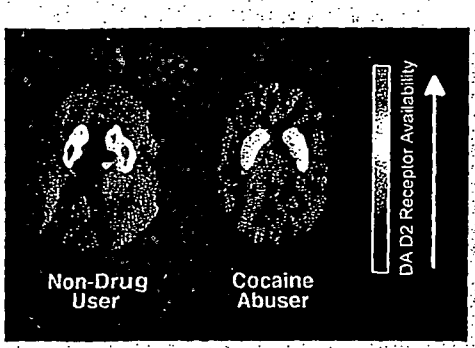
Cocaine is a powerfully addictive drug. Thus, it is unlikely that an individual will be able to reliably predict or control the extent to which he or she will continue to want or use the drug. And, if addiction takes hold, the risk for relapse is high even following long periods of abstinence. Recent studies have shown that during periods of abstinence, the memory of the cocaine experience or exposure to cues associated with drug use can trigger tremendous craving and relapse to drug use.

With repeated exposure to cocaine, the brain starts to adapt, and the reward pathway becomes less sensitive to natural reinforcers and to the drug itself. Tolerance may develop—this means that higher doses and/or more frequent use of cocaine is needed to register the same level of pleasure experienced during initial use. At the same time, users can also become more sensitive (sensitization) to cocaine's anxiety-producing, convulsant, and other toxic effects.

Users take cocaine in "binges," during which the cocaine is used repeatedly and at increasingly higher doses. This can lead to increased irritability, restlessness, panic attacks, and paranoia—even a full-blown psychosis, in which the individual loses touch with reality and experiences auditory hallucinations. With increasing dosages or frequency of use, the risk of adverse psychological or physiological effects increases.

Different routes of cocaine administration can produce different adverse effects. Regularly snorting cocaine, for example, can lead to loss of sense of smell; nosebleeds; problems with swallowing;

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Brain images showing decreased dopamine (D_2) receptors in the brain of a person addicted to cocaine versus a nondrug user. The dopamine system is important for conditioning and motivation, and alterations such as this are likely responsible, in part, for the diminished sensitivity to natural rewards that develops with addiction.

hoarseness; and an overall irritation of the nasal septum, which could result in a chronically inflamed, runny nose. Ingested cocaine can cause severe bowel gangrene due to reduced blood flow. Persons who inject cocaine have puncture marks called "tracks," most commonly in their forearms, and may experience allergic reactions, either to the drug or to some additive in street cocaine, which in severe cases can result in death. Many chronic cocaine users lose their appetite and experience significant weight loss and malnourishment.

Are Cocaine Abusers at Risk for Contracting HIV/AIDS and Hepatitis?

Yes, cocaine abusers are at increased risk for contracting such infectious diseases as human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) and viral hepatitis. This risk stems not only from sharing contaminated needles and drug paraphernalia but also from engaging in risky behaviors as a result of intoxication. Research has shown that drug intoxication and addiction can compromise judgment and decisionmaking, and potentially lead to risky sexual encounters, needle sharing, and trading sex for drugs—by both men and women. In fact, some studies are showing that among drug abusers, those who do not inject drugs are contracting HIV at rates equal to those who do inject drugs, further highlighting the role of sexual transmission of HIV in this population.

Additionally, hepatitis C (HCV) has spread rapidly among injecting drug users. Risk begins with the first injection, and within 2 years, nearly 40 percent of injection drug users (IDUs) are exposed to HCV. By the time IDUs have been injecting for 5 years, their chances of being infected with HCV are between 50 and 80 percent. Although treatment for HCV is not effective for everyone and can have significant side effects, medical followup is essential for all those who are infected. There is no vaccine for the hepatitis C virus, and it is highly transmissible via injection; thus, HCV testing is recommended for any individual who has ever injected drugs.

What Treatments Are Effective for Cocaine Abusers?

In 2007, cocaine accounted for about 13 percent of all admissions to drug abuse treatment programs. The majority of individuals (72 percent in 2007) who seek treatment for cocaine abuse smoke crack and are likely to be polydrug abusers, or users of more than one substance. The widespread abuse of cocaine has stimulated extensive efforts to develop treatment programs for cocaine. As with any drug addiction, this is a complex disease that involves biological changes in the brain as well as myriad social, familial, and other environmental problems. Therefore, treatment of cocaine addiction must be comprehensive, and strategies need to assess the neurobiological, social, and medical aspects of the patient's drug abuse. Moreover, patients who have a variety of addictions often have other co-occurring mental disorders that require additional behavioral or pharmacological interventions.

Pharmacological Approaches

Presently, there are no FDA-approved medications to treat cocaine addiction. Consequently, NIDA is working aggressively to identify and test new medications to treat cocaine addiction safely and effectively. Several medications marketed for other diseases (e.g., vigabatrin, modafinil, tiagabine, disulfiram, and topiramate) show promise and have been reported to reduce cocaine use in controlled clinical trials. Among these, disulfiram (used to treat alcoholism) has produced the most consistent reductions in cocaine abuse. On the other hand, new knowledge of how the brain is changed by cocaine is directing attention to novel targets for medications development. Compounds that are currently being tested for addiction treatment take advantage of underlying cocaine-induced adaptations in the brain that disturb the balance between excitatory (glutamate) and inhibitory (gamma-aminobutyric acid) neurotransmission. Also,

What Are the Effects of Maternal Cocaine Use?

The full extent of the effects of prenatal cocaine exposure on a child is not completely known, but many scientific studies have documented that babies born to mothers who abuse cocaine during pregnancy are often prematurely delivered, have low birth weights and smaller head circumferences, and are shorter in length than babies born to mothers who do not abuse cocaine.

Nevertheless, it is difficult to estimate the full extent of the consequences of maternal drug abuse and to determine the specific hazard of a particular drug to the unborn child. This is because multiple factors—



such as the amount and number of *all* drugs abused, including nicotine; extent of prenatal care; possible neglect or abuse of the child; exposure to violence in the environment; socioeconomic conditions; maternal nutrition; other health conditions; and exposure to sexually transmitted diseases—can all interact to impact maternal, fetal, and child outcomes.

Some may recall that "crack babies," or babies born to mothers who abused crack cocaine while pregnant, were at one time written off as a lost generation. They were predicted to suffer from severe, irreversible damage, including reduced intelligence and social skills. It was later found that this was a gross exaggeration. However, the fact that most of these children appear normal should not be overinterpreted to indicate that there is no cause for concern. Using sophisticated technologies, scientists are now finding that exposure to cocaine during fetal development may lead to subtle, yet significant, later deficits in some children, including deficits in some aspects of cognitive performance, information processing, and attention to tasks—abilities that are important for the realization of a child's full potential.

dopamine D_3 receptors (a subtype of dopamine receptor) constitute a novel molecular target of high interest. Medications that act at these receptors are now being tested for safety in humans. Finally, a cocaine vaccine that prevents entry of cocaine into the brain holds great promise for reducing the risk of relapse. In addition to treatments for addiction, medical treatments are being developed to address the acute emergencies that result from cocaine overdose each year.

Behavioral Interventions

Many behavioral treatments for cocaine addiction have proven to be effective in both residential and outpatient settings. Indeed, behavioral therapies are often the only available and effective treatments for many drug problems, including stimulant addictions. However, the integration of behavioral and pharmacological treatments may ultimately prove to be the most effective approach.

Presently, there are no proven medications to treat cocaine addiction. Consequently, NIDA is working aggressively to identify and test new medications.

One form of behavioral therapy that is showing positive results in cocaine-addicted populations is contingency management, or motivational incentives (MI). MI may be particularly useful for helping patients achieve initial abstinence from cocaine and for helping patients stay in treatment. Programs use a voucher or prize-based system that rewards patients who abstain from cocaine and other drug use. On the basis of drug-free urine tests, the patients earn points, or chips, which can be exchanged for items that encourage healthy living, such as a gym membership, movie tickets, or dinner at a local restaurant. This approach has recently been shown to be practical and effective in community treatment programs.

Cognitive-behavioral therapy (CBT) is an effective approach for preventing relapse. CBT is focused on helping cocaine-addicted individuals abstain—and remain abstinent—from cocaine and other substances. The underlying assumption is that learning processes play an important role in the development and continuation of cocaine abuse and addiction. These same learning processes can be harnessed to help individuals reduce drug use and successfully prevent relapse. This approach attempts to help patients recognize, avoid, and cope; that is, they recognize the situations in which they are most likely to use cocaine, avoid these situations when appropriate, and cope more effectively with a range of problems and problematic behaviors associated with drug abuse. This therapy is also noteworthy because of its compatibility with a range

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of other treatments patients may receive.

Therapeutic communities (TCs), or residential programs, offer another alternative to persons in need of treatment for cocaine addiction. TCs usually require a 6- or 12-month stay and use the program's entire "community" as active components of treatment. They can include onsite vocational rehabilitation and other supportive services and focus on successful re-integration of the individual into society.

Community-based recovery groups—such as Cocaine Anonymous—that use a 12-step program can also be helpful to people trying to sustain abstinence. Participants may benefit from the supportive fellowship and from sharing with those experiencing common problems and issues.

It is important that patients receive services that match all of their treatment needs. For example, if a patient is unemployed, it may be helpful to provide vocational rehabilitation or career counseling along with addiction treatment. If a patient has marital problems, it may be important to offer couples counseling.

Glossary

Addiction: A chronic, relapsing disease characterized by compulsive drug seeking and use and by long-lasting changes in the brain.

Anesthetic: An agent that causes insensitivity to pain and is used for surgeries and other medical procedures.

Coca: The plant, *Erythroxylon*, from which cocaine is derived. Also refers to the leaves of this plant.

Crack: The slang term for a smokable form of cocaine.

Craving: A powerful, often uncontrollable, desire for drugs.

Dopamine: A brain chemical, classified as a neurotransmitter, found in regions of the brain that regulate movement, emotion, motivation, and pleasure.

Freebase: A solid, water-insoluble, and smokable form of cocaine that is produced when its hydrochloride salt form is processed with ammonia or sodium bicarbonate and water, then heated to remove the hydrochloride. (Also, see "crack.")

Frontal cortex: The front part of the brain involved with reasoning, planning, problemsolving, and other higher cognitive functions.

Gamma-aminobutyric acid (GABA): The main inhibitory neurotransmitter in the central nervous system. GABA provides the needed counterbalance to the actions of other systems, particularly the excitatory neurotransmitter glutamate.

Glutamate: An excitatory neurotransmitter found throughout the brain that influences the reward system and is involved in learning and memory, among other functions.

Hydrochloride salt: A powdered, water-soluble form of cocaine that can be injected or snorted.

Neuron: A nerve cell.

Nucleus accumbens: A brain region involved in motivation and reward. Nearly all drugs of abuse directly or indirectly increase dopamine in the nucleus accumbens, contributing to their addictive properties.

Polydrug user: An individual who uses more than one drug.

Rush: A surge of pleasure (euphoria) that rapidly follows the administration of some drugs.

Stimulant: A class of drugs that enhances the activity of monamines (such as dopamine) in the brain, increasing arousal, heart rate, blood pressure, and respiration, and decreasing appetite; includes some medications used to treat attention-deficit hyperactivity disorder (e.g., methylphenidate and amphetamines), as well as cocaine and methamphetamine.

Tolerance: A condition in which higher doses of a drug are required to produce the same effect achieved during initial use.

Vertigo: The sensation of dizziness.

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Where Can I Get More Scientific Information About Cocaine Abuse and Addiction?

To learn more about cocaine and other drugs of abuse, or to order materials on these topics free of charge in English or Spanish, visit the NIDA Web site at **www.drugabuse.gov** or contact the *DrugPubs* Research Dissemination Center at 877-NIDA-NIH (877-643-2644; TTY/TDD: 240-645-0228).

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- Information on drugs of abuse
- Publications and communications (including *NIDA Notes* and *Addiction Science & Clinical Practice* journal)
- Calendar of events
- Links to NIDA organizational units
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- International activities
- Links to related Web sites (access to Web sites of many other organizations in the field)

NIDA Web Sites

drugabuse.gov

backtoschool.drugabuse.gov

teens.drugabuse.gov

For Physician Information

NIDAMED

www.drugabuse.gov/nidamed

Other Web Sites

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- Substance Abuse and Mental Health Services Administration Health Information Network: *www.samhsa.gov/shin*

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