

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County
G. Edward Welmaker, Circuit Court Judge

Opinion No. 5230 (S.C. Ct. App. filed 5/14/2014)

10-GS-23-9683-84

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S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

CHRISTOPHER LEE JOHNSON,

PETITIONER

APPENDIX

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Christopher Lee Johnson, Appellant.

Appellate Case No. 2011-201808

Appeal From Greenville County
G. Edward Welmaker, Circuit Court Judge

Opinion No. 5230
Heard January 7, 2014 – Filed May 14, 2014

AFFIRMED

Dayne C. Phillips, of Lexington, and Appellate Defender
Carmen Vaughn Ganjehsani, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Mark Reynolds Farthing, both of
Columbia, for Respondent.

THOMAS, J.: Christopher Lee Johnson appeals his conviction for driving under the influence (DUI), arguing the circuit court erred in denying his motion to dismiss the charge because the Greenville Police Department (GPD) failed to

comply with the video recording requirements of section 56-5-2953 of the South Carolina Code (Supp. 2013).¹ We affirm.

FACTS/PROCEDURAL HISTORY

In the early hours of March 18, 2010, Officer Jesse Lowe of the GPD conducted a traffic stop of Johnson after observing Johnson (1) operating a vehicle without its headlights on and with an inoperable brake light and (2) stopping at a red light, entering the intersection, and stopping again in the middle of the red-lit intersection. During the traffic stop, Officer Lowe noted Johnson's eyes were "glassy" and that he smelled of alcohol. Officer Lowe also noticed Johnson was wearing a wristband from a local restaurant and bar. After informing Johnson of his traffic violations, Officer Lowe asked Johnson if he had consumed any alcohol. Johnson responded "too much," and stated he had consumed "six to seven beers at least." As a result of his initial observations, Officer Lowe conducted three field sobriety tests.² After Johnson failed these tests, Officer Lowe placed Johnson under arrest for DUI and transported him to the Greenville County Detention Center.

Upon arrival at the detention center, Officer Lowe prepared an affidavit regarding his failure to produce a video recording of Johnson's conduct at the incident site. On the affidavit, Officer Lowe checked a box reading:

At the time of the Defendant's arrest the vehicle I was operating had not been equipped with [a] videotaping device and therefore pursuant to Section 18 of Senate Bill 174 of 1998, the videotaping requirement regarding vehicles is not applicable.

¹ The code provision in effect at the time Johnson committed the offense in 2010 has not since been amended; thus, we cite to the current version of section 56-5-2953.

² The field sobriety tests were recorded on a personal camera by Officer Donnie Ng of the GPD, who arrived at the scene of the traffic stop after Johnson was already out of his car. Upon Officer Ng's arrival, Officer Lowe asked him if he had a video camera in his vehicle, which Officer Ng did not. The video recorded by Officer Ng did not begin until after Johnson had already been pulled over and exited his car. The State has not argued on appeal that the video recorded by Officer Ng meets the requirements of section 56-5-2953.

Johnson was subsequently indicted for second-offense DUI and driving under suspension, and the case proceeded to trial. Prior to trial, Johnson's counsel moved to dismiss the DUI charge on the ground that the GPD failed to comply with the video recording requirements of section 56-5-2953.

At a pre-trial hearing on this matter, Lieutenant Joe Browning testified regarding his management of the GPD's budget and the GPD's efforts over the previous decade to obtain and maintain video recording systems for their law enforcement vehicles. Lieutenant Browning stated the GPD acquired its first four camera systems from the Department of Public Safety (DPS) as part of a safety award some time prior to 2001. Lieutenant Browning testified the GPD began an effort in December 2001 to purchase its own camera systems and expended \$35,550 on eighteen camera systems. However, these camera systems began failing soon after the purchase, and the GPD sold them all for \$155.

According to Lieutenant Browning, on February 13, 2002, DPS informed the GPD that it would be receiving VHS-based camera systems from DPS following "the change with the DUI law." The GPD subsequently requested fifteen camera systems. On August 8, 2002, the GPD received one camera system from DPS along with a letter informing them that funds were not available to provide all the requested camera systems at one time. Instead, a computerized random selection process was utilized, by which the GPD received one camera system. By the end of 2004, the GPD had received twenty-one camera systems.

Lieutenant Browning further testified that the GPD was confined to the amount of camera systems it had previously requested and could not request any more camera systems until 2009. After waiting to no avail for DPS to take more camera system requests, the GPD established a committee in late 2007 and early 2008 to look into purchasing its own camera systems. The committee decided the GPD should utilize digital-based camera systems rather than VHS-based camera systems due to the advantages in storage, installation, and video quality. The committee requested recording systems from nine different companies in order to test the equipment. In February 2010, the GPD began purchasing digital-based camera systems from Kustom Signals.³ As of the date of Johnson's trial, the GPD had spent \$463,463.99 to purchase eighty-nine digital-based camera systems.

³ Lieutenant Browning explained the GPD's delay in purchasing these camera systems was due to the lengthy process of attempting to obtain approval and extra funding from state and local government.

In April of 2009, DPS notified law enforcement agencies that the 2002 requests had been satisfied and it was now accepting requests for additional camera systems. Lieutenant Browning testified that this was the first opportunity since 2002 to request additional camera systems. DPS also informed law enforcement agencies that it would fulfill requests for VHS-based camera systems before fulfilling any requests for digital-based camera systems.⁴ According to Lieutenant Browning, the GPD opted to request twenty digital-based camera systems in 2009 rather than VHS-based camera systems because the GPD had already expended a significant amount of its own funds transitioning towards digital-based recording.⁵ As of the date of Johnson's trial, the GPD had yet to receive any camera systems from DPS since its 2009 request.

Elaine Johnson, an employee of DPS and previously the Director of the Department of Resource Management when section 56-5-2953 was enacted, testified next regarding DPS's efforts to implement legislation and provide video recording systems to state law enforcement agencies. She indicated that DPS is responsible for purchasing, installing, and maintaining video recording systems. Johnson stated that, as she understood it, section 56-5-2953 was enacted so that individual law enforcement agencies would not have to spend their own money on camera systems. According to Johnson, it will take fifteen years to fulfill the number of camera systems requested statewide in 2009. She further verified that the GPD had received twenty-one camera systems as of 2004, and that the GPD's 2009 request for twenty digital-based camera systems was still pending.

Johnson's counsel then argued our supreme court's holding in *Town of Mount Pleasant v. Roberts*, 393 S.C. 332, 713 S.E.2d 278 (2011), warranted dismissal of the DUI charge. At the conclusion of the pre-trial hearing, the circuit court denied the motion to dismiss, finding the facts of this case were distinguishable from those in *Roberts* because, unlike the law enforcement agency in *Roberts*, the GPD "was always seeking to get to the trough to get the equipment when they could, expending their own dollars in addition." The case proceeded to trial and the jury convicted Johnson of DUI and driving under suspension.⁶ This appeal followed.

⁴ The Greenville Sheriff's Department (GSD), the highest priority agency in the state to request VHS-based camera systems in 2009, did not receive any camera systems until over a month after Johnson's arrest. The GSD had second priority statewide; the GPD had twenty-first priority.

⁵ Lieutenant Browning testified the GPD would have requested forty camera systems in 2009 but he did not believe DPS could supply that many.

⁶ At trial, Johnson stipulated to knowingly driving with a suspended license.

ISSUE ON APPEAL

Did the circuit court err in denying Johnson's motion to dismiss his DUI charge because of the GPD's failure to comply with the video recording requirements of section 56-5-2953 of the South Carolina Code (Supp. 2013)?

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. *State v. Baccus*, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). Thus, an appellate court is bound by the trial court's factual findings unless they are clearly erroneous. *Id.*

LAW/ANALYSIS

A person who commits the offense of DUI "must have his conduct at the incident site and the breath test site video recorded . . . [and] [t]he video recording at the incident site must . . . not begin later than the activation of the officer's blue lights." S.C. Code Ann. § 56-5-2953(A)(1)(a)(i) (Supp. 2013). However, subsection 56-5-2953(B) outlines four exceptions that excuse noncompliance with subsection (A)'s mandatory video recording requirements:

Failure to comply with the video recording requirement is excused: (1) if the arresting officer submits a sworn affidavit certifying the video equipment was inoperable despite efforts to maintain it; (2) if the arresting officer submits a sworn affidavit that it was impossible to produce the video recording because either (a) the defendant needed emergency medical treatment or (b) exigent circumstances existed; (3) in circumstances including, but not limited to, road blocks, traffic accident investigations, and citizen's arrests; or (4) for any other valid reason for the failure to produce the video recording based upon the totality of the circumstances.

State v. Manning, 400 S.C. 257, 264, 734 S.E.2d 314, 317-18 (Ct. App. 2012) (citing § 56-5-2953(B)). Pursuant to subsection (G) of 56-5-2953, the provisions of subsections (A) and (B) of 56-5-2953 take effect for each law enforcement vehicle used for traffic enforcement once the law enforcement vehicle is equipped with a video recording device. The failure to comply with the provisions of section

56-5-2953 merits a *per se* dismissal. *Town of Mount Pleasant v. Roberts*, 393 S.C. 332, 348, 713 S.E.2d 278, 286 (2011).

Johnson alleges the failure to produce a video recording in compliance with section 56-5-2953 merited the dismissal of the DUI charge pursuant to the supreme court's holding in *Roberts*. In *Roberts*, a Mount Pleasant police officer failed to record the traffic stop of Roberts because the officer's vehicle was not equipped with a video camera. *Id.* at 336, 713 S.E.2d at 280. Prior to the trial in municipal court, Roberts moved to dismiss the charge based on the officer's failure to videotape the entire arrest pursuant to section 56-5-2953. *Id.* at 337, 713 S.E.2d at 280. In opposing that argument, the Town of Mount Pleasant (the Town) relied on subsection (G) of section 56-5-2953 for the proposition that the videotaping requirement only takes effect once the law enforcement vehicle is equipped with a videotaping device. *Id.* at 337-38, 713 S.E.2d at 280-81. As the vehicle had not been equipped with such a device, the Town argued the statute had not taken effect.⁷ *Id.* In support of her motion to dismiss, Roberts called several law enforcement officers from Charleston, Berkeley, and Dorchester counties in an attempt to establish that Mount Pleasant had fewer video cameras than these municipalities despite a higher number of DUI arrests. *Id.* at 338, 713 S.E.2d at 281. Roberts argued the Town had willfully avoided compliance with 56-5-2953 as it had not requested additional cameras from DPS in response to increasing DUI arrests.⁸ *Id.* Additionally, Roberts argued the Town was financially able to purchase additional video cameras but had chosen not to do so. *Id.*

At the conclusion of the pre-trial hearing, the municipal court denied Roberts's motion to dismiss. *Id.* at 339, 713 S.E.2d at 281. The municipal court concluded there was no requirement that Mount Pleasant obtain any video cameras, and noted that subsection (G) indicated the other provisions of section 56-5-2953 only take

⁷ Our supreme court noted "this argument would be valid but for the Town's obvious intentional efforts to avoid complying with section 56-5-2953." *Roberts*, 393 S.C. at 338, 713 S.E.2d at 281.

⁸ From our reading of *Roberts*, the Town did not argue that the difficulty in receiving video cameras from DPS contributed to their noncompliance. Unlike this case, it does not appear that the Town presented evidence that law enforcement agencies were unable to request additional cameras until 2009. Instead, "[t]he Town countered Roberts's arguments by claiming that DPS was solely responsible for providing the video cameras and, thus, the Town did not have a duty to request or purchase additional cameras in order to comply with the statute." *Roberts*, 393 S.C. at 338-339, 713 S.E.2d at 281.

effect once a vehicle is equipped with a videotaping device. *Id.* Roberts was convicted of DUI and subsequently appealed her conviction to the circuit court. *Id.* The circuit court reversed Roberts's conviction, finding that to construe subsection (G) as proposed by the Town would permit law enforcement agencies to circumvent the statute by not requesting video cameras from DPS. *Id.* at 340, 713 S.E.2d at 282. The circuit court also concluded that none of the exceptions in subsection (B) of 56-5-2953 were satisfied. *Id.*

In affirming the circuit court, our supreme court held that the Town's failure to equip its patrol vehicles with video cameras, despite its "priority" ranking, "defeat[ed] the intent of the Legislature and violated the statutorily-created obligation to videotape DUI arrests." *Id.* at 347, 713 S.E.2d at 285. The supreme court went on to say the Town should not be able to continually evade its duty by relying on subsection (G) of section 56-5-2953. *Id.* The court also pointed out that the Town failed to satisfy any of the statutory exceptions to the videotaping requirement. *Id.* Furthermore, the Town's failure to request additional video cameras from DPS did not constitute a "valid reason for the failure to produce the videotape based upon the totality of the circumstances." *Id.* at 348, 713 S.E.2d at 286 (citing § 56-5-2953(B)). In reaching this decision, the supreme court noted that its holding was dependent on the specific facts of *Roberts*, and it could envision other circumstances in which a law enforcement agency could establish a "valid reason" for noncompliance:

Our decision should in no way be construed as eradicating subsection (G) of section 56-5-2953. Instead, we emphasize that subsection (G) is still viable and must be read in conjunction with subsection (B) as these exceptions, under the appropriate factual circumstances, could operate to excuse a law enforcement agency's noncompliance due to the failure to equip a patrol vehicle with a video camera. For example, we can conceive of a scenario where a law enforcement agency establishes a 'valid reason' for failing to create a video of the incident site by offering documentation that, despite concerted efforts to request video cameras, it has not been supplied with the cameras from DPS.

Id. at 349, 713 S.E.2d at 286-87.

In the present case, we find the GPD established a valid reason for its failure to equip a patrol vehicle with a video recording system. Lieutenant Browning's testimony outlined the GPD's extensive efforts to obtain video recording systems for its law enforcement vehicles. The GPD requested camera systems from DPS in both 2002 and 2009, which were the only opportunities to request camera systems from DPS.⁹ Unlike the police department in *Roberts*, the GPD had already begun a process of expending its own funds to purchase camera systems before Johnson's arrest. This process included establishing a committee to research camera systems and necessitated the time-consuming task of attempting to secure extra funding from state and local government. These efforts do not constitute an attempt to evade the requirements of section 56-5-2953; instead, we agree with the circuit court that these efforts signify an attempt to comply with the statute with the limited funds and opportunities available. As we find the GPD did not seek to evade compliance with 56-5-2953 through reliance on subsection (G), subsection (G) still applies. Therefore, the video recording requirements of subsection 56-5-2953(A) had not taken effect because the vehicle had yet to be equipped with video recording equipment. Additionally, had the requirements taken effect, we find these facts constitute a "valid reason" under a totality of the circumstances analysis, which would satisfy an exception under section 56-5-2953(B). See *Roberts*, 393 S.C. at 349, 713 S.E.2d at 286-87 ("We can conceive of a scenario where a law enforcement agency establishes a 'valid reason' for failing to create a

⁹ Johnson also argues the number of camera systems requested by the GPD was insufficient in comparison to the number of requests made by police departments in "other highly populated cities." Specifically, Johnson points out that in 2009 the Charleston Police Department requested 200 camera systems and the Columbia Police Department requested 193 camera systems. However, this argument lacks merit because the number of DUI arrests, rather than population, governs priority for camera systems. In 2009, the Charleston and Columbia police departments had first and ninth priority, respectively, while the GPD had twenty-first priority. According to a DPS spreadsheet, the number of camera systems requested by the GPD was comparable to the number of requests by agencies with similar "priority" rankings. More specifically, the Richland County and Anderson County sheriff's departments had 2009 priority rankings of nineteenth and twentieth, respectively. Accordingly, the spreadsheet reveals that Richland County requested ten camera systems in 2009, Anderson County requested fifteen camera systems, and the GPD requested twenty camera systems. Similarly, in 2002, the GPD had twentieth priority and requested more camera systems than the two agencies with eighteenth and nineteenth priority.

video of the incident site by offering documentation that, despite concerted efforts to request video cameras, it has not been supplied with the cameras from DPS.").

CONCLUSION

We hold the circuit court properly denied Johnson's motion to dismiss his charge for DUI. Unlike the police department in *Roberts*, the GPD did not seek to evade its duties in equipping law enforcement vehicles with video recording systems. Thus, under subsection (G) of 56-5-2953, the video recording requirements of subsection 56-5-2953(A) had not taken effect because a video camera had not been installed in the vehicle. Accordingly, the circuit court's decision is

AFFIRMED.

SHORT and WILLIAMS, JJ., concur.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
G. Edward Welmaker, Circuit Court Judge

Opinion No. 5230 (S.C. Court of Appeals filed May 14, 2014)

THE STATE,

RESPONDENT,

V.

CHRISTOPHER LEE JOHNSON,

APPELLANT.

APPELLATE CASE NO. 2011-201808

PETITION FOR REHEARING

The Appellant, Christopher Lee Johnson, respectfully petitions the Court for a rehearing of its Opinion No. 5230 pursuant to Rule 221(a), SCACR based upon the following points overlooked or misapprehended by the Court:

On May 14, 2014, this Court affirmed Appellant's conviction for driving under the influence (DUI), holding that the Trial Court did not err in denying his motion to dismiss the charge because the Greenville Police Department (GPD) failed to comply with the video recording requirements of S.C. CODE ANN. § 56-5-2953.

Appellant asserts that where Officer Lowe's marked patrol car, a vehicle used for traffic stops, was still not equipped with a video camera on March 18, 2010, the day of Appellant's DUI arrest, even though the statute requiring video recording at the incident site

was enacted in 1998, reversal of Appellant's DUI conviction is required. R. 16, l. 10 – 17, l. 9; 24, ll. 7-13.

In Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 713 S.E.2d 278 (2011), the South Carolina Supreme Court found, "Our appellate courts have strictly construed section 56-5-2953 [of the South Carolina Code] and found that a law enforcement agency's failure to comply with these provisions is fatal to the prosecution of a DUI case." See S.C. CODE ANN. § 56-5-2953 (2010). Subsection (A) of section 56-5-2953 provides in relevant part: A person who operates a vehicle while under the influence of alcohol "*must have his conduct at the incident site . . . video recorded [and] . . . [t]he video at the incident site must begin not later than the activation of the officer's blue lights[.]*" (emphasis added).

Subsection (B) of section 56-5-2953 outlines four exceptions that excuse noncompliance with subsection (A)'s mandatory video recording requirements. Specifically, a police department's failure to comply with the video recording requirement is excused when: (1) the arresting officer submits a sworn affidavit certifying the video equipment was inoperable despite efforts to maintain it; (2) the arresting officer submits a sworn affidavit that it was impossible to produce the video recording because either (a) the defendant needed emergency medical treatment or (b) exigent circumstances existed; (3) in circumstances including, but not limited to, road blocks, traffic accident investigations, and citizen's arrests; or (4) for any other valid reason for the failure to produce the video recording based upon the totality of the circumstances. See § 56-5-2953(B).

Furthermore, subsection (G) of section 56-5-2953 provides in relevant part: "The provisions contained in Section 56-5-2953 (A), (B), and (C) take effect for each law

enforcement vehicle used for traffic enforcement once the law enforcement vehicle is equipped with a video recording device.” Our Supreme Court, however, has held that police departments cannot “continually evade [their] duty [under subsection (A) of section 56-5-2953] by relying on subsection (G) of section 56-5-2953.” Roberts, 393 S.C. at 347, 713 S.E.2d at 285. Thus, a police department’s “failure to equip its patrol vehicles does not negate the application of the statutory exceptions in subsection (B).” Id.; see § 56-5-2953(B).

While Appellant recognizes that the GPD did eventually begin to undergo efforts to purchase videotaping devices, it submits that these efforts did not begin in a timely manner with respect to Appellant’s arrest on March 18, 2010. A review of the timeline of the efforts or lack of efforts made by the GPD is instructive to determine whether the GPD had made sufficient attempts to comply with § 56-5-2953 at the time of Appellant’s arrest on March 18, 2010:

1. On December 12, 2001, the GPD purchased around eighteen cameras which all failed almost immediately. [R. 28, ll. 1-13];
2. The GPD received 21 cameras from the Department of Public Safety [DPS] by the end of 2004. The majority of those cameras were eventually uninstalled. At the time of Appellant’s arrest on March 18, 2010, approximately 8 of these cameras remained installed. [R. 31, ll. 16-20; 41, ll. 20-23; 73, ll. 1-11; 77, ll. 4-18];
3. In 2008, the GPD decided it only wanted digital cameras and not VHS cameras. [R. 43, ll. 8-14];
4. On April 28, 2009, DPS invited the GPD to request more video cameras. DPS advised in that letter that departments could request VHS systems or digital systems, but that digital system requests would be delayed until DPS fulfilled requests for VHS cameras. The letter from DPS stated that VHS systems would be “*awarded immediately*.” The GPD decided not to request the VHS cameras, but only requested 20 digital cameras. [R. 62, 23 – 64, l. 14; 64, l. 25 – 65, l. 4; 66, l. 11 – 67, l. 2; 78, ll. 2-6; 99, l. 10 – 100, l. 4; 179 (emphasis added); 180]; and

5. The GPD's first purchase of digital cameras occurred on February 23, 2010, *less than a month before Appellant's arrest on March 18, 2010*. The GPD originally only purchased 13 cameras on February 23, 2010 and purchased another 76 cameras between September and December 2010, *after Appellant's arrest*. [R. 55, ll. 2-4; 76, ll. 9-13; 76, l. 14 – 77, l. 18; 182].

Therefore, for approximately 170 patrol cars in use by the GPD, the GPD decided to only request 20 digital cameras from DPS in 2009. The GPD also decided not to request any VHS cameras despite the letter from DPS stating that VHS systems would be “awarded immediately.” R. 59, ll. 15-20; 179; 180. As far back as 2002, the GPD was considered high producing based on the total number of arrests and certainly should have at least made a request for the VHS cameras from DPS. R. 93, ll. 6-13.

This Court suggests that it does not matter whether the GPD made a request for VHS cameras or not since the Greenville Sheriff's Department did not receive its request for VHS cameras until after Appellant's arrest. An agency like the Greenville Sheriff's Department may have a valid reason for failing to equip a patrol vehicle with a video camera where it made the request for VHS cameras to DPS; the GPD, however, did not make any such request to DPS. Therefore, the GPD should not be able to rely on the Supreme Court's example of valid reason in the Roberts case – “that despite concerted efforts to request video cameras, it has not been supplied with the cameras from DPS.” Roberts, 393 S.C. at 349, 713 S.E.2d at 287.

The GPD only began purchasing video cameras for its vehicles on February 23, 2010, less than one month before Appellant was arrested on March 18, 2010. On February 23, 2010, the GPD only purchased 13 video cameras. It then purchased another 76 cameras between September and December 2010, after Appellant's arrest. R. 182. At the time of Appellant's arrest, the GPD only had approximately 21 video cameras installed in its 170

car fleet – the 13 cameras it purchased on February 23, 2010 and about 8 cameras that DPS had given them by the end of 2004. R. 77, ll. 4-18.

The efforts of the GPD to obtain the statutorily required video cameras came too late for Appellant who was arrested on March 18, 2010 by an officer whose marked patrol car did not comply with § 56-5-2953 by having a required video recording device. The GPD's failure to make a request from DPS for the immediately available VHS cameras and failure to begin purchasing efforts of video cameras prior to February 23, 2010 is not a valid reason for failing to comply with the video-recording requirements of § 56-5-2953 on the day of Appellant's arrest for DUI.

CONCLUSION

For the reasons set forth herein, Appellant Christopher Lee Johnson respectfully requests that the Opinion of the Court of Appeals be withdrawn, his conviction and sentence for DUI be reversed, and the case be dismissed pursuant to Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 713 S.E.2d 278 (2011).

Respectfully submitted,



Carmen V. Ganjehsani
Appellate Defender

This 28th day of May, 2014.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
G. Edward Welmaker, Circuit Court Judge

Opinion No. 5230 (S.C. Court of Appeals filed May 14, 2014)

THE STATE,

RESPONDENT,

V.

CHRISTOPHER LEE JOHNSON,

APPELLANT.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Mark R. Farthing, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Christopher Johnson, at 203 Dobie Drive, Grier, SC 29651, this 28th day of May, 2014.



Carmen V. Ganjehsani
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 28th day
of May, 2014.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

The South Carolina Court of Appeals

The State, Respondent,

v.

Christopher Lee Johnson, Appellant.

Appellate Case No. 2011-201808

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CLERK OF
SOUTH CAROLINA

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Paul E. Spivey, Jr. J.

H. B. Wilkins J.

Paul R. Brown J.

Columbia, South Carolina

cc:

Dayne C. Phillips, Esquire

Mark Reynolds Farthing, Esquire

Carmen Vaughn Ganjehsani, Esquire

FILED
June 25, 2014

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

G. Edward Welmaker, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

THE STATE,

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SUPPLEMENTAL RECORD ON APPEAL

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1 **THE COURT:** All right. Let's have our jury come in.
2 They'll be sworn.

3 (Whereupon, the jury entered the courtroom at 3:25 pm)

4 **THE COURT:** I apologize, ladies and gentlemen. I
5 sometimes don't estimate as well as I should. And that's my
6 fault. We had a very late lunch. We've got the legal
7 matters taken care of now and we're ready to proceed with
8 the trial of the case.

9 I'm going to have the clerk administer an oath to you.
10 I hope that you will listen carefully as that oath is
11 administered. It's a time honored oath that's been in
12 existence well before the foundation of our country where
13 jurors such as yourself have sat in jury boxes similar to
14 the one you're in now, taking this oath and tried cases for
15 centuries, literally.

16 After the oath is given to you, the attorneys will have
17 a chance to make opening statements to you, give you an
18 overview, a roadmap of what you can expect as the case
19 develops. You're going to hear evidence, testimony.

20 What the lawyers have to say to you is not evidence,
21 but I'm confident that each of these attorneys will give you
22 valuable insights to help you in your analysis of the case
23 as it develops and ultimately as you conduct your
24 deliberations. All right. Ms. Lanfear, if you would,
25 administer the oath to the jury.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 24th, 2013



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APPEAL FROM GREENVILLE COUNTY

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Attorneys for Respondent

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

COURT’S EXHIBIT #2 (DVD POCKET VIDEO)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 CHRISTOPHER LEE JOHNSON,)
)
 DEFENDANT.)
 _____)

2010-GS-23-09683 - 09684

TRANSCRIPT OF RECORD

OCTOBER 10 - 11, 2011
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE G. EDWARD WELMAKER

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

SARA LEE DRAWDY, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

DANIEL J. FARNSWORTH, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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1 **THE COURT:** Thank you. Please take your seats, ladies
2 and gentlemen. All right. Are we ready to have a jury come
3 up on the next case?

4 **MS. DRAWDY:** Yes, Your Honor. And just to dispense
5 with a couple of pretrial matters. I believe Mr. Farnsworth
6 is stipulating to the jurisdiction of the Court.

7 **MR. FARNSWORTH:** That's correct.

8 **MS. DRAWDY:** And I did tell you that we had a -- needed
9 pretrial hearings on the city of Mt. Pleasant -- town of Mt.
10 Pleasant versus Roberts.

11 **THE COURT:** Will that involve taking testimony?

12 **MS. DRAWDY:** Yes, Your Honor, extensive testimony.

13 **THE COURT:** Okay.

14 **MS. DRAWDY:** And I would request that the jury be
15 selected, but not sworn until after that hearing is
16 concluded. And I anticipate the hearing to last an hour and
17 a half at least.

18 **THE COURT:** How about the trial of the case itself if
19 it gets -- will we be able to finish it today? How many
20 witnesses would testify if we had a trial?

21 **MS. DRAWDY:** The trial, there will be two State
22 witnesses and two videos.

23 **THE COURT:** How long are the videos?

24 **MS. DRAWDY:** Probably about an hour and twenty minutes
25 between the two of them max, a little less.

1 **THE COURT:** Okay.

2 **MS. DRAWDY:** I can give you a definite answer by
3 looking at the videos.

4 **THE COURT:** Well, you say it will take an hour and a
5 half probably to do the pretrial?

6 **MS. DRAWDY:** Yes, Your Honor, maybe two hours.

7 **THE COURT:** Do you agree with that, Mr. Farnsworth?

8 **MR. FARNSWORTH:** Yes, Your Honor.

9 **THE COURT:** So if I have the jury to come back at 2:30
10 they might have to wait a little while, but we'll see how
11 that is. 3:00 better, you think?

12 **MS. DRAWDY:** I think ---

13 **THE COURT:** We'll probably not get them selected til a
14 quarter til twelve. So that'll give us an hour and fifteen
15 minutes. Let's shoot for 2:30 and see if we can ---

16 **MR. FARNSWORTH:** Your Honor, I was just going to add
17 that I don't think the actual case itself will probably be a
18 little more than -- say you started it in the morning, over
19 a good half day, the trial itself probably.

20 **THE COURT:** So we could get all the testimony in this
21 afternoon for sure, I would think, and showing the videos?

22 **MS. DRAWDY:** Yes, Your Honor.

23 **THE COURT:** If we try it and start at 2:30 we could at
24 least be ready to -- all the testimony's gone before them
25 before in the morning. All right.

1 I think I was handed a witness list. And, Mr.
2 Farnsworth, do you have any ---

3 MR. FARNSWORTH: Your Honor, I didn't supply one
4 because it would be only the Defendant, ---

5 THE COURT: Okay.

6 MR. FARNSWORTH: --- if any.

7 THE COURT: I'll cover that. All right. Ready to
8 proceed with selecting our jury. I'll just have them come
9 back at 2:30. Have them come up.

10 (Whereupon, State's exhibit 1 was marked for
11 identification)

12 (Whereupon, Court's exhibits 1 - 6 were marked for
13 identification)

14 (Whereupon, the jury panel entered the courtroom at
15 11:16 am)

16 THE COURT: Please be seated, ladies and gentlemen,
17 when you get to your seats. Good morning, ladies and
18 gentlemen. I'm Eddie Welmaker. I'm from Pickens county.

19 I've been assigned here in Greenville county this week
20 to conduct trials and do other matters in the General
21 Sessions Court. I look forward to working with you in this
22 case. I look forward to working with you in other matters
23 that may come before us this week.

24 We have here a case that the State of South Carolina
25 has brought against Mr. Christopher Lee Johnson. The

1 indictments that have been presented to me charge Mr.
2 Johnson here in Greenville county back in March of last
3 year, around March the 18th of operating a motor vehicle
4 while under the influence of alcohol or drugs, which caused
5 impairment to the extent that his ability to operate that
6 motor vehicle were materially and appreciably impaired.
7 He's charged with an offense of driving under the influence
8 on that same date of March 18th, 2010.

9 Mr. Johnson is also charged with operating a motor
10 vehicle on a public highway in this State when his license
11 to do so -- his license to drive had been suspended.

12 Mr. Johnson has entered a plea of not guilty to these
13 charges. By entering that plea of not guilty the burden is
14 on the State of South Carolina to prove beyond a reasonable
15 doubt that he did, in fact, commit the offenses that he has
16 been indicted for.

17 You and I are going to be judges in this case. I'm
18 going to judge the law, decide what the law is. We need to
19 find twelve fair and impartial jurors to judge the facts in
20 the case to determine what the facts are.

21 I need to ask you some additional questions. You've
22 been qualified to serve as a juror this week already. I
23 need to ask you some additional questions to determine your
24 eligibility to serve on this particular case that we're
25 about to start.

1 with the opening statements. So I'm going to give you an
2 extended lunch break today. We'll be working on some of
3 these matters in the meantime.

4 So when you come back -- I'll let you go with Ms. Sims
5 in a moment. She'll show you where to report back. I'll
6 remind you not to discuss the case. And once we have you
7 back at 2:30 we'll be ready to start with the opening
8 statements at that time.

9 Have a good lunch. Please be back in your jury room at
10 2:30 this afternoon. If you'll go with the bailiff at this
11 time, please.

12 (Whereupon, the jury exited the courtroom at 11:52 am)

13 **THE COURT:** All right. Y'all can give me an overview
14 of what issues we have. Are these motions by the Defense or
15 what do we need to take care of?

16 **MR. FARNSWORTH:** Your Honor, ---

17 **THE COURT:** I don't know anything about the case,
18 obviously. So fill me in, if you would, Mr. Farnsworth.

19 **MR. FARNSWORTH:** All right. Your Honor, I would be
20 making a motion for dismissal of the charge based on the
21 fact that a -- that the video recording was -- that the
22 officer's vehicle at the time of the arrest was not
23 recording with video cameras as provided in 56-5-2953. And
24 I'll have a motion to dismiss.

25 This is going to be based on the Mt. -- recent Mt.

1 Pleasant case which, Your Honor, held that unless -- when
2 there's no video equipment in the law enforcement car the --
3 in that case, which was a case that there was not one, the
4 court dismissed the town of Mt. Pleasant's argument and that
5 -- and held that statutory exceptions in subsection (g) or
6 -- nor subsection (b) excused the town's non-compliance with
7 the requirements of 56-5-2953 and that that dismissal was a
8 proper sanction.

9 And the facts in this case are -- as to the actual
10 facts of the case are pretty -- very much similar. There
11 was a -- both were, of course, DUI charges. The -- our case
12 today, the officer did not have a video equipment provided
13 by the Department of Public Safety in his -- installed in
14 his car as was the case in the town of Mt. Pleasant case.

15 The statute, 26-5-2953, provides that every incident
16 site arrest for DUI should be video recorded. And it states
17 the things that must be video recorded is the conduct of the
18 person arrested.

19 And then subsection (b) goes along to say that if the
20 officer does not provide the tape, that that's not alone
21 grounds for dismissal unless he can show some of the
22 exceptions existed. And that would be, number one, Your
23 Honor, that the -- well, let me just read them right here.
24 It's in the case. I think you have the case up there.

25 It's subsection 56-5-2953, outlines the statutory

1 exceptions that excuse non-compliance with the videotape,
2 mandatory videotaping requirements. Non-compliance is
3 excusable if the arresting officer submits a sworn affidavit
4 certifying that the video equipment was inoperable despite
5 efforts to maintain it.

6 If the -- number two, if the arresting officer submits
7 an affidavit that it was impossible to produce the videotape
8 because the Defendant either (a) needed emergency medical
9 attention or (b) exigent circumstances existed or (3)
10 circumstances including, but not limited to road blocks,
11 traffic accidents and citizens' arrests or (4) for any other
12 valid reason for the failure to produce the videotape based
13 on the totality of circumstances. In the town of Mt.
14 Pleasant case the court held that the town of Mt. Pleasant
15 did not -- did not come under any of these exceptions.

16 And there's another exception that was raised and
17 argued was that section (g) of the section provided for
18 videotaping states that the patrol car must be equipped with
19 the equipment before these exceptions and mandatory
20 requirements for videotaping can begin. That being the
21 case, the court still dismissed the charge.

22 The argument Mt. Pleasant made was that the -- that the
23 obligation -- that they admitted they didn't have the
24 cameras in the car and they fit the exceptions -- the first
25 three exceptions in subsection (b) but that the Department

1 of -- the Department of Public Safety is responsible for
2 providing the videotapes to the law enforcement cars in the
3 State and that it's -- it was not their duty to request
4 them. And the court held that they had not complied with
5 section (g) or section (b), the exceptions I just mentioned
6 to you and dismissed the charge.

7 Your Honor, this is -- this town of Mt. Pleasant case
8 is the first case that's dealt with a -- with the
9 videotaping requirements where there was no video in the
10 car. The others were decided, you know, where there was a
11 videotaping either with a malfunction of the video or
12 various other circumstances.

13 So we would -- this is, as you know, new law. And we
14 think that the facts in this case are very similar to the
15 facts in the town of Mt. Pleasant case. I think Ms. Drawdy
16 is going to present some statistical information that has
17 several witnesses who will testify as to whether or not --
18 what requests were made, how many video camera devices were
19 sent to the Greenville Police Department by the Department
20 of Public Safety. So that's my motion. We'd move to
21 dismiss based on that.

22 **THE COURT:** Any other motions? This is just to the DUI
23 charge ---

24 **MR. FARNSWORTH:** This is just to the DUI charge. The
25 failure to provide a site -- on-site video of the person's

1 arrest, the field sobriety test, the Miranda rights before
2 that, the traffic stop and all conduct at the incident site.

3 THE COURT: Was there a breathalyzer given?

4 MR. FARNSWORTH: Breathalyzer was offered and refused.

5 THE COURT: Okay. That was ---

6 MR. FARNSWORTH: So we're not -- we're not ---

7 THE COURT: That was videotaped?

8 MR. FARNSWORTH: That was videotaped. And we have no
9 argument with respect to that ---

10 THE COURT: Okay.

11 MR. FARNSWORTH: --- breath site test.

12 THE COURT: All right.

13 MR. FARNSWORTH: Now, Your Honor, I have -- Ms. Drawdy,
14 I think, after this motion has decided -- I think they have
15 another tape which they plan to present into evidence. And
16 depending on that I may have a motion with respect to that
17 other tape, which is separate from what we're arguing about
18 now.

19 THE COURT: You have two tapes?

20 MS. DRAWDY: Actually, Your Honor, it is a part of what
21 we're arguing about. This is one way in which the facts of
22 the case are quite distinguishable from the town of Mt.
23 Pleasant case.

24 There was no in-car video in the arresting officer's
25 car. Therefore, there is no driving recorded following the

1 activation of the blue lights. And that is a part of video
2 recording we do not have.

3 However, there was a sergeant on the street, this
4 happened in downtown Greenville, who had his own personal,
5 individual camera that you put on your lapel. And he did,
6 in fact, videotape the field sobriety test and Miranda being
7 read to this Defendant.

8 And we will be submitting that as evidence in the case
9 in chief and also during our motion. We have two copies,
10 one for a Court's exhibit and one to be used in the case in
11 chief. So it is distinguishable on those facts.

12 Furthermore, -- and that is one of our arguments, that
13 as the statute encourages in situations including, but not
14 limited to roadblocks, citizen's arrest, traffic accident
15 investigations. When an arrest has been made and the video
16 recording equipment has not been activated by blue lights it
17 states that as soon as video recording is practicable in
18 these circumstances video recording must begin. And there
19 was a practicable solution that the officers did take
20 advantage of.

21 So we would argue that in large measure we are
22 factually in compliance with the statute. However, -- and
23 really should be forgiven for not having the camera.
24 However, at our peril, it is in our peril that we do not
25 make a rigorous proffer as to the efforts of the Greenville

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

36

1 Police Department to get videotaping cameras in their cars
2 and also to show their interfacing with the Department of
3 Public Safety to get the free cameras to them from the
4 Department of Public Safety. So the State would like to
5 proffer that information as well.

6 **THE COURT:** All right. I'll be glad to hear the
7 testimony.

8 **MS. DRAWDY:** Yes, sir. The State calls Officer Jesse
9 Lowe.

10 **Jesse Lowe, being duly**
11 sworn testified as follows:

12 **MADAME CLERK:** Thank you. You may be seated.

13 **Direct Examination by Ms. Drawdy:**

14 Q. Good morning, Deputy Lowe.

15 A. Good morning.

16 Q. You are employed with the Greenville Police Department?

17 A. Yes, ma'am.

18 Q. And you're the arresting officer in this case?

19 A. I was, ma'am.

20 Q. How long have you been with the Department?

21 A. Over two and a half years.

22 Q. Okay. At the time of this incident on March 18th,
23 2010, I believe, what type of vehicle were you driving in
24 connection with your employment?

25 A. A marked patrol vehicle.

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

37

1 Q. All right. Is it fully marked?

2 A. It is, ma'am. Blue light bar, police markings on the
3 front and back, or excuse me, on the sides and the back.

4 Q. And was it one of the older vehicles or a new one?

5 A. Older vehicle. I believe it was seven years old at the
6 time.

7 Q. And was it equipped with a videotaping camera at that
8 time?

9 A. It was not.

10 Q. I'm going to show you Court's exhibit 1 that's been
11 marked and ask you to identify this document. It is a copy.

12 A. Yes, ma'am. This is a copy of Greenville Police
13 Department's affidavit for failure to produce a videotape
14 that I filled out on the morning of the incident.

15 Q. And is that your affidavit for failure to produce
16 video?

17 A. It is, ma'am.

18 Q. And what was the reason for failing to produce video?

19 A. My patrol car was not equipped with a video camera at
20 the time of the incident.

21 MS. DRAWDY: Your Honor, we'd like to submit this as
22 Court's exhibit 1 at this time.

23 MR. FARNSWORTH: No objection, Your Honor.

24 THE COURT: Without objection, for the purposes of this
25 hearing, you may proffer it.

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 (Whereupon, Court's exhibit 1 was admitted into
2 evidence for the Court's record)

3 Q. When you -- just briefly tell me why you stopped the
4 Defendant.

5 A. I observed the Defendant back out of a parking space on
6 South Main Street within the city limits of Greenville,
7 South Carolina with no lights on, headlights or tail lights.
8 I then -- I positioned my patrol car behind the Defendant's
9 vehicle, observed that one of his tail lights was
10 inoperable.

11 And I also observed him stop at a red-light and then
12 proceed through the intersection before the light had gone
13 green and then again stop in the middle of the intersection.

14 Q. Okay. And did you activate your blue lights?

15 A. I did.

16 Q. And what did he do in that ---

17 A. He pulled into a parking spot near the intersection of
18 South Main and McBee.

19 Q. And did you get him out of the vehicle?

20 A. I did.

21 Q. While you were first interviewing him were any other
22 officers downtown? Did they come to your assistance?

23 A. Not right away. Maybe after two minutes at the most.

24 Q. And who arrived?

25 A. Sergeant Donnie Ng.

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

39

1 Q. Donnie Ng?

2 A. Yes.

3 Q. Did you inquire of him whether he had an in-car camera
4 in his vehicle?

5 A. I did.

6 Q. And did he have an in-car camera?

7 A. He advised me that he did not.

8 Q. All right. So at that point did you proceed to offer a
9 field sobriety test?

10 A. I did.

11 Q. Did those field sobriety tests, in fact, get recorded?

12 A. They did.

13 Q. And who recorded them?

14 A. Sergeant Ng did with a small camera he had on his
15 person.

16 Q. And I know that you have not actually seen this, but
17 what is this marked as being?

18 A. A copy of the video recording that was done by Sergeant
19 Ng ---

20 Q. All right.

21 A. --- on the night ---

22 Q. This is marked as Court's exhibit 2.

23 MS. DRAWDY: Mr. Farnsworth, do you have any objection
24 to this being entered as Court's exhibit 2 at this time?

25 MR. FARNSWORTH: Just for identification?

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

40

1 , MS. DRAWDY: For the Court.

2 MR. FARNSWORTH: Yeah. No objection.

3 MS. DRAWDY: Court's exhibit 2. Your Honor, at this
4 time we'd like to play just the first few minutes of it.
5 And then if the Court needs to review it for completeness in
6 terms of determining whether or not we're in compliance with
7 the statute, we would encourage the Court to do that. But
8 at this point I'm just going to show the first minute or so
9 of the tape.

10 THE COURT: All right.

11 (Whereupon, Court's exhibit 2 was admitted into
12 evidence for the Court's record)

13 (Whereupon, Court's exhibit 2 was shown to the Court)

14 MS. DRAWDY: Your Honor, you may have missed that.
15 That's where he asked the sergeant if he has a tape, if
16 you'd like to hear that.

17 THE COURT: I heard that.

18 MS. DRAWDY: Okay. And I'm going to just play a couple
19 of minutes so you can get the flavor of -- regarding the
20 scene.

21 (Whereupon, Court's exhibit 2 was continued)

22 MS. DRAWDY: Would Your Honor like to see the entire
23 ---

24 THE COURT: I can review that during lunch, maybe. You
25 said you had an extra copy of that or ---

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 MS. DRAWDY: Yes, sir. Yeah, I do have an extra that
2 will be in the case in chief. So ---

3 THE COURT: Okay. I can use one of them or I can use
4 the court exhibit over lunch and review it.

5 MS. DRAWDY: All right.

6 THE COURT: How long is it?

7 MS. DRAWDY: It's probably about twenty minutes.

8 THE COURT: Okay. I'll review it at lunchtime.

9 MS. DRAWDY: Twenty to thirty minutes. Let's see. We
10 can tell you. It's hard to tell.

11 THE COURT: It's all right. I'll look at it.

12 Direct Examination by Ms. Drawdy Continued:

13 Q. Officer Lowe, ---

14 A. Yes, ma'am.

15 Q. --- would you have been probably considered a rookie at
16 this point?

17 A. Yes, ma'am.

18 Q. Thus having the older vehicle?

19 A. Yes.

20 Q. Do you now have a new vehicle?

21 A. I do.

22 Q. When did you receive that?

23 A. I believe April of this year.

24 Q. Okay. Approximately in ---

25 A. Yes.

JESSE LOWE - CROSS EXAMINATION BY MR. FARNSWORTH

42

1 Q. And does that -- is that vehicle now equipped with a
2 videotaping ---

3 A. It is.

4 Q. --- device?

5 A. Yes, ma'am.

6 Q. Please answer any questions Mr. Farnsworth may have.

7 **Cross Examination by Mr. Farnsworth:**

8 Q. Okay. Just a couple of questions, officer. Now you
9 said you've been with the Department two and a half years.

10 A. Yes, sir.

11 Q. And that, I believe, you said this car was seven years
12 old that you were driving?

13 A. I believe it was a 2002 or 2003 model, Crown Vic.

14 Q. All right. Well, let me ask you, how long had you been
15 assigned to drive that car?

16 A. Maybe two months.

17 Q. That's all?

18 A. Yes, sir.

19 Q. And what did -- what did you drive before that?

20 A. An even older vehicle.

21 Q. Okay.

22 A. I believe a 2001, maybe.

23 Q. All right. Was that car or vehicle equipped with a
24 video ---

25 A. It was not.

JESSE LOWE - REDIRECT EXAMINATION BY MS. DRAWDY

43

1 Q. --- device?

2 A. No.

3 Q. And the one, of course, that we're here today on was
4 not equipped with a video camera device?

5 A. It was not.

6 Q. And have -- how many other cars have you -- been
7 assigned to you since you've been with the Greenville Police
8 Department?

9 A. None that we have not discussed. Just the ---

10 Q. Just those two cars?

11 A. And then the one I have now.

12 Q. Okay.

13 A. So three.

14 Q. All right. So two didn't have and the one you've got
15 now, which you got, I believe you said, this year ---

16 A. Yes, sir.

17 Q. --- is equipped?

18 A. (Affirmative nod).

19 MR. FARNSWORTH: Okay. That's all I have.

20 MS. DRAWDY: One follow-up question.

21 **Redirect Examination by Ms. Drawdy:**

22 Q. What was -- what was your assignment at that time?

23 Were you part of what is referred to as the traffic unit?

24 A. I was not uniform patrol, ma'am.

25 Q. And what do uniform patrol primarily do?

JESSE LOWE - RECROSS EXAMINATION BY MR. FARNSWORTH

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1 A. Just patrol and call response.

2 Q. And you were not part of the traffic unit?

3 A. No, ma'am.

4 Q. Thank you.

5 MR. FARNSWORTH: One question.

6 Recross Examination by Mr. Farnsworth:

7 Q. You were -- you did make, obviously make traffic stops
8 and ---

9 A. Yes, sir.

10 Q. --- wrote tickets for violations of traffic offenses?

11 A. Yes, sir.

12 Q. Okay. And that was a part of your job too?

13 A. It is.

14 Q. As ---

15 A. Yes.

16 Q. Okay.

17 MS. DRAWDY: That's all I have.

18 THE COURT: All right. Thank you, sir. You may step
19 down, Officer Lowe.

20 MS. DRAWDY: The State calls Lieutenant Joe Browning.

21 Joe Browning, being duly
22 sworn testified as follows:

23 MADAME CLERK: Thank you. You may be seated.

24 Direct Examination by Ms. Drawdy:

25 Q. Lieutenant Browning, you're employed with the

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1 Greenville Police Department?

2 A. Yes, ma'am.

3 Q. How long have you been with them?

4 A. Approximately seventeen years.

5 Q. And what have been your assignments over the years? If
6 you'd just give me a summary.

7 A. I started out in uniform patrol. Did about eight years
8 in the traffic division. Served a period as a uniform
9 patrol sergeant, a patrol lieutenant. And now I'm in the
10 financial side of the Police Department as a lieutenant.

11 Q. Now by financial side, what do you mean?

12 A. Essentially my job is to oversee the budget. I deal
13 with procurement issues, some personnel issues, supply
14 issues, property and evidence, things of that nature.

15 Q. And have you been asked to review all of the records
16 that are currently in the possession of the Greenville
17 Police Department with regard to the history of video -- in-
18 car video cameras that the Department has had over the
19 years?

20 A. Yes, ma'am.

21 Q. As part of that process have you prepared -- and I'll
22 note, are these things on the table your materials?

23 A. Yes, ma'am, they are.

24 **MS. DRAWDY:** And with your permission, Your Honor, I'd
25 like to invite the witness to step down ---

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1 THE COURT: All right.

2 MS. DRAWDY: --- so that he can handle things and talk
3 about what we're asking him about.

4 Q. Did you prepare an outline that would assist the Court
5 in understanding your testimony and your presenting it with
6 regard to what you found?

7 A. Yes, ma'am, I did.

8 MS. DRAWDY: And this is Court's exhibit 3, Your Honor.

9 THE COURT: Any objection ---

10 MR. FARNSWORTH: No objection, Your Honor.

11 THE COURT: --- for this hearing? Without objection,
12 Court exhibit 3.

13 (Whereupon, Court's exhibit 3 was admitted into
14 evidence for the Court's record)

15 Q. All right. Lieutenant Browning, since the passage of
16 -- the ruling came down in the town of Mt. Pleasant versus
17 Roberts have you been getting -- did your department receive
18 a FOIA request for the city Attorney?

19 A. Yes, ma'am, we did.

20 Q. Is that what largely provoked your inquiry into the
21 records?

22 A. It did indeed.

23 Q. What -- if you could, just begin to tell us what the
24 state of the records were and a little bit of the history of
25 who was responsible for your program in the beginning.

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1 A. Sure. Initially our first cameras were given to us as
2 part of some DPS grants. We only had a handful of them.
3 This was prior to 2001.

4 Q. Was this related to the current funding statute or
5 something ---

6 A. This -- no.

7 Q. --- separate?

8 A. This predated that.

9 Q. All right.

10 A. We had several cameras. At that point the traffic unit
11 was under the command of Lieutenant Bill Robinson.
12 Lieutenant Robinson, unfortunately, is now deceased. Many
13 of these records resided in the traffic division and were
14 actually kept in a file there.

15 Some of this information is somewhat dated. Many of
16 the cameras are no longer in service. We can go through the
17 specific details just depending on how you want to proceed.

18 Q. I would like for you to just start at the beginning and
19 talk about ---

20 A. Okay.

21 Q. --- the history of video cameras at the Greenville
22 County Police Department.

23 A. The first four cameras were given to us by DPS as part
24 of an award, the safety award. From there the Department
25 started trying to purchase our own cameras.

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1 Starting on December 12th of 2001 we actually purchased
2 some cameras from Delta Dimensions. It was a company called
3 Prosecutor out of Texas. We had, unfortunately, very little
4 luck with these particular systems.

5 We don't have the records any longer to tell you
6 exactly how many we had. We purchased somewhere around
7 eighteen cameras. Again, those records are kind of
8 difficult to find at this point. We extended thirty-five
9 thousand, five hundred and fifty dollars (\$35,550.00) to
10 purchase those cameras. We had approximately eighteen in
11 service.

12 Unfortunately, as soon as we started putting those
13 cameras in they started failing. We did not have a good
14 infrastructure set up for those. The company did not give
15 us good service for those cameras.

16 We finally wound up selling all eighteen for about a
17 hundred and fifty-five dollars (\$155.00) on gun deals. And
18 that took place on September 17th of 10. We had taken these
19 out of service and they have been in storage for some time.

20 February ---

21 Q. Can I interrupt you a minute?

22 A. Certainly.

23 Q. This is going to be marked as Court's exhibit 10. Is
24 this your documentation showing that sale?

25 A. Yes, ma'am.

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1 Q. Okay. So how much did you sell all of these cameras
2 for?

3 THE COURT: Wait just a minute. Let her do -- she can
4 only do one thing at a time.

5 MS. DRAWDY: Sorry. I'm sorry.

6 (Whereupon, Court's exhibit 10 was marked and admitted
7 into evidence for the Court's record)

8 Q. How much were you able to sell these cameras for?

9 A. It was a hundred and fifty-five, but I think we
10 actually netted one forty-three of it.

11 Q. And can you tell me what happened when the purchaser
12 came to pick them up?

13 A. Yes, ma'am. The winning bidder actually came and
14 looked at the cameras. We had them all on a pallet over at
15 our garage. After examining the merchandise he decided that
16 he did not want to take it with him. We wound up notifying
17 him that if he didn't pick up his merchandise it would be
18 destroyed. And it ultimately went to the landfill in
19 Greenville county.

20 Q. So these cameras never really worked?

21 A. No, ma'am.

22 Q. And how much did you spend on them?

23 A. Thirty-five thousand, five hundred and fifty dollars
24 (\$35,550.00) according to the records that I could find.

25 Q. Okay. Now, so after this experience what was the next

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1 thing that the Greenville Police Department did?

2 A. Well, that's where we start getting into the SCDPS
3 cameras.

4 Q. Okay. Now the four that you got, let me just reiterate
5 to make this clear so there's no misunderstanding. The four
6 that you got prior to 2001 were a separate grant that had
7 nothing to do with the DUI videotaping statute?

8 A. Correct. That predated all that. Essentially where
9 those cameras came from is the Office of Highway Safety
10 would give you awards based on if you've got your seatbelt
11 numbers up or different things.

12 We received about four cameras as a result of that.

13 And some of these cameras were from the late 90s. Most of
14 them were almost inoperable when I came on seventeen years
15 ago. So these were very old pieces of equipment.

16 Q. And do you know what type of equipment they were?

17 A. We had a couple of Mobile Visions and a couple of
18 Kustom Eyewitness VHS systems.

19 Q. Okay. Do you know where those cameras are today?

20 A. Somewhere in the bottom of the Greenville county
21 landfill.

22 Q. All right. Do you have any records that indicate when
23 they were taken out of service?

24 A. No, ma'am.

25 Q. Okay. So that's back when things were kind of fuzzy?

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1 A. Indeed.

2 Q. All right. So, then when did you first -- well, I
3 don't want to move you along too far. Is there anything
4 that's happened in between the time you began getting
5 cameras from DPS pursuant to the videotaping statute?

6 A. No. You had the original four, then you had the
7 Prosecutors and then we began with the DPS cameras.

8 Q. Okay.

9 A. No others.

10 Q. Please tell me what happened there.

11 A. Sure. The first document that we received from DPS was
12 February 13th of 2002. This was after the change with the
13 DUI law. We were notified that pursuant to that we would be
14 getting some cameras from the state.

15 That began the process up until -- well, pretty much we
16 had a memo on February 13th, 2002. And then we picked up
17 some more cameras in 2004, February 3rd, 2004. We received
18 all of those cameras from DPS. And they were all installed
19 in the cars. Essentially by the time we got done we had
20 twenty-one cameras we received from DPS.

21 Q. Now let's go back and dig for a little detail in what
22 you ---

23 A. Sure.

24 Q. --- just said. This is Court's exhibit 5, and ask you
25 to identify this document. There's several pages.

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1 A. Yes, ma'am. This is the original document, a copy of
2 the document that we got from DPS that indicates how we were
3 going to receive our cameras. It also documents the first
4 camera that we received on August 8, 2002.

5 Q. So August 8, 2002 you received your first installment
6 in cameras?

7 A. Yes, ma'am. One camera and, I believe, ten videotapes.

8 Q. So you got one camera ---

9 A. Yes, ma'am.

10 Q. --- during the first distribution?

11 A. Yes, ma'am.

12 **MS. DRAWDY:** Court's exhibit 5.

13 Q. Now let's look at ---

14 **THE COURT:** Court's exhibit 5.

15 (Whereupon, Court's exhibit 5 was admitted into
16 evidence for the Court's record)

17 Q. Let's look at that letter and tell me what your -- read
18 into the record, essentially, what it says.

19 A. Any particular paragraph or the beginning.

20 Q. Let's see.. If you'd read the middle -- the second
21 paragraph.

22 A. Okay. The Steering Committee surveyed all law
23 enforcement entities to determine the quantity of systems
24 needed to meet the requirements of legislation. During that
25 process your department requested fifteen camera systems be

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1 provided through this program.

2 From the survey results it was determined that funds
3 were not available to provide all the systems at one time.
4 And the Committee determined cameras would be issued through
5 a computerized random selection process. During the third
6 random selection process your department was selected to
7 receive one system. The Steering Committee has also
8 determined that at the time of installation each department
9 would receive ten eight hour videotapes.

10 Q. Okay. Now let me ask you about exactly what a
11 videotaping system is and how it is installed in a car. Can
12 you tell me what is involved in that and what was involved
13 with this particular system, the first one that you
14 received?

15 A. Yes, ma'am. Essentially, this is the system that we
16 had installed in our cars. It's a basic Mobile Vision
17 System.

18 Essentially, you have a large trunk unit that contains
19 the VHS portion of it. You will also have a control head
20 unit that's mounted to the roof of the patrol car, basically
21 controls all functions of that system. You have a monitor
22 that's a part of that along with a camera and the audio
23 portion of it that the officer would actually wear. It's a
24 charging system. And it also syncs it to the system.

25 Between the head unit and the VHS set-up in the trunk,

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1 you'd have what's basically a huge bundle of cables that has
2 to go through. Depending on the type car you're putting it
3 in, you're going to probably have to remove the seats,
4 you're going to be removing the cage, backseats, things of
5 that nature in order to run all those wires.

6 The very first system, we were fortunate enough that
7 DPS installed it. But we had to physically take the car to
8 Columbia and basically stay there for that day for them to
9 take everything out of our car, install it and then send us
10 back to Greenville with it.

11 Q. Okay. The part of the VHS system that is in the trunk,
12 ---

13 A. Yes, ma'am.

14 Q. --- what is that referred to? As the vault?

15 A. It is the vault, yes, ma'am.

16 Q. Okay. Tell us a little bit about that and how that
17 interfaces -- how it's used with the use of the camera, what
18 the officer has to do there.

19 A. Sure. The vault is locked in the trunk. Basically
20 it's a VHS recording device that is inside there. You have
21 two key functions. The door has to be closed and key locked
22 in order for the camera to operate. The tapes go in there.
23 The tapes come out there.

24 Unfortunately, we had a lot of issues with that
25 particular location because the heat gets so high in the

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1 trunk that when the VHS system, especially in the Summer,
2 they would shut off. So you would have officers that would
3 have to open the trunk, allow it to cool off before it would
4 be functional. We actually wound up with a couple of our
5 cars -- actually cutting holes in the back deck and adding
6 fans to expel that heat to keep the systems functional.

7 Q. Okay. And so this -- and this was happening fairly
8 frequently?

9 A. Especially in the Summer. In the hot Summer months we
10 did have some issues.

11 Q. Approximately how long -- and later on did you get
12 mechanics, your mechanics trained to make these
13 installations?

14 A. Yes, ma'am. As the program progressed we went from
15 having DPS install those cameras in Columbia to actually
16 picking the cameras up and bringing them back to Greenville
17 and having our mechanics do it.

18 Part of that became necessary because if we had a car
19 that, let's say, the motor went down, transmission went
20 down, it got wrecked, something of that nature, taking that
21 vehicle back to Columbia was really not an option. So we
22 wound up using our own mechanics to remove those systems and
23 put it in.

24 Unfortunately, that was a timing problem for us because
25 it's the same gentleman that would be doing our oil changes

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1 and all of our other maintenance. So it became quite time
2 consuming.

3 Q. Okay. What other types of equipment do your mechanics
4 install in and on the patrol vehicles?

5 A. Basically the way our garage is set up is our mechanics
6 do everything. They do all of the mechanical stuff. They
7 take care, of course, the inside of the vehicle, everything
8 from cages to cameras to radar systems, blue light and
9 sirens. Pretty much it's a one-stop-shop. So the mechanics
10 we have on staff are responsible for all that.

11 Q. Okay. You described a bundle of cables that had to be
12 run through the vehicle ---

13 A. Yes, ma'am.

14 Q. --- to install the video camera. Is there a similar
15 requirement for the blue lights?

16 A. Yes, ma'am. There are a significant number of wires
17 that would go with that as well.

18 Q. And what about the computers? I don't know -- what are
19 those called ---

20 A. Mobile Data Terminals, MDTs.

21 Q. Mobile Data Terminals. Tell me about those.

22 A. Our MDTs are mounted inside the passenger compartment
23 of the vehicle. You have a stand that's mounted on the
24 passenger's side that swings that computer over to the
25 driver. You have, of course, the power system for that.

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1 We've gotten away from what we used to do. When we
2 first started with these cameras we had a rather elaborate
3 wiring system, a radio modem and antennas that had to be
4 installed. As technology's improved, now we're up to using
5 aircards to function with those.

6 Q. So all these wires have to be strung through the car,
7 connected to the correct places. Sometimes they're close
8 together, is that correct?

9 A. That is correct.

10 Q. And if you have an older vehicle that is going to be
11 taken out of service that has a camera, ---

12 A. Yes, ma'am.

13 Q. --- do you try to save that camera and move it to
14 another car?

15 A. Absolutely.

16 Q. What all is involved in that?

17 A. Unfortunately it depends on what you're taking out of
18 the car because if you have all these other systems you have
19 to be very careful not to cut the wrong wire. I mean, it
20 really looks like just a matted nest of wires there's so
21 much in these vehicles.

22 And, of course, with the cameras you have such a
23 bundle. You're talking probably a two and a half to three
24 inch bundle of wire that's going completely through that
25 vehicle. You have to remove every piece of the seat, the

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1 cage and all in many cases in order to get that out without
2 cutting those wires. So it's quite time consuming.

3 Q. Okay. To take it out. And then you'd have to put it
4 in the other vehicle?

5 A. Yes, ma'am.

6 Q. And in that process is it unusual for that
7 de-install/re-install to cause you to begin having problems
8 with the camera that you may not have had before?

9 A. No, that certainly is the case whenever you move that
10 type of electronics. A lot of times we would have audio
11 issues, you would have power issues.

12 Like something as simple as not having a ground wire
13 connected the way it probably should be, having a wire get
14 nicked and you didn't notice it, it could cause it to ground
15 out. You know, the more times you move that system the more
16 problematic it could be for you.

17 Q. Okay. As -- and just moving forward a little bit,
18 looking forward to some of the things we're going to
19 discuss, ---

20 A. Okay.

21 Q. --- as we move forward, is it your responsibility to
22 oversee and manage and make decisions about removing
23 cameras, putting them in other cars, selecting which cars
24 this is going to be done?

25 A. Yes, ma'am.

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1 Q. And what types of things do you take into consideration
2 when you're doing that?

3 A. The primary things that we look at is what is the role
4 of the officer that's going to have this camera? Certainly
5 we want our first responders that will be going out in the
6 field to have that equipment first.

7 We would be looking for uniform patrol officers,
8 traffic officers, K-9 officers. Those that are going to be
9 out in their patrol vehicle the majority of the day would
10 get equipment first.

11 Q. So supervisors would not be a high priority?

12 A. No, ma'am.

13 Q. And does the age of the vehicle have any impact on your
14 decision of whether to put a camera in it?

15 A. Yes, ma'am. It has a great deal especially with the
16 cost of the cameras. You'd be talking anywhere, depending
17 on the system you're looking at, from three thousand to five
18 thousand dollars.

19 And when you look at the amount of time that it takes
20 to install that camera, you certainly want to make sure that
21 you're putting it in a vehicle where it's going to get the
22 most use. We would look for newer vehicles that we're
23 planning on having in the fleet for a number of years.

24 Putting it in an older car that's only going to be here
25 for two years or so or less really doesn't make good

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1 financial sense because I have to pay to have that system
2 installed, I have to pay to have that system removed and
3 then I have the risk of that system not operating properly
4 when it's moved into a new vehicle. So we really try to
5 make our installations as physically smart as we possibly
6 can.

7 Q. All right. Let's move back into the next communication
8 that you had from DPS regarding the cameras that you were
9 getting from them. I believe there's a letter dated
10 February 3rd, 2004.

11 A. Yes, ma'am.

12 MS. DRAWDY: And this is Court's exhibit 6. I'd like
13 to introduce this at this time.

14 THE COURT: Without objection, for the purpose of this
15 hearing, exhibit 6 is admitted.

16 (Whereupon, Court's exhibit 6 was admitted into
17 evidence for the Court's record)

18 Q. Can you summarize what this letter told you and what
19 came along with the letter?

20 A. Yes, ma'am.

21 Q. Or subsequent to it in terms of a distribution of
22 cameras ---

23 A. Yes, ma'am.

24 Q. --- to your department.

25 A. Essentially, this correspondence from February 3rd,

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1 2004 is notifying us that we have again been selected to
2 receive a few more cameras toward our allotment.

3 Q. All right. Now you keep using the word selected.

4 A. Yes, ma'am.

5 Q. What is your understanding of the process and how it
6 worked, how you received cameras?

7 A. Much like the very first letter, it was a random
8 selection based upon our numbers. The way our cameras were
9 set up is when that number would come around, it would come
10 up to Greenville Police Department, then we would be granted
11 cameras. In this case we were granted ten more cameras.

12 Q. All right. And when you received them did you have to
13 sign off on it?

14 A. Yes, ma'am, we did.

15 Q. And did you periodically have to inventory them?

16 A. Yes, ma'am, every year.

17 Q. All right. And we'll get to that. So now at this
18 point in 2004 you have had how many cameras distributed to
19 you from the DPS grant under the videotaping statute?

20 A. By the end of 2004 we had received twenty-one cameras
21 in total from the DPS.

22 Q. Okay. So you received twenty-one?

23 A. Yes, ma'am.

24 Q. And what is the grand total that you have received from
25 DPS?

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1 A. Twenty-one cameras, ma'am.

2 Q. Twenty-one cameras?

3 A. (Affirmative nod).

4 Q. All right. So was it your understanding that you had
5 the ability to get additional cameras from DPS or were you
6 confined to the allocation process?

7 A. During this period we were confirmed to, excuse me,
8 confined to the selection process. We could not request
9 anymore.

10 Q. All right. So what steps was the Greenville Police
11 Department taking during this period, if any, to equip its
12 cars with additional video cameras? Can you tell me about
13 that?

14 A. Sure. Throughout 2002, 2004, of course, we were
15 waiting to get as many DPS cameras as we could hoping that
16 process would continue. From 2004 to 2007, late 2007 we
17 were still relying upon the DPS to provide cameras.

18 End of 2007, beginning of 2008 we started actually
19 going out trying to procure our own cameras. We started
20 actually putting together a committee to go out and see what
21 kind of cameras were out in the marketplace so that we could
22 try to purchase the best product we could.

23 If you remember back we talked about the Prosecutor
24 cameras. We expended quite a bit of our own money, over
25 thirty-five thousand, and that had gone quite badly for us.

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1 So we certainly wanted to make sure we did our due diligence
2 this time to get systems that would give us as much time as
3 we could possibly get out of them.

4 Q. Okay. And was a committee formed to handle this
5 process?

6 A. That is correct. Yes, ma'am.

7 Q. Can you explain what you did?

8 A. Sure. Starting in 2008, then Chief Wilfong had just
9 arrived, and she had asked us to put together a re-
10 engineering committee to go out and see what was in the
11 marketplace. Essentially, we sat down and we tried to
12 figure out what manufacturers were putting out the digital
13 cameras because we had decided at that point that we wanted
14 to go to digital, not VHS.

15 We went through, looked at a couple of different,
16 excuse me, nine different companies. Started to look at
17 their product, see if it would meet our needs. We actually
18 requested systems from those various companies. Many of
19 them sent us systems, which we then installed in our patrol
20 cars and actually took them out in the field for a period of
21 time so that we could see if it would be a good product for
22 our particular uses.

23 Q. I'm not going to introduce it at this time, but just so
24 the Court can see it. Do you have a notebook that contains
25 that committee's work?

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1 A. Yes.

2 Q. Okay. And according to your outline exactly when did
3 this process begin?

4 A. It was in 2008. I can't tell you an exact date. I
5 don't believe I have the exact date on it. I believe it was
6 probably early to mid-year is ---

7 Q. I believe ---

8 A. --- when we got started.

9 Q. --- you have a date in your outline.

10 A. I may have. Let's see. June 2007 is when we started.

11 Q. When you started?

12 A. Yes. And that was just the beginning of the research
13 part of it.

14 Q. Okay. So it was a very detailed ---

15 A. Yes, ma'am.

16 Q. --- analysis? What were some of the decisions that you
17 had to make?

18 A. Well, you've got to look at and decide, one, how much
19 money you're willing to spend. Two, what kind of a system
20 do you want? Do you want something that is a direct burn
21 much like you would have a VHS system where it actually
22 expels a disc or something with video on it? Do you want
23 something that's server based where you will have a central
24 depository giving you more access to that particular
25 product? It just depends on what you want.

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1 Unfortunately, unlike VHS, VHS is very simple, take
2 in/take out. With the digital products it can be pretty
3 much the sky's the limit, whatever you want.

4 Q. Okay. So why did you -- did you ultimately decide to
5 go with a digital product?

6 A. Yes, ma'am.

7 Q. Why did you decide to do that rather than continue with
8 the VHS?

9 A. The VHS had been somewhat problematic for us. A couple
10 of things, one, VHS tapes take up a lot of room to store.
11 The way our policy was set up, we had a minimum of thirty
12 days for retention. Most of your traffic officers had
13 forty-five videotapes. We actually had a large cabinet that
14 held stacks, and stacks and stacks of tapes for these
15 officers to keep up with.

16 Also, the VHS system, the tapes, when they're reused,
17 start to lose their quality very quickly. You'll reuse that
18 tape more than three or four times. When you actually play
19 that tape you can start to see artifacts and imperfections
20 in those videos, which we were trying to get away from.

21 The VHS tapes are also difficult if you need it for
22 evidence, or for court, or for other purposes, dubbing those
23 tapes so that you can give multiple copies out was also
24 problematic for us. We were looking for something that
25 would allow that information to be maintained for a longer

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1 period of time and a lot more accessible than what we had
2 with the VHS systems.

3 Q. Okay. So what did you ultimately decide to go with and
4 how did you settle on that particular format and product or
5 brand?

6 A. Sure. We ultimately wound up with Kustom Signals, was
7 the company that wound up actually getting the contract for
8 the city.

9 There's several reasons that we wound up with them.
10 One, we knew we wanted to go with a server based system.
11 They actually offer that. Many of the companies that we
12 looked at were direct burn only. So we immediately
13 eliminated them.

14 We also have a lot of infrastructure issues within the
15 city. We had several other prominent companies in the field
16 that came out. They looked at the Law Enforcement Center.
17 They looked at our courthouse. They looked at some of the
18 other locations around the city, but unfortunately we lack,
19 I guess, the fiber connections in order to move that video
20 back and forth from building to building. One company
21 actually threw up their hands and left because we didn't
22 have the necessary infrastructure.

23 When Kustom came in they were able to look at our set-
24 up, and they offered acquired download, which a couple of
25 the other companies did not. They offered wireless, but, of

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1 course, the county already has a wireless array.

2 We don't have the infrastructure to move that video.

3 So Kustom, as we went through it, really came up to be the
4 only company that offered the product that we needed to fit
5 into our current infrastructure.

6 Q. Okay. Was the security of -- securing the integrity of
7 a recording a factor for you?

8 A. Yes, ma'am, it was. Several of the companies, the way
9 they actually did their video, when the disc came out, much
10 like the VHS tape, that was your evidence, you needed to
11 take it straight and put it in property and evidence. And,
12 of course, VHS is much harder to alter.

13 Digital video, depending on how skilled the individual
14 is and what type of computer they may have, there's
15 certainly the potential to alter that digital evidence. We
16 wanted a company that had some security protocols in there
17 so that we could say that this information had not been
18 altered in any way, shape or form.

19 Kustom, the way they were set up, they actually had an
20 internal watermark process in their video. There's no way
21 to alter that video without popping that watermark
22 throughout the actual taping process to make sure that that
23 information that you're watching on the screen is the same
24 as what happened the day the officer videotaped it.

25 Q. Are there some other advantages to digital over VHS

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1 with the system that you bought with regard to capturing
2 permanently something that happened prior to the blue lights
3 going off?

4 A. Yes, ma'am. That is probably the largest difference
5 between a VHS system and digital system. The way the
6 digital system works in the car, the camera's always
7 contained or basically running a recording loop, always
8 active.

9 And when that officer activates his blue light or
10 whatever, a 12 volt impulse triggers that camera. So it can
11 be blue lights, it can be siren, it could be a K-9 door
12 popper, it could be really any input that we choose. The
13 camera will start recording immediately upon that 12 volt
14 impulse coming in.

15 However, being that this is a digital system, it can
16 actually go back and pick up the information that was
17 already recorded on that loop. So I can actually go back
18 and look at, depending on how the camera's set, anywhere
19 from five seconds to two minutes prior to that trigger being
20 hit in the car.

21 The easiest way to explain this, when you see most
22 videos from our VHS systems, let's say it's a red-light
23 violation, when the officer hits his blue light switches,
24 you see the officer taking off and making a stop. With a
25 digital system what you see is the individual running the

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1 red-light all the way through the stop. So it really
2 changes the information that we're able to bring into a
3 courtroom setting down the line.

4 Q. You used an interesting phrase a little while ago, it
5 depends on how much you're willing to spend.

6 A. Yes, ma'am.

7 Q. You, personally?

8 A. The Agency.

9 Q. Okay. And would the Agency be willing to spend three
10 million dollars if it had it to spend on this?

11 A. If we had the money, we probably would.

12 Q. Okay. So there are limitations on willing to spend?

13 A. Yes, ma'am, unfortunately.

14 Q. Can you describe to me what your source of funds has
15 been for the cameras you've purchased and how you get
16 approval to expend funds?

17 A. Sure. Our camera system today has been paid for mainly
18 in two separate ways. One is grant funding, whether it be
19 through state allocations or through federal allocations and
20 the expenditure of seized assets funds from various things
21 that we've had.

22 Q. Okay. Now you talked about these funds, ---

23 A. Yes, ma'am.

24 Q. --- a kitty, so to speak.

25 A. Yes, ma'am.

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1 Q. Are there other things that you are required to
2 purchase from this same ---

3 A. Yes, ma'am.

4 Q. --- kitty of funds? What is that?

5 A. Actually the seized funds that we actually spend pretty
6 much go for anything we cannot purchase out of our budget
7 that would go toward a law enforcement purpose. Some of
8 those examples could be speed trailers for the traffic unit,
9 it could be MDTs, which is probably our largest expenditure.

10 Q. Now this is the computer that's in the ---

11 A. Yes, ma'am, Mobile Data Terminals.

12 Q. Okay. How much do those cost?

13 A. Currently we're paying about thirty-nine hundred
14 dollars per computer.

15 Q. Okay. And what do the cameras end up costing you
16 roughly per unit that you bought from Kustom ---

17 A. Approximately forty-four hundred.

18 Q. Okay. Now just educate me a little bit on what the MDT
19 is used for by the officer.

20 A. Probably the best answer, I know this sounds a little
21 trite, but everything. The officer in the car relies on
22 that MDT probably more than any other piece of equipment
23 that we have.

24 The MDT actually gives you that interface with
25 dispatch. It allows you to see all the incoming calls. It

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1 allows you to access DMV records, tags, DLs, things of that
2 nature. It allows access to the county warrant system. It
3 allows access to the internet to look up information that
4 you might need in the field. It contains our mapping
5 system. Pretty much everything that that officer uses is on
6 that machine.

7 Q. So if there were a choice between putting in MDT and a
8 camera in a given unit, you couldn't afford to do both,
9 which would you select?

10 A. MDT hands down.

11 Q. Okay.

12 A. No question.

13 Q. All right. Let's get back to what you actually ended
14 up purchasing.

15 A. Yes, ma'am.

16 (Whereupon, Court's exhibit 9 was marked)

17 **MS. DRAWDY:** And this would be Court's exhibit 9.

18 Q. Can you tell me what you ended up purchasing -- well,
19 let me go back. Where did you get the money -- how much did
20 you end up spending and where did you get it?

21 A. All total on our digital camera system, to date we have
22 expended four hundred, sixty-three thousand, four hundred,
23 sixty-three dollars and ninety-nine cents (\$463,463.99).
24 That's where we stand as of now. That was for the purpose
25 of eighty-nine cameras plus the server that we had to have

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1 to maintain all that information.

2 Q. Okay. Explain -- so your set-up costs were included in
3 this figure?

4 A. Um-hum (affirmative).

5 Q. And would you describe the components of the system,
6 the server, the uploading system for the units?

7 A. Sure. The way we're set up is over in our courthouse
8 on North Main, on the second floor we actually have a room
9 that's dedicated to hold the server. The server is in one
10 of the corners. We have several AC units trying to keep
11 that room cool because of all the electronics that are in
12 there now.

13 You actually have a pipe that comes from that building,
14 that room, into the parking lot with five stands mounted in
15 that location. Each of those stands has an ethernet cable
16 hooked up to it. When our officers come to the courthouse
17 for any particular purpose, they actually plug the ethernet
18 cable into their camera system, it downloads that video off
19 of the actual car unit, stores it in the server for access.

20 We also have a web server as part of this. The web
21 server allows us access to that video from anywhere inside
22 the city on the internet.

23 Think of it as the officer downloads it into the
24 system, then when he goes to court we have a television
25 screen and a computer monitor where basically they punch in

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1 their information and they're able to show those videos
2 anytime, ready to go day, night, whatever day of the week.

3 They don't have to go and actually pull a video
4 cassette like we had to do in the past. It's easily
5 accessible. Not only that, the city attorney or anyone else
6 inside the city has access to that video 24/7.

7 **MS. DRAWDY:** This is Court's exhibit 9.

8 Q. Lieutenant Browning, is this a summary of the
9 expenditures that the Greenville Police Department has made
10 from 1998 to 2011?

11 A. It is, ma'am.

12 Q. Did you prepare it?

13 A. I did, ma'am.

14 Q. And is that something you've been referencing during
15 your testimony?

16 A. Yes, ma'am, it is.

17 **MR. FARNSWORTH:** Without objection.

18 **MS. DRAWDY:** Okay.

19 **THE COURT:** Exhibit 9, Court exhibit 9 without
20 objection.

21 (Whereupon, Court's exhibit 9 was admitted into
22 evidence for the Court's record)

23 Q. Now, I want to go back to how you -- the source that
24 you used this time around for purchase -- making this
25 initial purchase and the process that you have to go through

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1 in order to be authorized to spend money.

2 A. Certainly. The first purchase of our digital cameras
3 took place on February 23rd, 2010 for fifty-six thousand,
4 nine ninety-two (56,992). This was actually the most
5 difficult portion of the purchase.

6 We had actually began our committee late 2007, 2008.

7 We picked out the cameras that we were going to purchase.

8 And we were looking at using seized funds to purchase those.

9 However, this is about the time when the stimulus money
10 began coming in from the federal government. We elected to
11 waive to see if we could get a grant through the stimulus
12 funds to pay for some of these cameras, which ultimately we
13 applied to the state and we were able to get that fifty-six
14 thousand from the state.

15 However, there is a lot of strings attached to that as
16 far as the procurement process went. We actually wound up
17 having to go through a lengthy process. We wound up doing a
18 sealed bid, having to go through opening those at City Hall.
19 We finally were able to purchase those Kustom cameras
20 because they wound up being the lowest bidder in that sealed
21 bid process.

22 After we purchased those initial cameras, then we
23 started looking for some additional grants which actually
24 would allow us to purchase a few more. And then we moved in
25 to the seized fund allocation.

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1 Seized funds are actually really difficult for us to
2 spend. That money is in an account marked for law
3 enforcement purposes, but in order for me to expend any of
4 those funds, first I'd have to fill out a canceled action
5 form, get that through the process at City Hall, meaning
6 signed off by the budget administrator, signed off by the
7 city attorney, signed off by the city manager.

8 After that process, then it has to be put on the agenda
9 for city counsel. City counsel has to run it through and it
10 has to go through two separate meetings at city counsel and
11 be approved and an ordinance issued before I can actually
12 spend those funds. So it takes quite a bit of time for me
13 to actually even expend those to buy these cameras.

14 Q. And when do you have time to install them? That was a
15 little -- all right. How many cameras have you purchased to
16 date under the Kustom System?

17 A. To date I have purchased eighty-nine.

18 Q. All right. And how many have been installed?

19 A. All but twenty-one.

20 Q. And why have those twenty-one not been installed? I
21 understand there's a complex answer, but I want to hear
22 that.

23 A. Oh, no problem. The twenty-one cameras that still
24 remain that have not been installed have been delayed simply
25 because of our fleet issues. Over the course of the last

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1 year and a half we have received in one allotment forty --
2 forty marked vehicles. And then we just received eight
3 more.

4 We didn't want to start installing the remainder of
5 those cameras into existing cars until we determined where
6 these forty-eight were going to go. The forty-eight all
7 were equipped with the exception of two with new cameras.
8 So all those came ready to go. Officers would get those,
9 those officers would pass their cars down to someone else.
10 Their cars were passed down again. Eventually older cars
11 would be flushed out of the fleet.

12 What we were trying to do was make sure that when we
13 passed all these cars around that we don't install cameras
14 in older vehicles that were going to be going out of the
15 fleet or a vehicle that may sit as just a spare in a lot.
16 When you're talking about a forty-five hundred camera, it's
17 way too expensive to be sitting in a car that's only driven,
18 you know, one to two days a month.

19 So we're still working on our fleet issues. We're in
20 the process of just about having all of that done and
21 beginning to start installing cameras. In fact, I have a
22 date, November 15th will be the first of those twenty-one to
23 be installed.

24 Q. All right. And what -- are there warranty issues with
25 the cameras that you take into consideration?

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1 A. Yes, ma'am. The cameras, the way they're set up, when
2 they ship from the factory -- as soon as I take delivery the
3 warranty starts. If they sit in the warehouse and they
4 don't get installed, my warranty is still running. So I
5 need to get those into the car as soon as they hit the
6 ground or as quick thereafter as I can.

7 Q. So had you actually purchased a number of these cameras
8 and request that they not be shipped?

9 A. Yes, ma'am. Out of that last purchase of cameras,
10 which was fifty-seven, they were only supposed to send me
11 enough to do the vehicles that I had put together over in
12 Spartanburg. Unfortunately, through an error through the
13 dock, I'm not sure how, they actually shipped the entire
14 order to Spartanburg.

15 We actually had to wind up going back to the company
16 and having them issue a waiver that those cameras will sit
17 without the warranty starting until I can get my cars there.
18 They fully agreed. They knew it was their error. They
19 should not have shipped them. Unfortunately, you know, we
20 got very lucky that they were able to do that because my
21 warranty could have started on those cameras when they
22 arrived in January.

23 Q. And have there been several upgrades in the cameras
24 since you began purchasing them?

25 A. Yes, ma'am. Just like any other digital product,

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1 things are changing so fast. Kustom just actually upgraded
2 all the audio systems in their cameras. Of course, audio is
3 one of the most important components of the video system.

4 As of, I believe it was Friday, I finally got
5 authorization from the president of their company to upgrade
6 the audio in the twenty-one cameras that are still sitting
7 in Spartanburg. If my cameras had not shipped, the way they
8 were supposed to, you know, still be in the factory, they
9 would have shipped with the new audio system. So through
10 some negotiations they're going to replace that system so
11 that I have the latest equipment like I should have had if
12 they'd shipped it the way I'd requested it.

13 Q. So you have purchased a total of eighty-nine cameras?

14 A. Yes, ma'am.

15 Q. How many patrol vehicles does the Greenville Police
16 Department have?

17 A. Patrol vehicles as far as marked cars?

18 Q. Marked cars.

19 A. Marked cars, I would say right around one -- between
20 one sixty and one seventy. That number fluctuates depending
21 on how many cars are wrecked, they go down for mechanical
22 reasons. It's never a solid number. It's always a moving
23 target. But that's pretty accurate.

24 Q. Okay. And how many of those are used primarily for
25 traffic enforcement?

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1 A. For primary traffic enforcement we have a total of
2 about eight to ten cars. The reason I'm not giving you an
3 exact number is we actually have some traffic positions that
4 aren't filled. So there's no one in those particular
5 vehicles now.

6 Q. Okay. Would those be considered a priority for a
7 camera?

8 A. Absolutely. And all those vehicles are equipped.

9 Q. All are equipped?

10 A. Yes, ma'am.

11 Q. Now you've been dealing with the cameras for a while.
12 And you may not know this as far as the digital cameras yet.
13 But what was your experience of the initial VHS base cameras
14 that DPS distributed to you? What was the useful life of
15 those cameras?

16 A. Depending on the vehicle set-up and how much it was
17 used, about five years is what we were hoping to get out of
18 those systems.

19 Q. And is that ---

20 A. Many of them were expired before that. Of course,
21 you've got a few that lasted longer than that. So around
22 that five year mark is where we started to see problems.

23 Q. And the last of these was allocated to your agency
24 when?

25 A. The last one was in '04. June 3rd of 2004 was the last

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1 one.

2 Q. Okay.

3 (Whereupon, Court's exhibit 8 was marked)

4 MR. FARNSWORTH: No objection, Your Honor.

5 MS. DRAWDY: Court's exhibit 8 ---

6 THE COURT: Without objection, Court exhibit 8.

7 (Whereupon, Court's exhibit 8 was admitted into
8 evidence for the Court's record)

9 Q. Have -- were you required to inventory -- keep an
10 inventory, an annual inventory and report back to DPS on all
11 these cameras?

12 A. Yes, ma'am, every year.

13 Q. And do you still have any of those cameras?

14 A. Not as of today, no, ma'am.

15 Q. Okay. Tell me -- just give me a summary of what's
16 happened to those and where they are now.

17 A. Sure. Over the course of the cameras being installed
18 in the vehicles, certainly some of them failed, some of them
19 had issues. Many of those cameras we were able to get
20 pieces and parts to keep them running in the short term.

21 We took two of them to Columbia and returned them quite
22 some time ago. That was two of the earlier systems that we
23 had received.

24 As we started putting in more digital systems and as
25 our VHS systems started to fail, we actually started pulling

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1 those systems out of the cars and putting them at our garage
2 for storage. Of course, we still had to do our inventory
3 every year for DPS. All those systems basically got to the
4 point where they were -- none of them were useable or
5 dysfunctional.

6 September the 15th of this year, partially because of
7 receiving my last notice from DPS to verify the location of
8 all those cameras and having taking the time to hunt them
9 all down and get them in one place, we had one of the
10 traffic corporals return those to DPS. Technically they
11 were never ours. They were on loan to us from DPS. So
12 September of this year we returned all of them and replaced
13 the ones that we had with digital systems in those cars.

14 Q. And, again, under the allocation process the most
15 cameras you ever were given from DPS was how many?

16 A. Twenty-one.

17 Q. And that was over about an eight year period?

18 A. Yes, ma'am, starting in 2002.

19 Q. And to date your agency has taken it upon itself to
20 purchase how many cameras?

21 A. We currently have purchased those eighty-nine. And we
22 have about eighteen Prosecutors that all failed.

23 Q. Okay. Let's talk about April 28th, 2009.

24 A. Yes, ma'am.

25 Q. Is that the last time you were invited to request

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1 cameras?

2 A. Yes, ma'am.

3 Q. Let's see.

4 (Whereupon Court's exhibit 7 was marked)

5 Q. Let me show you Court's exhibit 7 and ask you to
6 identify that.

7 A. Yes, ma'am. That is the letter that we received from
8 DPS.

9 Q. And attached to it, is it your response?

10 A. Yes, ma'am, it is.

11 Q. Okay.

12 **THE COURT:** Without objection, exhibit 7 is admitted.

13 (Whereupon, Court's exhibit 7 was admitted into
14 evidence for the Court's record)

15 Q. All right. Court's exhibit 7, what essentially did
16 they invite you to do?

17 A. Essentially this document was telling us that we had
18 our first opportunity to request more cameras, that DPS had
19 basically reached their number threshold they were trying to
20 get to from their original 2002 allocation. So this was our
21 first chance to get some more cameras.

22 Q. Did they happen to give you any information about
23 cameras?

24 A. Yes, ma'am. There's quite a bit of information in this
25 document.

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1 Q. How many had they initially -- had they distributed to
2 date? Is that in that letter?

3 A. Yes, ma'am, it is. Would you like me to read that ---

4 Q. Yes.

5 A. The Department is glad to announce that the original
6 requests have been fulfilled and that we have officially
7 awarded thirty-two hundred camera systems.

8 Q. Okay. Now that process began in ...

9 A. 2002.

10 Q. 2002. And this is -- what's the date on this letter?

11 A. April 28th, 2009.

12 Q. So they were able to purchase thirty-two hundred
13 cameras state-wide?

14 A. Yes, ma'am.

15 Q. And many of those cameras are now over five years old,
16 correct?

17 A. Most of them, yes, ma'am.

18 Q. Okay. And so based on your experience how many of
19 those cameras were probably working?

20 A. If theirs -- if other agencies were -- had experiences
21 similar to ours, I would say probably one-third to two-
22 thirds have had significant problems.

23 Q. Okay. So at this point what did they tell you about
24 your choices for requesting cameras?

25 A. The letter basically tells us that we have the

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1 opportunity to request more VHS systems or to request
2 digital systems. However, if we choose to request digital
3 systems, then our request would be delayed as they filled
4 existing requests for VHS cameras.

5 Q. Did they indicate that they were -- did have plans to
6 go digital after they distributed all of the VHSS?

7 A. After the VHS systems were gone, yes, ma'am.

8 Q. And what decision did you make at that time?

9 A. At that point the city had already expended quite a bit
10 of funds heading toward a digital system. So certainly we
11 requested digital products because we didn't want to have a
12 cross fleet.

13 Q. And is this also the letter that tells you how many
14 cameras -- I believe this is State's -- Court's exhibit 5,
15 which is the February 13th, 2002 letter?

16 A. Um-hum (affirmative).

17 Q. The second page, at what rate did the Department
18 indicate they were able to afford to purchase cameras by the
19 quarter?

20 A. Sure. I'll read the excerpt. Based on the revenue
21 currently being generated by the provision of law, we should
22 be able to procure approximately eighty camera systems per
23 quarter. At the time of each purchase the random selection
24 will be conducted and notifications issued. Your department
25 will remain in the random selection process until all

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1 requests have been satisfied.

2 Q. So you were randomly selected?

3 A. Yes, ma'am.

4 Q. You couldn't request additional cameras from them?

5 A. No, ma'am.

6 Q. And at a rate of eighty per quarter for the entire
7 state?

8 A. Yes, ma'am.

9 Q. For a camera that has a life of five years?

10 A. Yes, ma'am.

11 Q. All right. So what did you decide to do? To request
12 digital or VHS?

13 A. We requested digital.

14 Q. And did you request a specific brand of camera?

15 A. Yes, ma'am. We asked for Kustom Signals cameras.

16 Q. Okay. And why did you ask for that?

17 A. The way the digital products are set up, you have to
18 make sure you have a product that's going to be consistent
19 and functional with what you already have. Getting a
20 product from another manufacturer would not integrate into
21 our system. You couldn't download into the server. The
22 security protocols would be different. There's a lot of
23 software components that just would not be -- would not
24 marry into our system. So we certainly wanted to stay with
25 the same product that we already had.

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1 Q. And so you requested ten Kustom?

2 A. Twenty.

3 Q. Oh, twenty?

4 A. Yes, ma'am.

5 Q. Twenty this time?

6 A. Yes, ma'am.

7 Q. Why that number?

8 A. Basically what we were looking for there is we knew how
9 many we were trying to purchase with our own seized funds.

10 And, of course, those dollars are limited. Twenty more
11 would have outfitted pretty much everything that we had in a
12 marked car at the time. Of course we keep changing our
13 fleet constantly.

14 And also we have to remember, we had twenty-one cameras
15 that were going out of the fleet because they had failed.
16 We certainly wanted to replace those twenty with new digital
17 cameras if we could. I would have asked for forty, but I
18 don't think I probably would have gotten them.

19 Q. Okay. So you're still under the allocation process as
20 far as you know?

21 A. Yes, ma'am.

22 Q. Okay. I'm going to show you Court's exhibit 4, two
23 pages to this one. Can you describe what those are?

24 A. Yes, ma'am. This is an email request that I sent to
25 SLED, Lewis Stuart asking for our DUI numbers for the last

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1 ten years.

2 Q. All right. And was that part of the process of
3 collecting information for the FOI that you were trying to
4 satisfy?

5 A. Yes, ma'am.

6 Q. And did you actually get -- did they send you ---

7 A. I did.

8 Q. --- the figures?

9 A. Yes, ma'am.

10 **MS. DRAWDY:** Your Honor, we'd introduce this as Court's
11 exhibit 4.

12 **MR. FARNSWORTH:** Without objection.

13 **THE COURT:** Without objection, exhibit 4 is admitted.

14 (Whereupon, Court's exhibit 4 was admitted into
15 evidence for the Court's record)

16 Q. And is your understanding that is -- those are the
17 figures which DPS, running a comparison with other agencies
18 ---

19 A. Yes, ma'am.

20 Q. --- decided how you would be allocated cameras?

21 A. Yes, ma'am.

22 Q. Do you have any information or were you able to obtain
23 any information about other agencies' figures and where you
24 fell into the firmament?

25 A. No, ma'am. I requested that information from SLED, but

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1 they were unable to provide it to me without filing a FOI.

2 Q. Yourself?

3 A. Myself.

4 Q. Okay.

5 MS. DRAWDY: Your Honor, if you'll give me just a
6 minute and let me check with the court reporter to see what
7 we have in.

8 (Pause)

9 Q. Do you happen to know what the plans are for the future
10 for video -- for the purchase of video cameras by your
11 agency?

12 A. Yes, ma'am. We plan on purchasing more digital
13 cameras. Our goal is to have every patrol unit to have a
14 camera in their vehicle. We may even extend that into some
15 other areas, possibly SROs, things of that nature, just
16 depending on the funding.

17 Certainly our funding source is somewhat limited. And
18 we have to get the MDT -- our MDTs are getting much older.
19 We're actually in the process of having to purchase new
20 ones. Just placed an order for thirty MDTs for a cost of
21 about a hundred and twenty-five thousand.

22 So unfortunately that's delaying the number -- purchase
23 of more cameras. We'll continue to install the ones we have
24 and hopefully be able to move more in the future, but it's
25 going to depend on monies.

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1 Q. Okay. And what has your experience been with the
2 reliability with these Kustom digital cameras that you now
3 are using in your patrol vehicles?

4 A. Unfortunately, even with these Kustom cameras it has
5 been painful. Our first thirteen that we received had some
6 significant flaws in them. We actually had a lot of
7 electrical issues with them not wanting to download, not
8 wanting to record properly. We wound up battling with the
9 company over that. And they replaced all thirteen of those.
10 Those have been upgraded.

11 And, of course, technology's always changing. We've
12 had some issues with the company sending us out new hardware
13 with old software. We've gotten most of those bugs worked
14 out, but certainly it's a challenge.

15 We've moved from a VHS system, which was essentially a
16 TV screen with a VCR into a completely digital age,
17 everything's electronic. The easiest way to explain it is
18 the camera in the car is like having a mini laptop. It runs
19 on a stripped down XP operating system. So it really is
20 like having another computer riding around in your car and
21 you have similar issues that come along with that.

22 Q. Okay. And, again, how much do these cameras cost?

23 A. About forty-four hundred a piece.

24 Q. What are the ongoing expenses with maintaining this
25 system? If you could give us a brief overview.

JOE BROWNING - DIRECT EXAMINATION BY MS. DRAWDY

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1 A. Well, certainly we have a lot of batteries that we go
2 through with the audio packs. That's something that's
3 always costing money.

4 We have a lapel mic, which actually goes in the
5 officer's uniform here, it goes down. Those are routinely
6 torn up and we wind up having to replace those whether it be
7 from just use, or from a scuffle or something of that
8 nature. We have the reoccurring cost of burning videos. We
9 have tons of discs that we go through with that.

10 We, of course, have the expenses to move those systems
11 from car to car. Since we had mentioned the new cars we had
12 purchased fairly recently, we've already got two of those
13 that have gotten pretty much smashed due to other parties
14 running red-lights and tearing those up. We have to move
15 those cars out.

16 We've had a lot of expense as we've gone through the
17 fleet. We've had -- all of our K-9 units got new vehicles.
18 All of their cameras had to be taken out and put into other
19 vehicles. So it's a -- unfortunately, it's an ongoing
20 expense that we have every month that we have to spend
21 something on cameras.

22 Q. And is that something you have to budget for out of the
23 grant funds and the seizure funds?

24 A. Unfortunately because we have no internal budget that
25 is dedicated to cameras.

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1 Q. Okay. And is Greenville City Council involved in
2 helping to establish your budget?

3 A. Yes, ma'am.

4 Q. So there are political decisions that are being made?

5 A. Yes, ma'am.

6 Q. How has money been the last five or six years?

7 A. Very tight. Very tight.

8 Q. Is that unique to your agency?

9 A. I don't believe so, no.

10 Q. Please answer any questions Mr. Farnsworth might have.

11 THE COURT: You can ---

12 MR. FARNSWORTH: Just a couple ---

13 THE COURT: --- come back up ---

14 MR. FARNSWORTH: --- of questions.

15 THE COURT: --- to your seat, officer.

16 MR. FARNSWORTH: Oh, go ahead, Judge.

17 THE COURT: All right, Mr. Farnsworth.

18 **Cross Examination by Mr. Farnsworth:**

19 Q. Officer, other than the twenty-one cameras I think you
20 said that you had around 2002, 2004, ---

21 A. Yes, sir.

22 Q. --- were all those provided -- supplied by the
23 Department?

24 A. The twenty-one, yes, sir, were bought by DPS. Yes,
25 sir.

JOE BROWNING - CROSS EXAMINATION BY MR. FARNSWORTH

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1 Q. Okay. Are those all the cameras you were ever provided
2 by them to you? Those twenty-one?

3 A. Yes, sir.

4 Q. Ever?

5 A. Yes, sir.

6 Q. No others? So until you bought these eighty-one --
7 eighty-nine cameras from Kustom back in February of 2010 you
8 were still using those twenty-one that you had?

9 A. Most of those had began to fail by that point. The
10 majority of them had been uninstalled. They were actually
11 at our garage waiting a shipment back to Columbia.

12 Q. Okay. So you didn't have hardly any active ---

13 A. Not ---

14 Q. --- cameras in cars?

15 A. No, sir. We had a handful of those. And everything
16 else that we had was digital cameras.

17 Q. Okay. And so after the initial business with the
18 Department of Public Safety you really didn't have anymore
19 business with the Department of Public Safety, did you?

20 A. We did not receive anything ---

21 Q. You didn't?

22 A. --- additional.

23 Q. Okay.

24 A. No, sir.

25 Q. And you made, I think you testified, one time that you

JOE BROWNING - CROSS EXAMINATION BY MR. FARNSWORTH

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1 did make a request for fifteen more and those were -- and
2 you never got those?

3 A. Twenty more, yes, sir.

4 Q. And ---

5 A. We haven't received them.

6 Q. Was your understanding when this law came into effect
7 that, when you got involved in it anyway, that the
8 Department of Public Safety was to supply these video
9 cameras for the cars?

10 A. My understanding ---

11 Q. And purchase them?

12 A. That the DPS would be purchasing cameras to go in
13 patrol cars.

14 Q. Okay. And then after you -- after a while you found
15 out it didn't quite work that way, is that right?

16 A. Well, we wanted cameras faster than they were being ---

17 Q. Okay.

18 A. --- provided by the DPS.

19 Q. Okay. And you were under -- are you aware that under
20 the law -- that law has not changed, under the law they're
21 still, you know, are to supply, and purchase and maintain?

22 A. Yes, sir. My understanding ---

23 Q. That law has not changed?

24 A. Yes, sir.

25 Q. Despite their inactivity?

JOE BROWNING - CROSS EXAMINATION BY MR. FARNSWORTH

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1 A. My understanding ---

2 Q. As far as Greenville county anyway.

3 A. Did we -- yes, sir. That we ---

4 Q. Greenville city, excuse me.

5 A. --- had not received anymore as of that time.

6 Q. Okay. Let me ask you on this -- the last thing you
7 talked about was driving under the influence cases in
8 Greenville county. You started at ten years, 2001 through
9 2010, the number of DUI cases made. And I believe that, if
10 you'll refer to it if you need to, I believe that 2010 was
11 by far the highest number that were made were in 2010?

12 A. Yes, sir.

13 Q. In fact, they were doubled in some of the years ---

14 A. In some of the years. Yes, sir.

15 Q. Or even tripled.

16 A. A couple of years.

17 Q. All right. And when did you first become aware that
18 your DUI cases that were going up as they did in 2010?

19 A. To be honest with you, sir, that's not something I keep
20 ---

21 Q. Okay.

22 A. --- the statistics on.

23 Q. Okay.

24 A. To be honest with you, the numbers for the DUIs, when I
25 requested it from SLED, is the first time that I had seen

JOE BROWNING - CROSS EXAMINATION BY MR. FARNSWORTH

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1 those.

2 Q. Okay. And in any event, your camera situation there
3 from 2001, 2002 all the way up til you purchased these
4 eighty-nine was in pretty bad shape overall?

5 A. Yes, sir, with our purchase of the Prosecutor cameras
6 and those failing immediately, ---

7 Q. Uh-huh (affirmative).

8 A. --- we did have some challenges.

9 Q. And that explains why you bought these eighty-nine
10 cameras ---

11 A. Correct, sir.

12 Q. --- starting on February 23rd, 2010?

13 A. Correct, sir.

14 Q. And I noticed the -- all thirteen of them were
15 purchased -- was that requested, or bought or was that
16 installed?

17 A. Those ---

18 Q. The initial ten or thirteen?

19 A. The initial thirteen, what took place with those is we
20 purchased them out of that state grant money, the stimulus
21 money. The company actually delivered those cameras to us
22 and sent installers from their home base in Kansas to assist
23 our mechanics in installing them and teaching them how to
24 actually handle those systems.

25 Q. Okay. And the remainder of the eighty-nine, I assume,

JOE BROWNING - CROSS EXAMINATION BY MR. FARNSWORTH

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1 were purchased after -- well, beginning in September through
2 December of 2010?

3 A. Correct, sir.

4 Q. So at the most, in March -- let's just go back to March
5 of 2010. At most you would have had how many cameras
6 installed in cars? That'd be one month about after you
7 started purchasing through Kustom. About how many would you
8 have had installed a month later or between February 23rd
9 and March 18th of 2010? How many would the Greenville
10 Police Department, the cars out on the road with the tapes
11 installed?

12 A. Sure. The original thirteen would have been installed
13 because their personnel from Kansas came and made sure we
14 had all of those taken care of. Out of the original DPS
15 cameras at that point we were probably sitting around seven,
16 eight systems that were still out in the field. We had more
17 than that, but some of those had become unfunctional --
18 dysfunctional and had not been removed as of that date.

19 Q. Okay. That's all I have.

20 **MS. DRAWDY:** Your Honor, while he's on the stand, if I
21 could just look through the exhibits to make sure I've moved
22 everything in.

23 (Pause)

24 **MS. DRAWDY:** Your Honor, I believe we have everything
25 moved in. And the court reporter knows what they are. That

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1 would be all I have from this witness.

2 THE COURT: Could I clarify when you asked for the
3 twenty more from the Department of Public Safety?

4 A. Yes, sir.

5 THE COURT: When was that?

6 A. I believe it was June of '09, sir.

7 THE COURT: Did you get a response to that request?

8 A. Essentially the response was the VHS system would be
9 provided first and they would get to us with the digital
10 cameras as soon as they became available and the VHS ones
11 were expended.

12 THE COURT: Okay. All right. Thank you, sir. You may
13 step down.

14 MS. DRAWDY: Your Honor, I have one more witness ---

15 THE COURT: All right.

16 MS. DRAWDY: --- to call, which will be a little bit
17 lengthy. And I could stand a brief break.

18 THE COURT: All right. Let's just ---

19 MS. DRAWDY: About three to five minutes.

20 THE COURT: How many more witnesses do you ---

21 MS. DRAWDY: Just one more on this -- on the motion.

22 THE COURT: Okay. We'll take a short break and then
23 we'll finish up with this witness.

24 MS. DRAWDY: Thank you, Your Honor.

25 THE COURT: Five minute break.

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1 (Whereupon, court was in recess at 1:19 pm)

2 (Whereupon, court resumed at 1:27 pm)

3 **THE COURT:** You ready to proceed?

4 **MS. DRAWDY:** Yes, Your Honor.

5 **THE COURT:** All right. You may call your next witness.

6 **MS. DRAWDY:** The State calls Elaine Johnson.

7 Elaine Johnson, being

8 duly sworn testified as follows:

9 **MADAME CLERK:** Thank you. You may be seated. Would
10 you please state your name for the record.

11 **MS. JOHNSON:** Elaine Johnson.

12 **MADAME CLERK:** Thank you.

13 **Direct Examination by Ms. Drawdy:**

14 Q. Good morning, Ms. Johnson.

15 A. Good morning. Well, good afternoon.

16 Q. Yeah, that's right, it is afternoon. You're employed
17 with the Department of Public Safety?

18 A. That's correct.

19 Q. How long have you been in that agency?

20 A. It was created in '93. And I went in '94.

21 Q. Okay. So you're almost as old as the agency is?

22 A. I was with them on grandfather agency. Go far back as
23 '72.

24 Q. All right. And what capacity were you with that
25 department when the legislation was passed ---

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1 A. I was ---

2 Q. --- for the DUI statute that we're -- the videotaping
3 statute that is the subject of this hearing?

4 A. I was the Director of the Department of Resource
5 Management, which included procurement, various
6 administrative functions and special projects.

7 Q. So when this legislation was enacted ---

8 A. Um-hum (affirmative).

9 Q. --- were you aware of the passage of it and were you
10 one of the individuals who was given the task of
11 implementing the legislation?

12 A. That's correct.

13 Q. What was the funding mechanism for the cameras -- what
14 were the -- DPS's responsibility and what was the funding
15 mechanism?

16 A. The funding mechanism comes from court fines on DUI
17 cases. The legislation was set up so that all of the monies
18 first went to SLED until they were able to equip all the
19 breathalyzer sites with new equipment.

20 SLED had two procurement protests during that process.

21 And until they finished that process the Department of
22 Public Safety received no funds from that funding source.

23 In 1999 we were notified that SLED thought they had a
24 good procurement and that we should start receiving our
25 share of the money shortly. It actually started really

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1 coming to us in 2001.

2 We get eighty-seven point five (87.5) percent of the
3 revenue source. And SLED still maintains twelve point five
4 (12.5) percent of the money every month to keep the
5 breathalyzer sites up and running.

6 Q. Okay. Is DPS responsible for purchasing cameras?

7 A. Purchasing, installing and maintaining.

8 Q. Now what -- define what that entails. And give me some
9 rough costs.

10 A. Well, I'll give you a hundred. I'll use a hundred. If
11 we buy a hundred cameras in the current VHS camera we're
12 using, we've just spent two hundred and eighty-five thousand
13 dollars (\$285,000.00). To put those hundred cameras in is
14 another one hundred and ninety thousand dollars
15 (\$190,000.00).

16 The first year of warranty is two hundred and fifty
17 thousand dollars (\$250,000.00). The second year of warranty
18 is two hundred and twenty-five thousand dollars
19 (\$225,000.00). The third year of warranty/maintenance is
20 two hundred thousand dollars (\$200,000.00).

21 At that point we make a determination on whether the
22 camera is worth putting anymore money in it at that point.
23 And usually we stop buying the maintenance contract on the
24 third year, but we still are responsible for the life of the
25 camera to pay for any cost relative to keeping it

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1 operational or we determine it economically unfeasible to
2 keep. And then we replace the camera with a replacement or
3 a rebuilt camera.

4 Q. You've heard today Lieutenant Browning testify that his
5 own agency has between a hundred and fifty and two hundred
6 cars.

7 A. Yes.

8 Q. If you were to equip every car, every marked -- you
9 can't tell me how much it would cost to equip every car?

10 A. I can't even fathom what it would cost. It took us
11 from 2001 until 2009 to purchase, issue, install a little
12 over thirty-two hundred cameras. And now we're faced with
13 VH cameras -- VHS cameras are no longer being manufactured.
14 So, therefore, we are forced now to start purchasing digital
15 cameras. Digital cameras start in the price range of about
16 four thousand dollars and can go as high as ten thousand
17 dollars.

18 And as Officer Browning testified, when you start
19 buying digital you become married to the embedded base.
20 Whatever the local purchased -- police department purchased,
21 when we get to them on their list we're going to have to
22 purchase that same camera and maintain it because you can't
23 ask an agency to be using two types of digital systems that
24 won't talk to each other.

25 Q. And does your agency stand prepared to do that?

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1 A. Well, we're prepared based solely on the money we get
2 monthly, which varies from about a hundred and fifty
3 thousand dollars (\$150,000.00) to a hundred and eighty-five
4 thousand dollars (\$185,000.00) a month.

5 And keep in mind, I think it was recently revealed that
6 we maybe have ten to twenty thousand DUI cases that have
7 been in holding patterns. So, therefore, the funding source
8 is -- until the case is settled, you know, we don't get any
9 fines out of those cases.

10 Q. And if they aren't convicted -- this is ---

11 A. And there's ---

12 Q. --- based on convictions?

13 A. That's correct.

14 Q. Back when the legislation was first enacted and you
15 embarked with others in your agency, ---

16 A. Um-hum (affirmative).

17 Q. --- implementation, was it your understanding that the
18 intent was that the individual agencies not have to spend
19 money on cameras?

20 A. That was the intent of the legislation, that small
21 police departments especially would never be able to fund
22 and maintain cameras with the budgets that those agencies
23 had. And, of course, large police departments also had
24 funding issues. And that was the intent of the legislation
25 that this funding source provide cameras for all. And I

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1 must say traffic -- the law very well defines that it's for
2 traffic related vehicles.

3 Q. So that was your understanding, it was in vehicles used
4 primarily for traffic ---

5 A. For traffic.

6 Q. --- enforcement?

7 A. That's correct.

8 Q. Is the South Carolina Highway Patrol also one of the
9 agencies that you provide cameras to?

10 A. They were in the very beginning of this program. In
11 2007 the program -- they pulled out of the program because
12 we just weren't being able to provide the cameras to the
13 locals. And when we were getting new troopers added through
14 the budget process, the general assembly was putting in
15 funds to fund the -- to outfit the cars with cameras. So,
16 therefore, patrol determined that they would no longer take
17 anymore money out of the DUI camera for themselves.

18 Q. So has that move possibly freed up a few more cameras
19 for the other agencies through your program?

20 A. A few, yes.

21 Q. Now, you have been from the beginning in charge of a
22 finite resource, ---

23 A. That's correct.

24 Q. --- is that safe to say?

25 A. That's correct.

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1 Q. And how did you go about determining who to distribute
2 x number of cameras to?

3 A. Well, the way we started is we put together a committee
4 and we asked the Chief Association to put in two
5 representatives and the Sheriff's Association to put in two
6 representatives. And the patrol put in two representatives.
7 And we have, of course, had administrative folks that helped
8 in the committee process.

9 And we did an evaluation. We did a request for
10 information. And all manufacturers submitted their cameras.
11 With this committee we did benchmark testing, we did in-car
12 testing. And we determined the number of cameras that
13 passed the criteria. And at that time we put in the state
14 contract through the State Department of General Services.

15 And we determined after looking at the ORI charts that
16 SLED provided us to conduct how we would give away the
17 cameras, we immediately saw that a very few percentage of
18 the agencies did the bulk of the DUI work. The middle group
19 did about thirty percent. And a large group of agencies
20 accounted for about twenty percent.

21 So the committee determined that what we would do is a
22 random selection process. And each time we had funding
23 available to purchase cameras, fifty percent of those
24 cameras would go to the high end agencies, thirty percent
25 would go to the mid group and twenty percent would go to the

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1 bottom group.

2 Q. Okay. And this was a random ---

3 A. This was a random computerized selection process.

4 Q. And under that first distribution do you have records
5 that tell us how many Greenville Police Department got?

6 A. I do have records to tell you that Greenville Police
7 Department got twenty-one. They ---

8 Q. In the first ---

9 A. In the first group. And I need to maybe clarify a
10 little bit of more things that happened.

11 Q. Okay. I'm sorry. I jumped ahead of you.

12 A. We submitted regulations to the Senate Judiciary as
13 we're required by law to do with our random selection
14 process. When we went before the Judiciary Committee, the
15 Senators there told us that they did not want the cameras
16 issued through a random selection. They wanted the cameras
17 issued based on DUI activity as recorded by SLED through
18 agencies' ORI numbers.

19 At that time we had to revise our procedures and
20 resubmit them to the Senate Judiciary. And they were
21 eventually promulgated through distribution based on DUI
22 activity.

23 Q. Okay. So you had to put the brakes on ---

24 A. Um-hum (affirmative).

25 Q. --- and recalculate how you were going to do this?

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1 A. Exactly. That's why when Greenville -- when Officer
2 Browning testified that they received one in the random
3 selection process, it was just the draw of the computer.
4 And that's why they got one.

5 Now the remaining ---

6 Q. So they could have asked you for a hundred?

7 A. Um-hum (affirmative).

8 Q. And they would have just gotten one?

9 A. At that particular time, yes.

10 Q. All right.

11 A. And then after our regulations were promulgated we re-
12 surveyed in May of 2002 at the direction of the Judiciary
13 and basically told the police departments that the Judiciary
14 wanted them to reevaluate and submit only their traffic
15 related numbers.

16 The original request from our '99 survey resulted in
17 over fifty-five hundred camera requests. The revised
18 request from the May 2000 put that number down to a little
19 over thirty-two hundred.

20 Q. So this was at your direction that you said, no, no,
21 no, you can only request for a primary traffic enforcement
22 vehicle?

23 A. Well, the law says that.

24 Q. Okay.

25 A. It says the vehicle used for traffic enforcement.

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1 Q. So that reduced your requests?

2 A. That reduced the requests.

3 Q. Okay. And so you had a benchmark for each agency that
4 was established in 2002?

5 A. That's correct.

6 Q. And you proceeded to, under the protocol that you had
7 been given, allocating cameras as you were able to purchase
8 them?

9 A. Right. And we received our ORI listing from SLED that
10 prioritized each agency in the order of total arrests. And
11 I have that if you want that to be ---

12 Q. Okay.

13 MS. DRAWDY: Let's mark that as Court's exhibit 11.

14 A. How many copies would you like?

15 Q. And you still have one?

16 A. Oh, yes.

17 (Whereupon, Court's exhibit 11 was marked)

18 MS. DRAWDY: Your Honor, I'd like to introduce this as
19 Court's exhibit 11.

20 MR. FARNSWORTH: Without objection, Your Honor.

21 THE COURT: Without objection, exhibit 11.

22 (Whereupon, Court's exhibit 11 was admitted into
23 evidence for the Court's record)

24 Q. Now this has been marked. Can you explain what the
25 marks -- where the marks came from?

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1 A. Those are working notes of mine. Actually some of the
2 lined out indicated police departments that replied to the
3 survey indicating they did not want any cameras from the
4 program. So they were marked out so when the spreadsheet
5 was made they would not be included in the spreadsheet.

6 Q. Can you say with certainty that everyone that's marked
7 out that is the reason it's marked?

8 A. Yes, I can.

9 Q. Okay. Did Greenville Police Department continue to ask
10 for cameras?

11 A. They did. They asked for their -- they asked for
12 twenty. And before they were actually awarded those twenty
13 they called and asked to add one more camera to their
14 request. And we allowed that because we had not started in
15 their rotation, which made their request twenty-one.

16 Q. And again, this was at the direction that the initial
17 request by agencies were too high and they needed to reduce
18 it based on the character of the kind of work that the
19 patrol vehicle was going to primarily be doing, i.e.,
20 traffic?

21 A. That's correct. I have a letter from the Senate
22 Judiciary to our agency director directing us to perfect the
23 changes as they had requested in the subcommittee hearing
24 and those proposed changes, if you want to have that for the
25 record.

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1 MS. DRAWDY: Your Honor, we'd like to mark this as 12
2 and move it in.

3 (Whereupon, Court's exhibit 12 was marked)

4 MR. FARNSWORTH: Without objection.

5 MS. DRAWDY: Without objection.

6 THE COURT: All right. Exhibit 12 is admitted without
7 objection.

8 (Whereupon, Court's exhibit 12 was admitted into
9 evidence for the Court's record)

10 A. And then from there we prepared a spreadsheet based on
11 the activity and what started our award under that
12 methodology.

13 Q. And is this figure that appears in one of the earlier
14 exhibits that was testified to roughly your ability to
15 purchase cameras at the rate -- and get out at the rate of
16 eighty per quarter a pretty good rule of thumb as to what
17 you were experiencing?

18 A. Well, we actually were experiencing lower than eighty a
19 quarter.

20 Q. Okay. In the beginning?

21 A. In the beginning.

22 Q. And ---

23 A. And it's actually been worse recently.

24 Q. Okay. Because the funding source has dipped?

25 A. Yes. With the backlog of DUI cases, the funding source

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1 has not increased and a proviso that allowed patrol to use
2 some operating money out of that fund.

3 Q. Do you have figures with you -- well, I'm going to let
4 you move along. You have your order of ---

5 A. No, whatever you need me ...

6 Q. Okay.

7 A. I have this spreadsheet that shows the 2002 requests
8 and how we filled them.

9 Q. For all agencies?

10 A. For all agencies.

11 Q. Roughly how many agencies are there across the state
12 that were eligible for these cameras?

13 A. Two hundred and eighty-one.

14 Q. And one of those agencies at the beginning would have
15 been the South Carolina Highway Patrol?

16 A. That's correct.

17 Q. Okay.

18 MS. DRAWDY: Let's mark that as exhibit 13.

19 (Whereupon, Court's exhibit 13 was marked)

20 A. And here's just a modified version that that -- some of
21 the columns are just notes, basically.

22 Q. And these are your personal working documents?

23 A. They are. And that's just a ---

24 Q. Okay.

25 A. --- compilation of the one column. It just takes the

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1 requested column and cuts everything else off.

2 Q. Okay. So -- but this is already ---

3 A. Absolutely.

4 Q. All right. I'm going ---

5 A. Absolutely.

6 Q. --- to let you keep that.

7 A. Okay.

8 MS. DRAWDY: Your Honor, we'd move 13 in as Court's
9 exhibit 13.

10 MR. FARNSWORTH: No objection, Your Honor.

11 THE COURT: Without objection, exhibit 13.

12 (Whereupon, Court's exhibit 13 was admitted into
13 evidence for the Court's record)

14 Q. And where -- how far down the list does Greenville
15 Police Department fall?

16 A. Greenville, on the 2002 list was number -- bear with me
17 one minute.

18 Q. Now exhibit 13, is that the 2002 list?

19 A. That is the 2002 list. Greenville Police Department
20 was agency number 20.

21 Q. Okay. And do you have raw numbers or is that just a --
22 for that year -- is that based on the previous year or ---

23 A. It actually was prefaced on the ORI chart that I just
24 gave you. It was SLED's numbers for 2001, but they were
25 compiled in 2002.

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1 Q. Okay. So is there a -- 2001 arrests?

2 A. Pardon?

3 Q. They're 2001 arrests?

4 A. Um-hum (affirmative).

5 Q. Okay. So this is based on arrests not ---

6 A. That's correct, total arrests. Um-hum (affirmative).

7 It was for the year 1-1-1 to 12-31-1. And it was compiled
8 in April of '02.

9 Q. So would the -- would Greenville Police Department have
10 been in the high producing ---

11 A. Yes, they were.

12 Q. --- group?

13 A. Yes.

14 Q. As we move forward -- so at this point you've
15 established a benchmark of twenty-one cameras for
16 Greenville?

17 A. They determined that.

18 Q. They determine that ---

19 A. They determined that.

20 Q. --- based on -- okay.

21 A. We didn't -- we gave them an opportunity through survey
22 to give us the number they needed.

23 Q. Okay. And so then you had to proceed based on raw DUI
24 numbers. Was that figure recalculated on an annual basis?

25 Was it a cumulative figure? How -- where did your figures

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1 come from for going forward through prioritizing the
2 allocation of cameras?

3 A. It came from the ORI listing of total arrests. That
4 was how we prioritized the first -- the highest figure on
5 the ORI chart was the first person to get cameras and
6 followed suit.

7 It was determined that if every time a police
8 department got a new car and we let them add, then we would
9 never finish the chart. So the committee determined that we
10 would finish the 2002 survey request prior to starting a new
11 entertaining of requests.

12 Q. And at the time that the agencies gave you their
13 initial requests they were unaware of that limitation, is
14 that correct?

15 A. I would say that's probably correct.

16 Q. Because you hadn't even decided that until you ---

17 A. Absolutely.

18 Q. And so it took -- so when did Greenville Police
19 Department ultimately receive the last of the twenty-one
20 cameras?

21 A. They received the -- they received one in 2002, five in
22 2003 and a total of fifteen in 2004 in two different months.
23 Ten in February and five in March.

24 Q. Okay. Has it been your experience that the useful life
25 of these cameras is three to five years?

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1 A. At the Highway Patrol we're getting more like seven to
2 eight years. And most locals are still using the cameras
3 that we gave them.

4 Q. Okay. But do they start beginning requiring a lot ---

5 A. They start ---

6 Q. --- of maintenance?

7 A. --- beginning having problems about the fourth and
8 fifth year. And, like I say, if we can't economically
9 repair them we try to cannibalize and get cameras that the
10 manufacturer can certify.

11 Q. Now, so this initial request, grant request from all of
12 the agencies that occurred in 2002, it took you until when
13 to satisfy that?

14 A. 2009.

15 Q. 2009. And that was how many cameras total?

16 A. Three thousand -- bear with me one minute and let me
17 get that number. Three thousand, two hundred and thirty-one
18 (3,231).

19 Q. So once you had done that -- and this was based on
20 money coming in?

21 A. Correct.

22 Q. Once you had done that where did you find yourself in
23 terms of inventory and available funds to purchase more
24 cameras and what the market was like for purchasing VHS
25 cameras?

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1 A. Well, we continued to purchase VHS. And the funding
2 source moved slower and slower. I actually have a break-
3 down by year on how many cameras were installed at Motorola
4 shops and how many were installed by the Department of
5 Public Safety shops.

6 And you can see in '02 we put in over six hundred
7 cameras. In '03 that number went down to about two hundred
8 and sixty. In '04 that number went back up to about three
9 hundred and ninety. And '05, about three hundred and
10 thirty. And '06, about three hundred and eighty. '07, two
11 hundred and forty. '08, three hundred and fifteen.

12 And '09, we did not purchase but twenty -- thirty
13 cameras. And thus far in '10 we have purchased five hundred
14 in '10 -- fiscal year 10-11, five hundred.

15 Q. And where are those cameras now?

16 A. They're in various police cars ---

17 Q. Oh, they ---

18 A. --- all throughout the state. Oh, yes, we don't -- we
19 don't keep a running stock. Immediately upon ordering
20 cameras I take the list, I issue the award letters, a user's
21 agreement and several other documents that we provide each
22 police department giving them the instructions that they
23 must follow, telling them they don't own the camera, they
24 can't work on the camera, they can't dispose of the camera
25 without written permission from us. And we continue to

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1 install til we finish the original 2002 requests.

2 Q. I'm going to show you a copy of what has been submitted
3 as State's [sic] exhibit 7.

4 A. Um-hum (affirmative).

5 Q. And it's a letter from DPS, I believe, under your
6 signature.

7 A. Yes, it is. This was the 2009 when we re-surveyed and
8 we told everyone that the original requests from the '99 and
9 2002 surveys had been completed and that they now had an
10 opportunity to ask for new cameras. At the time we told
11 them that they should use this opportunity to add or upgrade
12 if they had cameras that were no longer advantageous to
13 repair.

14 We also gave them the opportunity to choose between VHS
15 and digital. Because of the cost we went as far as to tell
16 them that if they chose digital they would have to wait
17 until all the VHS cameras that were available from the
18 manufacturer were purchased and installed.

19 Q. And are you in the -- have you purchased your last VHS
20 camera?

21 A. We have purchased our last VHS camera.

22 Q. And will you now be purchasing digital?

23 A. We are in the process of starting the digital. We have
24 done an evaluation with locals and sheriff's departments.

25 And the state has issued a multi-award contract on digital

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1 cameras. This fund has purchased no digital cameras at this
2 time.

3 Q. And do you have a copy of the requests, a compilation
4 of the requests that you received from various agencies?

5 A. Yes. Yes, I do. You may also want this ORI listing
6 that this 2009 request is based on.

7 MS. DRAWDY: We'll mark that as ---

8 A. I didn't want Your Honor to have a heart attack when he
9 saw these folders.

10 MS. DRAWDY: We'll mark this as 14.

11 (Whereupon, Court's exhibit 14 was marked)

12 MS. DRAWDY: And move that in as Court's exhibit 14.

13 MR. FARNSWORTH: Without objection.

14 THE COURT: Without objection.

15 (Whereupon, Court's exhibit 14 was admitted into
16 evidence for the Court's record)

17 A. And this is the compilation Excel spreadsheet.

18 Q. Okay.

19 A. That accompanies that.

20 Q. All right. The compilation of the 2009 ---

21 A. 9 survey.

22 Q. --- survey?

23 A. That's correct.

24 MS. DRAWDY: That'd be exhibit 15.

25 (Whereupon, Court's exhibit 15 was marked)

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1 **MS. DRAWDY:** Your Honor, we'd move this in as Court's
2 exhibit 15.

3 **MR. FARNSWORTH:** Without objection.

4 **THE COURT:** Without objection, ---

5 Q. And would you describe for us ---

6 **THE COURT:** --- exhibit 15.

7 Q. Oops.

8 (Whereupon, Court's exhibit 15 was admitted into
9 evidence for the Court's record)

10 Q. Would you describe for us once more, Ms. Johnson,
11 exactly what State's [sic] exhibit 15 is?

12 A. It is a compilation of the survey that we issued in
13 2009 giving agencies an opportunity to reevaluate their
14 traffic needs for DUI in-car video cameras. It's broken
15 down between digital and VHS.

16 And also if an agency chose digital we gave them an
17 opportunity to tell us the brand that they were currently
18 using. So you'll see the brand listed.

19 And, of course, the award dates are when letters are
20 issued. And the closed file was when everything has been
21 installed for that agency.

22 Q. So this is a pretty good snapshot of which agencies had
23 begun purchasing cameras on their own?

24 A. Absolutely.

25 Q. And they have -- and have selected to go digital?

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1 A. Absolutely.

2 Q. And how many did Greenville request?

3 A. Greenville PD requested twenty cameras. They requested
4 digital. And they indicated they wanted to match their
5 Kustom Signal cameras.

6 Q. Okay. And at this point in time in 2009 where did they
7 fall in the firmament of the allocations?

8 A. They're actually in this number twenty-one.

9 Q. And they will -- once you begin purchasing digital
10 cameras they will -- these will trickle in in a similar way
11 as the previous allocation ---

12 A. No. Actually they will -- when they come up on the
13 list they'll get all twenty at one time because the random
14 selection process, it was ones and twos, but the way this
15 works is however many they ask for, they get it.

16 Q. So Charleston PD would be the first to get digital
17 cameras?

18 A. That's correct. Two hundred digital cameras.

19 Q. And just because they've asked for two hundred, they
20 will get all two hundred before Greenville gets its twenty?

21 A. That's correct. In fact, you go down the chart you'll
22 see Columbia has a hundred and ninety-three before we get to
23 Greenville. And there are numerous other agencies with ten,
24 fifteen, thirty, twenty, four, seventeen. So there's quite
25 a few that are still ahead of Greenville PD for the digital

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1 requests.

2 Q. Is there any way that the funding source that you have
3 could equip every patrol vehicle in the state?

4 A. No, not as it is currently structured. We can do it,
5 but it would be about a fifteen year process.

6 Q. And then by that time ---

7 A. And, of course, by that time agencies will have added
8 more cars and the first cameras will have worn out.

9 Q. So revenues for your funding source are up or down
10 right now?

11 A. They're hanging at about one sixty-five a month. About
12 -- it really is about the same. They're not up. I haven't
13 seen the last two month's deposits yet, but prior to that
14 they've been hanging between one fifty to one seventy-five.
15 So a good average of one sixty-five.

16 Q. Now I want to ask you if once the initial survey was
17 done in 2002 ---

18 A. Um-hum (affirmative).

19 Q. --- you permitted agencies to ask for maybe one
20 additional camera?

21 A. No. In this case they had just returned their form and
22 we had not started the distribution process at all for the
23 2002 survey. And they called and asked if they could change
24 their number from twenty to twenty-one. But that is not a
25 common practice. Once the distribution starts it's kind of

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1 set in stone by the state regulations.

2 Q. At that point no one realized it was going to be seven
3 years before they would be allowed to request more cameras?

4 A. Well, the police departments did not realize that, no.

5 Q. Okay.

6 A. Some of us that had studied the physical impact of the
7 bill understood it, but the individual police departments
8 did not have that information.

9 Q. So is it safe to say that this was a program that
10 everyone was doing the best they could but didn't really
11 know what to expect?

12 A. Absolutely. It was a great piece of legislation.
13 There's just not enough money to provide the service that
14 the legislation asked us to provide.

15 Q. Okay. Has there been any review of this that you're
16 aware of by the Legislature?

17 A. Not that I'm aware of. We do have a problem with the
18 annual inventory. And we have made a recommendation for
19 this legislative session that we be allowed to actually give
20 the cameras to the police department and still do the
21 maintenance work through our vendor network. But that has
22 been introduced to the sessions, and it's been turned down.
23 And the rationale for the Senate Judiciary is that they're
24 afraid that the smaller locals won't be able to keep the
25 cameras operational.

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1 Q. So you still own all of these cameras?

2 A. We still own every ---

3 Q. You still have title to them?

4 A. --- one of these cameras, yes.

5 Q. And inventory them?

6 A. Um-hum (affirmative). Every year.

7 Q. Is there anything else that you think's important we
8 know?

9 A. For this case, no. But for the source of funding, you
10 know, it needs to be understood that certainly a lot of time
11 has passed. And you would think by looking at time that
12 everybody should have gotten a camera. But when an analysis
13 is done of the funding versus the requests and the need,
14 there's just not enough money there to do it.

15 Q. Okay. And have you observed the same kind of
16 maintenance costs, installation, de-installation headaches
17 that Lieutenant Browning describes state-wide?

18 A. Absolutely. We haven't quite had as many problems, I
19 think, as Lieutenant Browning, but we too suffered through
20 the Prosecutor. We had ---

21 Q. Now the Prosecutor, let me be clear, that's a brand
22 name ---

23 A. That's a different brand -- that's a brand name of
24 camera. We too suffered through eighty-eight of those
25 through this program. So -- but there has been no

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1 additional funding, no change in the legislation. And to my
2 knowledge there's nothing other than the asking of -- giving
3 us permission to give the cameras to the police departments.

4 Q. Thank you, Ms. Johnson.

5 A. Absolutely.

6 Q. Please answer any questions that Mr. Farnsworth ---

7 A. Absolutely.

8 MR. FARNSWORTH: I don't believe I have any questions.

9 A. All right. Great.

10 THE COURT: Let me just ask one question ---

11 A. Sure.

12 THE COURT: --- for my benefit. The higher the number,
13 the greater the chance of getting a camera?

14 A. Yes, sir. They'll be the first on the list. If you
15 look at the spreadsheet, the ones we awarded originally
16 under the VHS we started with the Greenville Sheriff, and
17 Spartanburg Sheriff and go right on down.

18 THE COURT: I see that now.

19 A. Yeah.

20 THE COURT: You indicated on exhibit 11 where you had
21 the line-outs -- that those lined out ---

22 A. Those were --- that was the ---

23 THE COURT: --- that that town did not want to ---

24 A. That was the 2002s.

25 THE COURT: That's what I meant to say, ---

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1 A. Yeah.

2 THE COURT: --- 2002. They did not want to ---

3 A. Right. And we had some in this survey that don't want
4 to participate.

5 THE COURT: In 2007 different agencies ---

6 A. Yes, sir.

7 THE COURT: --- sometimes don't want to.

8 A. Yes, sir. And if you have a copy of the Excel
9 spreadsheet there's a legend that shows that the red
10 agencies did not respond to requests.

11 THE COURT: What's the significance of the green?

12 A. The green are people that actually have closed their
13 file because they asked for none and we closed their file.

14 THE COURT: The numbers you get on this 2002 and 2007,
15 are those numbers provided by the agency?

16 A. They're provided by SLED. That report comes directly
17 from SLED. And they actually enter -- now the officers
18 probably better speak to how they do that, but they actually
19 report those to SLED by their ORI number. And they're
20 compiled in SLED's database annually.

21 And as you can see we had on the 2009 survey, seven
22 hundred and eighty-nine (789) requests for VHS, one
23 thousand, three hundred and forty (1,340) requests for
24 digital. And to date we've awarded five hundred (500)
25 cameras.

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

2 A. Absolutely.

3 Direct Examination by Ms. Drawdy Continued:

4 Q. Ms. Johnson, before you come down I just want to make
5 sure that we're clear on what data is on those spreadsheet
6 exhibits so that we are not -- so that we know what we're
7 ---

8 A. Absolutely.

9 Q. --- looking at because I don't want there to be created
10 any confusion in the record. What's been marked as State's
11 [sic] exhibit 13, ---

12 A. Um-hum (affirmative).

13 Q. --- what does this spreadsheet show?

14 A. That is the 2002 requests in the order of ORI DUI
15 arrests.

16 Q. Okay. And number 15?

17 A. It's the 2009 survey in order of the ORI listings by
18 SLED.

19 Q. Okay. Thank you.

20 A. Absolutely.

21 MS. DRAWDY: Your Honor, that would be the extent of
22 what the State has to offer.

23 THE COURT: Anything from the Defense?

24 MR. FARNSWORTH: No, Your Honor.

25 THE COURT: All right.

1 MS. DRAWDY: Unless you want argument.

2 THE COURT: Let's take a lunch break and try to be back
3 about five minutes til three. We'll let the jury wait on us
4 a little while. And I'll be glad to hear argument then.
5 Would you like to -- yeah, I probably need to hear some
6 argument based on the exhibits. Let's be back about five
7 til three. I'll be glad to hear from you then. I'll try to
8 review that video in the next thirty minutes too if you have
9 a copy of it for me. That'll give us about forty-five
10 minutes for lunch.

11 MS. DRAWDY: Thank you, Your Honor.

12 (Whereupon, court was in recess at 2:10 pm)

13 (Whereupon, State's exhibits 2 - 7 were marked for
14 identification)

15 (Whereupon, court resumed at 3:10 pm)

16 THE COURT: All right. I'll be glad -- how long do you
17 believe you need to argue this case to me, Mr. Farnsworth?

18 MR. FARNSWORTH: Your Honor, I'm not going to need
19 long.

20 THE COURT: You're not?

21 MR. FARNSWORTH: No, ---

22 THE COURT: Ms. Drawdy.

23 MR. FARNSWORTH: --- I don't think so.

24 THE COURT: Okay. I think you've got the tape back.
25 I've watched the tape. I'll be glad to hear from you, Mr.

1 Farnsworth, about how this case is on all fours with ---

2 MR. FARNSWORTH: Okay.

3 THE COURT: --- Mt. Pleasant.

4 MR. FARNSWORTH: Your Honor, as you know, the Mt.
5 Pleasant case held that neither the -- this, of course,
6 involved, as we've said, a law enforcement vehicle that was
7 not equipped with the video camera device. And the town, of
8 course, held its -- its argument was really based on the
9 fact that they were under no obligation to, you know, to
10 purchase or request the tapes, that it was the obligation of
11 the Department of Public Service to supply tapes. Your
12 Honor, in any event, the court held that neither the
13 statutory exceptions in section (g) or the other exceptions
14 in section (b) of 2953 were excused and that the remedy or
15 sanction should be a dismissal of the case.

16 Your Honor, the -- I think the problem in this case is
17 that we have heard two witnesses today that told us things
18 that the court that decided the town of Mt. Pleasant didn't
19 have access to, all this information that's about the number
20 of videos, the requests, the funding, this type thing.

21 But I think this statute was doomed from the start
22 because it was just so totally and inadequately funded that
23 it was doomed to get in the financial shape it is now. In
24 other words, all the state agencies are having problems, but
25 I don't think the -- this one was ever going to get off the

1 ground just as we've heard today.

2 But the statute, 56-5-2953, is still in effect. It
3 hasn't been abolished. The town of Mt. Pleasant case is --
4 is that it's still law. Your Honor, I would just ask that
5 you just consider everything you've heard today on our
6 motion and render your decision.

7 **THE COURT:** How is this case different, Ms. Drawdy?

8 **MS. DRAWDY:** Your Honor, I think the record that the
9 court had to operate on to begin with is very different in
10 terms of what was before it. I believe that the state in
11 Mt. Pleasant relied on subsection (g) as it not applying and
12 was not prepared to make the type of proffer that has been
13 made today. So I believe Your Honor has before you an
14 entirely different record than the city of Mt. Pleasant case
15 had or the town of Mt. Pleasant.

16 Furthermore, even so, the court in the -- just before
17 the conclusion in the city of Mt. Pleasant makes the remark,
18 our decision should in no way be construed as eradicating
19 subsection (g) of section 56-5-2953. Instead, we emphasize
20 that subsection (g) is still viable and must be read in
21 conjunction with subsection (b) as these exceptions under
22 the appropriate factual circumstances could operate to
23 excuse a law enforcement agency's non-compliance due to the
24 failure to equip a patrol vehicle with a video camera.

25 I think that the totality of the circumstances analysis

1 ---

2 THE COURT: What page was that on? I read that
3 earlier, but I forgot where that was ---

4 MS. DRAWDY: It's just above the conclusion.

5 THE COURT: Oh, yeah.

6 MS. DRAWDY: It would probably ---

7 THE COURT: Okay.

8 MS. DRAWDY: It's on page 12 of the ---

9 THE COURT: All right.

10 MS. DRAWDY: --- copy near the top.

11 And they go on to conceive a scenario. And this
12 doesn't exactly match that, but that does not mean the only
13 scenario.

14 GPD was making efforts to get cameras. They wanted
15 cameras. There was no indication that they were in any way
16 acting in bad faith.

17 And I will remark about the line of cases under this
18 videotaping statute. When you look at Suchenski and Murphy,
19 Suchenski never did a totality of the circumstances
20 analysis. That was not preserved on appeal. And that is
21 something that clearly the statute and the Legislature
22 intended to be a catch-all.

23 If you look at the way the statute is written it goes
24 -- it sets forth a requirement and then it says -- it
25 expresses it in the negative, at best this statute is

1 awkwardly drafted. It expresses the dismissal option as in
2 a negative sense, this alone is not a reason.

3 It never says must be dismissed. And when the
4 appellate courts have looked at what the courts below have
5 done, they have been in a position of saying, was it error
6 to dismiss it? And they're saying, no, it's an appropriate
7 remedy. It wasn't until Murphy where, I would argue, an
8 incomplete record of the objective reality in the world was
9 not before the court.

10 And they saw what under, I think, what was in essence a
11 totality of the circumstances analysis, even though they
12 don't call it that, bad faith on the part of the agency is
13 what they thought they were seeing, and no effort, and as a
14 matter of fact, an effort not to acquit. And that may, in
15 fact, have been the case.

16 But -- so and then when you look at Murphy, the court
17 in some footnotes talks about the fact, this is the tape --
18 the statute where they found that they were, in fact, in
19 compliance with the statute, the requirements that the
20 previous version of the incident site statute that would
21 require that the defendant's conduct be included on the
22 incident site video.

23 And they said that simply because a portion of the
24 defendant's body was not visible on the camera during some
25 of the field sobriety tests, they still found them to be in

1 compliance. But they also remarked, I think it's
2 interesting in the footnotes and the asides that there -- it
3 does not appear that the officer was making some kind of
4 effort to get the defendant off the camera.

5 So I do believe that in point of fact, even though they
6 don't call it that, where the appellate courts have done to
7 the extent they're allowed to, they have -- the record has
8 permitted them below to do a totality of the circumstances
9 analysis and also have looked to see whether there was good
10 or bad faith on the part of the agency.

11 The -- what I would say are Herculean efforts on the
12 part of the GPD to equip its vehicles in as sensible a way
13 as they can, and a very expensive proposition, I might add,
14 they have done -- they have acted in utter good faith and
15 reasonably in attempting to equip their vehicles.

16 And in the case at bar, not only that, you have a
17 sergeant who is using his own personal camera when the --
18 when he had it available to document. And I would argue
19 that is the whole purpose of the videotaping statute for
20 DUIs.

21 It's not -- and again, I guess I am arguing a little
22 bit of a term of art with Judge Beatty. It's not to create
23 evidence, it's to document evidence on video. And that
24 effort was made. So there is not even an -- there is not a
25 whiff of bad faith on the part of the Greenville Police

1 Department.

2 So I would argue that this case is very different from
3 town of Mt. Pleasant versus Roberts on a number of accounts
4 and that this case should not be dismissed. Thank you.

5 **THE COURT:** Thank you. I have read the opinion. And
6 I'd read it when it first came out. I've read it with
7 multi-colored highlighters and pens trying to see exactly
8 where it goes.

9 I'm going to deny your motion, Mr. Farnsworth, and for
10 the Appellate Court's elimination of my thinking.
11 Obviously, I've read the case and what it says, but I think
12 when the court said under the specific facts of this case my
13 primary reliance is on footnote 15 of the opinion in light
14 of Court exhibits 7, 11 and 15 in this case. And that's
15 solely the basis upon which I'm making this decision. Well,
16 plus the interpretation of that statute and the totality of
17 the circumstances and considering section (b) and section
18 (g).

19 But, assumingly, the court there had the same
20 information that I have now, at least as to exhibit 15. And
21 they knew the date was April the 28th, which I presume they
22 had exhibit 7, the letter.

23 And I'm impressed by the fact that in Court exhibit
24 number 11, based upon the testimony of the witness that Mt.
25 Pleasant had -- was lined out and that they did not care to

1 participate in the program back in 2002 when this came out.
2 And I think certainly Judge Nicholson could have had that
3 evidence.

4 And I think that makes this case quite different from
5 that whereas Greenville was always seeking to get to the
6 trough to get the equipment when they could, expending their
7 own dollars in addition. So I respectfully deny your
8 motion.

9 Anything else we need to take care of before the jury
10 comes back and be sworn?

11 **MS. DRAWDY:** Nothing from the State other than a
12 request of the Court if you would be willing to write a
13 brief order to that effect. I know -- we're going to be re-
14 litigating this over and over again if we don't have some
15 sort of ---

16 **THE COURT:** Well, believing that it might be fact-
17 specific each time too, I don't know if you're going to have
18 a general order on that or not. But I've stated it on the
19 record. But I'm not going to write an order right now to
20 tie up the jury longer. They've waited forty-five minutes
21 already.

22 So we'll address that. I've stated my reasoning on the
23 record based upon the facts of that case in Mt. Pleasant and
24 what I've heard in this particular case. Anything else?

25 **MR. FARNSWORTH:** No, Your Honor.

25 And this is a stipulation that will be made a part of

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1 the record, and you'll have it for you later. But the
2 parties, the State and the Defendant in this case have
3 agreed that the privilege that Mr. Johnson had to drive in
4 South Carolina was under suspension on March the 18th, 2010
5 and that he had actual personal knowledge that his license
6 was under suspension on that date.

7 They further stipulate that on November the 17th, 2009
8 that there was a legal notice mailed to him at his address
9 of record that was on file with the Department of Motor
10 Vehicles informing him of the privilege to operate a motor
11 vehicle had been suspended beginning on December 7, 2009,
12 and it was an indefinite suspension still in effect on March
13 the 18th, 2010.

14 Furthermore, the stipulation is that on January the
15 29th, 2010 legal notice was mailed to the Defendant, again,
16 at his address of record that the Department of Motor
17 Vehicle was informing him that his privilege to operate a
18 motor vehicle was suspended beginning on January the 8th,
19 2010 and ending on October the 8th, 2010.

20 He was given actual notice of this. And that
21 suspension was still in effect on March the 18th, 2010. And
22 both of those notices that were sent to the Defendant
23 informed him that you may not drive until the suspension
24 period has ended, explained the steps that he would need to
25 take to have his license reinstated.

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1 And, furthermore, the stipulation of the parties is
2 that the Director of Public Safety provided a certificate
3 that these referenced notices were sent as required to the
4 Defendant at the address contained in those records at the
5 Department of Motor Vehicles by way of first class mail with
6 postage prepaid so that the mailing was accomplished.

7 Again, you'll have that document with you in your jury
8 room. That is the stipulation between the parties. All
9 right. Solicitor, you may examine the witness.

10 (Whereupon, State's exhibit 1 was admitted into
11 evidence)

12 Direct Examination by Ms. Drawdy:

13 Q. Sergeant Ng, you're employed with the Greenville Police
14 Department?

15 A. Yes, ma'am.

16 Q. How long have you been with the Greenville Police
17 Department?

18 A. A little over sixteen years.

19 Q. And is that the extent of your law enforcement
20 experience or did you have prior experience?

21 A. That is it.

22 Q. That is it. What kind of training did you receive?
23 Just an overview.

24 A. The basic police academy, detective school, advance
25 DUI, interviews. It's a long list of them.

DONNIE NG - DIRECT EXAMINATION BY MS. DRAWDY

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1 Q. Okay. Well, let's focus on the DUI part of that,
2 advanced DUI detection. What types of things are you taught
3 in that course, specifically?

4 A. It's the HGN, which is the horizontal gaze nystagmus,
5 the 9 step walk-and-turn and the one-leg stand.

6 Q. Okay. Those three things that you just described, are
7 those referred to as standardized field sobriety tests?

8 A. Yes, ma'am.

9 Q. And you have training in administering those yourself?

10 A. Yes, ma'am.

11 Q. Do you have experience in actually making DUI arrests
12 yourself during your career?

13 A. I have.

14 Q. Now on March 18th, 2010 were you still a road officer?

15 A. No, ma'am.

16 Q. What was your position at that time?

17 A. I was a sergeant of a downtown unit working the central
18 business district.

19 Q. Of downtown Greenville?

20 A. Of downtown Greenville.

21 Q. And do you recall what holiday March 17th was?

22 A. It was St. Patrick's Day.

23 Q. Were you in the downtown area patrolling or assisting
24 patrolmen who were out with the GPD that evening?

25 A. Yes, ma'am, I was.

DONNIE NG - DIRECT EXAMINATION BY MS. DRAWDY

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1 Q. What shift did you work?

2 A. It's night-shift, which is from 4 pm until 2:45 in the
3 morning.

4 Q. 2:45 am. And around 2:00 am approximately did you have
5 occasion to assist one of your officers who had stopped
6 someone on suspicion of DUI?

7 A. Yes, ma'am.

8 Q. And was that the Defendant in this case?

9 A. Yes, it was.

10 Q. Mr. Johnson?

11 A. Yes, it was.

12 Q. Can you tell me where you first came into contact with
13 the officer? Who was the officer?

14 A. It was Officer Lowe.

15 Q. Officer Lowe? And when did you first come into contact
16 with him and the Defendant? Where were they?

17 A. I heard him call out a traffic stop on Main Street. I
18 usually go check on the officers in downtown to make sure
19 they're okay. And I went down to, I believe it was McBee
20 and Main. That's where he was located at on the traffic
21 stop.

22 Q. And was the Defendant already out of his car?

23 A. Yes, he was.

24 Q. Did Officer Lowe request any kind of assistance from
25 you at all?

DONNIE NG - DIRECT EXAMINATION BY MS. DRAWDY

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1 A. No, ma'am.

2 Q. Okay. Did he ask you for any equipment?

3 A. He did ask if I had a video camera in my vehicle. And
4 I told him no.

5 Q. So you did not have a video camera ---

6 A. I did not.

7 Q. --- in your vehicle? Did you have a camera?

8 A. I did have a camera.

9 Q. Can you tell us about that camera? Was it issued by
10 the Department?

11 A. It was not. Actually, I've seen a small camera being
12 worn by officers before. And I thought it was a good idea.
13 And I found one on the internet fairly cheap. And I just
14 happened to wear one on my uniform that night.

15 Q. Okay. And so did you use that to videotape the
16 administration of the field sobriety tests to Mr. Johnson?

17 A. I did.

18 Q. Can you describe -- did you have a conversation with
19 the Defendant that night?

20 A. I did have a conversation with him. It was after
21 Officer Lowe had advised him of his Miranda rights.

22 Q. And did you form an opinion of his sobriety after you
23 had been observing him?

24 A. Yes. He appeared to be impaired.

25 Q. And why do you say he was impaired? What about him

DONNIE NG - DIRECT EXAMINATION BY MS. DRAWDY

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1 made you think he was impaired?

2 A. Based on the DUI training. He didn't do so well on the
3 HGN, the walk-and-turn, the 9 step.

4 Q. And you referred to the HGN. What is that -- what is
5 the term -- what is that test?

6 A. It's the horizontal gaze nystagmus, which is the
7 twitching of the eye when you're impaired.

8 Q. Impaired by alcohol?

9 A. Alcohol or drugs.

10 Q. Okay. I'm going to show you State's exhibit 2 and ask
11 you if you recognize this?

12 A. Yes. That is the video of the incident with my
13 initials on it.

14 Q. So is this a copy of the video that you made that
15 night?

16 A. No. That one was placed in property and evidence.

17 Q. Is this a copy of it?

18 A. Yes, it is.

19 Q. Have you viewed it?

20 A. Yes, I have.

21 Q. And is it a fair and accurate depiction of what
22 happened that night?

23 A. Yes, it was.

24 Q. And how do you know that you viewed it?

25 A. Because I initialed by it after I viewed the video.

DONNIE NG - DIRECT EXAMINATION BY MS. DRAWDY

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1 Q. Okay.

2 MR. FARNSWORTH: Without objection.

3 MS. DRAWDY: Your Honor, at this time we'd like to
4 introduce this as State's exhibit 2.

5 THE COURT: Without objection, exhibit 2 is admitted
6 into evidence.

7 (Whereupon, State's exhibit 2 was admitted into
8 evidence)

9 MS. DRAWDY: And we'd like to publish it to ---

10 THE COURT: You may ---

11 MS. DRAWDY: --- the jury at this time.

12 THE COURT: --- publish it to the jury whenever you
13 wish.

14 (Whereupon, State's exhibit 2, video, was published to
15 the jury)

16 (Whereupon, video was stopped)

17 Q. Okay. Office Ng -- Sergeant Ng, did -- was Officer
18 Lowe aware that you were videotaping at this time?

19 A. He was not. He didn't know I had the camera on me.

20 Q. Okay.

21 (Whereupon, video was continued)

22 (Whereupon, video was stopped)

23 Q. Sergeant Ng, let me ask you a few questions about
24 what's happening right now. Is this the horizontal gaze
25 nystagmus test?

DONNIE NG - DIRECT EXAMINATION BY MS. DRAWDY

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- 1 A. Yes, it is.
- 2 Q. What is -- you were training in the administration of
- 3 this test yourself?
- 4 A. Yes, I was.
- 5 Q. What is it that Officer Lowe was looking for to -- that
- 6 would indicate alcohol in the system?
- 7 A. It's the involuntary twitching of the eyes and also the
- 8 lack of smoothness pursuit of the tracking of the eyes.
- 9 Q. Okay. Is that something that you would expect to be
- 10 able to see in this -- from the point where you're
- 11 videotaping?
- 12 A. No.
- 13 Q. Okay. You wouldn't be able to see it in the video?
- 14 A. No.
- 15 Q. The actual twitching?
- 16 A. No.
- 17 Q. Okay. And is this normally videotaped from an in-car
- 18 camera?
- 19 A. Yes, it would be.
- 20 Q. And how far away is that usually?
- 21 A. Pretty far away. So definitely you wouldn't be able to
- 22 see any type of twitching.
- 23 Q. Okay.
- 24 (Whereupon, video was continued)
- 25 (Whereupon, video was stopped)

DONNIE NG - DIRECT EXAMINATION BY MS. DRAWDY

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1 Q. Sergeant Ng, this vehicle that's shown in your video,
2 whose vehicle is that?

3 A. That is the vehicle that was -- that the Defendant was
4 operating that night.

5 Q. Okay. All right. You were obviously videotaping this.
6 So did you have an opportunity to observe the Defendant's
7 performance on the field sobriety tests?

8 A. I did.

9 Q. What did you notice about his performance?

10 A. It's not very good. He obviously seemed impaired.
11 Like I said, the HGN, horizontal gaze nystagmus, he did -- a
12 lot of times when you do -- when you move the pen straight
13 across on someone that's not impaired, it's very smooth.
14 There is no stopping.

15 In this incident you can actually see the stopping and
16 then his eyes would jump to the next section when the pen
17 moves further. And then when you're out far, far away the
18 eyes would twitch.

19 And then the following of directions on the walk-and-
20 turn and also the one-leg stand he did not do very well on
21 following directions. He failed both of those tests.

22 Q. Okay. Did you notice anything about his balance or his
23 stability?

24 A. Yes. He was -- he's off balance. Even when we were
25 doing the horizontal gaze nystagmus he was -- started to

DONNIE NG - CROSS EXAMINATION BY MR. FARNSWORTH

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1 fall backwards. That's why I moved to the side of him just
2 in case if he does fall back I can catch him so he won't
3 hurt himself.

4 Q. And did you hear him say how many beers he'd had to
5 drink that night?

6 A. I did. He said five or six. And that's why in my
7 initial conversation with him I was asking him if he had
8 five or six beers how come he was operating a vehicle that
9 night.

10 Q. And approximately what time of the evening was this?

11 A. I think it was about two am.

12 Q. And where is this?

13 A. It was on Main Street and McBee. I think he was --
14 when I got there the vehicle was obviously pointing
15 southbound Main Street.

16 Q. And is this within the city limits of Greenville where
17 this occurred?

18 A. It was, city limits, downtown Greenville.

19 Q. And is that within Greenville county?

20 A. That's within Greenville city and Greenville county.

21 Q. Please answer any questions that the defense counsel
22 might have for you.

23 **Cross Examination by Mr. Farnsworth:**

24 Q. Okay. Sergeant Ng, how far away were you from him when
25 you were making the video that we just saw?

DONNIE NG - CROSS EXAMINATION BY MR. FARNSWORTH

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1 A. It's hard to say. I guess probably about five feet
2 maybe.

3 Q. Five feet?

4 A. I moved -- I moved around a lot the whole time. It's
5 very hard for me to say, to give you a ---

6 Q. Okay. Well, just -- just try to -- like how far Mr.
7 Johnson and you, yourself, about how far were you standing?
8 Just tell me whether to come closer or back.

9 A. Closer.

10 Q. Closer?

11 A. Yeah.

12 Q. You were this close to him?

13 A. I would say so.

14 Q. Okay. And I think you said when you first saw Mr.
15 Johnson or the officer, well, Officer Lowe, that Mr. Johnson
16 was already out of the car, he was -- he'd already pulled
17 into a parking space, is that correct?

18 A. Yes.

19 Q. So of your own knowledge you don't even know where he
20 came from, do you?

21 A. No. I have no idea.

22 Q. You don't know what road he traveled to get there to
23 where he ended up?

24 A. No, sir. I ---

25 Q. Okay.

DONNIE NG - CROSS EXAMINATION BY MR. FARNSWORTH

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1 A. --- didn't know where he was heading or the whole
2 situation of the traffic stop.

3 Q. All right. And now I believe you testified that Mr.
4 Johnson told you he'd had five or six beers, is that
5 correct?

6 A. Yes, sir.

7 Q. Did you ask him over what period of time he had those
8 beers?

9 A. I did not.

10 Q. Did you ask him what time it was the last beer he had?

11 A. I did not.

12 Q. And you said it was about 2:00 in the morning though
13 when you had this conversation?

14 A. Yes, sir.

15 Q. Okay. So actually your part in this was using your
16 camera to take video?

17 A. Yes, sir.

18 Q. And you didn't take part in any other part of the
19 arrest?

20 A. No, sir.

21 Q. Okay. Thank you. That's all I have.

22 MS. DRAWDY: That's all I have for this witness, Your
23 Honor.

24 THE COURT: All right. Thank you. You may step down,
25 Officer Ng.

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 MS. DRAWDY: The State calls Officer Jesse Lowe.

2 Jesse Lowe, being duly
3 sworn testified as follows:

4 MADAME CLERK: Thank you. You may be seated. Would
5 you please state your full name for the record.

6 MR. LOWE: Jesse D. Lowe.

7 MADAME CLERK: Thank you.

8 Direct Examination by Ms. Drawdy:

9 Q. Officer Lowe, you're employed with the Greenville
10 Police Department?

11 A. Yes, ma'am.

12 Q. And are you the arresting officer in this case?

13 A. I am, ma'am.

14 Q. What shift did you work that evening?

15 A. Night-shift, which is from 7:40 pm til seven in the
16 morning the following day.

17 Q. How long had you been with the Greenville Police
18 Department about this time?

19 A. A year and two months.

20 Q. A year and two months.

21 A. Yes, ma'am.

22 Q. Had you also received some training prior to this
23 incident?

24 A. I had, ma'am. I had completed the basic officer's
25 academy for the state of South Carolina. And also I had

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 been through training in running a DataMaster as well as
2 advanced field, excuse me, advanced DUI detection, which
3 includes the three field sobriety tests.

4 Q. I want to take you back to your activities shortly
5 before you made this stop. Did you make a traffic stop on
6 the Defendant's vehicle?

7 A. I did, ma'am.

8 Q. What was it that caught -- drew your attention to this
9 vehicle?

10 A. I was driving northbound on Main Street just prior to
11 the intersection of Main and McBee. I observed a red Ford
12 Explorer backing out of a parking spot without any
13 headlights on. At that time, as he was backing out, I was
14 going through the light at McBee and Main as it was a yellow
15 light. I was traveling northbound on Main Street.

16 When I passed the Defendant I still didn't see him turn
17 his headlights on. So I did a u-turn behind the vehicle on
18 Main Street. When I got behind the vehicle it was stopped
19 at the red-light at McBee and Main. One of its brake lights
20 was not operational.

21 The Defendant's vehicle then pulled halfway into the
22 intersection while the light was still red and stopped in
23 the middle of the intersection. Once the light went green
24 he continued through the intersection. At that time I
25 activated my blue lights to initiate a traffic stop.

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 Q. And did he pull over?

2 A. He pulled -- he did. He pulled into a parking spot on
3 Main Street close to the intersection of Main and McBee.

4 Q. And at that point did you pull into a parking space as
5 well or were you on the street?

6 A. I was on the street at that point.

7 Q. How long did it take you to get over to the car or did
8 you approach the car?

9 A. Approximately ten seconds, if that. I would have had
10 to call out the traffic stop on the radio to our dispatch
11 and then approach the driver's door.

12 Q. And did you have a conversation with the Defendant when
13 you approached his vehicle?

14 A. I did.

15 Q. What did -- what transpired when you first started
16 talking to him and what did you observe about him?

17 A. When I approached him, before I even spoke to him, I
18 made eye contact with him. And I observed his eyes to be
19 glassy. I also noticed he had a wristband on his wrist from
20 Wild Wings, which is a local -- a local bar and café just
21 down from the incident location.

22 I advised him I stopped him for not having headlights,
23 for the defective brake light and also for the red-light
24 violation. I'd asked him -- I then asked him if he had
25 anything to drink. And he stated too much. I asked him how

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 much too much was. And at that point he stated six or seven
2 beers at least.

3 Q. Okay.

4 A. I then had him step out of the vehicle, patted him down
5 for weapons. And I had him stand at the side of his
6 vehicle. I then returned to my patrol vehicle, parked it in
7 a parking spot close to his vehicle and deactivated my blue
8 lights.

9 Q. Okay. And did you notice a smell of alcohol on him?

10 A. I did. He did have an odor of alcoholic beverage
11 coming from his person.

12 Q. And had you been in the downtown area throughout the
13 evening?

14 A. I had not.

15 Q. You had not?

16 A. No, ma'am.

17 Q. So you were just coming through ---

18 A. Yes, ma'am.

19 Q. --- Main Street? So what was the reason why you
20 actually stopped him?

21 A. For the -- not have headlights on, the brake light
22 being out and for running that red-light.

23 Q. Now we see you writing on a pad in the video.

24 A. Um-hum (affirmative).

25 Q. What are you doing then?

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 A. I'm reading -- reading and writing on a notepad that
2 was provided to me during my advance DUI class. And it just
3 lists the -- it has the instructions that I read to the
4 Defendant about -- for the three field sobriety tests. And
5 it just has little checkmarks next to each possible clue
6 that you could see during the tests.

7 Q. And you referred to clues on each test.

8 A. Yes, ma'am.

9 Q. What is a -- generally speaking, what is a clue on the
10 horizontal gaze nystagmus test and how many possible clues
11 are there?

12 A. There are eight possible clues. And the clue in this
13 case would be something that you would see in someone who's
14 impaired by either drugs and/or alcohol, but you would not
15 see in someone who is not impaired. An example would be the
16 involuntary twitching of their eye that Sergeant Ng
17 explained earlier.

18 Q. Okay. The involuntary twitching. And what is that
19 caused by?

20 A. It's caused by either alcohol or drugs.

21 Q. And what did you notice when you were observing the
22 Defendant? What was the purpose of your moving the pen back
23 and forth and what were you looking for?

24 A. Okay. At that point there are four different clues.

25 And each eye, excuse me, each direction and each eye counts

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 for one, totals eight clues. At first you're looking for
2 lack of smooth pursuit, which is, you know, you're going
3 back and forth. If the eyes are jumping, that is one of the
4 clues.

5 Q. Did you observe that?

6 A. I did, in both eyes and both directions. Another clue
7 is to look for nystagmus, which is the involuntary twitching
8 of the eyes at maximum deviation when the finger gets all
9 the way out to the edge to just where the finger is almost
10 out of the Defendant's vision on each side. And I did
11 observe nystagmus at maximum deviation in both eyes on both
12 sides.

13 The third clue is looking for onset of that nystagmus
14 before forty-five degrees. And the fourth clue is onset of
15 nystagmus when you're going horizontal, having them look
16 upwards. And I did observe that in both eyes, both of those
17 clues in both eyes.

18 Q. You did observe that clue as well?

19 A. Yes, ma'am. All eight clues were seen in this
20 instance.

21 Q. Now is this something that someone can control?

22 A. It is not.

23 Q. Is it ---

24 A. It's involuntary.

25 Q. It's involuntary?

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 A. Yes, ma'am.

2 Q. So if someone has consumed alcohol, they can't practice
3 this test ---

4 A. They cannot.

5 Q. --- to keep it from happening?

6 A. No way, shape or form.

7 Q. All right. So is that the first test that you were
8 taught to administer in your class?

9 A. It is, ma'am.

10 Q. And what is the second test you're taught to
11 administer?

12 A. The walk-and-turn test.

13 Q. And what clues did you observe on that test, if any?

14 A. The first clue I observed is the Defendant was unable
15 to stand as instructed with his right foot in front of his
16 left with his hands down to the side. He -- after I asked
17 him to do that, he stepped off the line a couple of times.
18 And for his safety, so he would not fall over, I just
19 advised him to stand normal, which is when you can see him
20 spread his legs on the line.

21 He also failed to touch heel to toe on all steps except
22 for the final three steps. And although I'd instructed him
23 not to, which is another clue, he used his arms to balance.
24 The test specifically states not -- that he cannot raise his
25 arms at all. And it more specifically states that he should

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 not raise them more than six inches from his body. And he
2 did do that multiple times.

3 Q. And you told him not to use his arms ---

4 A. Yes. I told him to keep his arms down at his sides.
5 His arms down to the side.

6 Q. So what did his performance on that test indicate to
7 you?

8 A. That he was, in fact, unable to control his movements
9 and he was under the influence of alcohol.

10 Q. Is there a third test that you were taught to
11 administer?

12 A. There is. It's the one-leg stand test. That test asks
13 the subject to stand with one leg approximately six inches
14 off the ground, keeping that foot parallel -- that one foot
15 off the ground parallel to the ground, you know,
16 approximately six inches off the ground for thirty seconds
17 while counting one thousand one, one thousand and two and so
18 forth until they get to thirty.

19 The Defendant was only able to keep his foot up until
20 he got to nine one thousand. I had him continue at which
21 point once he -- he began starting or he started from
22 eleven. I told him to go back to nine.

23 He started from nine. And once he got to thirteen one
24 thousand he stopped saying one thousand and just counted
25 thirteen, fourteen, fifteen and so on. He was only able to

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 get to sixteen in the thirty seconds of testing -- the
2 thirty seconds the test was given for.

3 Q. Was he holding his foot up the appropriate height off
4 the ground?

5 A. Yes.

6 Q. He was?

7 A. Yes. Except for when he sat it down ---

8 Q. Okay.

9 A. --- and touched the ground after the nine seconds.

10 Q. So what did his performance on that test indicate?

11 A. It, again, indicated that he was materially and
12 appreciably impaired and was unable to correctly pass this
13 test.

14 Q. Officer Lowe, do you, yourself, drink?

15 A. I do.

16 Q. Have you been around people who were impaired before
17 you became an officer?

18 A. I have.

19 Q. Okay. What are -- are there some other things
20 unrelated specifically to field sobriety tests that you
21 observed about the Defendant that would lead you to believe
22 that he was impaired by alcohol?

23 A. The strong odor of alcohol. He spoke to me about a
24 female that was going to drive him home that he had said had
25 waved at him. During -- before the traffic stop, during the

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 traffic stop and after the Defendant was placed into
2 custody, at no point did I see any female concerned in any
3 way, shape or form of the Defendant. He just kind of -- I'm
4 not really sure where the -- where this female was or if she
5 ever even existed per se.

6 Q. After you placed him under arrest for driving under the
7 influence -- and you did give him his Miranda rights at one
8 point, correct?

9 A. Yes.

10 Q. At the very beginning of the encounter?

11 A. Yes, ma'am.

12 Q. Did you -- where did you take him?

13 A. At that point he was placed in the back of my patrol
14 vehicle where he, again, was read his rights from the --
15 from my field sobriety manual. I then took him to the
16 Greenville County Detention Center where after a long couple
17 of minutes in a -- in his cell to use the restroom, we went
18 into a DataMaster room, which is where the breathalyzer
19 machine is.

20 Q. All right. Let me stop you there.

21 A. Sure.

22 Q. As part of your training were you also trained on the
23 proper administration of DataMaster tests?

24 A. I was, ma'am.

25 Q. Were you certified to operate a DataMaster, ---

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 A. Yes, ma'am.

2 Q. --- administer DataMaster tests?

3 A. Yes, ma'am.

4 Q. Who trained you and certified you?

5 A. The South Carolina Criminal Justice Academy, one of
6 their ---

7 Q. And when were ---

8 A. --- instructors.

9 Q. --- you first certified?

10 A. A couple of months before the incident. I can tell you
11 the exact date. The 2nd of, I'm sorry, yeah, 2/4 of 2010.
12 So about a month and two weeks before exactly.

13 Q. Okay. And have you administered other field sobriety
14 -- other DataMaster tests prior?

15 A. I have.

16 Q. Tell me what a DataMaster instrument is and what it
17 measures, just in general.

18 A. It measures the alcohol level on someone's breath.

19 MS. DRAWDY: Your Honor, we'd like to offer Officer
20 Lowe is certified and to administer breath DataMaster tests
21 in South Carolina.

22 MR. FARNSWORTH: Without objection.

23 THE COURT: Without objection.

24 Q. Officer Lowe, when you went into the testing facility
25 -- let me ask you, was this also videotaped?

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 A. It is as soon as the system is activated. It's one of
2 the first things we do as soon as we walk them over is turn
3 the camera system on.

4 Q. Before we show the video could you tell me what --
5 whether or not you went over with the Defendant his
6 advisement of his implied consent rights?

7 A. Yes. As soon as you -- after entering the Defendant's
8 data or while entering the Defendant's data into the
9 machine, two advisement of the implied consent rights are
10 printed out, one for the Department records and one for the
11 Defendant. And we did read over it, and he did sign my
12 copy, which was turned in.

13 Q. Is that part of the procedure that you're required to
14 do?

15 A. Yes, ma'am.

16 Q. Let me show you State's exhibit 3 and ask you if you
17 can identify this document?

18 A. This is the advisement of implied consent that was read
19 to the Defendant on the night of the incident or the morning
20 of the incident.

21 Q. And did he sign it as acknowledging the receipt of that
22 document?

23 A. He did.

24 Q. And did you provide that to him in writing before
25 asking him if he would take the test?

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 A. I did.

2 Q. Okay.

3 MR. FARNSWORTH: Without objection.

4 MS. DRAWDY: Okay. Your Honor, we'd like to enter this
5 as State's exhibit 3.

6 THE COURT: Without objection, exhibit 3 is admitted
7 into evidence.

8 (Whereupon, State's exhibit 3 was admitted into
9 evidence)

10 MS. DRAWDY: Publish it to the jury.

11 THE COURT: You may do so.

12 Q. Does advisement of implied consent have different
13 languages on it?

14 A. It does. English and Spanish, ma'am.

15 Q. Okay. And what's at the top?

16 A. English.

17 Q. All right. After you advised him of his implied
18 consent rights did you -- did you check his mouth for
19 foreign material?

20 A. I did.

21 Q. Why did you do that?

22 A. To make sure that there was nothing in his mouth that
23 could affect the test.

24 Q. And when it came time for him to provide a breath
25 sample did he, in fact, provide one?

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 A. He did not. He refused to provide a breath sample.

2 Q. He produced -- refused it. And did you document that
3 by running the SLED breath test report?

4 A. I did at that point. Again, two copies of his breath
5 alcohol analysis test report printed out. One for the
6 Department records and one for him. And he did sign my
7 copy. And I did sign his and provide it to him.

8 Q. All right.

9 A. And it does have his -- where it says subject's sample
10 highlighted and states that he refused.

11 Q. Okay. I'm going to show you State's exhibit 5. Is
12 that the document that was generated by the instrument
13 following his refusal?

14 A. Yes, ma'am.

15 Q. And did he sign acknowledging a receipt of that?

16 A. He did.

17 Q. And approximately what time was this?

18 A. 3:36 in the morning.

19 Q. 3:36 in the morning, am.

20 A. On that same date, the 18th of March, 2010.

21 Q. And did you wait twenty minutes before you ran that
22 sequence ---

23 A. I did.

24 Q. --- from the time ---

25 A. Yes, ma'am.

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1 Q. Why is that?

2 A. The required twenty minute waiting period is to make
3 sure there's no residual alcohol left on the Defendant -- in
4 the Defendant's mouth to make sure the results are not
5 higher than what they actually should be.

6 Q. So had he elected to take the test, that would have
7 been important?

8 A. Yes, ma'am.

9 Q. When you read the advisement of implied consent is the
10 Defendant advised about the consequences of refusing the
11 test?

12 A. Yes, ma'am.

13 Q. Would you -- and please speak up a little bit. Your
14 voice is ---

15 A. I'm sorry.

16 Q. --- very soft spoken. That's all right. Would you
17 read the advisement as you read it to him that night.

18 A. It states, you're under arrest for driving under the
19 influence, DUI, section 56-5-2930, South Carolina Code of
20 Laws, 1976 as amended. The arresting officer has directed
21 that samples be taken for alcohol and/or drug testing. The
22 samples will be taken and tested according to section 56-5-
23 2950 and SLED policies.

24 You do not have to take the test or give the samples,
25 but if you refuse to submit to the test your privilege to

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1 drive in South Carolina must be suspended or denied for at
2 least six months. And your refusal may be used against you
3 in court.

4 If you take the test or give the samples and have an
5 alcohol concentration of eight one hundredths of one percent
6 or more, .08, you may instead be charged with driving with
7 an unlawful alcohol concentration, DUAC, which is section
8 56-5-2933. If you have an alcohol concentration of fifteen
9 one hundredths of one percent or more, .15, your privilege
10 to drive in South Carolina must be suspended for at least
11 one month.

12 You have the right to have a qualified person of your
13 own choosing conduct additional independent tests at your
14 expense. And the officer, upon request, must provide you
15 affirmative assistance.

16 You have the right to request an administrative hearing
17 within thirty days of the issuance of a notice of
18 suspension. If you do not request an administrative hearing
19 or if your suspension is upheld at the administrative
20 hearing, you must enroll in an alcohol and drug safety
21 action program.

22 Q. So he was told that it could be used against him in
23 court if he refused?

24 A. Yes, ma'am.

25 Q. And also that his license would be suspended for at

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 least six months?

2 A. Yes, ma'am.

3 Q. And as a result of his refusal was there paperwork to
4 be done to suspend his license?

5 A. There was. A South Carolina Department of Motor
6 Vehicles notice of suspension was completed and was also
7 signed by the Defendant.

8 MR. FARNSWORTH: No objection.

9 Q. I'm going to ask you if this is a carbon copy of the
10 notice of suspension that you gave him that night?

11 A. It is.

12 MS. DRAWDY: Your Honor, we'd move this in as State's
13 exhibit 6.

14 THE COURT: Without objection, exhibit 6 is admitted.

15 (Whereupon, State's exhibit 6 was admitted into
16 evidence)

17 MS. DRAWDY: Your Honor, we'd also move State's exhibit
18 5 into evidence at this time.

19 THE COURT: Any objection ---

20 MR. FARNSWORTH: No objection.

21 THE COURT: --- to exhibit 5? Any objection?

22 MR. FARNSWORTH: No. No objection.

23 THE COURT: Without objection, exhibit 5 is also into
24 evidence.

25 (Whereupon, State's exhibit 5 was admitted into

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 evidence)

2 Q. I'm going to show you State's exhibit 4 and ask you if
3 this is a DVD that you have viewed before?

4 A. It is, ma'am.

5 Q. How do you know?

6 A. Because I initialed it after viewing it.

7 Q. Okay. And with the exception of a few audio
8 redactions, is this a fair and accurate copy ---

9 A. Yes, ma'am.

10 Q. --- of what transpired that night in the DataMaster
11 room?

12 A. Yes, ma'am.

13 MS. DRAWDY: Your Honor, at this time I'd like to pass
14 up for the Court's record Court's exhibit 16, which is a
15 list of audio redactions that have been agreed upon by the
16 parties.

17 (Whereupon, Court's exhibit 16 was marked and admitted
18 into evidence for the Court's record)

19 MS. DRAWDY: If you would instruct the jury that
20 they're not to be worried that there's some kind of
21 tampering.

22 THE COURT: All right.

23 MS. DRAWDY: And then I'll publish it.

24 THE COURT: Again, this is a video taken. And
25 sometimes extraneous matters comes out in the videotape from

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1 whatever source that may be in the room. So if there are
2 gaps where it's muted, then, of course, you should not
3 consider that it's been tampered with in any way. These
4 are, by agreement of the parties, that these particular
5 sections will be deleted from a legal standpoint. Any
6 objection to exhibit 4 as ---

7 **MR. FARNSWORTH:** No, Your Honor.

8 **THE COURT:** --- as redacted? Without objection,
9 exhibit 4 is admitted into evidence and may be published.
10 (Whereupon, State's exhibit 4 was admitted into
11 evidence)

12 Q. Now are you required by statute to videotape -- have
13 this videotaped?

14 A. Yes, ma'am.

15 Q. Who is in charge of videotaping?

16 A. SLED.

17 Q. Okay. And is that centrally downloaded in Columbia?

18 A. As far as I know, yes, ma'am.

19 Q. Okay. Do you have any access to the recording other
20 than to view it on-line at a later date?

21 A. No, ma'am.

22 (Whereupon, State's exhibit 4, video, was published to
23 the jury)

24 (Whereupon, video was stopped)

25 Q. Officer Lowe, can you explain the set-up of this

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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- 1 facility where you are?
- 2 A. All right. Yes, ma'am. In the lower left hand corner
- 3 is the control module for the camera system. In front of me
- 4 is the DataMaster machine with a keyboard. And then up on
- 5 the upper right hand corner is the camera system where it
- 6 just shows that it's recording and has the date, time and
- 7 information for the video reporting.
- 8 Q. Is this the only instrument at the Law Enforcement
- 9 Center?
- 10 A. No. At that time there were four available within the
- 11 Law Enforcement -- within the Detention Center.
- 12 Q. To the right of you -- to your right in the video, your
- 13 back is to the camera.
- 14 A. Yes, ma'am.
- 15 Q. Is -- there's a window.
- 16 A. Yes.
- 17 Q. Is that -- and is there glass in that window?
- 18 A. There is.
- 19 Q. On the other side of that is -- is that another cubicle
- 20 for DataMaster?
- 21 A. There was. And it's being used. If there's some audio
- 22 interference, there was another ---
- 23 Q. Okay. So occasionally you will hear some talking or
- 24 sounds of the other instrument ---
- 25 A. Yes, ma'am.

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 Q. --- from the room next door to you?

2 A. Yes.

3 (Whereupon, video was continued)

4 Q. What are you doing at this point?

5 A. I'm entering the Defendant's information into the
6 computer system, his name, address, my information, my
7 DataMaster certification number. It also requires some
8 information I needed to retrieve off of my ticket book as
9 well as from my MDT, my computer system.

10 (Whereupon, video was stopped)

11 Q. Okay. What are you doing here, Officer Lowe?

12 A. I was giving the Defendant a sealed mouthpiece. Each
13 test is done with it through the same hose, but there's
14 sealed mouthpieces we give the subjects to open and use at
15 that time so they're not ---

16 Q. So you were opening a sterile mouthpiece?

17 A. Well, I was giving him the chance to open it. I
18 normally let the person ...

19 (Whereupon, video was continued)

20 (Whereupon, video was stopped)

21 Q. Officer Lowe, we see you doing a lot in the BA room.
22 Is there a lot of paperwork associated with a DUI?

23 A. There is.

24 Q. Okay. And what shift were you working, again, that
25 night?

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 A. Night-shift.

2 Q. And what did that run from?

3 A. 6:40 pm til 7 am the following morning.

4 Q. Among those things that you were filling out did you
5 fill out what's known as an affidavit for failure to produce
6 videotape?

7 A. Yes, ma'am.

8 Q. What does that refer to?

9 A. It refers to my vehicle not being equipped at the time
10 of the arrest or, excuse me, at the time of the field
11 sobriety test and arrest with an in-car video camera.

12 Q. Okay. Is that something that is part of the paperwork
13 you're required to do?

14 A. It is. This was actually filled out later that
15 morning.

16 Q. Okay.

17 A. These forms are not available in the Detention Center.

18 Q. Okay. So you filled that out later that morning?

19 A. Yes, ma'am.

20 MS. DRAWDY: This is State's exhibit 7.

21 MR. FARNSWORTH: No objection.

22 THE COURT: Without objection, exhibit 7 is admitted
23 into evidence

24 (Whereupon, State's exhibit 7 was admitted into
25 evidence)

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 Q. So you didn't have a video camera available to record
2 the Defendant's driving that night?

3 A. No, ma'am.

4 Q. But as soon as you -- as luck would have it the field
5 sobriety tests were recorded by Sergeant Ng?

6 A. Yes, ma'am.

7 Q. Okay.

8 MS. DRAWDY: Would you mark this as 8?

9 (Whereupon, State's exhibit 8 was marked for
10 identification)

11 Q. I'm going to show you State's exhibit 8 and ask you if
12 you recognize this?

13 A. I do, ma'am.

14 Q. What is that?

15 A. This is a photo of the Defendant. I believe it's his
16 booking photo from the night of the incident.

17 Q. All right. And does that photo fairly and accurately
18 depict his appearance that night?

19 A. It does.

20 Q. Okay.

21 A. Except for his shirt looks different.

22 Q. Okay. Now -- and this is State's exhibit 8, correct?

23 A. Yes, ma'am.

24 Q. You saw the Defendant driving that night?

25 A. Yes, ma'am.

JESSE LOWE - DIRECT EXAMINATION BY MS. DRAWDY

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1 Q. Where was he driving and what was he driving?

2 A. He was driving a red Ford Explorer with a paper tag.

3 He was driving southbound on South Main Street at the

4 intersection of East and West McBee within the city limits

5 of Greenville, South Carolina.

6 Q. Okay. Did you actually view him behind the wheel ---

7 A. Yes, ma'am.

8 Q. --- operating the vehicle?

9 A. I did.

10 Q. What charges did you make that night against him?

11 A. The Defendant was charged with driving under

12 suspension, DUI and also charged with improper display of a

13 tag.

14 Q. Okay.

15 A. And then he was given a warning for the driving without

16 headlights and without the brake light, a written warning

17 and a verbal warning to the red-light violation.

18 Q. Okay. And what was the red-light violation that you

19 observed?

20 A. As I was driving northbound on South Main Street, just

21 before McBee, I observed him backing out of the parking

22 spot, as I said, did a u-turn behind him after I went

23 through the intersection. When I went through the

24 intersection I observed the light in both directions,

25 obviously, turning yellow so that McBee could cross Main.

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1 At that time I did a u-turn behind the Defendant. When
2 I did a u-turn he was at the intersection of South Main and
3 McBee at a red-light. He then went forward, I'd say, about
4 thirty feet to the point where his rear tires were twenty
5 feet from the crosswalk into the intersection of Main and
6 McBee while the light was still red.

7 Q. And based on your observations did you feel he was too
8 impaired to be operating a vehicle safely?

9 A. Yes, ma'am, absolutely.

10 Q. Please answer any questions Mr. Farnsworth may have.

11 **THE COURT:** Can I see the attorneys here just for a
12 moment?

13 (Whereupon a bench conference was held off the record
14 in the presence of the jury, but out of their hearing)

15 **THE COURT:** Mr. Foreman, ladies and gentlemen, before
16 we start the cross examination, I understand from the
17 attorneys that we don't have a lot more testimony today, but
18 I'd like to see if we can get at least the State's case in
19 today.

20 So I'm going to give you a short break. We won't keep
21 you too long this evening. We'll just take about a five
22 minute break. Go stretch and we'll call you back in about
23 five to ten minutes. As soon as you're ready we'll call you
24 back. Don't discuss the case while you're out in your jury
25 room.

JESSE LOWE - CROSS EXAMINATION BY MR. FARNSWORTH

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1 (Whereupon the jury exited the courtroom at 5:03 pm)

2 **THE COURT:** Let's take a real short break. Officer
3 Lowe, let me remind you not to discuss your testimony with
4 anyone while we're out.

5 A. Yes, sir.

6 **THE COURT:** Does the State have a position on Mr.
7 Johnson's custody?

8 **MS. DRAWDY:** Your Honor, we think it's fine for him to
9 stay out on bond. He's always appeared for court.

10 **THE COURT:** All right. I'll grant that then that he
11 stay out on bond during the time the jury's got the case.
12 Take a short break.

13 (Whereupon, court was in recess at 5:04 pm)

14 (Whereupon, court resumed at 5:14 pm)

15 **THE COURT:** All right. The jury's ready. You can have
16 them come in.

17 (Whereupon, the jury entered the courtroom at 5:16 pm)

18 **THE COURT:** All right. Mr. Farnsworth, you may cross
19 examine the witness.

20 **MR. FARNSWORTH:** Okay. Thank you, Your Honor.

21 **Cross Examination by Mr. Farnsworth:**

22 Q. I'm just going to have a few questions for you, Officer
23 Lowe.

24 A. Yes, sir.

25 Q. I believe you said when you first saw Mr. Johnson's car

JESSE LOWE - CROSS EXAMINATION BY MR. FARNSWORTH

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1 he was backing out of a parking space, is that correct?

2 A. It is, sir.

3 Q. Onto Main Street?

4 A. Yes, sir.

5 Q. And he was headed, what, south toward South Main?

6 A. Yes, toward Falls Park.

7 Q. Okay. And approximately how far was the intersection
8 with the red-light that you're saying he ran? About how far
9 would that be from where -- to where he made the back out
10 and where he stopped briefly for the red-light as you
11 testified?

12 A. He was approximately in the fourth or fifth parking
13 spot ---

14 Q. Okay.

15 A. --- back, counting from the intersection backwards
16 northbound.

17 Q. Okay. In the same block that ---

18 A. Yes, from McBee.

19 Q. He didn't go through two blocks ---

20 A. No, from McBee.

21 Q. Very short distance?

22 A. Yes.

23 Q. And, I believe, you testified that when he backed up
24 you noticed the headlights were out. Did you ever see the
25 headlights on after that?

JESSE LOWE - CROSS EXAMINATION BY MR. FARNSWORTH

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- 1 A. Did not.
- 2 Q. You never did see them?
- 3 A. No.
- 4 Q. Okay. And, I believe, you testified that the tail
5 light was out.
- 6 A. Yes.
- 7 Q. Was there -- did you see any kind of tape over the
8 light or anything?
- 9 A. I cannot recall.
- 10 Q. You can't recall? All right. In any event, when you
11 did your turn around and u-turn and you got to the -- as you
12 approached the intersection of McBee and Main there where
13 the red-light was, you testified, I believe, that he was
14 stopped at the light.
- 15 A. Yes, sir.
- 16 Q. Is that correct?
- 17 A. Yes.
- 18 Q. And you were the next car behind him?
- 19 A. I was.
- 20 Q. And while you were behind him with the light still red
21 he pulled out, as you said, and ran a red-light?
- 22 A. Went about halfway through the intersection, yes, sir.
- 23 Q. Okay. All right. And then after he got halfway
24 through the intersection did the light change?
- 25 A. It did.

JESSE LOWE - CROSS EXAMINATION BY MR. FARNSWORTH

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1 Q. All right. And he immediately turned into a parking
2 spot that's shown there, I think you said, over where it
3 used to be the Carolina First building?

4 A. Yes, sir. My blue lights were activated ---

5 Q. Okay.

6 A. --- before he started turning into the parking spot.

7 Q. Okay. But that -- but he pulled over in a very short
8 distance?

9 A. He did, yes.

10 Q. Okay. And you testified earlier that he told you that
11 he had six or seven beers?

12 A. Yes, sir.

13 Q. And did you ask him what period of time he had those
14 beers in or did he tell you?

15 A. Not that I recall.

16 Q. All right. And did he tell you whether or not -- what
17 time the last beer he had was?

18 A. No.

19 Q. Okay. And at this red-light when you first pulled up
20 to it and he was still stopped at it, what would you say,
21 you were a car length or so behind him?

22 A. Yes, sir.

23 Q. Okay.

24 MR. FARNSWORTH: That's all I'm going to have, Your
25 Honor.

1 **THE COURT:** All right. We'll be in recess in this case
2 until we hear from our jury.

3 (Whereupon, the jury began deliberating at 10:21 am)

4 (Whereupon, court was in recess at 10:21 am)

5 (Whereupon, court resumed at 10:42 am)

6 (Whereupon, a bench conference was held off the record)

7 **THE COURT:** For the record, the jury has inquired about
8 watching the first video. I've had a conference with the
9 attorneys. They're both in agreement that they'll give a
10 computer that'll be clean for the jury to look at that.

11 And they asked for the first videotape. And they'll
12 get that to the bailiff without the jury coming back out and
13 let them watch what they want to as far as that video. Is
14 that correct, Mr. Farnsworth?

15 **MR. FARNSWORTH:** Yes, Your Honor.

16 **THE COURT:** Ms. Drawdy?

17 **MS. DRAWDY:** Yes, sir.

18 **THE COURT:** All right. Thank you.

19 (Whereupon, Court's exhibit 17 was marked and admitted
20 into evidence for the Court's record)

21 (Whereupon, court was in recess at 10:42 am)

22 (Whereupon, court resumed at 12:15 pm)

23 **THE COURT:** All right. I understand we have a verdict
24 from our jury. Anything we need to take care of before we
25 hear the verdict?

JURY VERDICT

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1 **MS. DRAWDY:** Nothing from the State, Your Honor.

2 **MR. FARNSWORTH:** No, Your Honor.

3 **THE COURT:** All right. The jury has a verdict. If you
4 can bring them in, please.

5 (Whereupon, the jury entered the courtroom at 12:18 pm)

6 **THE COURT:** Mr. Foreman, I understand the jury has
7 reached a verdict. Is that correct?

8 **MR. FOREMAN:** Yes, Your Honor.

9 **THE COURT:** Is it a unanimous verdict as to both
10 charges?

11 **MR. FOREMAN:** Yes, Your Honor.

12 **THE COURT:** If you would, please, hand the verdict form
13 to the bailiff. All right. Madame Clerk, you may publish
14 the verdict.

15 **MADAME CLERK:** Yes, Your Honor. Your Honor, indictment
16 2010-GS-23-9683 and 2010-GS-23-9684, Christopher Lee
17 Johnson, we, the jury, by unanimous consent find the
18 Defendant, Christopher Lee Johnson, as to the charge of
19 driving under the influence, guilty. As to the charge of
20 driving under suspension, guilty. Signed the foreperson,
21 Robert Mort. If this is your verdict, please raise your
22 right hand.

23 (Whereupon, all jurors raised their right hand)

24 **MADAME CLERK:** Thank you.

25 **THE COURT:** Are there any matters we need to take care

SENTENCE OF THE COURT

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1 of with this jury before they're discharged, from the State?

2 MS. DRAWDY: Nothing from the State, Your Honor.

3 THE COURT: From the defense?

4 MR. FARNSWORTH: No, Your Honor.

5 THE COURT: Ladies and gentlemen, thank you very much
6 for your participation in this trial. I apologize for
7 keeping you waiting. We had lots of matters that I could
8 not break loose from with the selection of another jury.

9 And I guess it has worked a little to your benefit.
10 Rather than going back in the pool to be selected on the
11 next jury, I can dismiss you for the day. You'll need to
12 call back tonight after 6:00. I'm sure Ms. Olsen will give
13 you further instructions about that. I would ask as you are
14 dismissed that you go back by the assembly room so that
15 she'll know that you are free from this case.

16 I've enjoyed working with you. You've been a good
17 conscientious juror -- jury. And I look forward to working
18 with you on some more cases this week. You're excused for
19 now. If you would, just report back to the assembly room.
20 If you'll go with the bailiff.

21 (Whereupon, the jury exited at 12:20 pm)

22 THE COURT: Any matters we need to take care of before
23 sentence is imposed on this case?

24 MS. DRAWDY: No, Your Honor.

25 MR. FARNSWORTH: No, Your Honor.

SENTENCE OF THE COURT

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1 **THE COURT:** All right.

2 **MS. DRAWDY:** I'm just getting the paperwork together.

3 **THE COURT:** Please come forward when you get the
4 paperwork.

5 (Pause)

6 **THE COURT:** All right. Mr. Farnsworth, I'll be glad to
7 hear from you and certainly from your client..

8 **MR. FARNSWORTH:** Okay, Your Honor. Mr. Johnson is, I
9 think, right -- just turned in August twenty-nine years old.
10 Is that correct?

11 **MR. JOHNSON:** Yes, sir.

12 **MR. FARNSWORTH:** And his work history -- he's single,
13 Your Honor. He lives with his step-father. His
14 employment's been -- he worked as a roofer, musician. He's
15 worked at a chemical company. And he lives in Startex,
16 lives over in Startex, lives with his step-father.

17 Your Honor, the solicitor's advised me that Mr. Johnson
18 has two hundred and seventy-three days in jail on these two
19 charges.

20 **THE COURT:** How far did you go in school, sir? Mr.
21 Johnson, how far -- how far did you go to school?

22 **MR. JOHNSON:** Eleventh. Before I got locked up for
23 this I got a grant. I was going to GED classes and then
24 going to attend Brown Mackie College, but I kind of got a
25 little set back.

SENTENCE OF THE COURT

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1 After I got out on probation I started getting my life
2 back, made about thirteen dollars an hour. My boss
3 terminated me, retaliated against me. And so now I have a
4 case against that. And my probation violated me. So --
5 because I couldn't pay the money. And I pretty much lost
6 everything. So ...

7 **THE COURT:** On your probation ---

8 **MR. JOHNSON:** I'm not proud -- I'm not proud of any of
9 this, Your Honor. I don't want to be standing here in front
10 of you or anybody else here today.

11 I just know I'm going to get my life back together
12 because it's just the kind of person I am. I know I'm a
13 strong individual. I know I can do anything I set my mind
14 to. I know that some things happened that I could have
15 prevented or at least thought about it and considered a lot
16 more.

17 I did something stupid one time and I took a plea. And
18 I was not going to -- I said to myself, I'm not going to do
19 it again. And, I mean, here I am.

20 **THE COURT:** What were you on probation for?

21 **MR. JOHNSON:** For grand larceny in 2008.

22 **THE COURT:** Are you still on probation or has it
23 terminated?

24 **MR. JOHNSON:** Yes, sir, I am.

25 **THE COURT:** You still on?

SENTENCE OF THE COURT

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1 MR. FARNSWORTH: Spartanburg county, Your Honor.

2 THE COURT: You understand this could put you in
3 jeopardy on that?

4 MR. JOHNSON: I understand.

5 THE COURT: What's the conditions of your probation?

6 MR. JOHNSON: I was on PTUP to pay, I think it -- it
7 was a total of seventeen hundred, but then the court costs
8 and everything, I think it was three thousand. And I got it
9 down to about seventeen hundred. Then I lost my job and
10 pretty much anything else I was trying to attend to at the
11 time, getting my license back and things like that.

12 THE COURT: So have you heard from your probation
13 officer or is that -- they served you with a warrant?

14 MR. JOHNSON: Yes, sir. I went to a violation hearing,
15 and they put me on weekend time. So I'm doing that now as
16 we speak ---

17 THE COURT: Okay.

18 MR. JOHNSON: --- so I can still keep my appointments.
19 I'm trying to draw social security. I've been diagnosed
20 with a mental disorder.

21 THE COURT: All right. What's the prior record,
22 solicitor?

23 MS. DRAWDY: In addition to what he's already told you,
24 his prior DUI was in February of 2003. He did have a
25 pending arrest for DUI several weeks before this incident

SENTENCE OF THE COURT

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1 out of Spartanburg from January 8th, 2010. That has not
2 been resolved.

3 He has a DUS conviction from September of 2003, 2000,
4 simple possession of marijuana, 2006, petty larceny, 2007,
5 disorderly conduct, 2008, urinating in public, 2010,
6 operating uninsured, and 2009, assault and battery.

7 **THE COURT:** The State agrees there's been nine months
8 served on this?

9 **MS. DRAWDY:** Yes, Your Honor.

10 **THE COURT:** When's your probation supposed to end in
11 Spartanburg? Do you know how long it was? You said it was
12 PTUP, but ---

13 **MR. JOHNSON:** Yes, sir. There's just a few conditions
14 that I'm supposed to complete, a GED program, which I'm
15 enrolled in now, and SADAC, of course, for the -- because of
16 alcohol, the DUI because they had found out and I had told
17 them, let them know what was going on with these charges.
18 And I have to complete that and pay the money. And then
19 it's to the probation officer's discretion whenever I can
20 get off.

21 **THE COURT:** Did the judge tell you three years of
22 probation?

23 **MR. JOHNSON:** Oh, it was five suspended to five years,
24 PTUP probation.

25 **THE COURT:** Five years of probation, but PTUP?

SENTENCE OF THE COURT

232

1 MR. JOHNSON: Yes, sir.

2 THE COURT: When was that? When did you enter ---

3 MR. JOHNSON: December of 2009.

4 THE COURT: Are you -- part of your probation, you say,
5 does have some alcohol and drug counseling?

6 MR. JOHNSON: Yes, sir.

7 THE COURT: Have you been doing that?

8 MR. JOHNSON: I have paid for the twenty dollar
9 assessment fee. And I went to one class. And I was
10 supposed to go again this week. I'm hoping I'll make it.

11 It's just really hard for me to get around right now.
12 Between anything, and having rides, and people fussing at
13 me, wanting me to hurry up and everything. So it's real
14 stressful. But I have to do it. I don't have any choice.

15 THE COURT: You living in Startex now, you say?

16 MR. JOHNSON: Yes, sir.

17 (Pause)

18 THE COURT: You drawing any income now?

19 MR. JOHNSON: No, sir, not at the moment. My probation
20 officer -- he had -- when I went into the violation hearing,
21 he said my payments were going to be restructured. Then
22 when I reported that Tuesday he said my payments were going
23 up. And I said, why would they go up? I don't have any
24 income right now. And I'm kind of hands up in the air on
25 that. I don't know what's going to happen.

SENTENCE OF THE COURT

233

1 MR. FARNSWORTH: You've got a lawsuit and your lawyer's
2 handling it for you?

3 MR. JOHNSON: Yeah.

4 MR. FARNSWORTH: You've been offered how much?

5 MR. JOHNSON: I've been offered eighty-four thousand
6 dollars.

7 MR. FARNSWORTH: It's an unlawful termination thing.

8 MR. JOHNSON: Sexual harassment, retaliation.

9 MR. FARNSWORTH: That's maybe in the future, Your
10 Honor. Probably not any time soon.

11 MR. JOHNSON: I'm hoping to get a draw off of it to try
12 to pay this probation off.

13 (Pause)

14 MR. JOHNSON: My therapist diagnosed me with PTSD. And
15 I can't work, for right now, a year. I think she rated me
16 at 309.81 on the social and occupational functioning scale
17 just because I got locked up. And then I kind of shut down
18 after that. And they kept me sedated. And I've been trying
19 to recover ever since then.

20 And then I lost my other job for really no reason. And
21 I was retaliated on because I tried to tell my supervisor or
22 another supervisor what was going on. And I lost my job.
23 And I had to go from there.

24 (Pause)

25 THE COURT: Well, I hope you get those things worked

SENTENCE OF THE COURT

234

1 out, Mr. Johnson. This is case 2010-GS-23-9683. The
2 sentence of the Court is that the Defendant be committed to
3 the State Department of Corrections for a period of one year
4 and pay a fine of twenty-five hundred dollars. Provided
5 upon the service of nine months, credit for time served and
6 payment of eleven hundred dollar fine, the balance is
7 suspended and placed on probation for fifteen months,
8 condition to obtain his GED and have substance abuse
9 counseling as deemed necessary, random alcohol and drug
10 testing.

11 I'd like for you to attend the MADD impact course
12 that's offered periodically. You, I think, can work out a
13 time for you to do that. Of course, this case can be
14 transferred to Spartanburg county if that's suitable with --
15 with the other one.

16 Case 2010-9684, the sentence is thirty days, credit for
17 his time served, to be concurrent to that previously imposed
18 sentence. Wish you the best, sir. Probation will be seeing
19 you. They'll have a chance to see him soon. All right.
20 We'll be at ease til 1:30.

21 **MS. DRAWDY:** Thank you, Your Honor.

22 (Whereupon, court was in recess at 12:35 pm)

23 (Hearing Ended at 12:35 pm)

24 (End of Requested Transcript of Record)

COURT'S 5H 67
 EXHIBIT NO. _____
 IDENTIFICATION/EVIDENCE
 DKT.# _____
 DATE: 10/10/11



Greenville Police Department



AFFIDAVIT FOR FAILURE TO PRODUCE VIDEO TAPE

Subject Name Christopher Lee Johnson : Case # 10-24977

I. From the vehicle I was operating because:

- ☒ A. At the time of the Defendant's arrest the vehicle I was operating had not yet been equipped with videotaping device and therefore pursuant to Section 18 of Senate Bill 174 of 1998, the videotaping requirement regarding vehicles is not applicable.
- ☐ B. At the time of the Defendant's arrest or probable cause determination, the video equipment in the vehicle I was operating was in an inoperable condition and reasonable efforts had been made to maintain the equipment in an operable condition.
- ☐ C. It was physically impossible to produce a videotape from the vehicle I was operating of the Defendant at the time of the arrest or probable cause determination because:
- ☐ The Defendant needed emergency medical treatment, or;
- ☐ Exigent circumstances existed which are outlined below:
- _____
- ☐ Other: _____

II. From the breath testing site because:

- ☐ A. At the time of the Defendant's arrest the breath testing site had not yet been equipped with a videotaping device and therefore pursuant to Section 18 of Senate Bill 174 of 1998, the videotaping requirement regarding breath testing sites is not applicable.
- ☐ B. At the time of the Defendant's arrest or probable cause determination, the videotaping equipment at the breath testing site was in an inoperable condition and reasonable efforts have been made to maintain the equipment in an operable condition and there was no other operable breath testing facility in the county. Operable breath testing facility means a site with both an operable breath testing machine and operable videotaping equipment.
- ☐ C. It was physically impossible to produce a videotape from the breath testing site of the Defendant because:
- ☐ The Defendant needed emergency medical treatment, or;
- ☐ Exigent circumstances existed which are outlined below.
- _____
- ☐ Other: _____

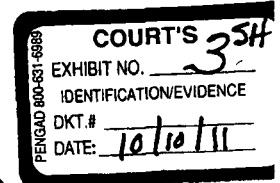
[Signature]
 Signature of Officer

03-18-10
 Date

Scanned by
 IPE

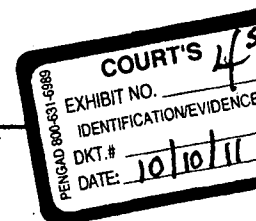
Sworn to me this 18 day of March, 2010: [Signature]
 Notary Public for the State of South Carolina. My commission expires: 5-2010

18 MAR 2010 07:13



- Prior to 2001
 - GPD have approximately 4 kustom eyewitness vhs systems and two Mobile vision VHS systems in traffic cars
 - No records exist on these cameras or vehicles
- 12-12-2001- Delta dimensions – Prosecutor Cameras
 - Approximately 18 cameras purchase in 01 and 02
 - All began to fail immediately and all were out of warranty when they were installed - sat on the pallet at fleet
 - \$35550 was expensed to purchase these units
 - All remaining units sold on Gov Deals for \$155.00
 - 9-17-10- New owner paid for them but refused to pick them up
 - Sent to the land field
- 2-13-2002
 - SCDPS memo
 - GPD to receive a VHS system under the DUI law through a random selection process and 10 video tapes – Serial # D10629
 - SCDPS will only be able to purchase 80 cameras a quarter so we will be notified when our agency comes up again in the random selection process
- 2-3-2004
 - SCDPS video installation forms- 21 cameras total
 - 2-25-04 D11137 (766)
 - 3-1-04 D11138 (763)
 - 1-28-04 D11141 (764)
 - 1-23-04 D11149 (07)
 - 1-22-04 D11158 (14)
 - 4-23-04 D11160 (25 moved to 775 on 10-24-05)
 - 4-21-04 D11164 (05)
 - 4-20-04 D11168 (49)
 - 4-23-04 D11174 (38)
 - 4-20-04 D11180 (735- defective unit returned to dps)
 - 4-14-03 D11183 (72)
 - 4-20-04 D11184 (748)
 - 4-21-04 D11187 (746)
 - 4-19-04 D11194 (30)
 - 4-22-04 D11204 (1239)
 - 6-4-04 D11293 (740)
 - 6-4-04 D11295 (1218)
 - 6-3-04 D11307 (765)
 - 6-3-04 D11320 (69)
 - 8-8-02 D10629- (No car # on install sheet, moved to 29 on 11-8-02, moved to 774 on 10-24-05, removed from inventory 5-1-09 in inoperative state)
 - 6-7-04 D11306 (751 – removed from inventory 5-1-09 in inoperative state)
 - SCDPS memos in File

- GPD randomly selected to receive 10 more systems
 - 3-18-04- 10 systems to be given to GPD –
D11160,D11168,D11174, D11187,
D11180,D11204,D11164,D11183,D11184, and D11194
 - GPD randomly selected to receive 5 more systems
 - 5-11-04 GPD to receive D11320,D11295,D11306,D11307,
and D11293
- June 2007
 - The camera committee begins to research new video systems for the pd
 - Reviewed products from 9 companies
- 2-23-10 Kustom Cameras
 - Kustom won out in our selection process and won the contract based on a sealed bid
 - As of today we have purchased 89 cameras
 - 2-23-10 13
 - 9-13-10 3
 - 6-14-10 2
 - 12-3-10 14
 - 12-9-10 57
 - We have spent \$463,463.99
 - Using grants and seized funds
- 4-28-09
- SCDPS Memo
 - DPS has finished honoring the request made on the original survey in 1999 and 2002
 - 3200 cameras were issued to agencies within the state
 - Now they are sending out a new survey – this is our first chance to request more cameras from the state
 - Cameras will again be issued based on DUI numbers
 - They will be handing out VHS systems first and agencies requesting digital will be held off until all VHS are gone
 - Memo indicates that the life of a Mobile vision camera is estimated to be five years –(eligible for replacement)
 - Gpd requested 20 digital cameras on 6-16-09

**Joe Browning**

From: Stewart, Louis [LStewart@sled.sc.gov]
Sent: Thursday, September 08, 2011 09:24
To: Joe Browning
Cc: Zander, Mary; Patterson, John; Galloway, Millie
Subject: RE: DUI numbers for the Greenville Police Department
Attachments: Greenville PD DUI's (2001-2010).xls

Attached is your request.

From: Joe Browning [mailto:jbrowning@greenvillesc.gov]
Sent: Wednesday, September 07, 2011 10:35 AM
To: Stewart, Louis
Subject: DUI numbers for the Greenville Police Department

Can you send me the DUI numbers for the last ten years for the Greenville Police Department as we discussed on the phone? (SC0230200) I will get with our City Attorney to formulate a FOIA for the remaining information if they still need it. Thanks for your help.

Lt. J B. Browning
4 McGee St.
Greenville SC 29601
(O) 864-467-5258

Email messages sent to and from the City of Greenville may be subject to discovery under the S.C. Freedom of Information Act.

Email messages sent to and from the City of Greenville may be subject to discovery under the S.C. Freedom of Information Act.

New report 5

Current date: 9/8/2011 9:20:34 AM

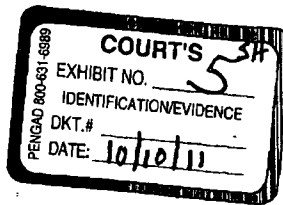
Measures	Number of Arrestees
Jurisdiction	Greenville PD
Offense Type	
Arrest Date	Driving Under the Influence
2001	106
2002	91
2003	67
2004	85
2005	81
2006	45
2007	80
2008	81
2009	115
2010	132



**S. C. DEPARTMENT
OF PUBLIC SAFETY**

OFFICE OF RESOURCE MANAGEMENT

5400 Broad River Road, Columbia, South Carolina 29212-3540, Office: (803) 896-8026 Fax: (803) 896-7850



February 13, 2002

Greenville Police Department
#4 McGee Street
Greenville, SC 29601
Attn: Chief

Dear Chief:

Section 56-5-2953 of the SC Code of Laws created a funding source to purchase, install and maintain in-car video camera systems in all traffic enforcement vehicles statewide. Department of Public Safety (DPS) is charged under the law with the administration of this program. To ensure all law enforcement entities were represented in the planning stages, Boykin Rowe, Director of DPS appointed a steering committee to make recommendations for the program implementation. This committee was comprised of representatives from the Sheriff's Association; the Chief's Association, the Highway Patrol and administrative staff from DPS.

The steering committee surveyed all law enforcement entities to determine the quantity of systems needed to meet the requirements of the legislation. During that process your Department requested 15 camera systems be provided through this program. From the survey results it was determined that funds were not available to provide all the systems at one time, and the committee determined cameras would be issued through a computerized random selection process. During the third random selection process your Department was selected to receive 1 system(s). The steering committee also determined, that at the time of installation, each Department would receive ten (10) 8-hour videotapes.

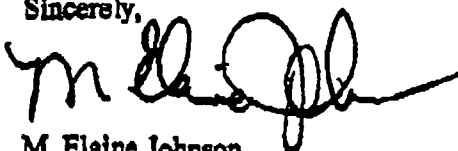
DPS will install the camera system(s) at the Patrol vehicle preparation shop located at 1628 1/2 Shop Road, Columbia. To make your appointment you should return the completed video system information form that is attached and the shop will contact you within ten (10) working days to schedule your appointment. When scheduling your appointment the shop will be able to give you the average installation time for your vehicle category. At the time of the installation an authorized representative of your department will be required to sign DPS inventory control documents (copy attached) and the User Agreement that is also attached. Please review these documents with the appropriate authorities in your chain of command. If your Department determines someone other than the vehicle driver should execute the agreement please make sure the driver brings a completed form at the time of installation. Without this signed document the Department will not be able to install the system. Should you have any questions regarding these documents please call me at the number listed below.

Page 2
In-Car Video Camera Systems Letter

Based on the revenue currently being generated by this provision of law, we should be able to procure approximately 80 camera systems per quarter. At the time of each purchase the random selection will be conducted and notifications issued. Your Department will remain in the random selection process until all requests have been satisfied.

Please do not hesitate to contact me if you have any question. I can be reached at 803-896-8026.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Elaine Johnson', with a stylized flourish extending to the right.

M. Elaine Johnson
Office of Resource Management

NUMBER: 131390

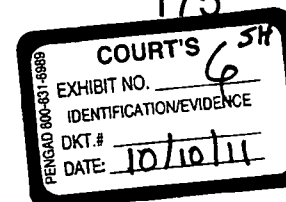
DATE : Aug. 8, 2002



**S. C. DEPARTMENT
OF PUBLIC SAFETY**

OFFICE OF RESOURCE MANAGEMENT

P.O. Box 1993, Blythewood, South Carolina 29016, Office: (803) 896-8026 Fax: (803) 896-7938



February 3, 2004

Greenville Police Department
4 McGee Street
Greenville, SC 29601
Attn: Chief

Dear Chief:

Section 56-5-2953 of the SC Code of Laws created a funding source to purchase install and maintain in-car video cameras systems in all traffic enforcement vehicles statewide. The Department of Public Safety (DPS) is charged under the law with the administration of this program. To ensure all law enforcement entities were represented in the planning stages, Boykin Rose, Director of DPS appointed a steering committee to make recommendations for the program implementation. This committee was comprised of representatives from the Sheriff's Association, the Chief's Association, the Highway Patrol and administrative staff from DPS.

During the regulation approval process, the Senate Judiciary Committee determined that in-car video camera systems should be distributed to those law enforcement agencies with the highest volume of DUI enforcement activity. They also recommended that law enforcement agencies give highest priority for receipt of camera systems to the officers who have the highest number of DUI arrests. To determine the highest volume of DUI activity the Department obtained SLED's most recent Drinking/Driving Arrest report. As a result, your agency has been selected to receive 10 system(s).

DPS will install the camera system(s) at the Patrol vehicle preparation shop located at 1628 1/2 Shop Road, Columbia. To make your appointment you should return a completed video system information form for each vehicle and the shop will contact you within ten (10) working days to schedule your appointment. When scheduling your appointment the shop will be able to give you the average installation time for your vehicle category. At the time of the installation you will receive ten (10) eight-hour videos per system. Also at the time of installation an authorized representative of your department will be required to sign DPS inventory control documents (copy attached) and the User Agreement that is also attached. Please review these documents with the appropriate authorities in your chain of command. If your Department determines someone other than the vehicle driver should execute the agreement please make sure the driver brings a completed form at the time of installation. Without this signed document the Department will not be able to install the system. Should you have any questions regarding these documents please call me at the number listed below.

LOGOUT ROBINSON
NE IN CAR CAMS
S
10? I THOUGHT
IT WAS 5? ADVIS.

IN-CAR VIDEO CAMERA SYSTEM USE AGREEMENT

This agreement, made and entered into this 18th day of March, 2004, between the South Carolina Department of Public Safety, hereinafter referred to as the Department and the Greenville Police Dept hereinafter referred to as the law enforcement entity.

Whereas, the Department has been charged with purchasing, maintaining and supplying in-car videotaping cameras to law enforcement entities for use in enforcing traffic laws; and,

Whereas, the law enforcement entity has been chosen by the Department to receive and use said video equipment identified as:

<u>Description</u>	<u>Control Number</u>	<u>Serial Number</u>
--------------------	-----------------------	----------------------

See Attachment A

NOW, THEREFORE, in consideration of the opportunity to provide, and the privilege to use said equipment, the parties mutually agree as follows:

1. The Department will provide, install and maintain said equipment.
2. The videotaping equipment is on loan to the law enforcement entity and remains the property of the Department.
3. The law enforcement entity agrees to comply with all requests from the Department regarding equipment use, maintenance and disposition within a reasonable time, but not more than 10 working days after the request.
4. The law enforcement entity will exercise due care at all times when using the equipment.
5. If repairs to the equipment become necessary as a result of negligence or misuse, the law enforcement entity agrees that the Department has the right to bill for said repairs or replacement.
6. The law enforcement entity releases and holds the Department harmless from any liability arising out of the use or misuse of the equipment.
7. The law enforcement entity agrees not to perform, or have any maintenance or repairs performed upon the equipment without authorization from the department. The law enforcement entity also agrees to immediately notify the Department or its designee if maintenance or repairs become necessary.

8. The law enforcement entity will return the equipment to the Department as soon as possible but no later than thirty (30) days from receipt of notice, or when the system is no longer needed.
9. The law enforcement entity will not sell, lease or otherwise dispose of the equipment.
10. The law enforcement entity will not remove the equipment from the vehicle in which it was originally installed without prior approval from the Department's authorized representative.

IN WITNESS WHEREOF, the law enforcement entity listed below and the Department have executed this agreement as of the date first above written

LAW ENFORCEMENT ENTITY ADDRESS

GREENVILLE POLICE DEPT
#4 MCGEE ST.
GREENVILLE SC

Zip 29601

Telephone Number 864/467-4378

Off. T.D. Elliott
 Witness Signature Law Enforcement Entity

Sgt. C.D. Elliott
 Printed or Typed Name

TRAFFIC BUREAU SUPERVISOR
 Title

Lt. William A. Robinson
 Authorized Law Enforcement Entity
 Signature

LT. WILLIAM A. ROBINSON
 Printed or Typed Name

TRAFFIC BUREAU COMMANDER
 Title

DEPARTMENT OF PUBLIC SAFETY

Christy C. Baker

Christy C. Baker
 Witness Signature for Department
 Administrative Assistant

M. Elaine Johnson

Authorized Representative

M. Elaine Johnson
 Authorized Representative Signature
 Administrator, Resource Management

Agency Name: Greenville Police Department

DPS NUMBER	PROPERTY DESCRIPTION	REMARKS (SERIAL NO., ETC.)
D11160	Mobile Vision Camera System	D11160
D11168	Mobile Vision Camera System	D11168
D11174	Mobile Vision Camera System	D11174
D11187	Mobile Vision Camera System	D11187
D11180	Mobile Vision Camera System	D11180
D11204	Mobile Vision Camera System	D11204
D11164	Mobile Vision Camera System	D11164
D11183	Mobile Vision Camera System	D11183
D11184	Mobile Vision Camera System	D11184
D11194	Mobile Vision Camera System	D11194

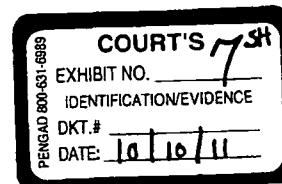
Attachment A



S. C. DEPARTMENT OF PUBLIC SAFETY

Financial Services

P.O. Box 1993 Blythewood, SC 29016 Telephone: 803-896-8059 Fax: 803-896-7945



April 28, 2009

Dear Chief/Sheriff:

Section 56-5-2953 of the SC Code of Laws created a funding source to purchase, install and maintain in-car video camera systems in all traffic enforcement vehicles statewide. The original survey was conducted in 1999 and revised in 2002. The Department is glad to announce that the original requests have been fulfilled, and we have officially awarded over 3200 camera systems. It is now time to conduct a new survey and give you a chance to add and/or upgrade cameras no longer economically advantageous to repair.

Again, the cameras will be distributed to agencies starting with the highest DUI activity based on SLED's latest version of the Arrests by Agency report.

We are currently buying and distributing L3/Mobile Vision VHS cameras and will continue to do so as long as that technology is available. We are also testing digital systems that are self contained and have a DVD as the output, but we are not ready to make any digital awards at this time.

We are requesting you complete the attached survey, and return it as soon as possible. VHS systems will be awarded immediately, but the migration to digital will probably take place before all the requests received can be fulfilled, so please answer the questions related to digital systems. When submitting your survey, you can ask for replacement of cameras previously awarded under this program that are five years or older and/or no longer economically advantageous to repair. Remember any replacement cameras will require the return of the original camera for proper disposal.

Please return your survey by mail at the address above, fax to me at 803-896-7945 marked to my attention, or send this form back in a PDF file to elainejohnson@scdps.net. Please make sure the contact name provided is familiar with your needs. We request you return as soon as possible, but not later than May 29, 2009.

Thank you for your prompt attention to this matter. If you have any questions, I can be reached at 803-896-8059 on Tuesdays, Wednesdays and Thursdays.

Sincerely,

M. Elaine Johnson
Executive Assistant

CC: Lt. C. S. Watford
Sgt. Brian Phillips
Nikki Bauer
File

REQUEST FOR DUT IN CAR VIDEO CAMERA SYSTEMS

Agency Name: Greenville Police

Address 4 McGee St

Greenwich sc 29601

Contact Person(s) LT JB BROWNING

Phone Number(s) 824-467-5223

Fax Number 867-467-4317

Email Address Tbrowning@Greenville-sc.gov

Date of Request 6-16-09

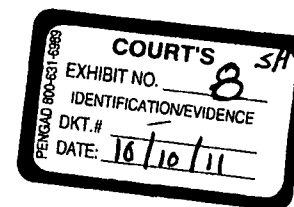
NOTE: If you chose digital cameras your request will not be filled until all supplies of VHS cameras have been purchased and distributed.

[illegible]

10/5/2011

VIDEO CAMERA INVENTORY

SERIAL #	VEH #	MAKE	MODEL	OFFICER ASSIGNED	PLATOON	COMMENTS
1						
2						
3	D10629					
4	D11137	NA	MOBILE VISION	MV-7		to Columbia 9-15-11
5	D11138	NA	MOBILE VISION	MV-7		to Columbia 9-15-11
6	D11141	764	MOBILE VISION	MV-7	HUNTINGTON	MADDEN
7	D11149	770	MOBILE VISION	MV-7	Newman	Owens
8	D11158	1709	MOBILE VISION	MV-7	DIRTON	OWENS
9	D11160	NA	MOBILE VISION	MV-7		to Columbia 9-15-11
10	D11164	1280	MOBILE VISION	MV-7	SHOREY	LONG
11	D11168	1706	MOBILE VISION	MV-7	ATTAWAY	SRO
12	D11174	1282	MOBILE VISION	MV-7	SMYTHE	LONG
13	D11180	1707	MOBILE VISION	MV-7	PISTOLIS	CBD
14	D11183	NA	MOBILE VISION	MV-7		to Columbia 9-15-11
15	D11184	748	MOBILE VISION	MV-7	PARAMORE	Platoon
16	D11187	746	MOBILE VISION	MV-7	Bowser	CBD
17	D11194	NA	MOBILE VISION	MV-7		to Columbia 9-15-11
18	D11204	NA	MOBILE VISION	MV-7		to Columbia 9-15-11
19	D11293	740	MOBILE VISION	MV-7	MOTZ	CBD
20	D11295	1723	MOBILE VISION	MV-7	BRADLEY	SRO
21	D11306					
22	D11307	NA	MOBILE VISION	MV-7		to Columbia 9-15-11
23	D11320	NA	MOBILE VISION	MV-7		to Columbia 9-15-11

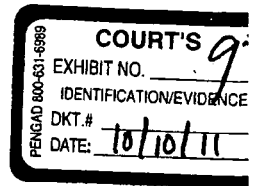


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25 *yellow highlight is a DPS camera
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Greenville Police Department Camera Purchases 1998-2011

Delta Dimensions
150 Howell Cir Apt 418
Greenville, SC 29615

(864) 322-8720



12-12-2001	\$3000.00
12-12-2001	\$29000.00
12-12-2001	\$1600.00
1-31-2002	\$1950.00

Total \$35550.00 to purchase approximately 18 cameras

Kustom Signals
9652 Loiret
Boulevard
Lenexa, Kansas
66219

2/23/2010	\$56,992.00	13
9/13/2010	\$13,152.00	3
6/14/2010	\$8,768.00	2
12/3/2010	\$63,966.00	14
12/9/2010	\$260,433.00	57

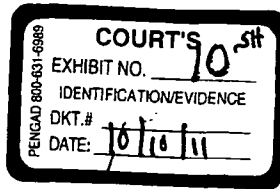
		Cameras
\$403,311.00	89	Purchased

9/23/2010	\$60,152.99	1	Server Purchased
-----------	-------------	---	------------------

\$463,463.99	Total Funds expended to Date on Digital in-car video
--------------	--

Browning, Joe

From: Morgan, Dennis
Sent: Wednesday, September 22, 2010 13:19
To: Browning, Joe
Subject: Old police cameras



OPSEC
CAMERAS
DISPOSED
OF PUBLIC
AUCTION 183

Hi Joe,

I sold your old police cameras on GovDeals this week. See picture below for amount sold. I listed these 3 different times with no sales but finally got a bid (\$155.00).

Have a good day,

Dennis

GovDeals Client Asset Server - Windows Internet Explorer

http://www.govdeals.net/cas_prod/index.cfm?e=Reports.PaidPicked

GovDeals

Current User - Dennis Morgan
Session timeout in 29:35

HOME ABOUT TERMS CONTACT REPORTS MY-SIGN-UP HELP

Paid For & Picked Up Report

Not Paid Submit

ID	Inv ID	Description	End Date/Time	High Bid	Tax	Add'l Fees	Total	GovDeals Fee	Net Pay	Status
01	pol	PROSECUTOR 2000 POLICE CAMERA	9/17/10 3:00 PM	\$155.00	\$0.00		\$155.00	-\$11.63	\$143.37	Payment Pending
				\$155.00	\$0.00	\$0.00	\$155.00	\$11.63	\$143.37	

For Customer Service call 800-613-0156 ext. 2 from 8 a.m. - 6 p.m. (Eastern Time) or email CustomerService@GovDeals.com 53 - 771

Dennis Morgan
Service Writer
Fleet Services

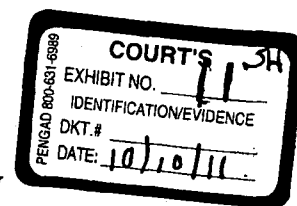
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city of
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0/00/0010



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

Drinking/Driving Arrests (Sorted By Total Arrests)

Between 01/01/2001 and 12/31/2001

(Based on BAC DataMaster Data)

Prepared by: Lt. Corbett L. Lewis 04/17/02

<u>Agency Name</u>	<u>Agency ORI</u>	<u>Total Arrests</u>
INVALID ORI NUMBERS		1058
~~GREENVILLE SHERIFF'S OFFICE~~	SC0230000	633
HORRY SCHP	SC02699SP	587
SPARTANBURG SCHP	SC04299SP	558
GREENVILLE SCHP	SC02399SP	542
RICHLAND SCHP	SC04099SP	530
FLORENCE SCHP	SC02199SP	437
ORANGEBURG SCHP	SC03899SP	435
YORK SCHP	SC04699SP	419
~~SPARTANBURG SHERIFF'S OFFICE~~	SC0420000	372
~~ROCK HILL PD~~	SC0460300	365
DARLINGTON SCHP	SC01699SP	352
LANCASTER SCHP	SC02999SP	346
LEXINGTON SCHP	SC03299SP	331
~~MOUNT PLEASANT PD~~	SC0100300	330
ANDERSON SCHP	SC00499SP	323
~~CHARLESTON SHERIFF'S OFFICE~~	SC0100000	319
CHEROKEE SCHP	SC01199SP	302
SUMTER SCHP	SC04399SP	271
AIKEN SCHP	SC00299SP	250
COLLETON SCHP	SC01599SP	233
~~COLUMBIA PD~~	SC0400100	223
~~LEXINGTON SHERIFF'S OFFICE~~	SC0320000	205
CHARLESTON SCHP	SC01099SP	192
MYRTLE BEACH PD	SC0260600	189
RICHLAND SHERIFF'S OFFICE	SC0400000	181
~~GREEN PD~~	SC0230300	180
KERSHAW SCHP	SC02899SP	179
~~NORTH CHARLESTON PD~~	SC0100800	174
CHESTERFIELD SCHP	SC01399SP	171
MARION SCHP	SC03499SP	164
WILLIAMSBURG SCHP	SC04599SP	161
CLARENDON SCHP	SC01499SP	160
BEAUFORT SCHP	SC00799SP	159
AIKEN SHERIFF'S OFFICE	SC0020000	156
YORK SHERIFF'S OFFICE	SC0460000	156
BERKELEY SCHP	SC00899SP	154
FAIRFIELD SCHP	SC02099SP	151
CHESTER SCHP	SC01299SP	147
LAURENS SCHP	SC03099SP	146
CHARLESTON PD	SC0100100	140
MARLBORO SCHP	SC03599SP	138

JASPER SCHP	SC02799SP	135
YORK PD	SC0460400	131
DILLON SCHP	SC01799SP	128
LEXINGTON PD	SC0320400	126
GREENVILLE PD	SC0230200	125
HARTSVILLE PD	SC0160200	124
DORCHESTER SCHP	SC01899SP	124
GREENWOOD SCHP	SC02499SP	124
UNION SCHP	SC04499SP	121
SPARTANBURG PD	SC0420100	120
AIKEN PD	SC0020100	119
GEORGETOWN SCHP	SC02299SP	118
NORTH MYRTLE BEACH PD	SC0260700	116
BEAUFORT SHERIFF'S OFFICE	SC0070000	111
SALUDA SHERIFF'S OFFICE	SC0410000	107
OCONEE SCHP	SC03799SP	106
PICKENS SCHP	SC03999SP	106
EASLEY PD	SC0390300	104
FORT MILL PD	SC0460200	102
HORRY COUNTY PD	SC0260400	98
CAYCE PD	SC0320200	98
EDGEFIELD SCHP	SC01999SP	94
SALUDA SCHP	SC04199SP	94
CHEROKEE SHERIFF'S OFFICE	SC0110000	91
GAFFNEY PD	SC0110200	91
ANDERSON PD	SC0040100	89
LEE SCHP	SC03199SP	87
CLOVER PD	SC0460100	87
ANDERSON SHERIFF'S OFFICE	SC0040000	86
SUMTER SHERIFF'S OFFICE	SC0430000	86
NEWBERRY SCHP	SC03699SP	85
MAUDLIN PD	SC0230400	82
CONWAY PD	SC0260200	82
SUMTER PD	SC0430100	81
GOOSE CREEK PD	SC0080300	77
DILLON PD	SC0170100	77
LANCASTER PD	SC0290100	74
LAURENS PD	SC0300100	69
NEWBERRY PD	SC0360100	69
NORTH AUGUSTA PD	SC0020300	65
SUMMERVILLE PD	SC0180200	65
FLORENCE PD	SC0210100	64
SURFSIDE BEACH PD	SC0260800	62
OCONEE SHERIFF'S OFFICE	SC0370000	61
FOREST ACRES PD	SC0400400	61
WILLIAMSTON PD	SC0040500	60
MCCORMICK SCHP	SC03399SP	59
LAKE CITY PD	SC0210200	58
GEORGETOWN SHERIFF'S OFFICE	SC0220000	55
ORANGEBURG PD	SC0380100	55
ABBEVILLE SCHP	SC00199SP	54
DORCHESTER SHERIFF'S OFFICE	SC0180000	54

CALHOUN SCHP	SC00999SP	50
ANDREWS PD	SC0220100	49
~~SIMPSONVILLE PD~~	SC0230500	49
ABBEVILLE PD	SC0010100	48
GEORGETOWN PD	SC0220200	46
PICKENS SHERIFF'S OFFICE	SC0390000	46
HANAHAN PD	SC0080600	45
MARION PD	SC0340100	45
GREENWOOD PD	SC0240100	44
WEST COLUMBIA PD	SC0320500	44
CLEMSON PD	SC0390200	44
SALUDA PD	SC0410100	43
UNION PD	SC0440100	43
CHESTERFIELD SHERIFF'S OFFICE	SC0130000	42
SHAW AIR FORCE BASE	SCAF004S0	41
LYMAN PD	SC0421100	40
~~WELLFORD PD~~	SC0421300	39
CLARENDON SHERIFF'S OFFICE	SC0140000	38
PAGELAND PD	SC0130500	37
FORT JACKSON	SCUSA01S0	37
RIDGELAND PD	SC0270200	36
LAURENS SHERIFF'S OFFICE	SC0300000	36
BARNWELL SCHP	SC00699SP	35
LEE SHERIFF'S OFFICE	SC0310000	35
LANCASTER SHERIFF'S OFFICE	SC0290000	33
SENECA PD	SC0370100	33
PICKENS PD	SC0390500	33
CLEMSON UNIVERSITY PD	SC0390600	33
WOODRUFF PD	SC0420200	33
BEAUFORT PD	SC0070100	32
MANNING PD	SC0140100	32
UNIV OF SOUTH CAROLINA PD	SC0400600	32
ISLE OF PALMS PD	SC0100500	31
CHESTER SHERIFF'S OFFICE	SC0120000	31
GREAT FALLS PD	SC0120200	30
~~LATTA PD~~	SC0170300	30
IRMO PD	SC0320700	30
MARLBORO SHERIFF'S OFFICE	SC0350000	30
HARDEEVILLE PD	SC0270100	28
CLINTON PD	SC0300200	28
~~SPRINGDALE PD~~	SC0321100	28
SWANSEA PD	SC0321100	28
BENNETTSVILLE PD	SC0350100	28
MONCKS CORNER PD	SC0080100	27
SUMMERTON PD	SC0140200	27
DARLINGTON PD	SC0160100	27
HAMPTON SCHP	SC02599SP	27
ALLENDAL E SCHP	SC00399SP	26
CAMDEN PD	SC0280100	26
SC DEPARTMENT OF NATURAL RESOURCES	SC0400500	26
NEWBERRY SHERIFF'S OFFICE	SC0360000	25
LANDRUM PD	SC0421000	25

BAMBERG PD	SC0050100	24
COWPENS PD	SC0420700	24
FOLLY BEACH PD	SC0100400	23
CHESNEE PD	SC0420600	22
BELTON PD	SC0040200	21
BAMBERG SCHP	SC00599SP	21
~~TRAVELERS REST PD~~	SC0230600	20
BATESBURG PD	SC0320100	20
CHARLESTON AIR FORCE BASE	SCAF001S0	20
WALTERBORO PD	SC0150100	19
WINNSBORO PD	SC0200100	19
PAMPLICO PD	SC0210600	19
GREENWOOD SHERIFF'S OFFICE	SC0240000	19
MARINE CORPS AIR STATION	SCMC002S0	19
CHERAW PD	SC0130100	18
SCHP (NOT ASSIGNED TO A COUNTY)	SCSHP0000	18
IVA PD	SC0040600	17
TEGA CAY PD	SC0460500	17
CHESTERFIELD PD	SC0130200	16
COTTAGEVILLE PD	SC0150300	16
MULLINS PD	SC0340200	16
HOLLY HILL PD	SC0380700	16
EDGEFIELD SHERIFF'S OFFICE	SC0190000	15
WARE SHOALS PD	SC0240200	15
NINETYSIX PD	SC0240400	15
KERSHAW SHERIFF'S OFFICE	SC0280000	15
DUNCAN PD	SC0420300	15
ABBEVILLE SHERIFF'S OFFICE	SC0010000	14
FOUNTAIN INN PD	SC0230100	14
UNION SHERIFF'S OFFICE	SC0440000	14
DILLON SHERIFF'S OFFICE	SC0170000	13
FAIRFIELD SHERIFF'S OFFICE	SC0200000	13
MARION SHERIFF'S OFFICE	SC0340000	13
WALHALLA PD	SC0370200	13
ORANGEBURG SHERIFF'S OFFICE	SC0380000	13
KINGSTREE PD	SC0450200	13
HONEA PATH PD	SC0040300	12
PENDLETON PD	SC0040400	12
BLACKSBURG PD	SC0110100	12
BISHOPVILLE PD	SC0310100	12
~~BARNWELL PD~~	SC0060100	11
PORT ROYAL PD	SC0070300	11
CHESTER PD	SC0120100	11
JOHNSTON PD	SC0190200	11
LIBERTY PD	SC0390400	11
NOT LISTED AND/OR UNKNOWN ORI NUMBER	SC0000000	10
CALHOUN FALLS PD	SC0010200	10
WILLISTON PD	SC0060200	10
BERKELEY SHERIFF'S OFFICE	SC0080000	10
DARLINGTON SHERIFF'S OFFICE	SC0160000	10
TIMMONSVILLE PD	SC0210900	10
AYNOR PD	SC0260300	10

CHAPIN PD	SC0320600	10
MCCORMICK PD	SC0330100	10
DENMARK PD	SC0050200	9
ST MATTHEWS PD	SC0090200	9
EDGEFIELD PD	SC0190100	9
YEMASSEE PD	SC0250600	9
JASPER SHERIFF'S OFFICE	SC0270000	9
~~MCCORMICK SHERIFF'S OFFICE~~	SC0330000	9
CAMPOBELLO PD	SC0420500	9
CALHOUN SHERIFF'S OFFICE	SC0090000	8
SANTEE PD	SC0381100	8
WILLIAMSBURG SHERIFF'S OFFICE	SC0450000	8
MARINE CORPS PARIS ISLAND	SCMC001S0	8
BARNWELL SHERIFF'S OFFICE	SC0060000	7
BLUFFTON PD	SC0070200	7
ST STEPHENS PD	SC0080500	7
TURBEVILLE PD	SC0140300	7
ESTILL PD	SC0250200	7
WESTMINSTER PD	SC0370300	7
CHARLESTON NAVAL WEAPONS STATION	SCUSN03S0	7
FAIRFAX PD	SC0030200	6
~~WEST PELZER PD~~	SC0041000	6
SULLIVAN'S ISLAND PD	SC0100700	6
LAMAR PD	SC0160300	6
FLORENCE SHERIFF'S OFFICE	SC0210000	6
HAMPTON PD	SC0250300	6
SOUTH CONGAREE PD	SC0321000	6
RIDGE SPRING PD	SC0410200	6
WINTHROP COLLEGE PD	SC0460600	6
ALLENDALE SHERIFF'S OFFICE	SC0030000	5
EHRHARDT PD	SC0050300	5
JAMESTOWN PD	SC0080400	5
CHAS CNTY AVAI AUTH PD	SC0101500	5
JEFFERSON PD	SC0130300	5
COLLETON SHERIFF'S OFFICE	SC0150000	5
EDISTO BEACH PD	SC0150200	5
ATLANTIC BEACH PD	SC0260100	5
VANCE PD	SC0381300	5
JACKSON PD	SC0020500	4
BLACKVILLE PD	SC0060300	4
~~MCDONALD PD~~	SC0130400	4
~~LAKEVIEW PD~~	SC0170200	4
HAMPTON SHERIFF'S OFFICE	SC0250000	4
~~USC COASTAL CAROLINA PD~~	SC0261000	4
~~PROSPERITY PD~~	SC0360500	4
INMAN PD	SC0420900	4
HEMINGWAY PD	SC0450100	4
STATE TRANSPORT POLICE (SCDPS)	SCSHP0800	4
NEW ELLENTON PD	SC0020600	3
U.S. DOE SAVANNAH RVR PD	SC0021000	3
ALLENDALE PD	SC0030100	3
BAMBERG SHERIFF'S OFFICE	SC0050000	3

SOCIETY HILL PD	SC0160400	3
SELLERS PD	SC0170400	3
ST GEORGE PD	SC0180100	3
RIDGEVILLE PD	SC0180400	3
LYNCHBURG PD	SC0310200	3
CENTRAL PD	SC0390100	3
~~PAGOLET PD~~	SC0421200	3
JONESVILLE PD	SC0440300	3
BONNEAU PD	SC0080200	2
CAMERON PD	SC0090100	2
JOHNSONVILLE PD	SC0210400	2
OLANTA PD	SC0210500	2
SALEM PD	SC0370500	2
MAYESVILLE PD	SC0430200	2
WAGENER PD	SC0020800	1
~~MED UNIVERSITY OF SC PD~~	SC0100900	1
RAVENEL PD	SC0101000	1
HARLEYVILLE PD	SC0180300	1
TRENTON PD	SC0190300	1
~~SCRANTON PD~~	SC0210800	1
VARNVILLE PD	SC0250400	1
HORRY SHERIFF'S OFFICE	SC0260000	1
ELGIN PD	SC0280300	1
~~PINE RIDGE PD~~	SC0320900	1
GASTON PD	SC0321400	1
WHITMIRE PD	SC0360200	1
BOWMAN PD	SC0380300	1
EUTAWVILLE PD	SC0380600	1
NORTH PD	SC0380800	1
SC STATE COLLEGE PD	SC0381200	1
SOUTH CAROLINA HIGHWAY PATROL (ACE TEAM)	SC0401800	1
~~USC SPARTANBURG PD~~	SC0421400	1
CARLISLE PD	SC0440200	1
BUREAU OF PROTECTIVE SERVICES (SCDPS)	SCSHP0900	1

STATEWIDE TOTAL

20230

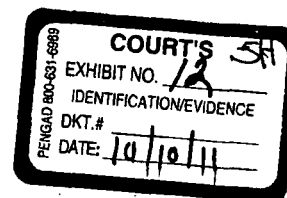
Senate Judiciary Committee

APR 12 2002

GLENN F. McCONNELL
CHAIRMAN
 Referred to _____
 Date Referred _____
 AS MICHAEL N. COULICK
 DIRECTOR OF RESEARCH AND
 ATTORNEY TO THE COMMITTEE

 SUSAN S. MUSSER
 ASSISTANT DIRECTOR OF RESEARCH AND
 ATTORNEY TO THE COMMITTEE

April 10, 2002

 B. Boykin Rose, Director
 Department of Public Safety
 5410 Broad River Road
 Columbia, South Carolina 29221


Dear Mr. Rose:

During a Senate Judiciary Subcommittee meeting on April 10, 2002, the Subcommittee recommended a perfecting change to the In-car Camera Video Regulations, Document Number 2610 which were submitted on April 10, 2002. Please make the change requested by the Subcommittee and resubmit the regulations.

The change should be made in 38-901(B) and should prioritize the distribution of video cameras based on a county's traffic activity, particularly DUI activity, concentrating on agencies with the highest activity in a county. Also, the Department of Public Safety should recommend to the individual law enforcement agency that the officers within the agency who have the highest volume of traffic activity, especially DUI arrests, be given priority on receipt of the cameras.

South Carolina Code Section 1-23-125(B)(1) provides that the regulations, with the requested changes, must be resubmitted to the Speaker of the House and the Lieutenant Governor, through Lynn Bartlett in the Legislative Council Office, within thirty days after the promulgating agency receives the requested changes. If the regulations, with the requested changes, are not resubmitted within thirty days, the regulations are considered permanently withdrawn.

Thank you for your prompt attention to this matter. Please feel free to contact me if you have any questions or concerns.

Sincerely,

 Sharon Gunter-Blair
 Sharon Gunter-Blair
 Staff Attorney
 Senate Judiciary Committee

cc: Lynn Bartlett

Proposed Regulations re: In-car video cameras

38-900. *Definitions*

For this Article only, the following terms as hereby defined:

- A. "Agency" means a state agency, sheriff's office, police department, or other law enforcement entity that has law enforcement vehicles used for traffic enforcement.
- B. "Department" means the South Carolina Department of Public Safety.
- C. "Videotaping equipment" means the visual and audio equipment and related hardware purchased pursuant to the provisions of S.C. Code Ann. § 56-5-2953 and these regulations.

38-901. *Installation and Maintenance of Videotaping Equipment in Traffic Enforcement Vehicles.*

- A. Regulations in this Article apply to videotaping equipment installed pursuant to S.C. Code Ann. § 56-5-2953 and to videotaping equipment purchased with funds collected under S.C. Code Ann. § 56-1-286 and S.C. Code Ann. § 56-5-2951 for the purpose of supplying and maintaining vehicle videotaping equipment to the Department, as well as all grant funds received by the Department for the purchase and maintenance of such equipment.
- B. Videotaping equipment purchased with the funds identified in State Regulation 38-901(A) will be installed in law enforcement vehicles used for traffic enforcement in a manner determined solely by the Department. The Department will prioritize distribution of videotaping equipment based on a county's DUI activity, and must distribute the equipment in a manner designed to ensure that the equipment goes first to those law enforcement agencies that have the highest volume of DUI enforcement activity. The Department must recommend to individual law enforcement agencies that officers who have the highest number of DUI arrests be given priority for receipt of the videotaping equipment.
- C. The Department will establish procedures for use in designated service centers to install, maintain, or modify the videotaping equipment. These designated service centers, specified by the Department, will solely be responsible for the actual work of installing, maintaining, and modifying the videotaping equipment. Each agency receiving videotaping equipment under this Article is responsible for insuring that required maintenance of the videotaping equipment is conducted in a prompt and timely fashion.

D. At the time of installation, the Department will provide one case of videotapes with each camera to the agency receiving the videotaping equipment. No other tapes will be provided to the agency under this Article.

E. Each designated service center must maintain records required by the Department detailing the history of the service and/or repair of each piece of videotaping equipment.

38-902. *Inventory of Videotaping Equipment*

A. All videotaping equipment installed pursuant to these regulations and S.C. Code Ann. § 56-5-2953 shall remain the property of the Department to ensure proper inventory of equipment. Each agency is required to take reasonable care of the videotaping equipment while it is in the agency's possession.

B. When videotaping equipment is installed, it will be marked for inventory purposes.

C. Each agency receiving videotaping equipment pursuant to these regulations and S.C. Code Ann. § 56-5-2953 must, at a reasonable time and place and as deemed necessary by the Department, make available to the Department for inventory purposes every law enforcement vehicle that has had videotaping equipment installed.

COURT'S SH
 EXHIBIT NO. 13
 IDENTIFICATION/EVIDENCE
 DKT.#
 DATE: 10/10/11

	A	B	C	D	E	F	G	H	I
1	AGENCY NAME	Requested	1st Lot	2nd Lot	3rd Lot	4th Lot	5th Lot	6th Lot	
2									
3	Greenville Sheriff's Office	150	43	45	32	30			150
4	Spartanburg Sheriff's Office	25	1	10	14				25
5	Rock Hill PD	9	1	8					9
6	Mount Pleasant PD	7	1	6					7
7	Charleston Sheriff's Office	13	13						13
8	*Columbia PD Recd Before Revision	4	4						4
9	Columbia PD	4		4					4
10	Lexington Sheriff's Office	20	2	3	15				20
11	Myrtle Beach PD	33	1	32					33
12	Richland Sheriff's Office	52	2	14	36				52
13	Greer PD	9	1	8					9
14	N Charleston PD	3	1	2					3
15	Aiken Sheriff's Office	28	1	1	1	25			28
16	York Sheriff's Office	67	1	2	32				35
17	Charleston PD	20	7						7
18	York PD	3	1	2					3
19	Lexington PD	10	3						3
20	Greenville PD	20	1						1
21	Hartsville PD	15	1						1
22	Spartanburg PD	6	1						1
23	Aiken PD	11	1	1					2
24	North Myrtle Beach PD	5							
25	Beaufort Sheriff's Office	40	2	1	2				5
26	Saluda Sheriff's Office	2							
27	Easley PD	4							
28	Fort Mill PD	3	1						
29	Horry County PD								1
30	Cayce PD	30	1	1					2
31	Cherokee Sheriff's Office	21							
32	Gaffney PD	5							
33	Anderson PD	4	1	1	2				4
34	Clover PD	6							

	A	B	C	D	E	F	G	H	I
35	Anderson Sheriff's Office	3	1						1
36	Sumter Sheriff's Office	12							
37	Mauldin PD	14							
38	Conway PD	13	3	4					7
39	Sumter PD	2							
40	Goose Creek PD	37	1	1					2
41	Dillon PD	5							
42	Lancaster PD	6	1						1
43	Laurens PD	4							
44	Newberry PD	21	2	1	1				4
45	North Augusta PD	30	1						1
46	Summerville PD	4							
47	Florence PD	8	1	2	1				4
48	Surfside Beach PD	2	2						2
49	Oconee Sheriff's Office	33							
50	Forest Acres PD	20	1	2					3
51	Williamston PD	10	2						2
52	Lake City PD	14	1	2					3
53	Georgetown Sheriff's Office	6							
54	Orangeburg PD	6	2	1	2				5
55	Dorchester Sheriff's Office	4							
56	Andrews PD	9							
57	Simpsonville PD								
58	Abbeville PD	7	1						1
59	Georgetown PD	5							
60	Pickens Sheriff's Office	4	1						1
61	Hanahan PD	3	1						1
62	Marion PD	9	1						1
63	Greenwood PD	18							
64	West Columbia PD	24	1						1
65	Clemson PD	19	1						1
66	Saluda PD	3	1	1					2
67	Union PD	6							
68	Chesterfield Sheriff's Office	20							
69	Lyman PD	7	1	2					3
70	Wellford PD	7	3	2	2				7

	A	B	C	D	E	F	G	H	I
71	Clarendon Sheriff's Office	4							
72	Pageland PD	4	1	1					2
73	Fort Jackson								
74	Ridgeland PD	2	1						1
75	Laurens Sheriff's Office	8							
76	Lee County Sheriff's Office	8	1	2					3
77	Lancaster Sheriff's Office	10	1						1
78	Seneca PD	6							
79	Pickens PD	2	1	1					2
80	Clemson University PD	5	2	1					3
81	Woodruff PD	5	1						1
82	Beaufort PD	14	3						3
83	Manning PD	8	1						1
84	Univ Of SC PD	2	1						1
85	Isle of Palms PD	10	2	1	2				5
86	Chester Sheriff's Office	25	1						1
87	Great Falls PD	2							
88	Latta PD	3	2	1					3
89	Irmo PD	14	4						4
90	Marlboro Sheriff's Office	3							
91	Hardeeville PD	8							
92	Clinton PD	4	1	2					3
93	Springdale PD	2	1	1					2
94	Swansea PD								
95	Bennettsville PD	5							
96	Moncks Corner PD	9	1	2					3
97	Summerton PD	2							
98	Darlington PD	2	1						1
99	Camden PD	14	1	1					2
100	Newberry Sheriff's Office	22	1	1					2
101	Landrum PD	4	2	1					3
102	Bamberg PD	8	2	1					3
103	Cowpens PD	4	1						1
104	Folly Beach PD	10	1	1	1				3
105	Chesnee PD	3	1	1					2
106	Belton PD	3	2	1					3

	A	B	C	D	E	F	G	H	I
107	Travelers Rest PD	5	2	2	1				5
108	Batesburg PD	14	1	2					3
109	Walterboro PD	5							
110	Winnsboro PD	4							
111	Pamplico PD	2	1	1					2
112	Greenwood Sheriff's Office	15	1	2					3
113	Cheraw PD	6	1	1					2
114	Iva PD	3							
115	Tega Cay PD	4	1						1
116	Chesterfield PD	2	1	1					2
117	Cottageville PD	5							
118	Mullins PD	5	2	1					3
119	Holly Hill PD	6	2						2
120	Edgefield Sheriff's Office	2	1						1
121	Ware Shoals PD	4							
122	Ninety Six PD	4	1						1
123	Kershaw Sheriff's Office	28	1	1					2
124	Duncan PD	11	1						1
125	Abbeville Sheriff's Office	10							
126	Fountain Inn PD	13	2	1	2	2			7
127	Union Sheriff's Office	16							
128	Dillion Co Sheriff's Office								
129	Fairfield Sheriff's Office	6							
130	Marion Sheriff's Office	16							
131	Walhalla PD	3							
132	Orangeburg Sheriff's Office	34							
133	Kingstree PD	9							
134	Honea Path PD	2	2						2
135	Pendleton PD	3	1						1
136	Blacksburg PD	4	2						2
137	Bishopville PD	3							
138	Barnwell PD	2	1						1
139	Port Royal PD	13							
140	Chester PD	4	4						4
141	Johnston PD	2	1						1
142	Liberty PD	4							

	A	B	C	D	E	F	G	H	I
143	Fort Lawn PD	4	1	2					3
144	Calhoun Falls PD	3							
145	Williston PD	2							
146	Berkeley Sheriff's Office	5	1	1	3				5
147	Darlington Sheriff's Office	36							
148	Timmons ville PD	2	1	1					2
149	Aynor PD	1							
150	Chapin PD	3	2	1					3
151	McCormick PD	2	1	1					2
152	Denmark PD	7							
153	St. Matthews PD	4	1						1
154	Edgefield PD	2	1						1
155	Yemassee PD	3	1						1
156	Jasper Sheriff's Office	3							
157	McCormick Sheriff's Office	0							
158	Campobello PD	2	1						1
159	Calhoun Sheriff's Office	5	1						1
160	Santee PD	4	3						3
161	Williamsburg Sheriff's Office	4							
162	Barnwell Sheriff's Office	10	1						1
163	Bluffton PD	6							
164	St. Stephens PD	8	1						1
165	Turbeville PD	3	1	1					2
166	Estill PD	4							
167	Westminister PD	4	1						1
168	Fairfax PD	1	1						1
169	West Pelzer PD	2	2						2
170	Sullivan's Island PD	5	2						2
171	Lamar PD	2	2						2
172	Florence Sheriff's Office	3	1	1					2
173	Hampton PD	4	2						2
174	South Congaree PD	2	2						2
175	Ridge Spring PD	2	2						2
176	Winthrop College PD	3							
177	Allendale Sheriff's Office	4							
178	Ehrhardt PD	2	2						2

	A	B	C	D	E	F	G	H	I
179	Jamestown PD	1	1						1
180	Jefferson PD	1	1						1
181	Colleton Sheriff's Office	4	2						2
182	Edisto Beach PD	5							
183	Atlantic Beach PD	5	1	1	2				4
184	Vance PD	3							
185	Jackson PD	4	1						1
186	Blackville PD	6	1						1
187	McBee PD	2	2						2
188	Lakeview PD	3	2	1					3
189	Hampton Sheriff's Office	6	2						2
190	USC Coastal Carolina PD	3	2	1					3
191	Prosperity PD	2	1	1					2
192	Inman PD	3	1	2					3
193	Hemingway PD	1	1						1
194	New Ellenton Pd	2	2						2
195	Allendale PD	5							
196	Bamberg Sheriff's Office	8	2	1	1	1			5
197	Society Hill Pd	3							
198	Sellers PD	1							
199	St. George PD	4	1	1	2				4
200	Ridgeville PD	2							
201	Lynchburg PD	1	1						1
202	Central PD	5							
203	Pacolet PD	3	2	1					3
204	Jonesville PD	2							
205	Bonneau PD	3	1	1					2
206	Cameron PD	1	1						1
207	Johnsonville PD	2							
208	Olanta PD	3	3						3
209	Salem PD	1							
210	Mayesville PD	2							
211	Wagener PD	1	1						1
212	MUSC								
213	Ravenel PD								
214	Harleyville PD	2							

	A	B	C	D	E	F	G	H	I
215	Trenton PD	1							
216	Scranton PD	2	1	1					2
217	Varnville PD	3	1	1					2
218	Horry Sheriff's Office	0							
219	Elgin PD	2	2						2
220	Pine Ridge PD	1	1						1
221	Gaston PD	1	1						1
222	Whitmire PD	3	1	1					2
223	Bowman PD	2	1						1
224	Eutawville PD	4	2	2					4
225	North PD	3							
226	SC State College PD	4	3						3
227	USC Spartanburg PD	2	2						2
228	Carlisle PD	0							
229									
230	Agencies Not On Sled ORI List								
231	Spartanburg School Dist 5	2	1	1					2
232	USC Aiken PS	0							
233	West Union PD	1	1						1
234	Wil Lou Gray Opportunity Sch	0							
235	Wofford College PS	1	1						1
236	Dillon County Sheriff's Office	2	2						2
237	Eastover PD	1	1						1
238	Erskin College DPS	1	1						1
239	Midlands Tec PS	3	2	1					3
240	Piedmont Tec PS	0							
241	Bob Jones Univer PS	0							
242	Brunson PD	1	1						1
243	Catawba Indian Nation	0							
244	Citadel PS	2	2						2
245	Clio PD	1	1						1
246	Coward PD	2	1	1					2
247	Springfield PD	2							
248	Spartanburg Technical	1							
249	Pinewood PD	2	1						1
250	Port Royal	13							

	A	B	C	D	E	F	G	H	I
251	Presbyterian College PD	2							
252	Ridgeway PD	2							
253	Salley PD	2							
254	Orangeburg Calhoun Tec	1							
255	Olar PD	1	1						1
256	Pawleys Island PD	1							
257	Perry PD	1							
258	Norway PD	2							
259	Nichols PD	2							
260	McColl PD	3							
261	Loris PD	9							
262	Lincolnville PD	2	1						1
263	Lane PD	1							
264	Lander Univ PS	1							
265	Heath Springs PD	1							
266	Greeleyville PD	2							
267	Francis Marion University PS	3	1						1
268	Furman University PS	3	1	1					2
269	Due West PD	1							
270	Columbia Metro Airport PS	2							
271	Columbia College PS	4	2	1					3
272	College of Charleston	3							
273	Briarcliffe Acres PD	1							
274	Branchville PD	2							
275	Benedict College PS	3							
276	Burnettown PD	3	1						1
277	Bethune PD	2	1						1
278	Town of Quinby	1	1						1
279	Elloree PD	4	4						4
280	Kershaw PD	2	2						2
281	Highway Patrol	900	349						349
282	State Transport Police	64	44						44
283	Test Units	7	7						7
284									
285		2886							1128

South Carolina Law Enforcement Division

Arrests By Agency

Between 01/01/2007 And 12/31/2007

PENGAD 800-431-6989	COURT'S	SH
	EXHIBIT NO.	14
	IDENTIFICATION/EVIDENCE	
	DKT.#	
DATE:		10/10/11

Agency Name	Agency ORI	Total Arrests
INVALID ORI	SC9999999	3787
LEXINGTON SCHP	SC03299SP	509
CHARLESTON PD	SC0100100	486
RICHLAND SCHP	SC04099SP	461
GREENVILLE SHERIFF'S OFFICE	SC0230000	444
SPARTANBURG SHERIFF'S OFFICE	SC0420000	335
CHEROKEE SCHP	SC01199SP	332
KERSHAW SCHP	SC02899SP	332
ROCK HILL PD	SC0460300	331
MYRTLE BEACH PD	SC0260600	271
MOUNT PLEASANT PD	SC0100300	266
ORANGEBURG SCHP	SC03899SP	262
DARLINGTON SCHP	SC01699SP	255
LANCASTER SCHP	SC02999SP	207
COLUMBIA PD	SC0400100	191
SUMTER SCHP	SC04399SP	182
HANAHAN PD	SC0080600	174
YORK SHERIFF'S OFFICE	SC0160000	157
EASLEY PD	SC0390300	145
AIKEN PD	SC0020100	142
BEAUFORT SCHP	SC00799SP	142
YORK SCHP	SC04699SP	141
GREENWOOD SCHP	SC02499SP	137
LAURENS SCHP	SC03099SP	135
MAUDLIN PD	SC0230400	130
GEORGETOWN SCHP	SC02299SP	129
AIKEN SCHP	SC00299SP	126
CLARENDON SCHP	SC01499SP	120
SUMTER PD	SC0430100	120
BERKELEY SCHP	SC00899SP	117
NEWBERRY PD	SC0360100	114
NORTH MYRTLE BEACH PD	SC0260700	113
SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES (WILDLIFE)	SC0400500	112
JASPER SCHP	SC02799SP	106

NORTH CHARLESTON PD	SC0100800	102
RICHLAND SHERIFF'S OFFICE	SC0400000	98
ANDERSON SHERIFF'S OFFICE	SC0040000	97
~~SALUDA SCHP~~	~~SC04199SP~~	~~97~~
~~FAIRFIELD SCHP~~	~~SC02099SP~~	~~96~~
GREENVILLE PD	SC0230200	95
GREER PD	SC0230300	95
GREENWOOD PD	SC0240100	94
SUMMERVILLE PD	SC0180200	92
~~CHESTERFIELD SCHP~~	~~SC01399SP~~	~~90~~
BEAUFORT SHERIFF'S OFFICE	SC0070000	89
CLEMSON PD	SC0390200	87
OCONEE SHERIFF'S OFFICE	SC0370000	87
~~CHESTER SCHP~~	~~SC01299SP~~	~~86~~
ANDERSON PD	SC0040100	84
CHEROKEE SHERIFF'S OFFICE	SC0110000	83
FLORENCE PD	SC0210100	81
~~NEWBERRY SCHP~~	~~SC03699SP~~	~~81~~
CHARLESTON SHERIFF'S OFFICE	SC0100000	80
~~CHARLESTON SCHP~~	~~SC01099SP~~	~~77~~
GOOSE CREEK PD	SC0080300	71
HARTSVILLE PD	SC0160200	71
PICKENS SHERIFF'S OFFICE	SC0390000	70
SUMTER SHERIFF'S OFFICE	SC0430000	70
AIKEN SHERIFF'S OFFICE	SC0020000	67
SIMPSONVILLE PD	SC0230500	67
LANCASTER PD	SC0290100	66
~~MARLBORO SCHP~~	~~SC03599SP~~	~~66~~
~~EDGEFIELD SCHP~~	~~SC01999SP~~	~~65~~
CONWAY PD	SC0260200	64
CHAPIN PD	SC0320600	59
DARLINGTON PD	SC0160100	59
~~DORCHESTER SCHP~~	~~SC01899SP~~	~~59~~
SPARTANBURG PD	SC0420100	58
BEAUFORT PD	SC0070100	57
CAYCE PD	SC0320200	57
YORK PD	SC0460400	57
BLUFFTON PD	SC0070200	53
ISLE OF PALMS PD	SC0100500	52
SURFSIDE BEACH PD	SC0260800	52
CLOVER PD	SC0460100	51
IRMO PD	SC0320700	51

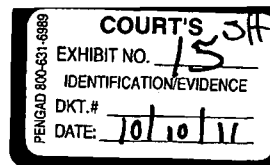
WEST COLUMBIA PD	SC0320500	50
NORTH AUGUSTA PD	SC0020300	48
ORANGEBURG PD	SC0380100	48
COLLETON SCHP	SC01599SP	46
MARINE CORPS AIR STATION	SCMC002SU	46
RIDGELAND PD	SC0270200	42
LEE SCHP	SC03199SP	41
COLLETON SHERIFF'S OFFICE	SC0150000	40
ANDERSON SCHP	SC00499SP	39
HORRY SCHP	SC02699SP	39
LEXINGTON PD	SC0320400	38
LEXINGTON SHERIFF'S OFFICE	SC0320000	37
CAMDEN PD	SC0280100	36
UNION SCHP	SC04499SP	35
FOUNTAIN INN PD	SC0230100	34
GAFFNEY PD	SC0110200	34
WALTERBORO PD	SC0150100	34
WILLIAMSBURG SCHP	SC04599SP	34
FORT MILL PD	SC0460200	33
PORT ROYAL PD	SG0070300	33
EUTAWVILLE PD	SC0380600	32
MARION PD	SC0340100	32
CHESTER PD	SC0120100	30
CHESTER SHERIFF'S OFFICE	SC0120000	30
FLORENCE SCHP	SC02199SP	30
FOLLY BEACH PD	SC0100400	29
LAURENS PD	SC0300100	28
TRAVELERS REST PD	SC0230600	28
ABBEVILLE PD	SC0010100	27
FOREST ACRES PD	SC0400400	27
LYMAN PD	SC0421100	27
SPARTANBURG SCHP	SC04299SP	27
DUNCAN PD	SC0420300	26
FORT JACKSON	SCUSA01S0	26
PICKENS PD	SC0390500	26
GREENWOOD SHERIFF'S OFFICE	SC0240000	25
HARDEEVILLE PD	SC0270100	25
INMAN PD	SC0420900	25
LAKE CITY PD	SC0210200	25
ABBEVILLE SCHP	SC00199SP	23
DILLON PD	SC0170100	21
BARNWELL SCHP	SC00699SP	20

BAMBERG SCHP	SC00599SP	19
CHERAW PD	SC0130100	19
CALHOUN SCHP	SC00999SP	18
HAMPTON PD	SC0250300	18
HORRY COUNTY PD	SC0260400	18
GEORGETOWN PD	SC0220200	17
GREAT FALLS PD	SC0120200	17
OLANTA PD	SC0210500	17
PAGELAND PD	SC0130500	17
SALUDA SHERIFF'S OFFICE	SC0410000	17
SUMMERTON PD	SC0140200	17
TEGACAY PD	SC0460500	17
BATESBURG PD	SC0320100	16
EDGEFIELD SHERIFF'S OFFICE	SC0190000	16
GEORGETOWN SHERIFF'S OFFICE	SC0220000	16
NEWBERRY SHERIFF'S OFFICE	SC0360000	16
WHITMIRE PD	SC0360200	16
BRANCHVILLE PD	SC0380200	15
CLINTON PD	SC0300200	15
DILLON SCHP	SC01799SP	15
KINGSTREE PD	SC0450200	15
BAMBERG PD	SC0050100	14
BELTON PD	SC0040200	14
CENTRAL PD	SC0390100	14
CLEMSON UNIVERSITY PD	SC0390600	14
HAMPTON SCHP	SC02599SP	14
LAURENS SHERIFF'S OFFICE	SC0300000	14
BONNEAU PD	SC0080200	13
CHESTERFIELD SHERIFF'S OFFICE	SC0130000	13
LATTA PD	SC0170300	13
SALUDA PD	SC0410100	13
UNIV OF SOUTH CAROLINA PD	SC0400600	13
CLARENDON SHERIFF'S OFFICE	SC0140000	12
COWPENS PD	SC0420700	12
EDGEFIELD PD	SC0190100	12
LANDRUM PD	SC0421000	12
CHARLESTON AIR FORCE BASE	SCAF001S0	11
GREENVILLE SCHP	SC02399SP	11
MANNING PD	SC0140100	11
SOUTH CONGAREE PD	SC0321000	11
UNION SHERIFF'S OFFICE	SC0440000	11
WILLISTON PD	SC0060200	11

WOODRUFF PD	SC0420200	11
YEMASSEE PD	SC0250600	11
DENMARK PD	SC0050200	10
HAMPTON SHERIFF'S OFFICE	SC0250000	10
LAMAR PD	SC0160300	10
MARION SCHP	SC03499SP	10
PENDLETON PD	SC0040400	10
ABBEVILLE SHERIFF'S OFFICE	SC0010000	9
ALLENDALE SCHP	SC00399SP	9
DORCHESTER SHERIFF'S OFFICE	SC0180000	9
LIBERTY PD	SC0390400	9
PICKENS SCHP	SC03999SP	9
UNION PD	SC0440100	9
WELLFORD PD	SC0421300	9
DUE WEST PD	SC0010400	8
FAIRFIELD SHERIFF'S OFFICE	SC0200000	8
FRANCIS MARION COLLEGE PD	SC0211000	8
HOLLY HILL PD	SC0380700	8
LANCASTER SHERIFF'S OFFICE	SC0290000	8
MCCORMICK SCHP	SC03399SP	8
MULLINS PD	SC0340200	8
SENECA PD	SC0370100	8
SULLIVAN'S ISLAND PD	SC0100700	8
USC COASTAL CAROLINA PD	SC0261000	8
AYNOR PD	SC0260300	7
CAMPOBELLO PD	SC0420500	7
CHAS CNTY AVAI AUTH PD	SC0101500	7
DILLON SHERIFF'S OFFICE	SC0170000	7
JASPER SHERIFF'S OFFICE	SC0270000	7
MCCORMICK SHERIFF'S OFFICE	SC0330000	7
ANDREWS PD	SC0220100	6
KERSHAW SHERIFF'S OFFICE	SC0280000	6
LEE SHERIFF'S OFFICE	SC0310000	6
SHAW AIR FORCE BASE	SCAF004S0	6
WALHALLA PD	SC0370200	6
WARE SHOALS PD	SC0240200	6
WEST PELZER PD	SC0041000	6
ALLENDALE PD	SC0030100	5
BENNETTSVILLE PD	SC0350100	5
BLACKSBURG PD	SC0110100	5
HORRY SHERIFF'S OFFICE	SC0260000	5
JOHNSTON PD	SC0190200	5

JONESVILLE PD	SC0440300	5
MARINE CORPS PARIS ISLAND *	SCMC001S0	5
NORTH PD	SC0380800	5
OCONEE SCHP	SC03799SP	5
ORANGEBURG SHERIFF'S OFFICE	SC0380000	5
SWANSEA PD	SC0321200	5
TIMMONSVILLE PD	SC0210900	5
BERKELEY SHERIFF'S OFFICE	SC0080000	4
EDISTO BEACH PD	SC0150200	4
FORT LAWN PD	SC0120300	1
JOHNSONVILLE PD	SC0210400	4
MONCK'S CORNER PD	SC0080100	4
NEW ELLENTON PD	SC0020600	4
PAMPLICO PD	SC0210600	4
ST MATTHEWS PD	SC0090200	4
WESTMINSTER PD	SC0370300	4
WILLIAMSTON PD	SC0040500	4
BARNWELL PD	SC0060100	3
BISHOPVILLE PD	SC0310100	3
BLACKVILLE PD	SC0060300	3
BOWMAN PD	SC0380300	3
CHESTERFIELD PD	SC0130200	3
DARLINGTON SHERIFF'S OFFICE	SC0160000	3
HEMINGWAY PD	SC0450100	3
JACKSON PD	SC0020500	3
PROSPERITY PD	SC0360500	3
ST STEPHENS PD	SC0080500	3
WAGENER PD	SC0020800	3
WINTHROP COLLEGE PD	SC0460600	3
ALLENDALE SHERIFF'S OFFICE	SC0030000	2
BAMBERG SHERIFF'S OFFICE	SC0050000	2
BARNWELL SHERIFF'S OFFICE	SC0060000	2
BRUNSON PD	SC0250100	2
CHESNEE PD	SC0420600	2
COTTAGEVILLE PD	SC0150300	2
ELGIN PD	SC0280300	2
FAIRFAX PD	SC0030200	2
FLORENCE SHERIFF'S OFFICE	SC0210000	2
HARLEYVILLE PD	SC0180300	2
HONEA PATH PD	SC0040300	2
LAKEVIEW PD	SC0170200	2
MARLBORO SHERIFF'S OFFICE	SC0350000	2

NINETYSIX PD	SC0240100	2
~~NOT LISTED AND/OR UNKNOWN ORI NUMBER~~	~~SC0000000~~	~~2~~
PINE RIDGE PD	SC0320900	2
SCRANTON PD	SC0210800	2
~~SOUTH CAROLINA HIGHWAY PATROL (ACE TEAM)~~	~~SC0401800~~	~~2~~
SOUTH CAROLINA LAW ENFORCEMENT DIVISION (SLED)	SCLED0000	2
SPRINGDALE PD	SC0321100	2
STATE PORTS AUTHORITY PD	SC0101300	2
STATE TRANSPORT POLICE (SCDPS)	SCSHP0800	2
VANCE PD	SC0381300	2
VARNVILLE PD	SC0250400	2
WINNSBORO PD	SC0200100	2
BUREAU OF PROTECTIVE SERVICES (SCDPS)	SCSHP0900	1
BURNETTOWN PD	SC0020400	1
CALHOUN FALLS PD	SC0010200	1
COWARD PD	SC0210300	1
DONALDS PD	SC0010300	1
EHRHARDT PD	SC0050300	1
MARION SHERIFF'S OFFICE	SC0340000	1
MCCORMICK PD	SC0330100	1
NORWAY PD	SC0380900	1
PAWLEYS ISLAND PD	SC0220300	1
PELZER PD	SC0040700	1
RIDGE SPRING PD	SC0410200	1
TURBEVILLE PD	SC0140300	1
U.S. DOE SAVANNAH RVR PD	SC0021000	1
WILLIAMSBURG SHERIFF'S OFFICE	SC0450000	1
STATE TOTAL		16634



	A	B	C	D	E	F	G
1	Agency	VHS	Digital Brand		Award Date	Closed Date	Notes
2	Charleston PD		200	IRSA			
3	Greenville Sheriff	172			80/4/22/10: 50/7/29/10: 42/11/4/10	5/12/2011	
4	Spartanburg Sheriff	26		Watchguard or Kustom ION	26/7/29/10	9/14/2010	See Email
5	Rock Hill PD	0	25	L3/Mobile Vis			
6	Myrtle Beach PD	0	21				
7	Mt. Pleasant PD	50		Prefers digital but does not want to wait	20/7/29/10: 30/10/21/10	3/15/2011	Per C. McCarthy
8							
9	Columbia PD	28	193	Watchguard	28/11/9/10		See email
10	Hanahan PD	0	17	L3/Mobile Vis			
11	York Sheriff	0	20	L3/Mobile Vis			
12	Easley PD						
13	Aiken PD	0	4	Digital Ally			
14	Mauldin PD	6	20	ICOP	6/5/11/11		
15	Sumter PD	0	8	Watchguard			
16	Newberry PD	0	31				
17	N. Myrtle Beach PD	0				5/16/2009	
18	N. Charleston PD	0	15	L3/Mobile Vis			
19	Richland Sheriff	0	10	Watchguard			
20	Anderson Sheriff	15			15/5/11/11	9/15/2011	
21	Greenville PD	0	20	Kustom			
22	Greer PD						
23	Greenwood PD	0				7/14/2009	
24	Summerville PD	0	40	Watchguard			
25	Beaufort Sheriff	0				7/15/2009	
26	Clemson PD	19			19/5/11/11	7/26/2011	
27	Oconee Sheriff	7			7/5/11/11	7/28/2011	see email
28	Anderson PD	12			12/5/11/11		
29	Cherokee Sheriff	16			16/5/11/11		
30	Florence PD	0	40	Digital Ally			
31	Charleston Sheriff		30	Kustom			see email
32	Goose Creek PD		6				see email
33	Hartsville PD	0	20	L3 or ICOP			
34	Pickens Sheriff	5			5/5/12/11		
35	Sumter Sheriff	20	10	ICOP	20/5/11/11		sent 2nd email
36	Aiken Sheriff	0	20	Digital Ally			

	A	B	C	D	E	F	G
37	Simpsonville PD	0				7/13/2009	
38	Lancaster PD	4		Sent 2nd email 8-10-11	4/5/11/11		
39	Conway PD	14			14/5/11/11	7/28/2011	
40	Chapin PD					5/11/2011	see email remove
41	Darlington PD	0	2	Digital Ally			
42	Spartanburg PD						
43	Beaufort PD	6			6/16/2011		
44	Cayce PD	0	35	Any			
45	York PD	0	5	Digital Ally			
46	Bluffton PD	0				7/15/2009	
47	Isle of Palms PD		5				see email
48	Surfside Beach PD		8	L3/Mobile Vis			see email
49	Clover PD	0				7/13/2009	
50	Irmo PD						
51	West Columbia PD		3				See email
52	North Augusta PD	0	20	Digital Ally			
53	Orangeburg PD						
54	Ridgeland PD	0				7/13/2009	
55	Colleton Sheriff						
56	Lexington PD	0	15	Watchguard			
57	Lexington Sheriff	0	25	Watchguard			
58	Camden PD	4	19		4/5/11/11		
59	Fountain Inn PD	5			5/5/11/11		
60	Gaffney PD	6			10/5/11/11		qty change at PU
61	Walterboro PD						
62	Fort Mill PD	0	16	Digital Ally			
63	Port Royal PD	0	19	L3/Digital			
64	Eutawville PD	2			2/6/14/11		
65	Marion PD	4		Sent 2nd email 8-10-11	4/5/11/11		
66	Chester PD	3			Put back in list did not return calls,etc		
67	Chester Sheriff		10	Any type			See email
68	Folly Beach PD	0	5	L3/Mobile Vis			
69	Laurens PD		5				
70	Travelers Rest PD	0	10	Digital Ally			
71	Abbeville PD	0	6	Digital Ally			
72	Forest Acres PD	0	4				

	A	B	C	D	E	F	G
73	Lyman PD	0	2				
74	Duncan PD	0	8	Any			
75	Pickens PD	0	5	Digital Ally			
76	Greenwood Sheriff	32			32/8/2/11		
77	Hardeeville PD						
78	Inman PD	4					
79	Lake City PD	6					
80	Dillon PD	0	5				
81	Cheraw PD	6					
82	Hampton PD	4					
83	Horry County PD	0				5/14/2009	
84	Georgetown PD	10					
85	Great Falls PD	0	3				
86	Olanta PD	0	3	Any			
87	Pageland PD	6					
88	Saluda Sheriff	2	1	Any			
89	Summerton PD	2					
90	Tega Cay PD	0	4	Velocity Cam Fed. Signal			
91	Batesburg-Leesville PD	0	20	Any			
92	Edgefield Sheriff	5					
93	Georgetown Sheriff						
94	Newberry Sheriff	0	35	None spec			
95	Whitmire PD	2					
96	Branchville PD	0				7/14/2009	
97	Clinton PD	4	4	Watchguard			
98	Kingstree PD						
99	Bamberg PD	0	9	Any			
100	Belton PD	3	3				
101	Central PD	0				7/14/2009	
102	Clemson University PD						
103	Laurens Sheriff	0	24	Kustom			
104	Bonneau PD						
105	Chesterfield Sheriff	10	4				
106	Latta PD	2					
107	Saluda PD	2	10	Digital Ally			
108	USC PD						

	A	B	C	D	E	F	G
109	Clarendon Sheriff	8					
110	Cowpens PD	0	6	Any			
111	Edgefield PD						
112	Landrum PD	9					
113	Manning PD	4					
114	South Congaree PD	0	1	Digital Ally			
115	Union Sheriff	19		See Survey			
116	Williston PD	2					
117	Woodruff PD						
118	Yemassee PD	3					
119	Denmark PD	0	4				
120	Hampton Sheriff	7					
121	Lamar PD	3					
122	Pendleton PD			Agency Abolished			
123	Abbeville Sheriff	0	6	Digital Ally			
124	Dorchester Sheriff	0	20	ICOP			
125	Liberty PD	5					
126	Union PD	2					
127	Wellford PD	5					
128	Due West PD	0	4	Any			
129	Fairfield Sheriff						
130	Francis Marion Univ PD						
131	Holly Hill PD	0	8	Any			
132	Lancaster Sheriff	4	3				
133	Mullins PD						
134	Seneca PD	13					
135	Sullivan's Island PD	0	2				
136	USC Coastal PD						
137	Aynor PD	2					
138	Campobello PD	5					
139	Dillon Sheriff						
140	Jasper Sheriff		25				
141	McCormick Sheriff	2					
142	Andrews PD	9					
143	Kershaw Sheriff	7					
144	Lee Sheriff	10					

	A	B	C	D	E	F	G
145	Walhalla PD	0	4	Eyewitness			
146	Ware Shoals PD	0	4	Digital Ally			
147	West Pelzer PD	1					
148	Allendale PD	0				7/14/2009	
149	Bennettsville PD	0	5	Digital Ally			
150	Blacksburg PD	3					
151	Horry Sheriff	3					
152	Johnston PD	1					
153	Jonesville PD	1	1	Watchguard			
154	North PD	3					
155	Orangeburg Sheriff						
156	Swansea PD	0	3	Mobile Vision			
157	Timmonsville PD						
158	Berkeley Sheriff	20					
159	Edisto Beach PD	0				7/19/2009	
160	Fort Lawn PD	3					
161	Johnsonville PD	0	2	L3/Digital			
162	Moncks Corner PD						
163	New Ellenton PD	0	2	Digital Ally			
164	Pamplico PD						
165	St. Matthews PD						
166	Westminster PD	6					
167	Williamston PD	12	4	Any			
168	Barnwell PD	0	10	Any			
169	Bishopville PD	0				7/14/2009	
170	Blackville PD						
171	Bowman PD	4					
172	Chesterfield PD						
173	Darlington Sheriff	0	67	ICOP			
174	Hemingway PD	0	3	Any			
175	Jackson PD						
176	Prosperity PD	2					
177	St. Stephens PD						
178	Wagener PD	3					
179	Winthrop College PD						
180	Allendale Sheriff						

	A	B	C	D	E	F	G
181	Bamberg Sheriff	0				5/11/2011	
182	Barnwell Sheriff	3					
183	Brunson PD	2					
184	Chesnee PD	3					
185	Cottageville PD	0	5 Any				
186	Elgin PD	1	2 Any				
187	Fairfax PD	0	5 Mobile Vision				
188	Florence Sheriff		L-3				
189	Harleyville PD						
190	Honea Path PD						
191	Lakeview PD	4					
192	Marlboro Sheriff	6					
193	Ninety Six PD	1					
194	Pine Ridge PD	1					
195	Scranton PD	0	3 Any				
196	Springdale PD	0				5/11/2011	
197	Vance PD		Agency Abolished				
198	Varnville PD						
199	Winnsboro PD	5					
200	Burnettown PD	7					
201	Calhoun Falls PD	0	2 Digital Ally				
202	Coward PD	1					
203	Donalds PD		Agency Abolished				
204	Ehrhardt PD	3					
205	Marion Sheriff	12					
206	McCormick PD						
207	Norway PD	2					
208	Pawleys Island PD						
209	Pelzer PD		Agency Abolished				
210	Ridge Spring PD		Agency Abolished				
211	Turbeville PD	0	2 Mobile Vision				
212	Williamsburg Sheriff	12	4 Any				
213							
214							
215	NOT ON SLED ORI LIST						
216							

	A	B	C	D	E	F	G
217	Citadel Public Safety	2			2/5/12/11		
218	Atlantic Beach PD	0	2	Mobile Vision	Closed Agency		
219	Clio PD	1		Sent 2nd email 8-10-11	1/5/12/11		
220	Pelion PD	0	12	See survey			
221	Pacolet PD	3			3/5/12/11	7/27/2011	
222	Ridgeway PD	0				5/5/2009	
223	Ridgeville PD	0	2				
224	West Union	0	2	Any			
225	Lynchburg PD	1		Sent 2nd email 8-10-11	1/5/12/11		Per Phone conv.
226	Santee Police D	0				5/27/2009	
227	Perry PD	1			1/5/13/11		
228	Lane PD	1			1/5/13/11		
229	Denmark Tech College	2			2/5/13/11		
230	St. George PD	4					
231	USC Upstate	2	2	Watchguard	2/5/16/11	9/20/11 for VHS	
232	Lincolnvile PD	2	0				
233	McColl Police Dept.		3	Would like to upgrade digital			
234	McBee PD	2			2/5/13/11		
235	Loris PD		8	no brand specified			
236	Greeleyville PD						
237		789	1340				
238	Less 300 issued						
239	Less 200 issued						
240	Needed VHS	299					
241							
242							
243	Red: Agencies not responding to 2 requests						
244	Fusha: Agencies with completed requests						

State 1

5

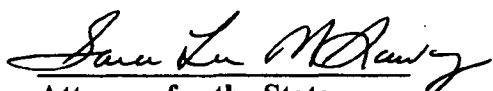
STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE) IN THE COURT OF GENERAL SESSIONS
State of South Carolina)
-vs-) 2010-GS-23-09684
Christopher Lee Johnson,) Stipulation by the Parties
Defendant)

- (1) The Defendant's privilege to drive in South Carolina was under suspension on March 18, 2010 and the defendant had actual personal knowledge that his license was under suspension on this date.
- (2) On November 17, 2009, legal notice was mailed, via United States first class mail with postage prepaid, to the defendant, at the defendant's address of record that was on file with the Department of Motor Vehicles, informing him that his privilege to operate a motor vehicle in South Carolina was suspended beginning at 12:01 AM on 12/07/2009. This suspension was "indefinite" and was still in effect on March 18, 2010.
- (3) On January 29, 2010, legal notice was mailed, via United States first class mail with postage prepaid, to the defendant, at the defendant's address of record that was on file with the Department of Motor Vehicles, informing him that his privilege to operate a motor vehicle in South Carolina was suspended beginning at 12:01 AM on 01/08/2010 and ending at Midnight on 10/08/2010. The defendant was also given actual, personal notice of this suspension on 01/08/2010. This suspension was still in effect on March 18, 2010.
- (4) Both notices that were mailed to the defendant informed him that "You may not drive until the suspension period has ended . . ." and also explained the steps that he would need to take to have his license reinstated.
- (5) The Director of Public Safety or his designee has provided a Certificate that each of the above referenced notices were sent, as required, to the defendant at the address contained in the DMV records, via first class mail with postage prepaid.

Date: 10/7/2011


Attorney for the Defendant

Date: 10/7/2011


Attorney for the State

ADVISEMENT OF IMPLIED CONSENT RIGHTS

Christopher Lee Johnson

Subject's Name (Print)

Q11326206

Driver's License Number



Date of Birth

55

State Licensed

State 3

DRIVING UNDER THE INFLUENCE ADVISEMENT

- (A) Will test be video recorded? If answer is Yes, start here → - Inform subject of video recording.
If answer is No, start here → - Inform subject of type samples requested (i.e. breath, blood, urine).
- (B) Provide subject with a written copy of the following advisement and read the advisement to the subject:
- You are under arrest for Driving Under the Influence (DUI), Section 56-5-2930, South Carolina Code of Laws 1976, as amended.
 - The arresting officer has directed that samples be taken for alcohol and/or drug testing.
 - The samples will be taken and tested according to Section 56-5-2950 and SLED policies.
 - You do not have to take the tests or give the samples, but if you refuse to submit to the tests, your privilege to drive in South Carolina must be suspended or denied for at least six (6) months and your refusal may be used against you in court.
 - If you take the tests or give the samples and have an alcohol concentration of eight one-hundredths of one percent (0.08%) or more, you may instead be charged with Driving with an Unlawful Alcohol Concentration (DUAC), Section 56-5-2933.
 - If you have an alcohol concentration of fifteen one-hundredths of one percent (0.15%) or more, your privilege to drive in South Carolina must be suspended for at least one (1) month.
 - You have the right to have a qualified person of your own choosing conduct additional independent tests at your expense and the officer, upon request, must provide you affirmative assistance.
 - You have the right to request an administrative hearing within thirty (30) days of the issuance of the notice of suspension.
 - If you do not request an administrative hearing or if your suspension is upheld at the administrative hearing, you must enroll in an Alcohol and Drug Safety Action Program.
- If applicable, perform the following procedures:
- (C) Check subject's mouth and remove any foreign material. (Not required if a refusal has occurred.)
- (D) Enter biographical data into DataMaster DMT. (Required for all tests, including refusals.)
- (E) Observe subject for a minimum of twenty (20) minutes before collecting breath sample. (Not required if a refusal has occurred.)

ADVERTENCIA PORMANEJAR BAJOS LOS EFECTOS DE ALCOHOL O DROGAS (DUI)

- (A) ¿Se grabará en video el análisis? Si la respuesta es Si, empieza aquí → - Informe al sujeto que va a ser grabado en video.
Si la respuesta es No, empieza aquí → - Informe al sujeto de lo que se requiere (ejemplo: soplar, sangre, urina.)
- (B) De al sujeto una copia escrita de la siguiente advertencia y lea la advertencia al sujeto:
- Usted queda detenido por Manejar Bajo los Efectos de Alcohol o Drogas (DUI), Sección 56-5-2930, del Código de Leyes de Carolina del Sur de 1976, según su enmienda.
 - El agente que efectuó la detención dispuso que se sacaran muestras de alcohol y/o drogas para ser analizada(s).
 - Se obtendrán y se analizarán las muestras según la Sección 56-5-2950 y las normas de SLED.
 - Usted no está obligado a hacerse los análisis ni a sacarse las muestras, pero si se niega a someterse a estos análisis, se le tendrá que suspender o negar el derecho de manejar en Carolina del Sur por lo menos durante seis (6) meses y el hecho de que usted se niega, podrá usarse en su contra en un tribunal.
 - Si usted se somete a los análisis o se saca las muestras y tiene una concentración de alcohol de ocho centésimos del uno por ciento (0,08%) o más, entonces se lo podría acusar de Manejar con una Concentración Ilegal de Alcohol (DUAC), según la Sección 56-5-2933.
 - Si usted tiene una concentración de alcohol de quince centésimos del uno por ciento (0,15%) o más, se le deberá suspender el derecho de manejar en Carolina del Sur por lo menos durante un (1) mes.
 - Usted tiene el derecho de que una persona que usted elija y que esté capacitada para hacerlo, realice sus propios análisis adicionales, los cuales usted mismo tiene que pagar y en ese caso, el agente debe brindarle ayuda si usted lo solicita.
 - Usted tiene el derecho de solicitar una audiencia administrativa dentro de los treinta (30) días de la fecha en que se emitió la notificación de la suspensión.
 - Si usted no solicita una audiencia administrativa o si se le confirma la suspensión en la audiencia administrativa, usted tiene que matricularse en un Programa de Medidas Contra el Abuso del Consumo del Alcohol y las Drogas.
- Si aplica, efectúe los siguientes procedimientos:
- (C) Inspeccione la boca del sujeto y quite material extraño de la boca. (Ignora si se niega el sujeto.)
- (D) Anade datos biográficos en el DataMaster DMT. (Esto es requerido para todos los exámenes aunque se niege el sujeto.)
- (E) Observe al sujeto un mínimo de (20) minutos antes de obtener un ejemplar de su respiro. (Ignora si se niega.)

Subject's Signature
Firma del Sujeto (Recibió una copia)

Officer's Signature
Firma del Agente

0310 date/time
fecha/hora



SOUTH CAROLINA LAW ENFORCEMENT DIVISION BREATH ALCOHOL ANALYSIS TEST REPORT DRIVING UNDER THE INFLUENCE



State #

SUBJECT BIOGRAPHICAL INFORMATION

SUBJECT NAME: CHRISTOPHER/L/JOHNSON
RACE: WHITE
SEX: M
DOB: [REDACTED]

DL NUMBER: 011326206
DRIVER'S LICENSE: SC
SUBJECT ADDRESS: [REDACTED] STARTEX, SC

ARREST INFORMATION

OFFICER NAME: JESSE/D/LOWE
TICKET NUMBER: 16342 FG
ARREST DATE: 03/18/2010

AGENCY ORI: SC0230200
COUNTY OF ARREST: 23 - GREENVILLE
ARREST TIME: 02:34

OPERATOR INFORMATION

TEST OPERATOR: JESSE/D/LOWE
CERTIFICATION #: DMT005283
SOLUTION LOT #: 09803
BREATH TEST VIDEO RECORDED? YES
SUBJECT'S MOUTH CHECKED AND
ANY FOREIGN MATERIAL REMOVED? YES
SUBJECT ADVISED OF APPLICABLE RIGHTS? YES

AGENCY ORI: SC0230200
EXPIRATION DATE: 05/27/2011
BOTTLE: 1018
SUBJECT INFORMED OF VIDEO RECORDING? YES
SUBJECT INFORMED OF TYPE SAMPLE REQUESTED? YES
SUBJECT OBSERVED FOR A MINIMUM OF (20)
TWENTY MINUTES? YES

SUBJECT'S BREATH ALCOHOL TEST RESULTS

DATAMASTER DMT SERIAL #116907

TEST DATE:		03/18/2010
OBSERVATION START TIME:		03:11:35
BLANK TEST	0.00	03:32:36
INTERNAL STANDARD	VERIFIED	03:32:42
0.08% SIMULATOR TEMPERATURE	33.99°C	03:33:01
0.08% SIMULATOR VERIFICATION	0.079	03:33:01
BLANK TEST	0.00	03:33:47
~~SUBJECT SAMPLE~~	~~REFUSED~~	~~03:33:55~~
BLANK TEST	0.00	03:36:27
INTERNAL STANDARD	VERIFIED	03:36:34

Subject's Signature

(Received Copy) Date/Time

Arresting Officer's Signature

Test Operator's Signature

VISIT WWW.SLED.SC.GOV AND CLICK ON IMPLIED CONSENT. THEN CLICK ON BREATH SITE VIDEO RECORDINGS. ENTER THE REQUESTED INFORMATION FROM THE BOX BELOW TO ACCESS THE VIDEO RECORDING OF THIS BREATH TEST:

Scanned by
IPB

SUBJECT ID: 0061340D53
SUBJECT PASSWORD: 29FEE

IMPORTANT NOTICE

INFORMATION FROM THIS REPORT WILL BE USED TO ACCESS THE BREATH TEST VIDEO. ANYONE WITH THIS INFORMATION WILL HAVE ACCESS TO THE VIDEO. PROTECT THIS REPORT AS YOU WOULD ANY IMPORTANT DOCUMENT. SLED ASSUMES NO RESPONSIBILITY FOR UNAUTHORIZED ACCESS.

WITNESSES
J. D. Lowe

Greenville Police Department
3/18/2010

ARREST WARRANT NUMBER
16342FG

ACTION OF GRAND JURY
TRUE BILL
Betty L. Davis
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2010-GS-23-
SLD
The State of South Carolina
County of Greenville

009683

COURT OF GENERAL SESSIONS
April TERM 2010

THE STATE
vs.
CHRISTOPHER LEE JOHNSON

✓
3356
Indictment for
DRIVING UNDER THE INFLUENCE
VIOLATION § 56-05-2930

RECEIVED
DEC 10 2010
Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
DRIVING UNDER THE INFLUENCE

At a Court of General Sessions, convened on **APR 12 2011** the Grand Jurors of Greenville
County present upon their oath:

That CHRISTOPHER LEE JOHNSON did in Greenville County, on or about the 18th day of March, 2010, drive a motor vehicle while under the influence of alcohol, or other drug or substance, or combination of alcohol, other drug and/or substance which caused impairment to the extent that the defendant's faculties to drive were materially and appreciably impaired; such not being the first offense within a period of ten (10) years including and immediately preceding the foregoing date. This is in violation of §56-05-2930 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

220

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenville

VS.

Christopher Lee Johnson

AKA:

Race: WHITE Sex: M Age: 28

DOB: SS#:

Address:

City, State, Zip: Startex, SC

DL#: 011326206 SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: DUI/Refusal 2nd

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS2309683

A/W#: 16342FG

Date of Offense: 3/18/2010

S.C. Code § : 56-05-2930

CDR Code #: 2982

SENTENCE SHEET

☒ CONVICTED OF or ~~STANDS~~

in violation of § 56-05-2930-2940(4) of the S.C. Code of Laws, bearing CDR Code # 3356

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)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:

Drawdy, Sara Lee

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 days/months/years or ☐ under the Youthful Offender Act not to exceed 9 years
and/or to pay a fine of \$ 2500; provided that upon the service of 9 days/months/years and/or payment
of \$ 1100; plus costs and assessments as applicable*; the balance is suspended with probation for 15months/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. 9 mo☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$1100.00

\$1182.50

\$100

\$100.00

\$12

\$25

\$500

\$25

\$150

\$50

\$40/ea

\$5

\$500

\$

PTUP

days/hours Public Service Employment

Obtain GED ☒

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☒Random Drug/Alcohol testing ☒Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other: Attends MADD impact course(Transfer to Spartanburg Co.)☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2137

Sentence Date: 10-11-2011

Clerk of Court/ Deputy Clerk

Court Reporter: Andrzej

SCCA/217 (03/2011)

Paul B. Wickman
prob. begins today

WITNESSES

J. D. Lowe

Greenville Police Department

3/18/2010

ARREST WARRANT NUMBER
16343FG

ACTION OF GRAND JURY

TRUE BILL

Bobby L. Davis

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2010-GS-23-009684

SLD

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April

20¹¹
TERM 2010

THE STATE

vs.

CHRISTOPHER LEE JOHNSON

Indictment for

0624

DRIVING UNDER SUSPENSION

VIOLATION § 56-01-0460

INDICTMENT FOR DRIVING UNDER SUSPENSION

APR 12 2011

the Grand Jurors of Greenville

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


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.
Christopher Lee Johnson

AKA:
Race: WHITE Sex: M Age: 28
DOB: SS#:
Address:
City, State, Zip: Startex, SC
DL#: 0011326206 SID#:

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

In disposition of the said indictment comes now the Defendant who was
TO: Dus / Driving Under Suspension, 1st Offense

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS2309684

A/W#: 16343FG

Date of Offense: 3/18/2010

S.C. Code § : 56-01-0460(2)

CDR Code #: 2055

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 56-01-0460(1) of the S.C. Code of Laws, bearing CDR Code # 0624

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

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:

Drawdy, Sara Lee 174
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☒ County Detention Center,

for a determinate term of 30 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.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 10-11-11

☐ 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

PTUP

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	\$ <u>100.00</u>
§ 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	\$ <u>25.00</u>
§ 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	\$ <u>5.00</u>
3% to County (if paid in installments)		\$
TOTAL		\$

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

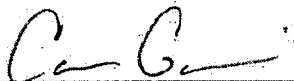
Sentence Date:

2137
10-11-2011

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 6th, 2013



Carmen V. Ganjehsani
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER LEE JOHNSON,

APPELLANT

Appellate Case No. 2011-201808

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err in denying the motion to dismiss Appellant's DUI charge after Greenville Police Department failed to comply with all of the mandatory videotaping provisions of S.C. Code § 56-5-2953 (2010) and failed to provide a valid reason for its willful violation of the video-recording requirements?

STATEMENT OF THE CASE

On April 12, 2011, Appellant Christopher Johnson was indicted by the Greenville County Grand Jury for driving under the influence (DUI) and driving under suspension (DUS). R. 218 – 223.

On October 10, 2011, Appellant proceeded to trial before the Honorable G. Edward Welmaker and a jury. R. 1. Appellant was represented by Daniel Farnsworth, and the State was represented by Sara Drawdy. R. 1.

On October 11, 2011, the jury found Appellant guilty as charged. R. 158, ll. 12-23. The trial court sentence Appellant to one year imprisonment suspended upon the service of nine months on the DUI conviction and thirty days imprisonment on the DUS conviction. R. 166, ll. 1-18. The trial court gave Appellant credit for serving two hundred and seventy-three days in pretrial detention and ordered Appellant to serve fifteen months probation. R. 160, ll. 17-19; 166, ll. 1-6. The sentences were to run concurrently. R. 166, ll. 17-18.

This appeal follows.

STATEMENT OF FACTS

Relevant Facts

Pre-trial, defense counsel moved to dismiss the DUI charge because the arresting officer's vehicle was not equipped with a video camera pursuant to section 56-5-2953 of the South Carolina Code.¹ R. 10, ll. 19 – 13, ll. 6. Defense counsel argued "that the facts in this case are very similar to the facts in [*Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 713 S.E.2d 278 (2011)]." R. 13, ll. 14-15. Defense counsel noted, "And we have no argument with respect to th[e] . . . breath site test." R. 14, ll. 8-11.

At the pre-trial hearing, Jesse Lowe of the Greenville County Police Department (GPD) stated that on March 18, 2010, he was the arresting officer in this case and he was driving a "*marked patrol vehicle*." R. 16, ll. 16-25 (emphasis added). Officer Lowe admitted that he signed an affidavit for failing to produce a videotape because "[his] *patrol car was not equipped with a video camera at the time of the incident*." R. 17, ll. 10-23 (emphasis added); Court's Exhibit # 1. Officer Lowe then maintained,

I observed [Appellant] back out of a parking space . . . within the city limits of Greenville, South Carolina with no lights on, headlights or tail-lights. I then . . . observed that one of his tail-lights was inoperable. And I also observed him stop at a red-light and then proceed through the intersection before the light had [turned] green and then again stop in the middle of the intersection.

R. 18, ll. 5-13.

¹ S.C. Code Ann. § 56-5-2953 (2010) (providing in relevant part: "(A) A person who violates Section 56-5-2930, 56-5-2933, or 56-5-2945 must have his conduct at the incident site and the breath test site videotaped. (1) The videotaping at the incident site must: (a) begin not later than the activation of the officer's blue lights and conclude after the arrest of the person for a violation of Section 56-5-2930, 56-5-2933, or a probable cause determination that the person violated Section 56-5-2945; and (b) include the person being advised of his Miranda rights before any field sobriety tests are administered, if the tests are administered."

Officer Lowe recalled that this observation prompted him to activate his blue lights and that Officer Donnie Ng arrived approximately two minutes later to assist in the traffic stop. R. 19, ll. 14-25. Officer Lowe revealed that, although Officer Ng *also* did not have an in-car video camera, Appellant's field sobriety tests were recorded by "a small [personally owned video] camera [Officer Ng] had on his person." R. 19, ll. 3-24.

On cross-examination, Officer Lowe noted that the marked patrol car "was a 2002 or 2003 model, Crown Vic." and that he was assigned to drive that patrol car about two months prior to this traffic stop. R. 23, ll. 11-16. Officer Lowe also admitted that as an officer for GPD he conducts traffic stops and issues tickets for traffic violations. R. 24, ll. 7-11.

The State then called Officer Joe Browning of GPD who works on "the financial side of the Police Department as a lieutenant." R. 25, ll. 1-10. Officer Browning stated that he was asked to review records regarding GPD's request for and ownership of video cameras. R. 25, ll. 15-20. Officer Browning then provided an outline of GPD's requests for video cameras and the dates for when cameras were provided by the State or bought by GPD. R. 25 – 72. Officer Browning further noted: (1) GPD purchased eighty-nine digital video cameras on February 23, 2010; (2) "[a]ll but twenty-one" of those cameras have been installed; (3) GPD had approximately one-hundred and seventy marked patrol cars; and (4) "*about eight to ten cars*" are for traffic enforcement. R. 56, l. 2 – 59, l. 23 (emphasis added).

Furthermore, Officer Browning admitted that GPD only wanted to equip new patrol cars with video cameras and that GPD refused the VHS video cameras that were immediately available from DPS in 2009 by requesting digital video cameras. R. 39, l. 13 – 40, l. 6; R. 65, l. 1 – 66, l. 4. In addition to Officer Browning's claim that VHS video cameras were problematic, he also claimed, "[a]t that point the city had already expended

quite a bit of funds heading toward a digital system.” R. 66, ll. 9-12.

On cross-examination, Officer Browning admitted that GPD had double and even triple the number of DUI cases in 2010 than it had in previous years. R. 76, ll. 6-16. Officer Browning also admitted that out of the GPD’s one-hundred and seventy marked cars, only about twenty-one had video cameras installed when Appellant was arrested. R. 78, ll. 4-18.

Elaine Johnson, Director of the Department of Resource Management for the Department of Public Safety (DPS), admitted that GPD is considered high producing based on the total number of arrests in 2002. R. 94, ll. 9-11. Johnson also revealed that DPS distributed the cameras based on the police departments with the greatest number of video camera requests. R. 97, l. – 101, l. 25; R. 104, ll. 12-17. Notably, Johnson indicated that other highly populated cities requested significantly more video cameras than GPD: Charleston Police Department requested two hundred cameras; and Columbia Police Department requested one hundred and ninety-three cameras compared to GPD’s request for twenty cameras. R. 101, ll. 16-25. Johnson further noted that GPD “received [the following number of video cameras from DPS:] one in 2002, five in 2003 and a total of fifteen in two different months[,] Ten in February and five in March.” R. 95, ll. 18-23.

The trial court ultimately denied Appellant’s motion to dismiss:

[M]y primary reliance is on footnote 15 of the [*Town of Mt. Pleasant v. Roberts*] opinion in light of Court exhibits 7, 11 and 15 in this case. And that’s solely the basis upon which I’m making this decision. Well, plus the interpretation of that statute and the totality of the circumstances and considering section (b) and section (g). . . . And I think that makes this case quite different from [*Town of Mt. Pleasant v. Roberts*] whereas Greenville was always seeking to get to the trough to get the equipment when they could, expending their own dollars in addition. So I respectfully deny your motion.

R. 114, l. 9 – Supp. R. 1, l. 8.

ARGUMENT

The trial court erred in denying the motion to dismiss Appellant's DUI charge after Greenville Police Department failed to comply with all of the mandatory videotaping provisions of S.C. Code § 56-5-2953 (2010) and failed to provide a valid reason for its willful violation of the video-recording requirements.

In *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 713 S.E.2d 278 (2011), the South Carolina Supreme Court found, "Our appellate courts have strictly construed section 56-5-2953 [of the South Carolina Code] and found that a law enforcement agency's failure to comply with these provisions is fatal to the prosecution of a DUI case."² See S.C. Code § 56-5-2953 (2010). Subsection (A) of section 56-5-2953 provides in relevant part: A person who operates a vehicle while under the influence of alcohol "*must have his conduct at the incident site . . . video recorded [and] . . . [t]he video at the incident site must begin not later than the activation of the officer's blue lights[.]*" (emphasis added).

However, subsection (B) of section 56-5-2953 outlines four exceptions that excuse noncompliance with subsection (A)'s mandatory video recording requirements. Specifically, a police department's failure to comply with the video recording requirement is excused when: (1) the arresting officer submits a sworn affidavit certifying the video equipment was inoperable despite efforts to maintain it; (2) the arresting officer submits a sworn affidavit that it was impossible to produce the video recording because either (a) the defendant needed emergency medical treatment or (b) exigent

² (citing *City of Rock Hill v. Suchenski*, 374 S.C. 12, 17, 646 S.E.2d 879, 881 (2007) (holding that "dismissal of the DUAC charge is an appropriate remedy provided by section 56-5-2953 where a violation of subsection (A) is not mitigated by subsection (B) exceptions") and *Murphy v. State*, 392 S.C. 626, 709 S.E.2d 685 (Ct. App. 2011) (recognizing the State's noncompliance with section 56-5-2953, which is not mitigated by a statutory exception, warranted dismissal; holding that video complied with section 56-5-2953(A) even though it did not capture a continuous full view of the accused at the incident site (citing *Suchenski*)).

circumstances existed; (3) in circumstances including, but not limited to, road blocks, traffic accident investigations, and citizen's arrests; or (4) for any other valid reason for the failure to produce the video recording based upon the totality of the circumstances. *See* § 56-5-2953(B).

Furthermore, subsection (G) of section 56-5-2953 provides in relevant part: "The provisions contained in Section 56-5-2953 (A), (B), and (C) take effect for each law enforcement vehicle used for traffic enforcement once the law enforcement vehicle is equipped with a video recording device." Our Supreme Court has held that police departments cannot "continually evade its duty [under subsection (A) of section 56-5-2953] by relying on subsection (G) of section 56-5-2953." *Roberts*, 393 S.C. at 347, 713 S.E.2d at 285. Thus, a police department's "failure to equip its patrol vehicles does not negate the application of the statutory exceptions in subsection (B)." *Id.*; *See* § 56-5-2953(B).

In this case, defense counsel moved to dismiss Appellant's DUI charge prior to trial because the arresting officer's vehicle was not equipped with a video camera pursuant to section 56-5-2953 of the South Carolina Code. R. 10, l. 19 – 13, l. 6. Defense counsel argued "that the facts in this case are very similar to the facts in [*Roberts*, 393 S.C. 332, 713 S.E.2d 278]." R. 13, ll. 14-15. Jesse Lowe of the GPD admitted at the pre-trial hearing: (1) he was the arresting officer in this case; (2) he was driving a "*marked patrol vehicle*;" (3) as a police officer for GPD he conducts traffic stops and issues tickets for traffic violations; and (4) he was required to draft an affidavit for failing to produce a videotape because "[his] *patrol car was not equipped with a video camera at the time of the incident.*" R. 16, l. 16 – 24, l. 11 (emphasis added); Court's Exhibit # 1. Officer Lowe further recalled that Officer

Donnie Ng arrived approximately two minutes later to assist in the traffic stop and that officer Ng recorded Appellant's field sobriety tests with "a small [personally owned video] camera [Officer Ng] had on his person." R. 19, ll. 3-25.

Additionally, Officer Joe Browning of GPD who works on "the financial side of the Police Department as a lieutenant" admitted that GPD only wanted to equip new patrol cars with video cameras and that GPD refused the VHS video cameras that were immediately available by requesting digital video cameras from DPS in 2009. R. 39, l. 13 – 40, l. 6; R. 65, l. 1 – 66, l. 4. Officer Browning also admitted that GPD had double and even triple the number of DUI cases in 2010 than it had in previous years. R. 76, ll. 6-16. Officer Browning further admitted that out of the GPD's one-hundred and seventy marked cars, only about twenty-one had video cameras installed when Appellant was arrested. R. 78, ll. 4-18.

Elaine Johnson, Director of the Department of Resource Management for the DPS, admitted that GPD is considered high producing based on the total number of arrests in 2002. R. 94, ll. 9-11. Johnson also revealed that DPS distributed the cameras based on the police departments with the greatest number of video camera requests. R. 97, l. – 101, l. 25; R. 104, ll. 12-17. Notably, Johnson indicated that other highly populated cities requested significantly more video cameras than GPD: Charleston Police Department requested two hundred cameras; and Columbia Police Department requested one hundred and ninety-three cameras compared to GPD's request for twenty cameras. R. 101, ll. 16-25.

Notably, the instant case mirrors the facts presented in *Town of Mt. Pleasant v. Roberts* because "the initial three exceptions did not apply and could not justify [GPD's] failure to videotape [all of Appellant's] DUI arrest" and "the only feasible exception is

that there was a 'valid reason' for the [GPD]'s failure to comply with the mandatory videotaping requirements [based upon the totality of the circumstances]." *Id.* at 347, 713 S.E.2d at 285-86. "Taking into consideration the purpose of section 56-5-2953, which is to create direct evidence of a DUI arrest," GPD's failure to request immediately available VHS camera equipment from DPS and equip its older patrol cars with video cameras "defeats the intent of the Legislature and violates the statutorily-created obligation to videotape DUI arrests." *Roberts*, 393 S.C. at 347, 713 S.E.2d at 285.

Same as in *Town of Mt. Pleasant v. Roberts*, the affidavit signed by the arresting officer was a form generated by GPD, which included a "check box" that stated: "At the time of the Defendant's arrest the vehicle I was operating had not yet been equipped with videotaping device and therefore pursuant to Section 18 of Senate Bill 174 of 1998, the videotaping requirement regarding vehicles is not applicable." R. 167; Court's Exhibit # 1. Although the backup Officer videotaped the field sobriety tests with a personal camera, not all of the videotape-recording requirements were met because a person who operates a vehicle while under the influence of alcohol "*must have his conduct at the incident site . . . video recorded [and] . . . [t]he video at the incident site must begin not later than the activation of the officer's blue lights[.]*" § 56-5-2953(A) (emphasis added).

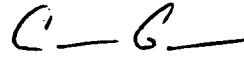
"By requiring a law enforcement agency to videotape a DUI arrest, the Legislature clearly intended strict compliance with the provisions of section 56-5-2953 and, in turn, promulgated a severe sanction for noncompliance." GPD's failure to request immediately available VHS camera equipment from DPS and equip its older patrol cars with video cameras was not a valid reason for not complying with the video-recording requirements. *See* § 56-5-2953; *see also Roberts*, 393 S.C. 332, 713 S.E.2d 278.

Accordingly, GPD failed to satisfy any of the statutory exceptions listed in subsection (B) of section 56-5-2953, and GPD's unexcused failure to video record *all* of Appellant's conduct initiating the traffic stop warranted dismissal of Appellant's DUI charge. *See Id.* (finding the Legislature imposes a statutory obligation on the State to create evidence and provides dismissal as a sanction for inexcusable noncompliance).

CONCLUSION

Based on the foregoing reasons, Appellant Christopher Johnson respectfully requests that this Court reverse his conviction and sentence for driving under the influence and dismiss this case pursuant to *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 713 S.E.2d 278 (2011).

Respectfully submitted,



Carmen V. Ganjehsani
Appellate Defender

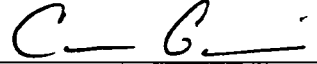
ATTORNEY FOR APPELLANT

This 24th day of May, 2013.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR.

May 24th, 2013



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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER LEE JOHNSON,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Mark Farthing, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 24th day of May, 2013.



Carmen V. Ganjeheh
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 24th day of May, 2013.


(L.S.)
Notary Public for South Carolina

My Commission Expires: October 2, 2013.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
Honorable G. Edward Welmaker, Circuit Court Judge
Appellate Case No. 2011-201808

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STATE OF SOUTH CAROLINA,

S.C. Supreme Court
RESPONDENT,

vs.

CHRISTOPHER LEE JOHNSON

APPELLANT

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

The trial judge properly declined to dismiss Appellant's driving under the influence case because, although the arresting officer's vehicle was not equipped with video recording equipment at the time of Appellant's arrest, the Greenville Police Department provided a valid reason for failing to comply with the video recording requirement of S.C. Code Ann. § 56-5-2953 and made substantial, good-faith efforts to obtain recording equipment for its vehicles prior to Appellant's arrest by requesting camera systems from the South Carolina Department of Public Safety and by independently purchasing its own camera systems.

STATEMENT OF THE CASE

In March of 2010, Appellant Christopher Lee Johnson was arrested following a traffic stop in Greenville, South Carolina. In April of 2011, the Greenville County grand jury indicted Appellant for one count of second-offense driving under the influence and one count of driving under suspension. On October 10, 2011, a jury trial was commenced in the Greenville County court of general sessions with the Honorable G. Edward Welmaker, circuit court judge, presiding. During trial, Appellant was represented by Daniel J. Farnsworth, and the State was represented by Assistant Solicitor Sara Lee Drawdy. At the conclusion of trial, the jury convicted Appellant as indicted. Following the verdict, the trial judge sentenced Appellant to a one-year term of imprisonment suspended to time served and fifteen months of probation for the driving under the influence conviction and a concurrent thirty-day term of imprisonment for the driving under suspension conviction. Subsequently, Appellant filed a timely notice of appeal.

STATEMENT OF FACTS

In the early morning hours of March 18, 2010, Officer Jesse Lowe of the Greenville Police Department was on patrol in the downtown area of Greenville, South Carolina. (R. p. 16; pp. 128-129). At that time, he was driving a seven-year-old marked patrol car that had not been equipped with video recording equipment. (R. pp. 16-17; pp. 22-23; pp. 149-150). Around approximately 2:00 a.m., he observed the driver of a red Ford Explorer back out of a parking spot and begin driving without activating his vehicle's headlights. (R. p. 38; p. 144; p. 154; pp. 179-180). The driver, Appellant Christopher Lee Johnson, then drove through a red light and stopped his vehicle in the middle of an intersection. (R. p. 18; p. 129). As a result, Officer Lowe initiated a traffic stop. (R. p. 18; pp. 129-130).

After stopping Appellant's vehicle, Officer Lowe made contact with Appellant and immediately noticed Appellant's eyes were glassy, he was wearing a wristband from a local bar, and he smelled of alcohol. (R. p. 18; pp. 130-131; p. 136). Officer Lowe then advised Appellant that he stopped him for several driving infractions and asked him if he had been drinking. (R. p. 130). Appellant responded that he drank "too much" and indicated he had at least six or seven beers. (R. pp. 130-131). Officer Lowe then ordered Appellant out of his vehicle and administered a series of field sobriety tests to him. (R. p. 19; pp. 131-136). The field sobriety tests were recorded on a personal camera by Officer Donnie Ng, another officer of the Greenville Police Department who arrived at the scene of the traffic stop shortly after the stop began, and Appellant was unable to successfully complete the tests. (R. pp. 18-19; p. 117; p. 119; p. 121; pp. 124-125; p. 150; Court's Ex. # 2 – D.V.D. Pocket Video). As a result, Officer Lowe arrested Appellant for driving under the influence. (R. p. 16; pp. 132-137).

Following Appellant's arrest, Officer Lowe transported Appellant to the Greenville County Detention Center for a breath alcohol test and advised Appellant of his implied consent rights. (R. p. 137; p. 139). Appellant signed an advisement of rights form but refused to submit to the breath alcohol test. (R. p. 139; p. 141; pp. 216-217). Thereafter, Officer Lowe prepared an affidavit in regards to his failure to produce a video recording of Appellant's conduct at the scene of the traffic stop stating his vehicle had not yet been equipped with recording equipment at the time of the stop. (R. p. 17; p. 167).

Subsequently, Appellant was indicted for second-offense driving under the influence and driving under suspension, and he proceeded to trial. (R. pp. 8-9; pp. 218-219; pp. 221-222). At the outset of trial, defense counsel moved for Appellant's case to be dismissed due to the fact that the traffic stop was not recorded as mandated by S.C. Code Ann. § 56-5-2953 as a result of Officer Lowe's vehicle not being equipped with video recording equipment at the time of the stop, and the trial judge conducted a pre-trial hearing on the motion. (R. pp. 10-13; p. 16).

During the pre-trial hearing, Officer Lowe testified he was driving an older vehicle at the time of the traffic stop that had not been equipped with video recording equipment. (R. p. 17). However, he noted he prepared an affidavit pursuant to the requirements of Section 56-5-2953 explaining why he failed to produce a video recording of Appellant's conduct at the scene of the traffic stop, and the affidavit was entered into evidence and presented to the trial judge. (R. pp. 17-18).

In addition to Officer Lowe's testimony, Lieutenant Joe Browning, who oversaw the budget of the Greenville Police Department and was responsible for dealing with procurement and supply issues for the department, testified about the efforts of the

Greenville Police Department to obtain and maintain video recording equipment for its fleet of law enforcement vehicles.¹ (R. pp. 24-25). During his testimony, Lieutenant Browning indicated the department initially received four vehicle camera systems prior to 2001 through a grant from the South Carolina Department of Public Safety ("D.P.S."). (R. p. 27; p. 30). Then, in December of 2001, he stated the department independently purchased approximately eighteen cameras from a private company at a cost of \$35,550 to the department, but those cameras began failing immediately after installation and were quickly taken out of service. (R. pp. 28-29). Subsequently, Lieutenant Browning indicated the department requested camera systems from D.P.S., was notified by D.P.S. in February of 2002 that it would begin receiving V.H.S.-based camera systems in response to the request, received a single camera system from D.P.S. in August of 2002, and received a total of twenty-one camera systems from D.P.S. by February of 2004.² (R. pp. 31-33; p. 60). Thereafter, Lieutenant Browning stated the department relied upon the camera systems provided by D.P.S. until the department elected to begin the process of independently purchasing digital recording systems towards the end of 2007 based on issues the department experienced with the V.H.S.-based camera systems provided by D.P.S.³ (R. pp. 34-35; p. 38; p. 42; p. 60). After deciding upon the digital recording

¹ At the time of Appellant's trial, the Greenville Police Department had approximately 160 to 170 marked patrol vehicles with only eight to ten vehicles primarily dedicated to traffic enforcement. (R. pp. 59-60). At the time of Appellant's arrest, Officer Lowe was not assigned to the traffic unit and, thus, was not driving one of the vehicles primarily dedicated to traffic enforcement. (R. pp. 23-24). However, as part of his job duties as an officer, Officer Lowe did conduct traffic stops and issue traffic citations. (R. p. 24).

² Lieutenant Browning confirmed all twenty-one camera systems received from D.P.S. were installed in department vehicles. (R. p. 31). However, none of those camera systems were still operational or in use by the time of Appellant's trial. (R. pp. 61-62; p. 181).

³ During that time period, the Greenville Police Department was not able to request any additional recording equipment from D.P.S. because D.P.S. decided to fully satisfy all of the initial requests for recording equipment before giving law enforcement agencies another opportunity to submit new requests for additional equipment. (R. pp. 62-63; p. 94; p. 97; pp. 101-102; p. 179). However, the Greenville Police Department was not aware it would be unable to request additional recording equipment while the initial

system that best served the department's needs, Lieutenant Browning testified the department began to purchase its own digital recording systems in February of 2010 and spent \$463,463.99 of its own funds in purchasing a total of eighty-nine digital recording systems by the date of Appellant's trial.⁴ (R. pp. 52-53; p. 56). In addition to purchasing the digital systems, Lieutenant also stated the department requested a total of forty additional digital recording systems from D.P.S. in April of 2009 and June of 2009, which was the first opportunity available to the department to request D.P.S. camera systems since 2002.⁵ (R. pp. 62-63; pp. 66-67; p. 78). Lieutenant Browning further testified the department intended to independently purchase more digital recording systems but noted the department's funding was limited. (R. pp. 69-71).

Furthermore, Elaine Johnson, an employee of D.P.S. and the Director of the Department of Resource Management at the time Section 56-5-2953 was enacted, testified about the efforts of D.P.S. to implement the legislation and provide video recording equipment to law enforcement agencies in South Carolina. (R. pp. 79-80). During her testimony, Johnson indicated the agency's funding was limited and was insufficient to purchase and provide all of the camera systems requested by the various law enforcement agencies throughout the state. (R. p. 84; p. 103). She testified D.P.S. only received sufficient funding to provide 600 camera systems in 2002, 260 camera systems in 2003, 390 camera systems in 2004, 330 camera systems in 2005, 380 camera

requests were still pending at the time it made its initial request to D.P.S. (R. p. 94; p. 102). Significantly, it took D.P.S. seven years to fully satisfy the initial requests. (R. p. 95).

⁴ At the time of Appellant's arrest in March of 2010, approximately thirteen of the independently-purchased digital systems had been installed and approximately seven or eight of the camera systems that the department received from D.P.S. were installed and still operational. (R. p. 77).

⁵ None of the digital recording systems requested from D.P.S. had been provided or received by the time of Appellant's trial due to pending requests from other law enforcement agencies that were considered to be higher priorities. (R. p. 74; pp. 97-101; pp. 208-214).

systems in 2006, 240 camera systems in 2007, 315 camera systems in 2008, 30 camera systems in 2009, and 500 camera systems in 2010 to the approximately 281 law enforcement agencies statewide eligible to receive the camera systems. (R. p. 96). She further stated it would take approximately fifteen additional years to equip every law enforcement vehicle in South Carolina with a camera system under the current funding structure, which only resulted in an average of \$165,000 per month in funding.⁶ (R. p. 83; p. 101). Regarding the Greenville Police Department, she testified the department was provide with one camera system in 2002, five camera systems in 2003, and fifteen camera systems in 2004. (R. pp. 93-94). She further stated the department requested additional digital camera systems and the request was currently pending. (R. p. 100).

At the conclusion of the pre-trial hearing, defense counsel asserted the decision in Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 713 S.E.2d 278 (2011), which he noted involved a law enforcement agency that asserted it had no obligation to purchase or request video recording equipment for its vehicles, was reached without the benefit of the testimony and evidence presented in Appellant's case. (R. p. 108). Based on the evidence presented in Appellant's case, defense counsel conceded the statutory video-recording requirement "was doomed from the start," stating:

I think this statute was doomed from the start because it was just so totally and inadequately funded that it was doomed to get in the financial shape it is now. In other words, all the state agencies are having problems, but I don't think the – this one was ever going to get off the ground just as we've heard today.

(R. pp. 108-109). However, defense counsel argued the requirements of Section 56-5-2953 were still in effect and asked the trial judge to "just consider everything [he had]

⁶ Johnson noted the cost of just one-hundred camera systems was \$285,000 for purchasing the systems, \$190,000 for installing the systems, \$250,000 for the first year of a warranty for the systems, \$225,000 for the second year of the warranty for the systems, and \$200,000 for the third year of the warranty for the systems. (R. p. 81).

heard today on the motion and render [his] decision.” (R. p. 109). In response, the solicitor noted the decision in Roberts recognized Section 56-5-2953(G) was a valid statutory provision and non-compliance with the requirements of Section 56-5-2953 could be excused in the event it was factually appropriate under the circumstances. (R. p. 109). Regarding the specific circumstances of Appellant’s case, the solicitor asserted the Greenville Police Department made substantial efforts to equip its vehicles with video recording equipment and had acted entirely in good faith. (R. pp. 112-113).

After considering the testimony and evidence presented during the pre-trial hearing along with the statements and arguments of counsel, the trial judge denied Appellant’s motion to dismiss the case. (R. p. 113). In reaching that decision, the trial judge found Appellant’s case was distinguishable from the circumstances involved in Roberts based on the fact that, unlike the law enforcement agency in that case, the Greenville Police Department “was always seeking to get to the trough to get the equipment when they could, expending their own dollars in addition.” (R. pp. 113-114).

Thereafter, during trial, Appellant stipulated he was knowingly driving with a suspended license on March 18, 2010, and Officer Lowe and Sergeant Ng recounted the circumstances of the traffic stop and Appellant’s arrest. (R. pp. 115-117; pp. 119-125; pp. 128-142; p. 215). Subsequently, at the conclusion of trial, the jury convicted Appellant as indicted. (R. p. 158). Following the verdict, the trial judge sentenced Appellant to an aggregate sentence of a one-year term of imprisonment suspended to time served and fifteen months of probation. (R. p. 166).

ARGUMENT

The trial judge properly declined to dismiss Appellant's driving under the influence case because, although the arresting officer's vehicle was not equipped with video recording equipment at the time of Appellant's arrest, the Greenville Police Department provided a valid reason for failing to comply with the video recording requirement of S.C. Code Ann. § 56-5-2953 and made substantial, good-faith efforts to obtain recording equipment for its vehicles prior to Appellant's arrest by requesting camera systems from the South Carolina Department of Public Safety and by independently purchasing its own camera systems.

Appellant contends the trial judge erred in denying his motion to dismiss his driving under the influence case. In support of that contention, Appellant maintains the arresting officer in his case failed to comply with the video recording requirement of S.C. Code Ann. § 56-5-2953 and the Greenville Police Department failed to provide a valid reason for its allegedly "willful" violation of the provisions of the statute. To the contrary, although the arresting officer's vehicle was not equipped with video recording equipment at the time of Appellant's arrest, the Greenville Police Department provided a valid reason to the trial judge that excused its failure to comply with the video recording requirement. Specifically, the evidence and testimony presented during the pre-trial hearing established the Greenville Police Department made concerted, good-faith efforts to obtain video recording equipment for its law enforcement vehicles by requesting video recording equipment from D.P.S. at every available opportunity and by expending a substantial amount of its own funds to independently purchase video recording equipment. Accordingly, in light of the actions taken by the Greenville Police Department to comply with the statutory requirements, the trial judge properly determined the Greenville Police Department presented a valid reason for the arresting officer's failure to record Appellant's conduct in accordance with the requirements of Section 56-5-2953. Appellant's convictions should be affirmed.

In criminal cases, appellate courts sit to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 828 (2001). “[A]n appellate court is bound by the circuit court’s factual findings unless they are clearly erroneous.” State v. Manning, 400 S.C. 257, 264, 734 S.E.2d 314, 317 (Ct. App. 2012).

Pursuant to Section 56-5-2953(A), a person who commits the offense of driving under the influence “must have his conduct at the incident site and the breath test site video recorded.” S.C. Code Ann. § 56-5-2953(A). However, the failure of an officer to record the conduct of an individual suspected of driving under the influence does not automatically entitle the individual to dismissal of the charges. S.C. Code Ann. § 56-5-2953(B). Instead, under the mandates of the statute:

Failure to comply with the video recording requirement is excused: (1) if the arresting officer submits a sworn affidavit certifying the video equipment was inoperable despite efforts to maintain it; (2) if the arresting officer submits a sworn affidavit that it was impossible to produce the video recording because either (a) the defendant needed emergency medical treatment or (b) exigent circumstances existed; (3) in circumstances including, but not limited to, road blocks, traffic accident investigations, and citizen’s arrests; or (4) **for any other valid reason for the failure to produce the video recording based upon the totality of the circumstances.**

Manning, 400 S.C. at 264, 734 S.E.2d at 317-138 (emphasis added). Furthermore, pursuant to Section 56-5-2953(G), the statute’s video recording requirement only takes effect “once the law enforcement vehicle is equipped with a video recording device.” S.C. Code Ann. § 56-5-2953(G).

Significantly, in Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 347, 713 S.E.2d 278, 285 (2011), the Supreme Court considered the issue of whether the requirements of Section 56-5-2953 applied in cases where a law enforcement vehicle had never been equipped with video recording equipment. In that case, Roberts was arrested for driving

under the influence at the conclusion of a traffic stop, but her conduct was not recorded because the arresting officer's vehicle had not been equipped with video recording equipment. Id. at 336, 713 S.E.2d at 280. Based on the failure of the arresting officer to record her conduct as required by Section 56-5-2953, Roberts moved to have her case dismissed. Id. at 337, 713 S.E.2d at 280. In support of her dismissal motion, Roberts presented testimony establishing that the Town of Mt. Pleasant Police Department had fewer cameras installed in its vehicles than other law enforcement agencies even though it had a significantly higher number of arrests for driving under the influence. Id. at 338, 713 S.E.2d at 281. Additionally, Roberts presented evidence establishing that the town was financially capable of purchasing additional cameras but had elected not to do so. Id. In response, counsel for the Town of Mt. Pleasant argued D.P.S. was solely responsible for providing cameras for law enforcement vehicles while contending the town had no duty whatsoever to either request or purchase any cameras. Id. at 339, 713 S.E.2d at 281. Despite the evidence presented by Roberts, the municipal court judge denied the dismissal motion, but a circuit court judge reversed the municipal court judge's ruling. Id. at 339-340, 713 S.E.2d at 281-282. Thereafter, the town appealed the circuit court judge's ruling, and the Supreme Court certified the town's appeal. Id. at 341, 713 S.E.2d at 282.

Subsequently, the Supreme Court affirmed the circuit court judge's decision to dismiss Roberts' case. Id. at 349-350, 713 S.E.2d at 287. In reaching that decision, the Supreme Court found "the Town's protracted failure to equip its patrol vehicles with video cameras, despite its 'priority' ranking, defeat[ed] the intent of the Legislature and violate[d] the statutorily-created obligation to videotape DUI arrests." Id. at 347, 713 S.E.2d at 285. Based on the circumstances of Roberts' case, the Supreme Court

determined the town's failure to request additional video cameras despite its "high ranking" for driving under the influence arrests was a disingenuous explanation for its failure to equip its vehicles with video recording equipment and did not constitute a valid reason pursuant to Section 56-5-2953(B) for excusing the officer's failure to record Roberts' conduct at the incident site. Id. at 348, 713 S.E.2d at 286. Accordingly, under the specific circumstances of Roberts' case, the Supreme Court found dismissal was the appropriate remedy. Id. at 349-350, 713 S.E.2d at 287. However, in affirming the dismissal of Roberts' case, the Supreme Court specifically noted:

Our decision should in no way be construed as eradicating subsection (G) of section 56-5-2953. Instead, **we emphasize that subsection (G) is still viable** and must be read in conjunction with subsection (B) as these exceptions, under the appropriate factual circumstances, could operate to excuse a law enforcement agency's noncompliance due to the failure to equip a patrol vehicle with a video camera. For example, we can conceive of a scenario where a law enforcement agency establishes a "valid reason" for failing to create a video of the incident side by offering documentation that, despite concerted efforts to request video cameras, it has not been supplied with the cameras from DPS.

Id. at 349, 713 S.E.2d at 286-287 (emphasis added).

In the case sub judice, the trial judge properly denied Appellant's motion to dismiss his case because, unlike the law enforcement agency in Roberts, the Greenville Police Department diligently attempted to obtain video recording equipment for its vehicles by requesting camera systems from D.P.S. at every available opportunity and by expending a substantial amount of its own funds to independently purchase camera systems for its vehicles. Specifically, contrary to the actions of the Town of Mt. Pleasant Police Department in Roberts, the Greenville Police Department requested camera systems from D.P.S. during the initial period for requesting cameras **and** requested additional camera systems at the next available opportunity to do so when D.P.S. first

began accepting new requests seven years later. However, D.P.S. had not yet been able to provide all of the requested camera systems to the Greenville Police Department at the time of Appellant's arrest due to its own funding issues and due to the number of higher-priority requests it had received from other law enforcement agencies. See id. at 349, 713 S.E.2d at 287 (acknowledging a law enforcement agency's concerted efforts to request cameras from D.P.S. that had not yet been supplied could constitute a valid reason for failing to create a video recording of the incident site in a driving under the influence case). Furthermore, unlike the Town of Mt. Pleasant Police Department in Roberts, the Greenville Police Department independently purchased video recording equipment using its own resources in 2001 and again beginning in 2009 at a cost to the department of approximately \$499,000 of its own limited funding. Thus, the testimony and evidence presented during the pre-trial hearing in Appellant's case established the Greenville Police Department did not intentionally seek to avoid its obligation to equip its vehicles with video recording equipment but, instead, both requested the equipment from D.P.S. as intended by the legislature and expended its own funds to secure additional equipment, which was not intended by the legislature in enacting the video recording requirement.⁷ See S.C. Code Ann. § 56-5-2953(B) ("Nothing in this section prohibits the court from considering any other valid reason for the failure to produce the video recording based upon the totality of the circumstances[.]"). Accordingly, under the specific circumstances of Appellant's case, the trial judge properly determined the

⁷ The legislature did not intend for individual law enforcement agencies to be required to pay the costs associated with equipping their vehicles with video recording equipment in order to comply with the statutory video recording requirement of Section 56-5-2953 and specifically provided for a funding source to pay for the recording equipment. (R. p. 80; p. 83). However, as defense counsel conceded during trial, the funding source provided by the legislature was simply unable to effectively meet the need of all of the law enforcement agencies in South Carolina requesting video recording equipment for their vehicles. (R. p. 90).

Greenville Police Department established a valid reason for failing to equip Officer Lowe's vehicle with video recording equipment at the time of Appellant's arrest, and the trial judge committed no error in denying Appellant's motion to dismiss his case. See Roberts, 393 S.C. at 338, n. 7, 713 S.E.2d at 281 ("[T]his argument [that the statutory video recording requirement was inapplicable until the law enforcement vehicle was equipped with video recording equipment] would be valid but for the Town's obvious intentional efforts to avoid complying with section 56-5-2953").

In arguing the trial judge erred in denying his dismissal motion, Appellant contends the Greenville Police Department failed to present a valid reason for not having Officer Lowe's vehicle equipped with video recording equipment at the time of the traffic stop. In support of that contention, Appellant maintains, for the first time on appeal, that the department "refused" V.H.S.-based camera systems that were allegedly available from D.P.S. prior to his arrest.⁸ (App. Br. p. 6). Initially, contrary to Appellant's contentions, the department did not "refuse" any camera systems offered by D.P.S. but, instead, simply requested digital recording systems compatible with the systems it was currently using and which it expended a substantial amount of its own funds to obtain. Furthermore, even if the Greenville Police Department had requested V.H.S.-based camera systems instead of or in addition to requesting the digital recording systems, it

⁸ Because the specific argument Appellant is now raising on appeal was not presented to the trial judge, it cannot properly be raised for the first time to the appellate court and should not be considered for the first time on appeal. See State v. Thomason, 355 S.C. 278, 288, 584 S.E.2d 143, 148 (Ct. App. 2003) ("[A] party cannot argue one theory at trial and a different theory on appeal."); State v. Adams, 354 S.C. 361, 380, 580 S.E.2d 785, 795 (Ct. App. 2003) ("[A] defendant may not argue one ground below and another on appeal."); see also State v. Patterson, 324 S.C. 5, 19, 482 S.E.2d 760, 767 (1997) ("Appellant is limited to the grounds raised at trial."); West v. Morehead, 396 S.C. 1, 14, 720 S.E.2d 495, 502 (Ct. App. 2011) ("Appellants make arguments and cite authorities in their briefs that were not presented to the trial court. These arguments are not preserved."); see, e.g., I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 725 (2000) ("Imposing this preservation requirement on the appellant is meant to enable the lower court to rule properly after it considered all relevant facts, law, and arguments." (emphasis added)).

still would not have received those systems by the time of Appellant's arrest in March of 2010. Critically, of the twenty law enforcement agencies considered to have higher priority needs than the Greenville Police Department, six of the agencies requested V.H.S.-based camera systems from D.P.S. in 2009. (R. pp. 208-214). Of those agencies that requested V.H.S.-based camera systems, the Greenville Sheriff's Office, which was considered to be the highest priority agency requesting that particular type of system, did not receive any of the requested camera systems until April 22, 2010, which was over a month after Appellant's arrest.⁹ Thus, even if the Greenville Police Department had requested V.H.S.-based camera systems as opposed to digital recording systems and even assuming the department was considered to be the highest priority agency of any of the requesting agencies, the department would not have received the camera systems from D.P.S. until after the date of Appellant's arrest. Thus, despite the Greenville Police Department's concerted and good-faith efforts to obtain video recording equipment for its vehicles by requesting and independently purchasing camera systems, the department was and would have been unable to obtain sufficient equipment to equip the vehicle of Officer Lowe with recording equipment at the time of Appellant's arrest. As a result, the Greenville Police Department had a valid reason for failing to meet the recording requirement of Section 56-5-2953, and the trial judge properly declined to dismiss Appellant's case under the circumstances. See S.C. Code Ann. § 56-5-2953(B) ("Nothing in this section prohibits the court from considering any other valid reason for the failure to produce the video recording based upon the totality of the circumstances[.]"). Therefore, Appellant's convictions should be affirmed.

⁹ Notably, the Anderson Sheriff's Office, which was also considered to be a higher priority agency than the Greenville Police Department, did not receive the V.H.S.-based camera systems it requested from D.P.S. until May of 2011, which was over a year after Appellant's arrest. (R. pp. 208-214).

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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May 8, 2013

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
Honorable G. Edward Welmaker, Circuit Court Judge
Appellate Case No. 2011-201808

THE STATE,

Respondent,

vs.

CHRISTOPHER LEE JOHNSON,

Appellant.

CERTIFICATE OF COUNSEL

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

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PROOF OF SERVICE

I, Angela S. Bennett, certify that I have served the within Final Brief of Respondent on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

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I further certify that all parties required by Rule to be served have been served.
This 8th day of May, 2013.


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