

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO GREENWOOD COUNTY
FRANK R. ADDY, Circuit Court Judge

GERALD R. GAINES,
Petitioner,

STATE OF South Carolina,
V.

Respondent
Appellate Case NO. 2015-000219

Response To JOHNSON Petition
Pro Se

RECEIVED

JUL 16 2015

S.C. SUPREME COURT

GERALD R. GAINES
PERRY CORRECTIONAL INST.
Q1B Rm 112 #222430
430 OAKLAWN ROAD
PELZER, S.C. 29669

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Issues Presented

Pg(1)

Whether petitioner's guilty plea was knowingly and voluntarily entered when he thought he was going to receive a sentence of 13 years, NOT the (20) years he did receive?

1. "Ineffective Assistance of Counsel"
(a). "ILL ADVISED (sic) of Guilty Plea"

IN AN AMENDMENT GERRARD R. GAINES FILED BY COUNSEL ON AUGUST 21, 2014 SAID INEFFECTIVE ASSISTANCE OF COUNSEL FOR "FAILURE TO FULLY APPRISE ME OF ALL THE CONSEQUENCES OF THE GUILTY PLEA. THEREFORE ALLOWING ME TO ENTER AN INVOLUNTARY PLEA: COUNSEL'S FAILURE TO OBJECT TO PETITIONER BEING SUBJECTED TO DOUBLE JEOPARDY IN VIOLATION OF THE SOUTH CAROLINA AND UNITED STATES CONSTITUTIONS; AND COUNSEL'S FAILURE TO INTERVIEW THE DRIVER OF THE OTHER VEHICLE INVOLVED IN THE ACCIDENT."
(B) COUNSEL'S FAILURE TO TELL ME THAT I HAD UNTIL THE END OF THE BUSINESS WORKING DAY TO MAKE A DECISION ON A GUILTY PLEA. I WAS ORIGINALLY REPRESENTED BY THE GREENWOOD COUNTY PUBLIC DEFENDER'S OFFICE, SHANE GORONSON: SHORTLY THEREAFTER, PRIVATE COUNSEL, CHRISTOPHER PRACHT & SARAH DRAWDY WERE HIRED TO REPRESENT ME ON ALL FOUR (4) INDICTMENTS (2011-GS-24-2067; 2068; 2012-GS-24-0541 & AN ABBEVILLE METH CHARGE.)

AT THE TIME THAT MR. SHANE GORONSON WAS REPRESENTING ME I RECEIVED A LETTER, FROM HIM. THAT LETTER IS ON FILE. EXHIBITS: STATE'S NO. 1, DESCRIPTION: LETTER - PUBLIC DEFENDER
EV = X Page # 31.

By that Letter I was suppose to have UNTIL the end of the Business day to either make a decision OR NOT. I was emotionally UNStable and VERY Confused as to exactly what I should do at that Time AND I DID NOT except the offer AT that time. I believed I still had at Least until the end of the Business Day to make up My Mind. I was immediately ESCORTED Back to the County Jail. Made numerous try's to get Back to the Courthouse, By asking to speak to Capt. Lonnie Smith. The NEXT MORNING I was transfered Back to Kershaw Correctional. So the First chance I got, I TRIED to call My Lawyer's, At Mr. Pracht OFFICE, I was told He was out For The Day AND Would Be Back ON Monday. When I talked to Mr. Pracht, He said it was to Late. A few Days Later I was served with a Notice of "Seeking Life Without Parole". I called Mr. Pracht BACK AND told Him I wanted That (13) year offer AND A CONVERSATION ENSUED. The Notice of "Life Without Parole" was Discussed at the same time. Bottomline, I was Lead to Beleive that Something Could still be done about the (13) years, But The Notice to seek "Life Without Parole", had to be handled first. I Felt that this was a way to threaten me OR Coercion me to take a guilty Plea.

Guilty Pleas Are Based on Principles of Contract Law

Guilty Pleas are Criminal in Nature but based on Principles of Contract Law. In Contract Law, when one party does NOT honor the terms of the Contract (i.e., Agreement); you have the right to sue to have them honor the contract. Example: IF two (2) parties have a contract with its written terms expressing the deal will be good until the end of the business day. This language represents that if the offer is originally declined a person still has the option of changing his mind AND accepting the contract as long as it's before the end of the business day.

IN a Criminal setting, as here, with a letter from the Public Defender's Office indicating such terms AND two (2) private lawyers, MRS. Drawdy AND Mr. Pracht falling in behind the public defender AND telling me the state had a plea offer of thirteen (13) years. This set of events should call for the court to investigate. I detrimentally relied on the promises of the state AND TO clarify ANY confusion about the plea offer.

See: Reed V. Becka, 511 S.E.2ND 396 (1999), & Santobello V. New York, 404 U.S. 257 (1971) & their progeny.

IN SPITE of Petitioners Declining the Initial offer, He contends he changed his mind ON the way back to the jail & PRISON AND MADE CONTINUOUS EFFORTS to contact his Lawyer's to tell them to except the plea offer. His Lawyer's had a duty to investigate his claims AND Relay to the STATE their client changed his mind timely AND DO to NO fault of the client the Deal should be honored.

(C) Counsel Failure to apprise me that a BLOOD TEST had to be taken within three(3) hours of the Accident. ON August 17, 2011 OFFICER ABERNATHY STARTED to chase me. (EX): APPENDIX Pg(74) Line(4) is the time 3:27 We went maybe a half mile. That is the time ON the Abbeville Incident Report. Which I have a copy of myself. So From Lets say 3:40 to the time of my BLOOD TEST was 6:50 OR 7:05 thats OVER three(3) hours. IT is to my UNDERSTANDING that I was UNDER ARREST ONCE OFFICER ABERNATHY put cuffs ON me AND Read me my MIRANDA RIGHTS. Which was By 3:40 P.M.

The Courts can go to Pg.(74-75) of The Appendix (Line#1) through (Line#25) AND ON TO Pg.(75)(Line#1) through (Line#22).

ALSO, I have The Abbeville Incident Report. I would like to Enter into Evidence, EXHIBIT'S: (NO.1 through NO.5) PETITIONER'S EXHIBIT'S, NO.1 Abbeville Incident Report, PETITIONER'S NO.2 Greenwood Incident Report, PETITIONER'S NO.3 South Carolina Law Enforcement Division - Urine/Blood Collection Report. PETITIONER'S NO.4 SC DPS EVIDENCE (LABORATORY ANALYSIS ELECTRONIC PACKING SLIP). PETITIONER'S NO.5 South Carolina Law Enforcement Division Breath Alcohol Analysis Test Report. I would like to Enter These EXHIBIT'S INTO the RECORD AS EVIDENCE.

As you can clearly see, The Abbeville Incident Report, AND The Greenwood Incident Report. They have different Arrival Times ON Them. Mr. STANLEY RYAN ABERNATHY ARRESTED Me AT The Scene of the WRECK AND Put Me in one of the Cars. I was Read My MIRANDA Rights AT That Time. Then Once The

South Carolina Highway Patrol Got There, MR. DONALD W. JR. TURNER. I WAS ReRead My MIRANDA RIGHTS AGAIN. BUT I WAS ALREADY UNDER ARREST AND IN CUFFS. HIS ARRIVAL TIME AS YOU CAN SEE: 4:19:00 P.M. ALSO NOTICE THE DIFFERENCE IN THE 24 HR. CLOCK. Abbeville (21:18), Greenwood OR Highway Patrol (23:30). THEN LOOK AT THE EXHIBIT NO. 3 (S.C.L.E.D. - URINE/BLOOD COLLECTION REPORT. (TIME OF ARREST: 16:57 P.M.), (TIME OF TEST: 18:50/19:05^E P.M.) IT IS VERY CLEAR THAT THE TIMES ARE DIFFERENT. AND BEYOND THE THREE (3) HOUR WINDOW. THIS ALONE SHOULD SHOW THAT MY LAWYER'S DID NOT DO THEIR JOB. AND THIS SHOWS THAT THIS WAS A CLEAR CASE OF "INEFFECTIVE ASSISTANCE OF COUNSEL".

IF THE EVIDENCE HAD BEEN SUPPRESSED, I COULD NOT HAVE EVEN BEEN CHARGED WITH DWI, AT ALL. LOOK AT (EXHIBIT NO. 5) SOUTH CAROLINA LAW ENFORCEMENT DIVISION BREATH ALCOHOL ANALYSIS TEST REPORT. SUBJECT: SAMPLE: (0.00). THE FACT THAT I WAS UNDER ARREST BETWEEN (15:27 AND 15:40) AND THE TIME OF TEST WAS (18:50 TO 19:05^E). THAT IS CLEARLY OVER THE THREE (3) HOUR COLLECTION SAMPLE WINDOW.

(D) Counsel's Failure to apprise Me that under Title §56-5-2950 The person tested or giving samples for testing may have a qualified person of his own choosing conduct additional test at his expense and must be Notified in Writing of that Right. I Don't Remember ever getting anything in Writing about this Right.

(E) Counsel's Failure to apprise Me that under S.C. Code ANN. § 56-5-2953(A)(Supp. 2000). That Beginning June 29, 1998. "(A) person who Violates (The DUI AND Felony DUI statutes) shall have His Conduct at the incident site AND breath test site Videotaped. At the incident site the Videotape MUST Begin NO Later than the activation of the Blue Lights AND must include ANY MIRANDA WARNINGS AND field sobriety Tests. § 56-5-2953(A)(1). The Videotaping at the breath test site must be completed within three(3) hours of arrest, unless the defendant needs emergency medical treatment as deemed necessary by "Licensed Medical personnel". ALSO IF the State fails to Make or Produce The Videotape From Either the scene or the testing site, the statute requires the officer to submit AN Affidavit specifying the "Reasonable efforts" made by the officer to explain Why

there is NO Video. The court considers these Reasons under a totality of the circumstances Standard.

I was never told that a videotape was suppose to be taken, or shown a videotape. Especially at the incident site. NOR WAS I EVER given a Field Sobriety test at ALL. The Fact Was that, Mr. STANley RYAN ABERNATHY Was in Fought of Protocol for chasing Me in A Residential, Area. And could Never produce A videotape that I knew of. IF you go to the Appendix on this case, ON page(98) Lines(#14-#19). You can see that My Lawyer Admitted it. Quotes (Lines #14-#19). quite FRANKly. We had -- there were problems with the case, quite FRANKly. And I honestly, our main trail STRATEGY -- OR our STRATEGY in the case was that OUR main defense that we argued was that ABERNATHY should have NEVER initiated to begin with. "Quote!"

Well, the fact was that Mr. ABERNATHY was Called OFF the chase. But He never pulled off the chase. And was suspended for that, for 30 OR 60 days, to My UNDERSTANDING. Abbeville County Officer: Mrs. Rhonda Hamby Green, Told Me that, Why I Was there at the County Jail, for these Charges. I Feel this speaks for itself. Lets Put Her ON the STAND, AND see for ourselves.

I was NEVER informed of the MINIMUM SENTENCE, OR the FINES that would be imposed ON Me. South Carolina Code ANN. §56-5-2945 (Supp. 2000). When Death Results FROM the Commission of the felony, the Penalty includes Both a mandatory Fine OF TEN THOUSAND Dollars to twenty-Five THOUSAND dollars, AND mandatory imprisonment of one to twenty-Five years, A class B felony. Additionally, There is a mandatory suspension of Driver's License For the period of imprisonment plus three (3) years. No part of the mandatory sentence may be suspended. It is a "SERIOUS OFFENSE" South Carolina Code §17-25-45 (c) (2) (Supp. 2000). You can see This in the Appendix of this case, that I was NEVER informed OF a Fine of ANY Kind. NOR the mandatory suspension OF Driver's License for the period OF imprisonment plus THREE (3) years.

I was NEVER informed of the minimum Sentence that I could receive if I plead guilty OR the FINES that would be imposed. I was further Misinformed about the amount of time I could Receive if I plead guilty.

(a). A Defendant waives Several Constitutional Rights by pleading guilty, the Fourteenth Amendment Due Process Clause requires that guilty pleas are entered into Voluntarily, Knowingly AND intelligently. See: Boykin V. Alabama, 395 U.S. 238 (1969); PITTMAN V. STATE, 337 S.C. 597, 524 S.E. 2d 623 (1999) AND there progeny.

Boykin Requires that a defendant be made aware of:

- YOUR Right to a Jury Trial;
- Your privilege against SELF INCRIMINATION; and
- Your Right to CONFRONT YOUR ACCUSERS.

Additionally, the South Carolina Supreme Court requires that a defendant entering a guilty plea be made aware of:

- The Nature; crucial elements of the offense
- The Maximum & MINIMUM penalty; and

- The Nature of the Constitutional Rights Being Waived.

See: Pittman, 524 S.E.2d AT 624 (S.C. 1999.)

Further, to find a guilty plea is voluntarily & knowingly entered into, the record must establish the Petitioner had a full understanding of the consequences of his plea AND the charges against him. See, Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 405 S.E.2d 391 (1991). IN determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. The "Transcript of Record" shows on page (25) Line#7. Quote: everything concurrent. Line#6: The Court: A total of 65 years today if I ran) Line#7: Everything concurrent, So how could I have understood if The Court did not know what was said, See: Harris v. Leake, 282 S.C. 131, 318 S.E.2d 360 (1984).

(B) Counsel testified at the evidentiary hearing that on Pg(5) (3rd) paragraph); Counsel stated "While Applicant might have been confused by the letter." My Lawyer admitted it himself, so how could he not know that I was confused.

(C) Petitioner's guilty plea was not entered voluntarily,

Knowingly, & intelligently, BUT was the Product OF ineffective assistance of Plea Council and a DENIAL OF Due Process of Law, IN VIOLATION OF The South Carolina Constitution Article I, Section three(3) and the UNITED STATES CON-stitution Fourteenth(14) Amendment.

(D) Council Failure to apprise me that the Motion Filed, "Life Without Parole" (OR) to seek "Life Without Parole" was in fact a way to COERCION me to take a guilty plea, "Was that the case"?

Facts

- Petitioner believed the (13) year offer was still ON the table.
- Petitioner was NEVER informed of the minimum sentence he could receive.
- Petitioner was NEVER informed of the fines that would be imposed.
- Petitioner was NEVER informed of the (3) hours Time, to collect BLOOD sample for BLOOD TEST.
- Petitioner was even misled about the maximum sentence he could receive.

Petitioner Further faced four(4) Serious charges:

- Failure to stop for Law enforcement resulting in Death, maximum sentence twenty Five (25) years;

- Felony DUI with great bodily injury carries Fifteen (15) years;
- Felony DUI resulting in Death carries twenty Five (25) years; AND
- The Abbeville-Meth charges Carries Fifteen (15) years. See Guilty Plea TRANSCRIPT pages 21 and 25.

The Trial Court Sentenceing advice was incorrect amongst other things. Petitioner faced eighty (80) yrs. Not sixty Five (65) as the Court INCORRECTLY STATED. See DOVER V. STATE, 405 S.E. 2d 391; Hazel V. STATE, 271 S.E. 2d 602 (1980) and Pittman V. State, 337 S.C. 597 (1999).

IN Spite of Petitioner's Declining of the Plea offer, he was still entitled to effective assistance OF COUNSEL. See Judge V. STATE, 321 S.C. 554, 471 S.E. 2d 146 (1996), overruled on other grounds by JACKSON V. STATE, 342 S.C. 95, 535 S.E. 2d 926 (2000).

Our S.C. Supreme Court, noted that the United States Supreme Court never decided the issue. But observing that most Federal and STATE Courts addressing the issue found that the right to effective

Pg(14)

assistance of Counsel attached not only to a defendant's decision to plead guilty but also to the refusal of a plea bargain, the Court found that the right to effective assistance attached during the plea bargaining process.

CONCLUSION

Petitioner is seeking the thirteen (13) years the state promised or in alternatively to have his sentence & guilty plea vacated, IF but not for Petitioner's Trial Counsel's ineffectiveness. Petitioner would not have accepted the guilty plea. Their conduct fell below reasonable professional norms. See Strickland v. Washington, 466 U.S. 668 (1984) and Hill v. Lockhart, 474 U.S. 52, 106 S. Ct. 683.

Dated: 7-13-15

/s/ Gerald R. Gaines
GERALD R. GAINES,
222430

RECEIVED

JUL 13 2015

P.C.I. MAILROOM

STATE of South Carolina

IN The Supreme Court

Appeal from Greenwood County

Frank R. Addy, Circuit Court Judge

RECEIVED

JUL 16 2015

GERALD GAINES,

Petitioner,

S.C. SUPREME COURT

V.

STATE of South Carolina,

Respondent

Appellate Case NO. 2015-000219.

Certificate of Service

I, GERALD GAINES (Petitioner) certify that I have this Day SERVED Petitioners Response to JOHNSON Petition; UPON the Supreme Court of South Carolina by depositing ONE originally in the UNITED STATES Mail (by AND through the PERRY Correctional Institution Legal Mail system).

The above has been served on the below address:

1. The Supreme Court of South Carolina

P.O. Box 11330

Columbia, South Carolina 29211

Sworn to AND subscribed before me

This 13th Day of July 2015

Notary Lamara Cinwell

Exp: September 25, 2023

/s/ Gerald Gaines

GERALD GAINES #222430

Q1B Rm 112

Perry Correctional Institution

430 OAKLAWN Road

PELZER, South Carolina 29669

0010000

CASE NUMBER 11-8-111 INQ. ENTD.

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. All Other Offenses {90Z}	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Highway/Road/Alley		<input type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input checked="" type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.
2. Drug Equipment Violations {35B}	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Highway/Road/Alley		
3.	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) HWY 252 AND EAST SUMMIT DRIVE WARE SHOALS, SC ZIP CODE 29646 WEAPON TYPE

INCIDENT DATE	24 HR. CLOCK	TO DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK	LOCATION NO.
8/17/2011	15:27	8/17/2011	21:18	8/17/2011 3:27:00 PM 3:27:00 PM	9:18:00 PM

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE
	#1 #2 #3	* JSOU						

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
---------	------	-------	----------	--------------

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE
Society/Public	#1 #2 #3	* JSOU						

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.
--------	--------	------	------	--

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
---------	------	-------	----------	--------------

VISIBLE INJURY (VICT. 1) YES NO EXPLAIN - COMPLAINT OF NON-VISIBLE INJURIES: YES NO

VICTIM (NO. 1) USING: ALCOHOL YES NO UNK. DRUGS: YES NO UNK. TYPE:

TWO-MAN VEH. ONE-MAN VEH. DETECTIVE/SPLASMT. OTHER ALONE ASSISTED J - This Jurisdiction, S - State, O - Out of State, U - Unknown

<input type="checkbox"/> SUSPECT	NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
<input type="checkbox"/> RUNAWAY	GAINES, GERALD RUSSELL									
<input type="checkbox"/> WANTED	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
<input type="checkbox"/> WARRANT	ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.					
<input checked="" type="checkbox"/> ARREST	PERSIMMON LANE	ANDERSON	SC	29622						
<input type="checkbox"/> JAIL	SUBJECT (NO. 1) USING ALCOHOL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK.	ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK.	DATE/TIME OF OFFENSE	DATE/TIME OF ARREST						
<input type="checkbox"/> SUMMONS	DRUGS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. TYPE:	TOTAL # ARRESTED:								

FAILURE TO STOP FOR BLUE LIGHTS WITH DEATH RESULTING
 MANUFACTURE METH
 ON THE ABOVE DATE AND TIME WHILE CONDUCTING SURVEILLANCE FROM THE HICKORY POINT PARKING LOT LOCATED ON HWY 252 WARE SHOALS, SC, ABBEVILLE CO, I OBSERVED A BURGANDY TOYOTA OCCUPIED BY FOUR SUBJECTS PULL INTO THE PARKING LOT DRIVING BY MY LOCATION. I OBSERVED THAT ALL THE SUBJECTS WERE NOT WEARING SEATBELTS, AND TURNED AROUND LOOKING AT ME APPEARING TO BE CONCERNED ABOUT MY PRESENCE. THE VEHICLE PULLED TO THE FAR SIDE OF THE PARKING LOT WHERE MR WOOD EXITED AND ENTERED THE STORE. I ASKED 911 TO RUN THE VEHICLE

TYPE(GROUP)	Drug/Narcotic Equipment	TOTAL VALUE
STOLEN		
DAMAGED		
BURNED		
RECOVERED		
SEIZED	1	1
FORGED		

SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED <input type="checkbox"/> UNFOUNDED	<input type="checkbox"/> ARRESTED UNDER 18 <input checked="" type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR UNDER 18 <input type="checkbox"/> EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH. 2. <input type="checkbox"/> NO PROSECUTION. 3. <input type="checkbox"/> EXTRADITION DENIED. 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION. 5. <input type="checkbox"/> JUVENILE-NO CUSTODY					
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
ABERNATHY, STANLEY RYAN	8/17/2011	394	SCOTT, BRANDON E		395
			FOLLOW-UP INVESTIGATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	OFFICER	

Exhibit NO.2 Greenwood

AGENCY I.D.
SCO24SP00

INCIDENT REPORT

CASE NUMBER
1993-075463

EVENT		ACIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE		UNITS ENTERED	TYPE VICTIM		
1.		Driving under the Influence (90D)		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	Highway/Road/Alley			<input type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst <input type="checkbox"/> Government <input type="checkbox"/> Relig Organ <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off		
2.				<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO						
3.				<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO						
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)		SALUDA AVE AND E SUMMIT DR GREENWOOD COUNTY SC				ZIP CODE		WEAPON TYPE			
INCIDENT DATE		24 HR. CLOCK		DATE		24 HR. CLOCK		DISPATCH DATE/TIME		24 HR. CLOCK	
8/17/2011		15:40		8/17/2011		23:30		8/17/2011		3:40:00 PM	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT		RACE		SEX		AGE	
						*J SOU					
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.			
VICTIM'S NAME (LAST, F. RST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT		RACE		SEX		AGE	
Society/Public						*J SOU					
HEIGHT		WEIGHT		HAIR		EYES		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.			
ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.			
VISIBLE INJURY (VICT. 1)		<input type="checkbox"/> YES <input type="checkbox"/> NO		EXPLAIN -		COMPLAINT OF NON-VISIBLE INJURIES:		<input type="checkbox"/> YES <input type="checkbox"/> NO			
VICTIM (NO 1) USING ALCOHOL		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK.		DRUGS:		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK.		TYPE:			
TWO-MAN VEH. C		ONE-MAN VEH. D		DETECTIVE/SPLASH. I		OTHER J		ALONE L		ASSISTED O	
J - This Jurisdiction: S - State, O - Out of State, U - Unknown											
SUSPECT NAME (LAST, FIRST, MIDDLE)		RACE		SEX		AGE		ETH.		DATE OF BIRTH	
GAINES, GERALD RUSSELL		W		M		52		N			
SUSPECT WANTED		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
WARRANT		ADDRESS		CITY		STATE		ZIP CODE		LOCATION NO.	
ARREST		PERSIMMON LN		ANDERSON		SC		29626			
JAIL		SUBJECT (NO 1) USING ALCOHOL		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK.		ARRESTED NEAR OFFENSE SCENE		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK.		DATE/TIME OF OFFENSE	
SUMMONS		DRUGS		<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK. TYPE:		TOTAL # ARRESTED:				DATE/TIME OF ARREST	
NARRATIVE		<p>ON THE ABOVE DATE AND TIME I RESPONDED TO A COLLISION INVOLVING TWO VEHICLES ON SALUDA AVE AND EAST SUMMIT ST IN THE TOWN OF WARE SHOALS IN GREENWOOD COUNTY. UPON ARRIVAL I OBSERVED A WHITE FORD EXPLORER WHICH WAS OVERTURNED OFF THE NORTH SIDE OF THE ROADWAY AND A BURGANDY TOYOTA CAMRY WHICH WAS LOCATED ON THE NORTH SIDE OF THE ROADWAY RESTING AGAINST THE GUARD RAIL OF THE NORTHBOUND SHOULDER OF THE ROADWAY. UPON SPEAKING WITH EMS I LEARNED THAT A FEMALE OCCUPANT OF THE FORD EXPLORER WAS DECEASED, AND THE OTHER OCCUPANTS OF THE VEHICLE WERE BEING TRANSPORTED TO SELF ER IN GREENWOOD COUNTY. THE SOLE OCCUPANT MR GERALD RUSSELL GAINES WAS IDENTIFIED BY WITNESSES</p>									
PROPERTY REST.		TYPE(GROUP)		STOLEN		DAMAGED		BURNED		RECOVERED	
										TOTAL VALUE	
ADMINISTRATIVE		SUBJECT IDENTIFIED		<input type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED		<input type="checkbox"/> YES <input type="checkbox"/> NO		ACTIVE (ADM. CLOSED)	
										<input type="checkbox"/> UNFUNDED	
										<input type="checkbox"/> ARRESTED UNDER 18	
										<input type="checkbox"/> ARRESTED 18 AND OVER	
										<input type="checkbox"/> EX-CLEAR UNDER 18	
										<input type="checkbox"/> EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE:		1. OFFENDER DEATH		2. (1) NO PROSECUTION		3. EXTRADITION DENIED		4. VICTIM DECLINES COOPERATION		5. JUVENILE-NO CUSTODY	
REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER	
TURNER, CONRAD W JR		8/17/2011		7358		MAY, CHRISTOPHER R		8/17/2011		580	
						FOLLOWUP OFFICER					
						INVESTIGATION		<input type="checkbox"/> YES <input type="checkbox"/> NO			

SOUTH CAROLINA LAW ENFORCEMENT DIVISION - URINE/BLOOD COLLECTION REPORT

Subject: Gaines Gerald Russell (24) Greenwood
Last Name First Name Middle Name County of Arrest

Subject's Address: Pecsimon Ln Anderson SC 29626

Driver's License Number: _____ State: SC DOB: _____ Sex: M Race: W

Arresting Officer: D.W. Turner Agency: SCHP

Date of Arrest: 8/17/11 Time of Arrest: 1657 AM/PM Traffic Ticket Number: F154417

Date of Test: 8/17/11 Time of Test: 1850/1905 AM/PM Location of Collection: Self Regional Health Care

CHECK THE FOLLOWING (CHECK BOTH IF APPLICABLE)

- Subject is under arrest for Section 56-5-2930, 56-5-2933, 56-5-2945, 56-1-2120, 50-21-112, 50-21-113 or 23-31-415; or is in violation of Section 56-5-2945, 50-21-113 or 56-1-286 of the 1976 South Carolina Code of Laws as amended.
- Subject has been advised in writing of his/her Implied Consent Rights.

CHECK THE CORRECT ONE (ONLY ONE CAN APPLY)

- Subject has completed a valid breath test (DataMaster reading: _____) and the officer has reasonable suspicion that the subject is under the influence of drug(s) other than alcohol therefore a urine sample is requested.
- Subject has not completed a valid breath test and a voluntary blood sample has been requested to test for the presence of volatiles and/or drugs.
- Subject is unconscious or otherwise incapable of refusal (has not taken a breath test) and is considered informed, therefore, a blood sample is requested.
- A blood sample is requested by the arresting officer because a licensed medical person has informed the officer that the subject is unable to take a breath test at this time due to any reason deemed acceptable by that licensed medical person.

Name and Title of Licensed Medical Personnel: _____ (Please Print)

Signature of Licensed Medical Personnel: _____

- Subject is under arrest for, or in violation of, Section 56-5-2945 (Felony DUI) or 50-21-113 (Felony BUT), and, pursuant to Section 56-5-2946 or 50-21-116, a blood sample or a blood and urine sample is/are requested.
- A blood sample is requested by the subject for his/her own independent test.

THIS SECTION TO BE CHECKED BY SAMPLE COLLECTOR

- Using a non-ethanol prep, a blood sample was collected into an unused, uncontaminated vial and given directly to the arresting officer (or to the subject requesting sample for his/her independent test) after collection.
- A urine sample was collected into an unused, uncontaminated container and given directly to the arresting officer after collection.

Name of Licensed or Trained Collector: Deborah Pope CPT / ASPT (Please Print)

Signature of Licensed or Trained Collector: Deborah Pope CPT / ASPT


FINAL CHECKS FOR LAW ENFORCEMENT OFFICER

- Sample collection was under my direct supervision.
- Sample container is properly labeled with the subject's name and time of collection.
- Sample is properly sealed and ready for transport.

Signature of Officer: D.W. Turner Date: 8/17/11

I Donald R. Davis received a copy of this report on 8/17/11
(Subject's Signature) Date

Copy to: Subject, Hospital, SLED

Case # 11-24-HP2-090	
SCDPS EVIDENCE	
Item #001	Record #TURNER
Name: GAINES, GERALD, RUSSELL	
	

Laboratory Analysis Electronic Packing Slip

Print Packing Slip New Case Back Logout

Case Information

Sent electronically to Lab: (08/19/2011 @ 09:38)

SLED Forensic Services



Department Case: 1124HP2090 Submission # 1

- Department: *PRELOG FOR* S.C. Highway Patrol Troop #2 [SCSHP0200] / User Name: SCHP Central Evidence
- Department Case: 1124HP2090
- Submission Number: 1
- Case Officer Pick: Trp. Donald Turner
- Officer Name: Trp. Donald Turner
- Officer Email: dwtturner@schp.org
- Officer Phone: 800-768-1502
- Offense Date: 08/17/2011
- Offense Location: US-25 Saluda Ave
- County: Greenwood
- Case Type: FELONY DUI WITH DEATH
- Case Comments: Felony DUI W/Death Blood & Urine cc: clopperman@schp.org

Submission Information

- Crime Scene Number:
- Crime Scene Location: US-25 Saluda Ave
- Delivery Type: Hand Delivered
- Comments: Felony DUI W/Death Blood & Urine cc: clopperman@schp.org
- Date Sent: 08/19/2011

Name Information

Name Type	Full Name	Date Of Birth	Sex	Race
Victim	Fowler, Sandy R.	1/5/1990	Female	White/Caucasian
Suspect	Gaines, Gerald Russell	5/30/1959	Male	White/Caucasian
Victim	Turner, Jimmy Alber	1/26/1958	Male	White/Caucasian
Victim Deceased	Williams, Linda Diane	1/12/1956	Female	White/Caucasian

Analysis Request Information

Item Number	Package	Item Type Code	Item Description	Serial Number	Exam Requests	Date Collected
001	DUI kit	[077]Blood (Toxicology)	Gerald Russell Gaines		TOX-DUI Blood	08/17/2011 18:50
002	DUI kit	[078]Urine	Gerald Russell Gaines		TOX-DUI Urine	08/17/2011 19:05

A1
A2

8/22/11

LA FRICK
Print Name

Case # 11-24-HP2-090

SCDPS EVIDENCE

Item #001 Record #TURNER

Name: GAINES, GERALD, RUSSELL



SOUTH CAROLINA LAW ENFORCEMENT DIVISION
BREATH ALCOHOL ANALYSIS TEST REPORT
FELONY DRIVING UNDER THE INFLUENCE



SUBJECT BIOGRAPHICAL INFORMATION

SUBJECT NAME: GERALD/W/GAINES
RACE: WHITE
SEX: M
DOB: 05/20/1959

DL NUMBER: [redacted]
DRIVER'S LICENSE: [redacted]
SUBJECT ADDRESS: 1 PERSIMMON LN
ANDERSON, SC

ARREST INFORMATION

OFFICER NAME: DONALD/W/TURNER
TICKET NUMBER: F154417
ARREST DATE: 08/17/2011

AGENCY ORI: SCSHP0200
COUNTY OF ARREST: 24 - GREENWOOD
ARREST TIME: 16:57

OPERATOR INFORMATION

TEST OPERATOR: DONALD/W/TURNER
CERTIFICATION #: DM7004009
SOLUTION LOT #: 11801
BREATH TEST VIDEO RECORDED? YES
SUBJECT'S MOUTH CHECKED AND
ANY FOREIGN MATERIAL REMOVED? YES
SUBJECT ADVISED OF APPLICABLE RIGHTS? YES

AGENCY ORI: SCSHP0200
EXPIRATION DATE: 01/03/2013
BOTTLE: 0650
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 #108607

TEST DATE:		08/17/2011
OBSERVATION START TIME:		17:47:41
BLANK TEST	0.00	18:08:40
INTERNAL STANDARD	VERIFIED	18:08:47
0.08% SIMULATOR TEMPERATURE	33.99°C	18:09:05
0.08% SIMULATOR VERIFICATION	0.080	18:09:05
BLANK TEST	0.00	18:09:55
SUBJECT SAMPLE	0.00	18:10:25
BLANK TEST	0.00	18:11:15
INTERNAL STANDARD	VERIFIED	18:11:22

Donald R. Gaines

Subject's Signature

8/17/11 1913

(Received Copy) Date/Time

[Signature]

Arresting Officer's Signature

[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:

SUBJECT ID: 0172BE93A5
SUBJECT PASSWORD: B0F4E

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.

Gerald Gaines, # 222430
Q1B Rm 112T
Perry Correctional Institution
430 Oaklawn Road
Pelzer, South Carolina
29669

THE SUPREME COURT OF SOUTH CAROLINA
DANIEL E. SHEAROUSE, CLERK OF COURT
Post Office Box 11330
Columbia, South Carolina
29211

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F.C.I. MAILROOM