

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

NOV 18 2014

APPEAL FROM LEXINGTON COUNTY

SC Court of Appeals

G. Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL PAUL DIXON,

APPELLANT

APPELLATE CASE NO. 2014-000574

RECORD ON APPEAL

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

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

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

Attorney for Appellant

Attorneys for Respondent

INDEX

INDEX.....i
GUILTY PLEA TRANSCRIPT DATED OCTOBER 15, 20131
INDICTMENT21
CERTIFICATE OF COUNSEL.....23

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF LEXINGTON)

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT OF RECORD
5 V.) 2013-GS-32-914
6 MICHAEL PAUL DIXON,)
7 DEFENDANT.)

8
9 October 15, 2013
10 Lexington, South Carolina

11 B E F O R E:

12 The Honorable G. Thomas Cooper, Judge

13
14 A P P E A R A N C E S:

15 Michael D. Ross, Deputy Solicitor
16 Attorney for the State

17 Erik J. Drylie, Assistant Public Defender
18 Attorney for the Defendant

19
20 Stacy S. Johnson, RPR
21 Circuit Court Reporter

22
23 COPY
24
25

I N D E X

NO EXHIBITS WERE INTRODUCED

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

1 (The following proceedings were held on
2 October 15, 2013.)

3 THE BAILIFF: Keep your seat, please. The
4 Court's now in session.

5 THE CLERK: Michael Dixon, come around.
6 Indictment 2013-GS-32-914, the State versus Michael
7 Paul Dixon, indicted for manufacturing methamphetamine,
8 second offense. He is pleading as charged, signed and
9 properly attested to, true billed, and he is represented
10 by Mr. Erik Drylie.

11 Raise your right hand, sir.

12 MICHAEL PAUL DIXON,
13 having been duly sworn, testified as follows:

14 THE BAILIFF: Your Honor, excuse me. Do you want
15 to see about a probation agent?

16 THE COURT: Well, maybe we better have one
17 present.

18 Mr. Drylie, you represent Michael Dixon?

19 MR. DRYLIE: I do, Your Honor.

20 THE COURT: You've advised your client of the
21 charges pending and his right to a trial by jury?

22 MR. DRYLIE: I have, Your Honor.

23 THE COURT: Has your client indicated how he
24 wishes to plead?

25 MR. DRYLIE: He wishes to plead guilty, Your

1 Honor.

2 THE COURT: Mr. Dixon, you're charged in this
3 indictment with manufacturing methamphetamine, second
4 offense. The charge carries a penalty of a minimum of
5 five years in jail and a maximum of thirty years in
6 jail. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Understanding the charge you're
9 facing and the punishment you could receive, how do you
10 wish to plead; guilty or not guilty?

11 THE DEFENDANT: Guilty.

12 THE COURT: You understand by pleading guilty
13 you've given up your right to remain silent?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You understand by pleading guilty
16 you've given up your right to a trial by jury?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: If you request or demand a trial, the
19 State will give you a trial. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: In that right to trial, you have the
22 right to confront and cross-examine all witnesses
23 against you. You have the right to present any
24 witnesses and/or evidence in your own defense, you'd
25 have the right to testify in your own defense if you

1 wish to do so, but no one can make you testify at your
2 own trial. If you decide to go to trial and not
3 testify, the judge would tell the jury they could not
4 hold your failure to testify against you. In fact, the
5 jury could not even consider your failure to testify in
6 their deliberations on your guilt or innocence. You'd
7 be presumed innocent throughout your trial. The State
8 would have to prove you guilty beyond a reasonable doubt
9 to a jury of twelve people and all twelve people would
10 have to unanimously agree that you are guilty. Even if
11 you were convicted, you'd still have the right to appeal
12 that conviction. Do you understand your rights with
13 regard to a trial by jury?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Understanding those rights, do you
16 still want to plead guilty?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Has anyone promised you anything,
19 held out any hope of reward, threatened you in any
20 manner to make you plead guilty?

21 THE DEFENDANT: No, sir.

22 THE COURT: You're satisfied with the manner in
23 which your attorney's advised and represented you in
24 this case?

25 THE DEFENDANT: Yes, sir, very much.

1 THE COURT: You and your attorney have fully
2 discussed the charges against you?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Has he done everything you've asked
5 him to do in preparation for this plea?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You're satisfied with his advice?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Are you under the influence of any
10 alcoholic beverages, drugs or prescription medications
11 at this time?

12 THE DEFENDANT: No, sir.

13 THE COURT: Are you taking any type of prescribed
14 medication at this time?

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you have any mental condition that
17 would keep you from understanding what you're doing here
18 today?

19 THE DEFENDANT: No, sir.

20 THE COURT: You're pleading guilty of your own
21 freewill and accord?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Solicitor, give me a
24 factual basis for the record.

25 MR. ROSS: Thank you, Your Honor. May it please

1 the Court. This incident occurred on January 24, 2013,
2 at about 4:30 in the morning. Officers responded to
3 1633 Southbound Road to an anonymous complaint of
4 methamphetamine manufacturing. They arrived on the
5 scene, parked their cars on the roadway and when they
6 got out of their cars they immediately smelled the odor
7 consistent with methamphetamine production. Those
8 officers had prior field experience with the drug and
9 knew that an active meth lab was in process and they
10 also knew about the dangers associated with these meth
11 labs as described yesterday in the testimony.

12 At that point they entered onto the property,
13 walked about 170 yards down a long driveway and
14 ultimately reached the shed where Mr. Dixon was making
15 methamphetamine. By the time they got to the shed, the
16 smell was overwhelming. They entered the shed, found
17 Mr. Dixon with a container jar or plastic bottle in
18 between his legs. When they announced their presence,
19 he attempted to hide that container, but he had
20 essentially been caught red-handed, Judge.

21 At that point they removed Mr. Dixon as well as
22 a second individual named Christopher Dubose who was
23 in that shed. They made contact with the occupants of
24 the residence who was Mr. Dixon's girlfriend and her
25 sixteen-year-old son who were asleep at the time. Then

1 they got a search warrant, and that was Agent Frank
2 Finch that got the search warrant, executed the warrant,
3 and in that shed they found essentially an active
4 one-pot cook shake-and-bake meth lab.

5 Your Honor, I'm sure you hear these cases out in
6 Kershaw County all the time. I go can over the process
7 and the significance of all the items that were found
8 and how it relates to a meth lab, if you'd like it.

9 THE COURT: We don't hear them all the time.

10 MR. ROSS: What's that?

11 THE COURT: We don't hear them all the time.

12 MR. ROSS: Well, essentially what you have is, is
13 two steps.

14 THE COURT: I am -- I'm familiar with it.

15 MR. ROSS: Okay. They found -- the reaction
16 vessel was the item that was in between his legs.
17 That's where the chemicals react and convert Sudafed
18 into methamphetamine. They also found an acid generator
19 in the shed as well. That's involved because that
20 converts the liquid methamphetamine into a solid form.
21 They also found all the other ingredients that you would
22 need to make meth in that shed. They found drain
23 opener, starter fluid -- cans of starter fluid, which
24 contain ether, cold packs that have ammonium nitrate.
25 Those cold packs were opened to remove the ammonium

1 nitrate to -- to make the meth. They found salt,
2 lithium batteries, the whole nine yards. They also
3 found finished product bagged separately. I believe
4 there was 1.7 grams in total. Correct me if I'm wrong,
5 Mr. Drylie, but ---

6 MR. DRYLIE: I don't know offhand.

7 MR. ROSS: Two separate bags. A Mason jar
8 that also had powdery substance in it as well that's
9 presumed to be meth. They also searched the house and
10 found finished product in the house as well. And,
11 most importantly, in his pocket they found two packs
12 of pseudoephedrine; unopened blister packs of
13 pseudoephedrine.

14 After they executed the search, they arrested
15 the Defendant for manufacturing meth, arrested Dubose
16 for manufacturing meth, arrested Ms. Gantt, the woman
17 in the house, for possession of meth, the finished
18 product that was in the house. They then ran their
19 Sudafed purchases. There's a national database that
20 captures all the purchases of meth -- or not meth, but
21 of Sudafed from pharmacies. You've got to give your
22 -- they card you nowadays to buy Sudafed and those
23 purchases indicated that Mr. Dubose had bought meth that
24 -- or bought Sudafed that evening as well as Ms. Gantt.
25 It also indicated that he had made tons of recent

1 purchases and had been blocked in January. He had
2 already purchased his legal limit in January, Your
3 Honor.

4 The most concerning part of this case, Your
5 Honor, is his prior record. He was on probation for
6 manufacturing methamphetamine at the time of this
7 arrest. He pled guilty on October 18, 2011, in front
8 of Judge Keesley to manufacturing meth, first offense,
9 and was given probation.

10 THE COURT: Straight probation?

11 MR. ROSS: He did -- well, he did have 308 days
12 time served it appears, and I'm sure Mr. Drylie can fill
13 -- fill us in on the details, but five years suspended
14 to time served, but three years of probation. I'm going
15 to hand up ---

16 THE COURT: You've got him, Mister?

17 MR. RENTZ: Yes, sir.

18 MR. ROSS: I'm going to hand up the sentencing
19 sheet and the -- and the indictment on that case and
20 I'd ask that made a Court's exhibit. And, Your Honor,
21 I'm also going to hand up photos that were taken on the
22 scene just to give you an idea because we did not go
23 through this piece of the case yesterday during pretrial
24 motions. And that's all I have prior to sentencing.
25 I believe some of my officers may wish to speak.

1 THE COURT: I'm sorry?

2 MR. ROSS: Some of my officers may wish to speak
3 during the sentencing phase, Your Honor.

4 THE COURT: Mr. Dixon, are the facts stated by
5 the Solicitor with regard to this case, are those facts
6 true and correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: I find the decision of the Defendant,
9 Michael Paul Dixon, to plead guilty to be freely,
10 voluntarily and intelligently made. He's had the
11 representation of a competent attorney, of course,
12 Mr. Drylie, with whom he says he's satisfied. I find
13 a factual basis for his plea and, therefore, I will
14 accept his plea. Mr. Dixon, if you disagree with the
15 sentence I give you and proceed to be displeased, you
16 will have ten days from today's date within which to
17 file a Notice of Intent to Appeal. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right, Mr. Drylie.

20 MR. DRYLIE: Thank you, Your Honor. Mr. Dixon's
21 twenty-four years old.

22 THE COURT: Twenty-four?

23 MR. DRYLIE: Twenty-four. He tells me that he's
24 been on methamphetamine since he was a teenager, Your
25 Honor, and ---

1 THE COURT: I've got him down as twenty-six.

2 THE DEFENDANT: 12-27-88 is my birthday.

3 THE COURT: Do you know how old you are?

4 THE DEFENDANT: Yeah, I'm twenty-four. I'll be
5 twenty-five in two months.

6 THE COURT: All right. Go ahead.

7 MR. DRYLIE: He tells me that he's been on
8 methamphetamine since he was a teenager. His older
9 brother, Trey, got him hooked. Trey currently has
10 several meth conviction charges. He learned to make
11 meth when he was about seventeen. He had to make it in
12 order to support his habit because it was too expensive
13 to buy and it was just easier to make it. Your Honor,
14 he did what an addict does and he was hooked on the drug
15 and he went out and found a way to get the drug. I'm
16 sure you do see a lot of cases where people do things
17 that they normally wouldn't do when they're hooked on
18 substances, especially ---

19 THE COURT: What -- what did he normally do? I
20 mean, did you ever have a job, ever go to school?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Tell me about it.

23 MR. DRYLIE: Go ahead.

24 THE DEFENDANT: I went to Swansea High School. I
25 dropped out when I was sixteen or seventeen, but I did

1 graduate with my GED and I worked at 321 Auto -- well,
2 it's 321 Auto Sales now, which I did work there after
3 that, but it was Eastman Auto Body Collision and Repair.
4 That was another place where I fell into using drugs
5 through another person who worked there and that's
6 pretty much why I continued to work there because I
7 could use drugs and didn't have to worry about it and
8 no drug tests or anything, so.

9 MR. DRYLIE: Your Honor, he does tell me that --
10 that what he wants to do more than anything is to get
11 clean and get off this stuff. He knows he's not walking
12 out of here today. He knows he's getting some time,
13 possibly some very significant time. Your Honor, he
14 tells me, and I'm sure Rusty can elaborate on this,
15 but he did complete his LRADAC prior -- as part of
16 probation. Rusty's not sure, but that's what Mr. Dixon
17 tells me. He's tried to get off it. As Your Honor
18 knows, methamphetamine is an extremely powerful drug
19 and I imagine that it's extremely hard for someone who's
20 been on it since they were a teenager to get off that
21 drug. Your Honor, he does have -- he was living with
22 Ms. Gantt when this occurred. She's a co-defendant in
23 the case. She also was using methamphetamine and I
24 think they kind of fed off each other.

25 Your Honor, what we'd ask the Court to consider

1 is possibly a five-to-seven year active sentence with
2 screening him for the Addictions Treatment Unit with
3 probation to follow so that hopefully afterwards he
4 can be able to live a successful life. He's only
5 twenty-four, so he is a very young man, especially to
6 be looking at this much time.

7 And, Your Honor, one of the things with
8 methamphetamine that I've come to see here is that
9 just about everyone who gets hooked on it ends up
10 making it because you can walk into Wal-Mart and buy
11 just about everything you need to make meth. That's
12 not an excuse at any means. I'm just -- but a lot of
13 the other drugs that we see that would normally be
14 simple possessions end up being manufacturing because
15 it's just easier for him to make it and he was doing
16 what an addict does searching that drug out. Your
17 Honor, we'd asked you to consider that five-to-seven
18 year sentence and screen him for the Addictions
19 Treatment Unit.

20 THE COURT: All right. What's his status with
21 probation?

22 MR. RENTZ: Judge, as Mr. Ross indicated, he is
23 on probation for distribution slash manufacturing of
24 meth. It was five years on the service of 308 days time
25 served with three years probation. The plea today will

1 violate the probation. I do not have his file, so I
2 cannot respond to Mr. Drylie's assertion that he
3 completed LRADAC. He may have. I do not know. We
4 would ask that he be revoked on probation.

5 THE COURT: All right.

6 MR. ROSS: Your Honor, I believe Agent Finch does
7 wish to address the court.

8 THE COURT: All right. I'll hear from him.

9 AGENT FINCH: Morning, Your Honor.

10 THE COURT: Morning.

11 AGENT FINCH: Your Honor, I'd just like to speak
12 a little bit on the meth use and on the sentence.

13 THE COURT: All right.

14 AGENT FINCH: I'd like ask for a sentence of
15 anywhere from ten to fifteen years based on the fact
16 that methamphetamine production is probably one of the
17 top things that the narcotics officers in Lexington
18 County respond to. Just two weeks ago I believe we
19 had three labs, one of which had six people. Not only
20 is it we're talking about the overtime when people get
21 called out, we're also talking about damages to the
22 communities. I'm assigned to the DEA Task Force
23 downtown in Columbia. Everybody knows Lexington
24 County's known for one thing, and that's meth
25 production. It's people like Mr. Dixon who cause that

1 reputation and cause the damage to our community. I
2 went to a symposium a year or so ago in Greenville.
3 Not only we had people from the counties, we had SLED.
4 We also had people from the dental association and
5 wastewater. When these people throw their stuff out,
6 it gets into our wastewater causing them to have to
7 change their filters causing increased costs to them as
8 well. They have these free dental clinics and when
9 people go to the dentist they see that in them as well.
10 A message needs to be sent that in Lexington County that
11 we're not gonna tolerate it. At one point in January
12 when I was on call I was up for like twenty hours
13 responding to meth calls. It's a problem. We're out
14 there enforcing it every day, but when these people have
15 the ability to get the pseudoephedrine, albeit limited,
16 and have all their friends go get it, it continues to be
17 a problem that needs to stop in this community. I think
18 a message will be sent with ten to fifteen years.

19 THE COURT: Do you find that in most of the --
20 let me just ask you. In these cases, do you find as
21 much distribution as well as manufacturing?

22 AGENT FINCH: It's gotten to the point where
23 they're making it for their own use, but also making it
24 for their friends who help them. Essentially if someone
25 goes out and purchases the products for them, the items

1 needed for manufacture, whether it be the lithium
2 batteries, the Sudafed, then they also get some of the
3 product is what we're finding, thereby creating more
4 addicts, creating more labs out there. They may be
5 one-pots, they're not big and elaborate like they used
6 to be, but they're problems in our community. I realize
7 most people see them as users, but how many users do we
8 need to have before we realize it's a problem?

9 THE COURT: All right.

10 AGENT FINCH: Thank you.

11 THE COURT: I'm convinced it's a problem.

12 Anything further?

13 MR. ROSS: I would just like to reiterate what
14 Agent Finch says. There's pockets of this county where
15 good folks that live out in the country are just kind of
16 overrun by meth labs, Judge, and there's a time for
17 mercy, a time for rehabilitation, and if that is not
18 acted upon when leniency is granted, then there's a time
19 for severe punishment, and I think this is that case
20 where he's been given leniency and now is the time for
21 punishment.

22 THE COURT: All right. Anything further?

23 MR. DRYLIE: Your Honor, we just reiterate we'd
24 ask for the five to seven year sentence. That is a
25 significant chunk of time. That also is a lot more than

1 anything he's ever done. Your Honor, just in some of
2 the proceedings that brought us to this point today, I
3 want to make this clear; that when I first met with
4 Mr. Dixon we discussed a plea in this case. The only
5 offer ever made was a recommended cap of ten years
6 and we figure with the search issue that we'd see if
7 something better was coming along, but it was a
8 straight-up plea as charged. So leniency wasn't -- it
9 was presented in his first case, but there was never
10 anything that we thought was a legitimate offer at this
11 point.

12 In fact, when we discussed pleading this last
13 term of court, the Solicitor actually said if we pled at
14 that point he'd recommend throwing the book at him if he
15 could. Your Honor, we'd ask that you go with five to
16 seven years. That's a significant more chunk of time
17 than he could ever do -- or than he's ever done and I
18 think that coupled with probation afterwards would be
19 able to hopefully steer Mr. Dixon on the right path. I
20 understand that meth is a problem, but what we have
21 standing before you here is a twenty-four-year-old man
22 who has been hooked on methamphetamine since he was a
23 teenager, Your Honor.

24 THE COURT: All right. All right, Mr. Dixon. I
25 hope you can get off it. The sentence of the Court is

1 you be committed to the State Department of Corrections
2 for a period of twenty years. I'll recommend the ATU
3 and the probation is revoked. Good luck to you, sir.

4 MR. ROSS: Thank you, Your Honor.

5 (WHEREUPON, the proceedings concluded at
6 9:39 a.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

Certificate of Reporter

I, the undersigned Stacy S. Johnson, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Lexington County, South Carolina, on the 15th day of October, 2013.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

January 31, 2014



Circuit Court Reporter

21 WITNESSES

Lexington County Sheriffs Department

Franklin L. Finch

Law Enforcement Case # 13001408

MDR

ARREST WARRANT NUMBER

2013A3210200160

ACTION OF GRAND JURY

TRUE BILL

Ron Brasington
Foreperson of Grand Jury
Date 4-8-13

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013GS3200914

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

APRIL TERM 2013

THE STATE

vs.

Michael Paul Dixon

CDR #: 3198

Indictment for

Manufacturing Methamphetamine

§ 44-53-0375(B)

DONALD V. MYERS, SOLICITOR


STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Manufacturing Methamphetamine
§ 44-53-0375(B)

At a Court of General Sessions, convened on April 2013, the Grand Jurors of Lexington County present upon their oath.

That **Michael Paul Dixon** did in Lexington County, South Carolina, on or about January 24, 2013 knowingly, intentionally, willfully, and unlawfully manufacture or otherwise aid, abet, attempt, or conspire to manufacture a quantity of methamphetamine, a controlled substance under the provisions of § 44-53-110, et. Seq. and in violation of §44-53-375 (B) Code of Laws of South Carolina, 1976, as amended.

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

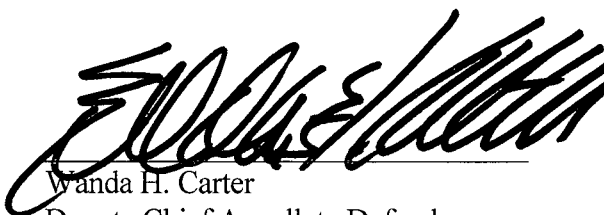


ASSISTANT SOLICITOR

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 April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings"

This 18th day of November, 2014



Wanda H. Carter
Deputy Chief Appellate Defender

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

RECEIVED

NOV 18 2014

SC Court of Appeals

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Lexington County
G. Thomas Cooper, Circuit Court Judge

RECEIVED

NOV 18 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MICHAEL PAUL DIXON,

APPELLANT

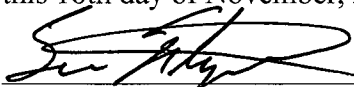
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 18th day of November, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 18th day of November, 2014.



(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.